

21-11248

August 11, 2005

Lawrence J Ybarrondo
PO Box 3399
Jackson WY 83001

Dear Claimant (s):

The Notice(s) of Claim to a water right identified in the attached proof report(s) has been filed in the Snake River Basin Adjudication (SRBA). The Notice of Claim indicates water usage is based upon "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 Claim. The date the water was first put to beneficial use, known as the priority date, has not been confirmed by License, Decree, or Permit. For this reason, proof must be provided supporting your claimed 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 of Claim be verified. For instance, regarding claims for irrigation, the evidence should 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, enclosed is a printout of your Notice of Claim to Water Right and the pamphlet entitled "**Evidence of Priority**". The pamphlet describes the types of evidence required and suggests which documents may 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. Field exams to verify other elements of the Notice of Claim have been or are currently being conducted by Department personnel.

.....
The Department will not recommend the Notice of Claim be decreed by the court if evidence of a priority date is not submitted. The Notice of Claim will be disallowed.
.....

Please submit the documentation supporting the priority date **within 2 weeks of the date of this letter, referencing all documents with the corresponding Claim number.** If you have any questions not covered by this letter or the enclosed pamphlet, please feel free to contact this office at 525-7161.

Respectfully submitted,

A handwritten signature in black ink that reads "Trent Galbraith". The signature is written in a cursive style with a large, stylized "T" and "G".

Trent Galbraith
Water Resource Agent
Adjudication Bureau

cc: File

Enclosure: Brochure on "Evidence of Priority"
Notice of Claim (copy)

August 1, 2005

Lawrence J Ybarrondo
2373 S Bellin Rd
Idaho Falls ID 83402

RE: EVIDENCE OF PRIORITY FOR SRBA CLAIM NUMBER 21-11248

Dear Claimant (s):

The Notice(s) of Claim to a water right identified in the attached proof report(s) has been filed in the Snake River Basin Adjudication (SRBA). The Notice of Claim indicates water usage is based upon "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 Claim. The date the water was first put to beneficial use, known as the priority date, has not been confirmed by License, Decree, or Permit. For this reason, proof must be provided supporting your claimed priority date. **As the claimant, you are responsible for submitting the necessary proof to support the priority date.**

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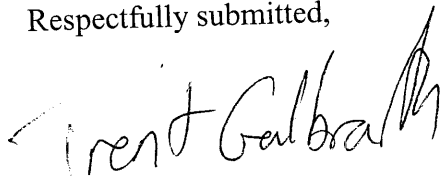
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The Department will not recommend the Notice of Claim be decreed by the court if evidence of a priority date is not submitted. The Notice of Claim will be disallowed.

Please submit the documentation supporting the priority date **within 30 days of the date of this letter, referencing all documents with the corresponding Claim number.** If you have any questions not covered by this letter or the enclosed pamphlet, please feel free to contact this office at 525-7161.

Respectfully submitted,

A handwritten signature in black ink, appearing to read "Trent Galbraith", with a stylized flourish at the end.

Trent Galbraith
Water Resource Agent
Adjudication Bureau

cc: File

Enclosure: Brochure on "Evidence of Priority"
Notice of Claim (copy)

July 19, 2005

William F. Duke
2067 E ½ Road
Grand Junction, CO 81503

RE: EVIDENCE OF PRIORITY FOR SRBA CLAIM NUMBER 21-11248

Dear Claimant (s):

The Notice(s) of Claim to a water right identified in the attached proof report(s) has been filed in the Snake River Basin Adjudication (SRBA). The Notice of Claim indicates water usage is based upon "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 Claim. The date the water was first put to beneficial use, known as the priority date, has not been confirmed by License, Decree, or Permit. For this reason, proof must be provided supporting your claimed priority date. **As the claimant, you are responsible for submitting the necessary proof to support the priority date.**

