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February 23, 2005

Idaho Department of Water Resources
Eastern Region
900 N. Skyline Dr., STE A
Idaho Falls, ID 83402-1718

Attn: Allen Ruberry

RE: (12) Amended Claims: 01-85, 21-90, 21-91, 21-92, 21-2049, 21-2057, 21-4031,
21-11273, 21-11274, 21-11275, 21-11276 & 21-11277

Evidence of Priority for: 21-4031 & 21-4151

Mr. Allen Ruberry:

The Idaho Department of Parks and Recreation would like to submit (12) amended claims and evidence of priority as listed above.

If you need any additional information or have other concerns please don't hesitate to contact me at 334-4180 X294.

Thank you very much,

Ron Howerton
Engineering Technician

Enclosures/Attachments:

- 12 Amended claims
- List of Evidence of Priority Documents Attachment "A" for A21-4151
- List of Evidence of Priority Documents Attachment "A" for A21-4031 (Is with the amended claim).

CC: File(s)

LIST OF EVIDENCE OF PRIORITY DOCUMENTS

ATTACHMENT "A"

I. CORRESPONDENCE LETTER DATED: AUGUST 24, 1928 (2 PAGES)

- This is a copy of a letter sent by Sam A. Trude (Manager of Island Park Land & Cattle Company) to Mr. R. E. Thomas (State of Idaho, Department of Fish and Game Warden).
- A sketch is referenced in the August 24, 1928 letter on the 3rd paragraph.
- In that paragraph, Sam is asking Mr. R. E. Thomas "send back the sketch that I made and would like to have the application back along with the check for \$10.00 and then when the folks are here this fall I will take up the proposition with them of draining the lake (Osborn pond) by constructing a new spillway and drain it down to the original creek channel" etc...

II. THE (2) AFFIDAVITS ENCLOSED ABOVE WITH ABOVE LETTER: (DATED AUGUST 24, 1928)

- On affidavit (1): Paragraph 1. " I, Sam. A. Trude, of my own free will and accord hereby solemnly swear:" Paragraph 3. Sam refers that: "I have personally known that the Company has bought on numerous occasions, small fish from Bancroft, Rea and others including trading with Robert Osborn all for the purpose of increasing fish in big numbers."
- (This statement indicates evidence that Robert Osborn was raising and trading fish from his Osborn pond (AKA Fish Pond). See sketch referenced above. Item IV.
- Affidavit (2): Included purely for reference only. Paragraph 1. Starts as: " We, Island Park Land & Cattle Company, by its Manager, Sam. A. Trude,"

III. CORRESPONDENCE LETTER DATED: AUGUST 20, 1928

- This letter is from R. E. Thomas, (State of Idaho, Department of Fish and Game Warden) to Sam A. Trude (Manager of Island Park Land & Cattle Company). The "Statement of Construction" was being returned for an additional statement to be added clarifying that no native trout inhabit the lakes Sam Trude was trying to convert to private ponds.

IV. SKETCH OF OSBORN POND (AKA FISH POND): DATE OF PRIORITY REFERENCE.

- On the sketch in Sam Trude's handwriting it says: "Above small lake about 1/4 mile square is the old original "Bob" Osborn Ranch out of which he sold so many fish for so many years, built in 1895 and now owned by Harriman's.

V. STOCK WATER CLAIMED:

- From "THE RAILROAD RANCH" Figure 5, Page 19. Shows cattle inventories from as early as 1914. Note: Table is mainly representative of the amount of cattle kept through the winter months, whether in a feedlot or at the Railroad Ranch. (Note comment on Correspondence Letter dated August 24, 1928: See 3rd paragraph it reads: "Now relative to the Osborn pond on the HARRIMAN PLACE").
- "THE RAILROAD RANCH" From Prehistory to Park, a documented History of Harriman State Park by Heidi J. Fatland September 1982: This is library copy of a document prepared for the Department of Parks and recreation. An exert is shown from this book labeled as: "THE RAILROAD RANCH" is being used to provide proof of beneficial use. The Cover Page and inside page of the book is included for reference only.

