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December 13, 2006

Clerk of the District Court
Snake River Basin Adjudication
253 Third Avenue North
P.O. Box 2707
Twin Falls, ID 83303-2707

Re: Wayne Leasing, LLC

Dear Clerk:

I received a phone call from Candice McQue concerning this matter. It is my understanding that rather than using the claim number of another right (23-4000), this has been assigned a new claim number, 23-11336. This is fine.

Also, I received word from Candice that there needed to be an indication as to the priority date with respect to this late filed claim. Enclosed with this letter please find a new front page of a "Notice of Claim to a Water Right" for this matter in which I have inserted a claim priority date of June 1, 1914.

May I explain the claimed priority date. I will include with this letter a copy of the original patent from the United States government to the land where this water is used. This was recorded at book 21, page 94 of the records of Bonneville County (then Bingham), Idaho. It is a difficult copy to read. However, there are two pertinent points related to this. First, please note that this was issued with regard to the homestead filed by Everett Daniels. The date of this patent was October 11, 1922. Obviously, under the homestead entry statutes the land had to have been entered in years prior and certain improvement work was done. You will see from other documents submitted in connection with this file that my client, Wayne Leasing, LLC, acquired this property from Dora Daniels, as the last owner in the Daniels family.

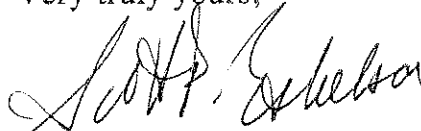
RECEIVED
DEC 15 2006
DEPARTMENT OF
WATER RESOURCES

Clerk of the District Court
December 13, 2006
Page 2

Second, I will include pertinent pages of the claim to water right filed with respect to right number 23-4000. I include these pages in support of the claimed 1914 priority date. Please look at item 4. c. which refers to a jointly used pipe system by the references made to "the Daniels ranch". In addition, please see item 9 which indicates that Ed Daniels has used his half of the water consistently since 1914. Also, please see the affidavits which are part of the paperwork dealing with right number 23-4000. One affidavit is signed by Earl H. Adams and the other by William E. Hill. Each of these indicates that Ed Daniels has maintained property and used his share of water since the year 1914. I believe these provide support for the claimed priority of 1914, even though the actual patent to the land was not issued until 1922.

I apologize for the confusion in not including this earlier. It will be my hope now that this will straighten out your file and we will anticipate the hearing on March 20, 2007.

Very truly yours,

A handwritten signature in cursive script, appearing to read "Scott P. Eskelson".

Scott P. Eskelson

Enclosures

cc: Mark Goddard
Candice McQue, w/enc.

IN THE DISTRICT COURT OF THE FIFTH JUDICIAL DISTRICT OF THE
STATE OF IDAHO, IN AND FOR THE COUNTY OF TWIN FALLS

IN RE THE GENERAL ADJUDICATION
OF RIGHTS TO THE USE OF WATER FROM
THE SNAKE RIVER BASIN WATER SYSTEM

CIVIL CASE NUMBER: 39576

Ident. Number _____

Date Received _____

Receipt Number _____

NOTICE OF CLAIM
TO A
WATER RIGHT
ACQUIRED UNDER STATE LAW

Please type or print clearly

1. Name of Claimant (s) Wayne Leasing, LLC Phone (801) 393-4943

Mailing Address 1555 Sunview Dr., Logan, UT 84404 Zip 84404

2. Date of Priority (Only one (1) per claim) 6-1-1914

3. Source of water supply (a) Papoose Springs
which is tributary to (b) Papoose Creek

4. a. Location of existing point of diversion is: Township 1N Range 43E Section 15,
SW 1/4 of SE 1/4 of _____ 1/4, Govt. Lot, _____ B.M., County of Bonneville

Additional points of diversion if any: n/a

b. If instream flow, beginning point of claimed instream flow is:

Township _____ Range _____ Section _____, _____ 1/4 of _____ 1/4 of _____ 1/4,

Govt. Lot _____ B.M., County of _____

ending point is: Township _____ Range _____ Section _____, _____ 1/4 of _____ 1/4 of _____

_____ 1/4, Govt. Lot _____ B.M., County of _____

5. Description of existing diversion works (Dams, Reservoirs, Ditches, Wells, Pumps, Pipelines, Headgates, Etc).
Including the dates of any changes or enlargements in use, the dimensions of the diversion works as
constructed and as enlarged and the depth of each well. Water originates in three springs. Pipes
Lead to a cistern of 48 x 48 inches x 42 inches deep. This is made of cement. A
1-1/2 inch header leads to a cistern bearing approximately 47 degrees east of north.
Pipe proceeds approximately three thousand feet to Y where it is reduced to 3/4 inch
line to a home. In addition, 3/4 inch pipe pipes water out of Papoose Creek and
takes it 200 feet to a watering trough.