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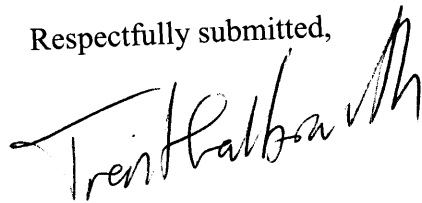
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Trent Galbraith
Water Resource Agent
Adjudication Bureau

cc: File

Enclosure: Brochure on "Evidence of Priority"
Notice of Claim (copy)

July 19, 2005

William F. Duke
2067 E ½ Road
Grand Junction, CO 81503

RE: EVIDENCE OF PRIORITY FOR SRBA CLAIM NUMBER 21-11248

Dear Claimant (s):

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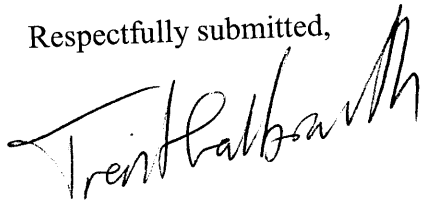
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Respectfully submitted,

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Trent Galbraith
Water Resource Agent
Adjudication Bureau

cc: File

Enclosure: Brochure on "Evidence of Priority"
Notice of Claim (copy)

11 October 2005

to: Trent Gailbraith
from: Dr. Larry J. Ybarrondo
Subject: Howell Ranch water Right Material and additional Affidavit

RECEIVED

OCT 13 2005

Department of Water Resources
Eastern Region

Dear Trent:

Thank you for taking time to talk to me today about the A21-11241/11248 water rights on the Howell Ranch. The material that you sent to me is filled out, signed and enclosed.

I believe the work that you have done is quite good. The maps are impressive.

Enclosed is an additional affidavit from Dr. Bill Duke, the previous owner to me. I had quite a time trying to locate him. It also took some time to get his affidavit. Please include his affidavit and this letter in the record. Dr. Duke provides evidence that the 1935 date is more appropriate than the 1940 date based upon his personal conversations with Forest Howell, the owner of the ranch from 1945-1979. I hope that this additional evidence, along with the affidavit from Louise Howell. Please recall that Louise Howell, in her affidavit, states that Forest Howell was renting the ranch from the Burrell's (deceased) from 1935 until 1945, and irrigating at the diversion point shown on your maps. Forest Howell purchased the ranch in 1945.

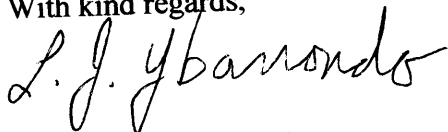
I feel that this is excellent evidence, from reputable and knowledgeable people, that proves as best one can at this point in time, that 1935 is a credible priority date.

I mentioned to you that, from my perspective the real priority date should be 1926 for the following reasons:

1. The original owner took title under the Homestead Act in 1926.
2. The land lies and the water flows such that it can only be irrigated from the diversion points your map-without electrical power which was not available in those days in that location.
3. The ranch has only been used for cattle grazing which would require irrigation water only available from the diversion points used by every owner.

But, given that we can't interview the dead and the records from that time were not very good, I feel a strong case has been made by sworn statements from credible individuals with knowledge for at least the 1935 date.

With kind regards,



Dr. Larry J. Ybarrondo
P. O. Box 3399
Jackson, WY 83001

6 September 2005

To: Idaho Department of Water Resources, Eastern Division

From: Dr. Larry J. Ybarrondo, owner and trustee of Howell Ranch

Subject: Evidence of Priority Date of 1935 for Beneficial Use on Water Rights A21-11241 and A21-11248 on the Howell Ranch near Ashton, Idaho (Fremont County)

1. Background. Dr. Larry J. Ybarrondo and a related family trust, of which he is the Trustee, are the owners of record of the Howell Ranch located at 4800 East Cave Falls Road in Fremont County. Dr. Ybarrondo purchased the Howell Ranch in March 1993. The subject water rights have been transferred to his name and current address.