VI. IRRIGATION & STORAGE CLAIMED:

- Prior decreed rights 21-81 & 21-82 show same irrigation lands from the same source(s) that are claimed here as a permissible place of use in this beneficial use claim: A21-4151. See attached (2) pages of above referenced decreed rights.

August 24th 1928.

Mr. R. E. Thomas,
Boise, Idaho.

Dear Dick,

Enclosed please find two affidavits that I have made out that I thought you would like to have instead of the one that you asked for.

Dick, the more I look over the Statutes on the creation of fish ponds the more I believe that we have a " Private Pond " in the full sense of the word ; We have it within our own property ; We have the water in the lake granted to us by a court decree ; We have it as devoid of any native fish as any lake could possibly be and that portion of the creek that extends on above our holdings is of such inconsequential proportions that it would be out of the question for any court to ever hold that it was a creek wherein fish could abide. Above our place a fish would scrape all the slime off his belly and get fungus!

Now, relative to the Osborn pond on the Harriman place, I am going to ask you to send me back the sketch that I made and I would also like to have the application back along with the check for \$10.00 and then when the folks are here this fall I will take up the proposition with them of draining the lake by constructing a new spillway and drain it down to the original creek channel and then ask you to send a man from your department and inspect it relative to native fish and then also get permission from you to transfer whatever " Eastern Brock " trout we have there to our Golden Lake and then restock it with " Rainbow " exclusively. This will eradicate any chance that there might be of there being some native trout there.

You will notice that I sent you ten dollar checks for each of the lakes, " Golden " and " Silver ". I did this for the reason that I did not know if you would cover both with the same license.

Also, if it is possible, I would like to have you send us a general granting permit, setting forth that we are hereby permitted to conduct a " Private Pond ". I understand that the permit that you send us for which we pay \$10.00 will more or less simply grant us the privilege to sell fish and I will say to you that I am also greatly interested in the " Private Pond " phase.

RET #2.

Dick, I want you to know that I as well as the Company greatly appreciate the great amount of patience that you have had in the matter of fixing this matter up in satisfactory shape for us and I hope that you fully realize that my greatest desire was to have it in such shape that it would not bring criticism upon your department and on the other hand we would have everything done so legally that it would stand the " Acid Test ", if need be.

I hope that as we proceed along with this new protection that in time we will be able to let the State have a great benefit out of some phase of the fish game. As you know, our people are greatly interested in the unbuilding of the general game and fish conditions in Idaho.

With very best wishes to you and that long disconnected politician, Turner I am

Sincerely yours,

ISLAND PARK LAND & CATTLE CO.
ASHTON, IDAHO

State of Idaho. ()
County of Fremont () SS.

I, Sam. A. Trude, of my own free will and accord do hereby solemnly swear:

That I have resided most of the time during the last twenty-nine years in Fremont County, in the State of Idaho in the neighborhood of what is known as the Island Park Land & Cattle Company's holdings and that during that time I have been well acquainted with the operations of the company's ranch in this locality and that during all that time they have been propagating and raising " Eastern Brook" and " Rainbow" trout and that in furtherance of this they have shipped in to this ranch many thousands of trout of this species and planted same on this ranch in lakes created by them on this ranch generally known as " Silver Lake" and " Golden Lake " by water supplied out of a creek known by the name of " Thurburn Creek ", said water in said creek being decreed to them by a decree of the District Court.

That during all this time I have personally known that the Company has bought on numerous occasions, small fish from Bancroft, Rea and others including trading with Robert Osborn all for the purpose of increasing fish in big numbers and that said fish have not increased in great numbers sufficient to justify the great out lay of money and energy spent and that the main draw-back has been jeopardy caused by marauders and poachers that have had a free hand under the law with lakes that are not declared by the State Game Warden " Private Ponds", where such poachers and etc. have a free hand to do just about as they like whereas with the protection that the State affords under a " Private Pond" it is possible to proceed and make the fish industry profitable.

I furthermore swear, according to my best belief and information that said lakes known as " Silver Lake " and " Golden Lake" do not contain other than " Eastern Brook " and " Rainbow " trout nor do any native trout inhabit said stream or lake.

Subscribed and sworn to before me this 24th day of August 1928.

Notary Public for the State of Idaho,
in the County of Fremont.
Residing at Ashton, Idaho.