No. 58446.

Blackfoot 016109.

THE UNITED STATES OF AMERICA, TO ALL TO WHOM THESE PRESENTS SHALL COME GREETING:

WHEREAS, a Certificate of the Register of the Land Office at Blackfoot, Idaho, has been deposited in the General 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 Edward Daniels has been established and duly consummated, in conformity to law, for the R. S. Survey No. 439, embracing a portion of, approximately, Sections fourteen and fifteen in Township one north of Range forty-three east of the Boise Meridian, Idaho, more particularly bounded and described as follows: Beginning at corner No. 1 identical with the corner to Sections ten, eleven, fourteen, and fifteen in said Township and Range; thence, north eighty-nine degrees forty-five minutes east forty and two hundredths chains to corner No. 2; thence, north

eighty-nine degrees fifty-nine minutes east seventeen links to corner No. 5; thence, south twenty chains to corner No. 4; thence, west eight links to corner No. 5; thence, south thirteen minutes east nineteen and sixty-four-hundredths chains to corner No. 6; thence, ^{North} eighty-eight degrees twelve minutes west twenty and one-hundredth chains to corner No. 7; thence, north twelve minutes west nineteen and four-hundredths chains to corner No. 8; thence, north eighty-nine degrees fifty-six minutes west forty and sixty-four hundredths chains to corner No. 9; thence, north eighteen minutes west nineteen and ninety-one-hundredths chains to corner No. 10; thence south eighty-nine degrees forty-five minutes east twenty and sixty-five-hundredths chains to corner No. 1 the place of beginning, containing one hundred fifty-nine acres and sixty-three-hundredths of an acre, 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 thereby granted a right of way thereon for ditches or canals constructed by the authority of the United States.

IN TESTIMONY WHEREOF, I, Warren G. Harding,

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, in the District of Columbia, the Eleventh day of October in the year of our Lord one thousand nine hundred and Twenty-Two and of the Independence of the United States the one hundred and Forty-Seventh.

By the President: Warren G. Harding

By Viola B. Pugh, Secretary.

M. P. LeRoy, Recorder of the General Land Office.

Geo. Witt, Recorder.

By

Deputy.

RECORDED: PATENT NUMBER 882791

Recorded at the request of:
C. C. Whipple, Nov. 29, 1922 at
10:30 A.M.
Fee \$1.00

No. 59491

Blackfoot 013619 and 014360

THE UNITED STATES OF AMERICA, TO ALL TO WHOM THESE PRESENTS SHALL COME GREETING:

WHEREAS, a Certificate of the Register of the Land Office at

Identification No. 23-40007
Claim No. _____
Map No. _____

STATE OF IDAHO
DEPARTMENT OF RECLAMATION
CLAIM TO A WATER RIGHT

Established by Diversion and Application to Beneficial Use.

Under the provisions of Section 42-225a, Idaho Code, a person may file a claim to a right to use water which has been established by diversion and application to beneficial use. The filing of this claim does not confirm the water right but will serve for information purposes only. It may, however, become the basis for future adjudication of the water right by the Court.

(Please refer to the instructions on the back of this form)

1. Name of claimant Ed Daniels
post office address Box 183, Irwin, Idaho 83428
2. The point of diversion is in SW 1/4 of Section 15 Township N Range 43 E B.M. located on SE 1/4 Snake River tributary to Papoose Creek Papoose Creek at the fork of the canyon
(name of source)

- tributary to Snake River in Bonneville County.
3. Dates of priority claimed: list the priority for each separate quantity that you claim. Priority dates should be based upon the earliest diversion of the water which has resulted in continued beneficial use since that time. If there has been an interval of five years or greater when the water was not beneficially used for the same purpose as originally appropriated, the priority that you claim should date from the time that the water was again beneficially applied following the period of non-use.

a. Date of priority claimed: 1914

Continuous use since 1914
use water about 100 head of stock
each year and some times
1914. The amount given some batch purposes

amount: 1011 c.f.s. or _____ acre feet
amount: _____ c.f.s. or _____ acre feet
amount: _____ c.f.s. or _____ acre feet
Total claimed _____ c.f.s. or _____ acre feet