For Water Right A21-11241, the water sources are 'unnamed springs' which are a tributary to Porcupine Creek. The priority date for A21-11241 is 31 May 1935 or earlier. The diversion point is noted in the Water Right application filed 28 July 1989 by Dr. William F. Duke; previous owner (1979-1993) before Dr. Larry J. Ybarrondo.

For Water Right A21-11248, the water source is Rising Creek a tributary to Porcupine Creek. The priority date for A21-11248 is 01 May 1935. The diversion point is noted in the Water Right Application, A21-11248, filed 23 June 1989, by Forrest Howell; owner (1945-1979) before Dr. William F. Duke

2. Affidavit of Dr. William F. Duke. My name is Dr. William F. Duke. I reside at:

525 M Head St.

Victoria, British Columbia, ~~581~~ V9A 5S1 WFD

Canada.

I purchased the Howell Ranch, as noted above under **Background**, from Forrest Howell. I lived on the ranch for 14 years. My two children attended school at the elementary school in Ashton ID. I worked as a physician in hospitals in Pocatello and Jackson, WY.

My statements about the use of water for beneficial use on what is now known as the Howell Ranch are made freely upon my affirmation of belief and personal knowledge that said facts and matters that I set forth in this Affidavit are correct and true.

I have recreated and fished on the Howell Ranch premises and the surrounding forest and streams during the time that my family and I lived on the ranch. I fished in Rising Creek and the unnamed springs at the back of the Ranch and also in the portion of Rising creek outside the Howell Ranch and the portion of Porcupine creek within and outside the Ranch. I continued to irrigate the ranch at the same points noted on the water rights mentioned above. I was personally acquainted with Forrest (Pop) Howell. We became good friends. He related to me that he had rented the Howell Ranch for summer pasture from 1935 until he purchased it in 1945. Forrest Howell continued irrigating at the points that had already been established by the previous owners. This means that the

points of diversion for the subject water rights were established prior to 1935 when Pop Howell began renting the ranch. That is the basis for the 1935 date on the original applications, in June and July, 1989 that Forest Howell and I submitted to the Department of Water Resources as noted in the beginning of this Affidavit in Section 1.,
Background. So, the water right and points of irrigation were established at least by 1935.

It is my belief that the ranch has always been irrigated at the points noted in the subject water rights. No other diversion points would make sense based upon how the meadow land to be irrigated is situated with respect to the water sources. The ranch has always been used to graze cattle. No one would have owned the ranch and not used the water from the noted diversion points as it is currently being used.

I do solemnly swear or affirm that the statements contained in the foregoing document are true and correct.

Signature of claimant(s) William F. Dube
Date: OCTOBER 7 2005

Province of Canada/ or _____

Subscribed and sworn (or affirmed) before me this 7 day of OCTOBER 2005

Public [Signature]

at MARK W.L. LINDHOLM
BARRISTER & SOLICITOR
526 HEAD STREET
VICTORIA, BC V9A 5S3

SEAL

Notary

Residing

My Commission

expires N/A

File
Scanned

31 August 2005

To: Idaho Department of Water Resources, Eastern Division

From: Dr. Larry J. Ybarrondo, owner and trustee of Howell Ranch

Subject: Evidence of Priority Date of 1935 for Beneficial Use on Water Rights A21-11241 and A21-11248 on the Howell Ranch near Ashton, Idaho (Fremont County)

Dr. Larry J. Ybarrondo and a related family trust, of which he is the Trustee, are the owners of record of the Howell Ranch located at 4800 East Cave Falls Road in Fremont County. Dr. Ybarrondo purchased the Howell Ranch in March 1993. The subject water rights have been transferred to his name.

For Water Right A21-11241, the water sources are 'unnamed springs' which are a tributary to Porcupine Creek. The priority date for A21-11241 is 31 May 1935. The diversion point is noted in the Water Right application filed 28 July 1989 by Dr. William F. Duke; previous owner (19 79 -1993) before Dr. Larry J. Ybarrondo.