ISLAND PARK LAND & CATTLE CO.
ASHTON, IDAHO

State of Idaho. }
County of Fremont } SS.

We, Island Park Land & Cattle Company, by its Manager, Sam. A. Trude, do hereby make application to State Game Warden for the State of Idaho to have " Silver Lake " and " Golden Lake " as shown on the attached map, created into a " Private Pond " and ask that you issue us licenses to ship fish owned and raised by us there from of the species of " Eastern Brook " and " Rainbow " trout and in furtherance of this I, Sam. A. Trude, do solemnly swear that it is the intentions of this company to, as soon as they have fish in sufficient numbers, ship and sell same to the public.

That they will offer same for sale to restaurants, dining cars and to what ever channel is to their greatest advantage and all fish that they see fit to sell out of said lakes of the species of " Eastern Brook " or " Rainbow " trout grown and owned by them and that they do not intend to sell any other fish of any known species under this said permit.

That their railroad station for shipments will be Ashton, state of Idaho.

That to my best belief and knowledge, other fish than " Rainbow " and " Eastern Brook " do not abide there.

That said ponds have been stocked on numerous/sinc e occasions year 1898 by fish purchased from W. H. Bancroft, Geo. W. Rea and Robert Osborn, said fish being of the species of " Rainbow " and " Eastern Brook " trout.

.....
Subscribed and sworn to before me this 24th day
of August 1928.

.....
Notary Public for the State of Idaho,
residing at Ashton, Idaho.

STATE OF IDAHO
DEPARTMENT OF FISH AND GAME
R E THOMAS WARDEN
BOISE

H C BALDRIDGE GOVERNOR

VERN THOMAS CLERK

File-T

August 20, 1928

Mr. Sam A. Trude
Ashton, Idaho

Dear Sam:

Complying with your wire of even date, I am returning herewith the statement of J. M. Anderson.

In the affidavit there should be a statement setting forth that "according to your information and belief no native trout inhabit the waters of the lakes that you desire to have converted into private ponds."

This is fully defined under Section 2700 of the Compiled Statutes.

