

August 15, 2005

To: Ms. Roxanne Browne, Idaho Department of Water Resources, Box 83720-0098.
From: Wayne England on behalf of the Idaho Department of Fish and Game.

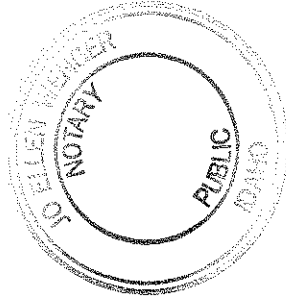
Claim #

Dear Ms. Brown:

This is a short note of what I know of this case. I first came to this property in 1932. It was first occupied by Tolbert and Opal Bartl. They were irrigating said property until I and my folks bought the property in fall of 1943. At that time we were told it was irrigated as early as 1910.

This same water system was also used to irrigate the property to the southeast on this same homestead that is now owned by the Idaho Department of Fish and Game (North Fork Residence).

Wayne England



Jo Ellen Wenger
Salmon Id 83467
Commission expires 4/21/11

SYMS-YORK CO., PRINTERS & BINDERS. NOISE 79714

[illegible]

To all to whom these presents shall come, Greeting:

WHEREAS, a Certificate of the Register of the Land Office at Hailey, Idaho, has been deposited in the General Land Office, whereby it appears that, pursuant to the Act of Congress of May 20, 1862, "To Secure Homesteads to Actual Settlers on the Public Domain", and the acts supplemental thereto, the claim of JEREMIAH BARTL has been established and duly consummated, in conformity to law, for the

East Half of the Southeast Quarter of the Northeast Quarter of the Southeast Quarter and the East Half of the East Half of the Southeast Quarter of the Southeast Quarter of Section Eight and the East Half of the Northwest Quarter of the Southeast Quarter, the Southwest Quarter of the Northwest Quarter of the Southwest Quarter, and the West Half of the Southwest Quarter of the Southwest Quarter of Section Nine in Township Twenty-Four North of Range Twenty-One East of the Boise Meridian, Idaho, Containing Fifty 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 there is, therefore, granted by the United States unto the said claimant the tract of Land above described; TO HAVE AND TO HOLD the said tract of Land, with the appurtenances thereof, unto the said claimant and to the heirs and assigns of the said claimant forever; subject to any vested and accrued water rights for mining, agricultural, manufacturing, or other purposes, and rights to ditches and reservoirs used in connection with such water rights, as may be recognized and acknowledged by the local customs laws, and decisions of courts; 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, William H. Taft, 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 Thirteenth day of March in the year of our Lord one thousand nine hundred and eleven and of the Independence of the United States the one hundred and Thirty-fifth.

(SEAL)

By the President Wm. H. Taft
By M. P. LeRoy, Secretary
H. W. Sanford, Recorder of the
General Land Office.

RECORDED: Patent Number 183773

Recorded at the request of Tolbert Bartl, January 12th, 1925, at 30 minutes past 4 o'clock P. M., in Book 28 of Deeds page 108 Records of Lemhi County, Idaho.

Fee: 1.00

Wm. H. Taft
County Recorder

DITCH RIGHT

STATE OF IDAHO
County of Elmore

On this 20th day of August, 1951, before me, the undersigned, a Notary Public in and for said State, Personally appeared Tolbert Bartl, to make it known that the ditch which irrigates the following lands described below, was constructed by him, and his parents, who are now both deceased and who were the original homesteaders of the lands described below. Also being the owners then of certain lands lying and being near the below described lands which the ditch runs thru, later being sold to William J. Buster and Monty E. Buster, brothers. This ditch had no connections with their lands whatsoever. It was built for the sole purpose to irrigate the lands described below.

of Section Nine (9), Township Twenty-four (24) North, Range Twenty-one (21) East of the Boise Meridian, and more particularly as described beginning at the northeast corner of the NW $\frac{1}{4}$ SW $\frac{1}{4}$ of Section 9, T. 24, N., R. 21 E.B.M., run thence west 150 feet, more or less, to the easterly line of U.S. 93 Highway; thence southwesterly along the easterly line of U.S. 93 Highway to the west line of the E $\frac{1}{2}$ NW $\frac{1}{4}$ NW $\frac{1}{4}$ SW $\frac{1}{4}$ of Section 9, the said west line of the E $\frac{1}{2}$ NW $\frac{1}{4}$ NW $\frac{1}{4}$ SW $\frac{1}{4}$ of Section 9,

containing approximately (73) acres, of the E $\frac{1}{2}$ NW $\frac{1}{4}$ NW $\frac{1}{4}$ SW $\frac{1}{4}$ of Section 9, T. 24, N., R. 21 E.B.M., run thence west 150 feet, more or less, to the easterly line of U.S. 93 Highway; thence southwesterly along the easterly line of U.S. 93 Highway to the west line of the E $\frac{1}{2}$ NW $\frac{1}{4}$ NW $\frac{1}{4}$ SW $\frac{1}{4}$ of Section 9, the said west line of the E $\frac{1}{2}$ NW $\frac{1}{4}$ NW $\frac{1}{4}$ SW $\frac{1}{4}$ of Section 9,