For Water Right A21-11248, the water source is Rising Creek a tributary to Porcupine Creek. The priority date for A21-11248 is 01 May 1935. The diversion point is noted in the Water Right Application, A21-11241, filed 23 June 1989, by Forrest Howell; owner (1945-19 79) before Dr. William F. Duke

My name is Delair Coalaway. I reside at 246 N 1900 E. I was born in Rexburg, Idaho in 19 31. I have lived all my life in the Rexburg area of Idaho.

My statements about the use of water for beneficial use on what is now known as the Howell Ranch are made freely upon my affirmation of belief and personal knowledge that said facts and matters that I set forth in this Affidavit are correct and true.

I have recreated and fished on the Howell Ranch premises and the surrounding forest and streams starting as a young boy; about 8 or 9 years old. I fished in Rising Creek and the unnamed springs at the back of the Ranch and also in the portion of Rising creek outside the Howell Ranch and the portion of Porcupine creek within and outside the Ranch. My family members were with me and related to me that the Ranch had been irrigated for some time. Later, as a young man, about ???, I worked in the area doing bulldozing work. The ranch continued to be irrigated at the places noted in the referenced water rights. In 1978, I received a Forest Service permit to graze cattle on the Targhee National Forest, permit number , I still exercise that permit each year. I or my hired range rider regulate the amount of water being used for irrigation. The Ranch has always been irrigated. The irrigation water is necessary to properly use the ranch. No one would have owned the Ranch and not used the water.

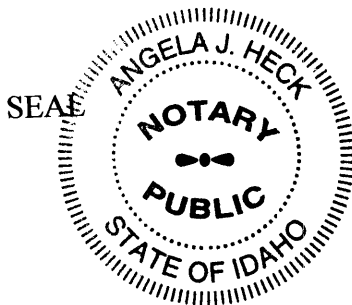
I do solemnly swear or affirm that the statements contained in the foregoing document are true and correct.

Signature of Claimant(s) Blair Calaway
Date: 9-1-2005

State of Idaho/or _____) SS.

County of Fremont)

Subscribed and sworn (or affirmed) before me this 1st day of
September 2005.



Notary Public Angela J. Heck

Residing at Ashton, ID

My commission expires June 28, 2011

RECEIVED

SEP 12 2005

Department of Water Resources
Eastern Region

September 2005

To: Idaho Department of Water Resources, Eastern Division

From: Dr. Larry J. Ybarrondo, owner and trustee of Howell Ranch

Subject: Evidence of Priority Date of 1935 for Beneficial Use on Water Rights A21-11241 and A21-11248 on the Howell Ranch near Ashton, Idaho (Fremont County)

Dr. Larry J. Ybarrondo and a related family trust, of which he is the Trustee, are the owners of record of the Howell Ranch located at 4800 East Cave Falls Road in Fremont County. Dr. Ybarrondo purchased the Howell Ranch in March 1993 from William and Sheila Duke. The subject water rights have been transferred to his name.

For Water Right A21-11241, the water sources are 'unnamed springs' which are a tributary to Porcupine Creek. The priority date for A21-11241 is 31 May 1935. The diversion point is noted in the Water Right application filed 28 July 1989 by Dr. William F. Duke; previous owner (1979-1993) before Dr. Larry J. Ybarrondo.

For Water Right A21-11248, the water source is Rising Creek, a tributary to Porcupine Creek. The priority date for A21-11248 is 01 May 1935. The diversion point is noted in the Water Right Application, A21-11241, filed 23 June 1989, by Forrest Howell; owner (1945-1979) before Dr. William F. Duke

My name is Louise B. Howell. I reside at 1032 Idaho St. Ashton, ID 83420. I was born in Ashton, Idaho in 1921. I have lived all my life in the Ashton area of Idaho.

My statements about the use of water for beneficial use on what is now known as the Howell Ranch are made freely upon my affirmation of belief and personal knowledge that said facts and matters that I set forth in this Affidavit are correct and true.