Very truly yours,

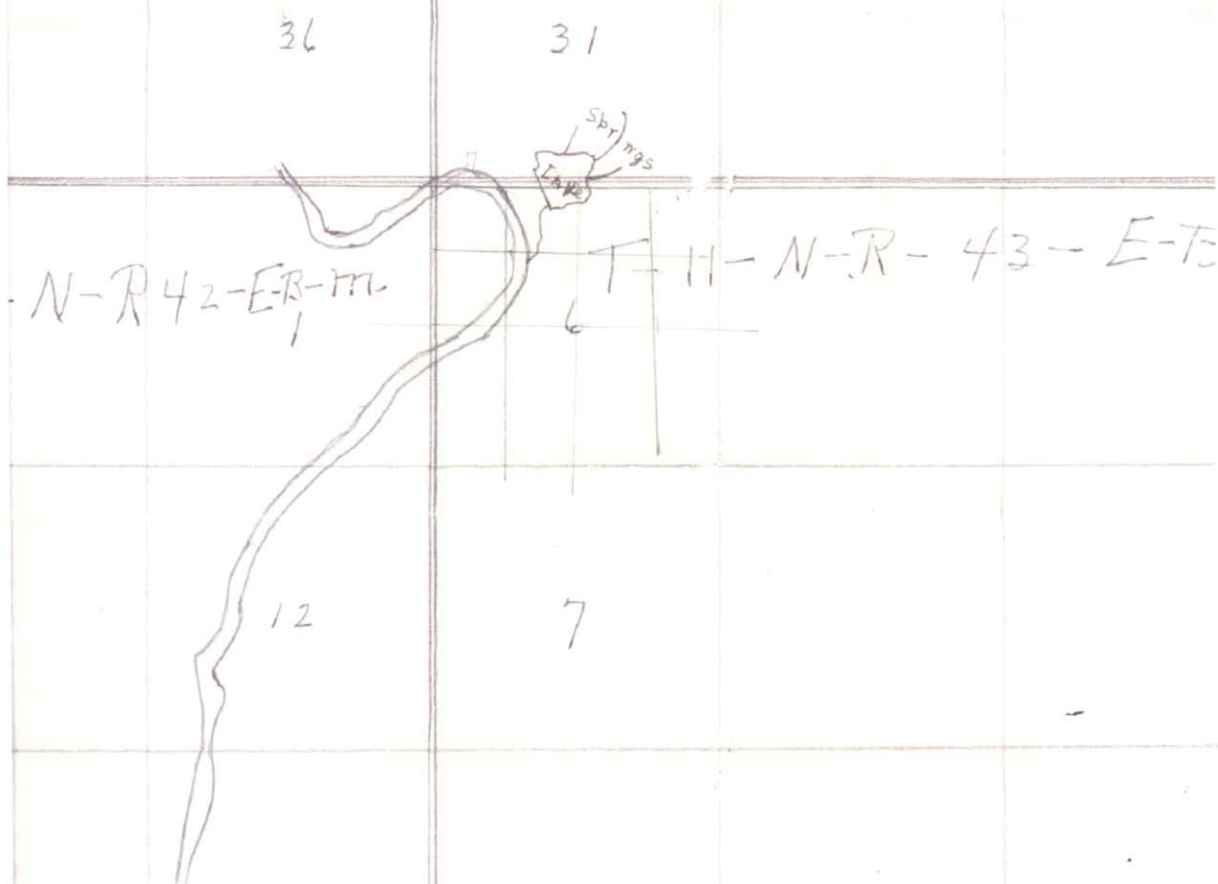
DEPARTMENT OF FISH AND GAME

Vern Thomas
Chief Clerk

VT:W
Inc. 1

12-N-R-42E

T-12-N-R-43-E-E



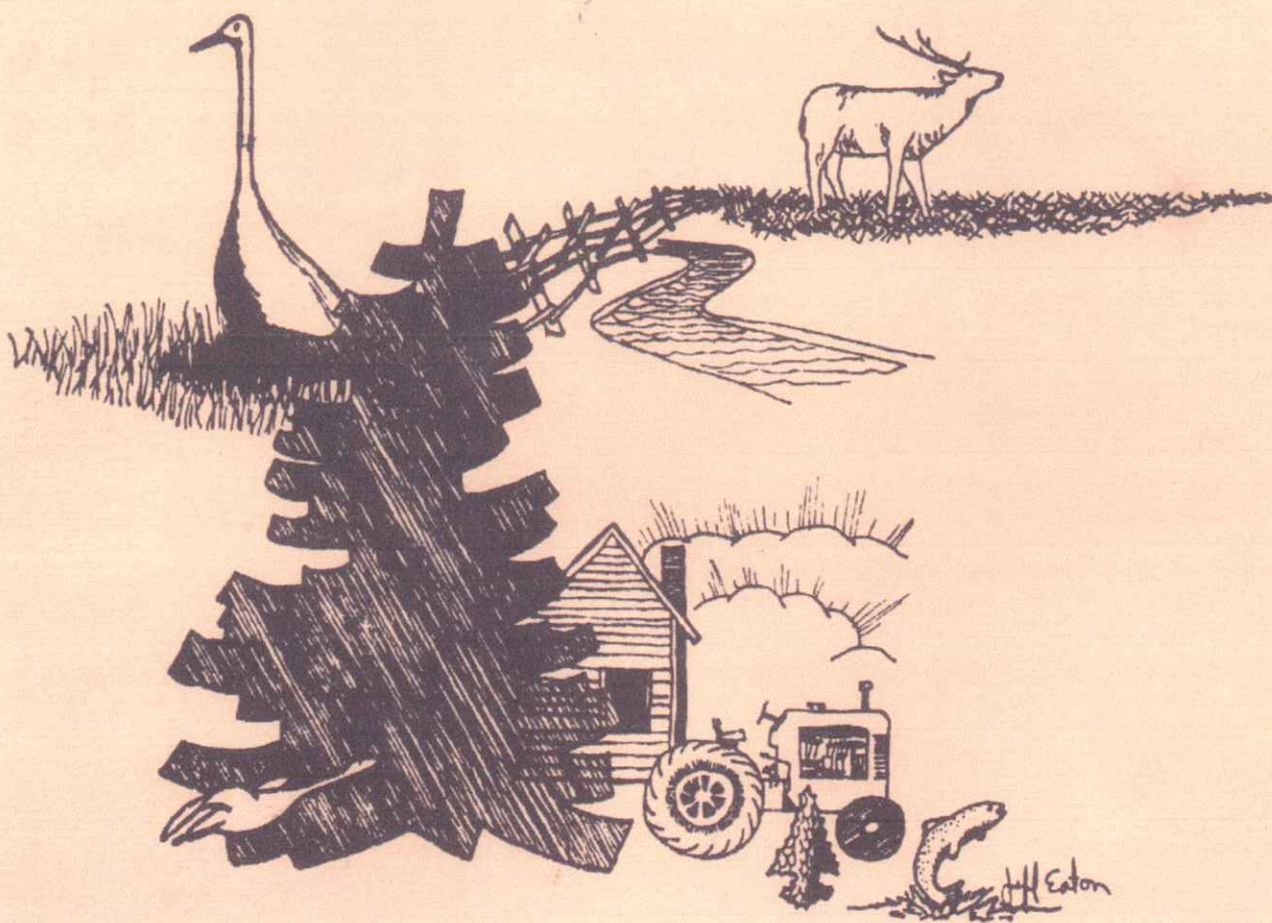
Above small lake about $\frac{1}{4}$ mile square is the old original "Bob" Osborn ^{Ranch} out of which he sold as many fish for so many years built in 1895 and now owned by Ad. L. L. L.