Tolbert Bartl

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



John M. Bunniss
Notary Public for Idaho
Residing at Pocatello, Idaho

MRS MABEL ENGLAND TRACT

NORTH FORK, IDAHO

Scale 1 inch = 500 feet

March 26, 1946

Prepared by R.E. Ferry

476

Center Line Section 8 22.9

North Fork of Salmon River

1730

E 2 N 1/4 NW 1/4 SW 1/4

SW 1/4 NW 1/4 SW 1/4

W 1/2 SW 1/4 NW 1/4

E 1/2 SE 1/4 NE 1/4 SE 1/4

E 1/2 SE 1/4 SE 1/4

U.S. 93 Highway

6640

17 16

T. 24 N., R. 21 E. B. M.

NFK Evidence

Instrument No. 30237

Hailey 05766

4-1003

THE UNITED STATES OF AMERICA

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NOW KNOW YE, That there is, therefore, granted by the United States unto the said claimant the tract of land above described; TO HAVE AND TO HOLD the said tract of Land, with the appurtenances thereof, unto the said claimant and to the heirs and assigns of the said claimant forever; subject to any vested and accrued water rights for mining, agricultural, manufacturing, or other purposes, and rights to ditches and reservoirs used in connection with such water rights, as may be recognized and acknowledged by the local customs, laws, and decisions of courts; 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, William H. Taft, 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 Thirtieth day of March in the year of our Lord one thousand nine hundred and eleven and of the Independence of the United States the one hundred and Thirty-fifth.

(SEAL)

By the President Wm. H. Taft
By M. P. LeRoy, Secretary
H. W. Sanford, Recorder of the
General Land Office.

RECORDED: Patent Number 183773

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Fee: 1.00


County Recorder

EASEMENT AGREEMENT

THIS INDENTURE, Made and entered into this 26th day of July, 1958, by and between ROY and MABEL ENGLAND, husband and wife, and IDAHO DEPARTMENT OF FISH and GAME,

hereinafter called Ditch Owners, and the STATE OF IDAHO for the use and benefit of the Department of Fish and Game, hereinafter called the Department, WITNESSETH:

That for and in consideration of the sum of ONE DOLLAR (\$1.00), cash in hand paid by the Department to the Ditch Owners, receipt whereof is hereby acknowledged, the Ditch Owners, being the owners in common of that certain ditch/canal located in Lemhi County, and known as England Ditch, have this day bargained and sold and by these presents do hereby grant, bargain, sell, convey, transfer and deliver unto the Department a permanent easement for the purposes of construction, operation, maintenance, alteration, renewal and removal of a self-cleaning fish screen and fish bypass thereto on, within, and across said canal or ditch at a point located within the NE 1/4 SE 1/4, Section 8, Township 24 North, Range 21 East, Boise Meridian, which point is approximately 1165 feet south and 110 feet west of the northeast corner thereof.

together with the right of ingress and egress for Department personnel or its authorized agent or agents on and over the right of way of said ditch or canal for the purposes herein designated, together with the right to remove debris, logs, log jams, mud or gravel bars, that may accumulate in the canal channel or ditch immediately above or below the fish screen and which have been caused to accumulate by installation of said fish screen.

The Department hereby covenants and agrees that the construction, operation, maintenance, renewal, and removal of said installations shall be accomplished by the Department at its sole expense and in such a manner so as not to diminish the flow of water in said canal or ditch below said fish screen.

The Department further covenants and agrees that in the construction of its fish bypass that it will install a gate to provide for control of waters allowed to flow through said bypass during those periods of time that the supply of waters may be insufficient to operate said fish bypass without undermining the flow of waters carried by the canal or ditch below said fish screen and when during said periods of time the operation of this control facility is required by the ditch owners.

In construction of the fish bypass, the Department will assume responsibility for the future stability of any dike, dam, or canal bank, or similar structure penetrated by

said bypass, in the immediate, contiguous and adjacent area disturbed by the penetration and installation of the bypass pipe.

In the event of any future alterations of the line or grade of the canal channel, ditch, or stream course necessitating changes in or relocation of the Department's installations, the Department at its expense will make such changes in or relocation of its installations as may be necessary in connection with such alterations. The Ditch Owners hereby grant, covenant and agree that in the event the line and/or grade of the canal channel, ditch or stream course is changed necessitating relocation of the Department's installation, that this instrument shall also permit the Department to relocate its installations in said canal channel or ditch. The Ditch Owners hereby covenant and agree that in the operations of their canal, that during such periods of time when waters excess to their needs are available, the canal headgate will be so regulated as to divert into said canal the additional waters needed to operate said fish bypass.

All such installations placed on, within and across said canal or ditch by the Department shall be and remain the property of the Department and may be removed by the Department at any time.

All expenditures to be made by the Department under the provisions of this agreement shall be subject to appropriations being available for the purpose.

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

Ditch Owners

(SEAL)

(SEAL)

STATE OF IDAHO)
County of Lemhi) ss

On this 28th day of July in the year 1958, before me, the undersigned,
a Notary Public in and for said State, personally appeared

Roy England and Mabel England

known to me to be the persons whose names are subscribed to the within instrument, as
their owners, 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.

Charles Kendall
Notary Public for the State of Idaho
Residing at Salmon, Idaho
My commission expires 2-14-59

STATE OF IDAHO)
County of Ada) ss

On this 17th day of August in the year 1958, before me, the undersigned,
a Notary Public in and for said State, personally appeared ROSS LEONARD, known to me to be
the Director of the State of Idaho Department of Fish and Game, that executed the said
instrument, and acknowledged to me that the State of Idaho Department of Fish and Game
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.

Anna M. Smith
Notary Public for the State of Idaho
Residing at Boise, Idaho
My commission expires June 1, 1961

W. H. K. S. 1958