My husband, Forest Howell and I purchased the Howell Ranch in 1945 from F.A. Burrell and Mary E. Burrell, his wife. We operated the Howell Ranch until 1979 when we sold the Howell Ranch to William and Sheila Duke.

Forest and I used the Howell ranch for grazing cattle. We also farmed other land in the area for crops.

I recall the Howell Ranch was already being irrigated as described in the water rights above when we purchased it. Forest and I continued irrigating the ranch in the same places noted in these two water rights. As best I can remember, the Ranch has always been irrigated and used for grazing cattle. Irrigation water from Rising Creek (A21-11248) and the 'unnamed springs', in A21-11241, is necessary to properly use the ranch. It is difficult to believe that anyone would have owned the Ranch and not used the water as noted.

L.H.
* ~~Forrest~~ ^{L.H.} rented the ranch from F. A. Burrell and Mary E. Burrell ten years prior to our purchase in 19~~35~~⁴², and irrigated the place.

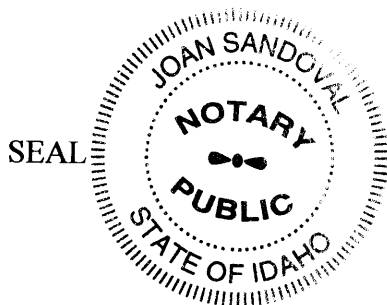
Louise Howell
Sept 12-2005

I do solemnly swear or affirm that the statements contained in the foregoing document are true and correct.

Signature of Claimant(s) Louise Howell
 Date: 9-12-05

State of Idaho/or _____)
 County of Bonneville) SS.

Subscribed and sworn (or affirmed) before me this 12th day of Sept. 2005.



Notary Public Joan Sandoval

Residing at Bonneville County

My commission expires 3-21-2011

1 September 2005

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My name is Richard F. Howell. I reside at 680 West Elva St. Idaho Falls, Id 83402. I was born in Ashton, Idaho in 19 48.
Louise B. and Forrest Howell are my parents. They owned the Howell ranch from 1945 until 1979. I have lived most my life in the Ashton area of Idaho. I owned and operated my own farm in the Ashton area until 1984.

My statements about the use of water for beneficial use on what is now known as the Howell Ranch are made freely upon my affirmation of belief and personal knowledge that said facts and matters that I set forth in this Affidavit are correct and true.

I have spent considerable time recreating, fishing and working on the Howell Ranch premises and the surrounding forest and streams starting as a young boy; about 4 or 5 years old. My father and mother, Forest and Louise Howell bought the Howell Ranch in 1945 and sold it to William and Sheila Duke in 1979. We raised cattle on the ranch. I worked on the ranch and helped my father irrigate on the ranch. The diversion points, then, were the same as they are now and as noted in the water right claims noted above. My family members were with me and related to me that the Ranch had been irrigated for some time before they purchased it. As a young man, I continued helping my parents until about 19____ when I left the family home. It is my belief that the ranch has always been irrigated at the same diversion points from the unnamed springs in A21-11241 and A21-11248 because they are the only places that one can sensibly divert water to irrigate the meadow where the cattle graze.

RECEIVED
SEP 01 2005
Department of Water Resources
Eastern Region

It is my belief based upon my extensive experience helping my parents on the ranch and , later, owning my own farm in the area that the irrigation water is necessary to properly use the ranch. No one would have owned the Ranch and not used the water as noted.

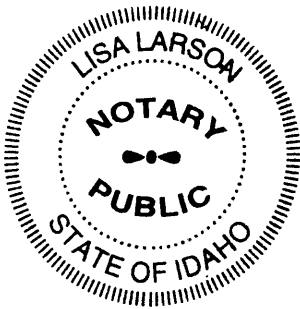
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Signature of Claimant(s) Richard F. Howell
Date: Sept 1, 2005

State of Idaho/or _____)
County of Bonneville) SS.

Subscribed and sworn (or affirmed) before me this 1st day of September, 2005.

SEAL



Notary Public Lisa Larson

Residing at St. Anthony, ID

My commission expires 3/17/06