THE RAILROAD RANCH

From Prehistory to Park

A Documented History of Harriman State Park of Idaho

By Heidi J. Fatland



Library Copy #5

THE RAILROAD RANCH

From Prehistory to Park

A Documented History of Harriman State Park of Idaho

Heidi J. Fatland

SEPTEMBER 1982

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FIGURE 5

CATTLE INVENTORIES

<u>Year</u>	<u>On Hand Jan. 1st</u>	<u>Purchased During Year</u>	<u>Sold or Died During Year</u>
1914	65	—	—
1921	649	—	—
1922	48	—	—
1923	276	—	—
1924	142	—	—
1925	142	1122	172
1926	1092	33	581
1927	544	23	483
1928	84	487	160
1929	411	565	385
1930	591	12	563
1931	40	517	103
1932	454	7	443
1933	18	4	4
1934	18	6	10
1935	14	509	511
1936	12	—	—
1937	372	—	—
1938	366	—	—
1939	1207	—	—
1940	502	—	—
1941	394	—	—
1942	362	—	—
1943	25	—	—
1944	445	—	—
1945	218	—	—
1946	47	—	—
1947	643	—	—
1948	699	—	—
1949	636	—	—
1950	902	—	—
1951	1153	—	—
1952	—	—	—
1953	2553	—	—
1954	1195	—	—
1955	Creation of the Railroad Ranch Cattle Company		

(— indicates figure not available)

Table is mainly representative of the amount of cattle kept through the winter months, whether in a feed lot or at the Railroad Ranch.

widow of A. D.
Nolan, deceased.

North Salem Agricultural & Milling Canal Company.

240 inches. June 1, 1890. ✓ Snake River. Trans 819
50 inches. June 1, 1895. ✓ Darby Creek.
110 inches. May 26, 1899. ✓ Darby Creek.

~~01-0561~~ 1 137 ✓
Nord, James O.

~~01-0562~~ 22 0426 ✓
Nordval, C.

~~01-0563~~ 22 0427 ✓
Nordval, C.

~~01-0564~~ 1 138 ✓
North Rigby

Irrigation
Company

2,500 inches. June 10, 1883. ✓ South Fork of the
Snake River.

~~01-0565~~ 22 0428 ✓
North Salem

Agricultural
& Milling
Canal Company.

1,325 inches. June 1, 1888. ✓ Teton River, as a
high-water right, ✓
until July 1st of
each year.
The Farmers' Friend
Canal Company

Nowlin, Jabez, Sr.

~~01-0566~~ 35 0022 ✓
Nugent, L. A.

80 inches. May 1, 1903. ✓ McTucker Springs.

0.

~~01-0567~~ 23 0048 ✓
Oakden, Robert

~~01-0568~~ 22 0429 ✓
O'Brien, James A.

Olesen, James

160 inches. June 1, 1893. ✓ Rainey Creek.
100 inches. June 1, 1891. ✓ North Leigh Creek. T. 2224

North Salem Agricultural & Milling Canal Company.

~~01-0569~~ 1 139 ✓ 22-0654
Olive, O. H.

~~01-0570~~ 1 140 ✓ 22-0655
Olive, O. H.

Olmstead, Henry M.

Orme, Samuel W.

Orr, Robert

600 inches. June 1, 1889. ✓ Bannock Jim Slough.
160 inches. May 1, 1905. ✓ Bannock Jim Slough.

Wyoming & Darby Bench
Canal Company.

Pioneer Ditch Company.

Watson Slough
Irrigation Company.

~~01-0571~~ 21 0081 ✓
Osborn, R. A.

120 inches. June 1, 1895. ✓ Monet Springs, Guy
Springs, Middle
Springs, and East
Springs.

~~01-0572~~ 21 0082 ✓
Osborn, R. A.

120 inches. June 1, 1902. ✓ Monet Springs, Guy
Springs, Middle Springs
and East Springs.

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Sec. 18, S $\frac{1}{2}$ of SW $\frac{1}{4}$ of Sec. 17, Lot 2,
and part NE $\frac{1}{4}$ of NW $\frac{1}{4}$ of Sec. 20, E $\frac{1}{2}$
of NW $\frac{1}{4}$ and Lots 1 and 2 of Sec. 18, T.
5 N., R., 39 E., B. M., containing
452- $\frac{1}{2}$ acres. Also, SE $\frac{1}{4}$ of NE $\frac{1}{4}$, and NE $\frac{1}{4}$ of
SE $\frac{1}{4}$ of Sec. 20, and NW $\frac{1}{4}$ of SW $\frac{1}{4}$ and
Lot 1 of Sec. 21, T. 5 N., R., 37 E.,
B. M., containing 152.33 acres.

Olmstead, Henry M. SW $\frac{1}{4}$ of SE $\frac{1}{4}$ of Sec. 6, SE $\frac{1}{4}$ of SW $\frac{1}{4}$ of Sec.
6, and NW $\frac{1}{4}$ of NE $\frac{1}{4}$, and NE $\frac{1}{4}$ of NW $\frac{1}{4}$
of Sec. 7, T. 4 N., R., 46 E., B. M.,
containing 160 acres.

Opedal, L. SE $\frac{1}{4}$ of Sec. 16, T. 1 N., R., 38 E. B. M.,
containing 160 acres.

Olson, Nels D. N $\frac{1}{2}$ of SE $\frac{1}{4}$ of Sec. 22, T. 1 N., R., 37 E. B.
M., and 10 acres, 20 by 80 rods, innSE
corner of NW $\frac{1}{4}$ of Sec. 30, T. 2 N., R.,
38 E. B. M., containing in all 90 acres.

Orr, Robert SW $\frac{1}{4}$ of Sec. 16, T. 3 S., R., 34 E., B. M.
containing 160 acres.

Osborn, R. A. Lots 8 and 9 of Sec. 31, T. 12 N., R., 43
E. B. M., and Lots 1 and 2 of Sec. 6,
T. 11 N. R., 43 E., B. M., containing
120.60 acres.
Also, Lots 3, 4 and 9, and SW $\frac{1}{4}$ of SW $\frac{1}{4}$
of Sec. 36, T. 12, N., R., 42 E. B. M.,
and Lot 4 of Sec. 1, T. 11 N. R., 42 E.
B. M.,

Osella, J. W $\frac{1}{2}$ of SE $\frac{1}{4}$ of Sec. 23, T. 1 N., R., 37 E. B.
M., containing 80 acres.

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Point of Diversion: North side of dam.
T11N, R43E, S06, NWNE. Photos by:
RDH



Fish Pond Dam: AKA Osborne, view to
South.



Ditch from point of diversion, North
side of dam.



Spillway: On South side of dam.



Irrigation view NENW Lot 1, below
dam. T11N, 43E, S06.



Irrigation view from NENW, Lot 1 to
NWNW, Lot 2 & SWNW, Lot 4,
S06.