- b. Explain the purpose for which the water has been used and the time during the year when you have used the right claimed:
- use culinary period of use from Jan 1 to Dec 31 (both dates inclusive)
use water stock period of use from Jan 1 to Dec 31 (both dates inclusive)
use _____ period of use from _____ to _____ (both dates inclusive)
use _____ period of use from _____ to _____ (both dates inclusive)

4. Description of diverting works:

a. Surface water diversion dam and/or headgate: material is composed of n/a
length is _____ feet; height is _____ feet;
width at bottom is _____ feet; with at top is _____ feet; explain any increase in diversion capacity since structure was first built, giving dates and estimated capacities if known _____

b. Underground water diverting works: is well flowing or pumped n/a; depth of well is _____ feet; diameter of well is _____ inches; type of pump is _____
capacity of pump is _____ g.p.m.; name and address of well driller is _____

4000

Please explain any changes or increase in size of conveying system since water was first appropriated; give

In addition a 3/4 " pipe picks up water out of the Papoose Creek and takes it 200" to a watering trough.

total capacity of reservoir is _____ acre feet; active capacity of reservoir is _____ acre feet;

period of storage is from _____ to _____; is reservoir drained each year _____;

is reservoir on or off stream _____ explain _____

If feeder canal is used give maximum carrying capacity _____ c.f.s.; if reservoir is off stream, describe

location of reservoir by 40-acre subdivisions.

has there been any enlargement of the reservoir since it was first built _____, if so, give dates and describe _____

5. a. Where water is used for irrigation, describe area irrigated by 40-acre subdivisions and give total acres:

[illegible]

Total number of acres to be irrigated _____

Explain any significant increase in area irrigated since first use, give dates and acreages if known _____

n/a

b. Do you get water through a pipe owned by several users? Yes If yes, give the name of the ditch
None The other users and their respective

interests in the ditch are (if known) Albert Peterson - half interest
Ed Daniels - half interest
Daniels

6. Where water is used for stock watering, give number of each kind of stock watered
50 Head of cattle and 6 horses

7. Where water is used for domestic or municipal purposes give number of families served 2
name of town supplied none

8. Where water is used for other purposes not above enumerated, give the nature of use, the extent of use,
and any details regarding the initiation of the right or subsequent later expansion. Be as specific as possible,
giving dates and quantities n/a

9. Remarks: please explain any details of your claim which you feel need clarification or additional explanation
Albert Peterson filed for and obtained a water license thereafter making
a verbal agreement with Ed Daniels for each to use half of the water.
The water has been used consistently since 1914 by Ed Daniels or his
representatives.

State of Idaho

County of Blaine ss.

Be it known that the undersigned, being duly sworn, deposes and says that he, she, they subscribed the foregoing claim to a water right, together with all attached information, and that the matters and facts therein are true to the best of the affiants knowledge.

Edward Daniels
Claimant

Sworn to before me this 29 day of April, 1971.

W. Ray Thatcher
Notary Public
Residing at Carey Idaho

My commission expires 3-11-71

Received by	Date	Exception filed by	Forwarded to claimant by	Date
<u>WDF</u>	<u>5-3-71</u>			
Prelim. check by	<u>5-17-71</u>			
Fee received by	<u>5-18-71</u>			
Approved for publication by				
Published in	<u>Boise Falls Post Register</u>			

For Department Use Only
Date 5-17-71
Fee \$10.00
Dates 6-3-71 to 6-10-71
23 4000

IN THE MATTER OF:

Water Right

State of Idaho

County of Bonneville

AFFIDAVIT Department of Reclamation

Carl H. Adams

being first duly sworn,

deposes and says: Ed Daniels has shared the water right that is filed in
the name of Albert Peterson on Papoose Creek county of Bonneville near
Swan Valley in the State of Idaho, through verbal agreement since the year
1914. Said water has been used and is being used for culinary irrigation
of garden and berries, and watering of stock. Said water runs through
Ed Daniels property description: NE NW 1/4 SE 1/4 NW 1/4 Sec. 14 Tp in R 43, in order
to reach the Albert Peterson property. Ed Daniels has maintained Papoose Creek
with practically all the labor and his fair share of money since the year 1914.
Therefore, it is completely fitting and proper that he have a water right
filed in his name with the department of Reclamation State of Idaho.



Carl H. Adams
(signature)

Subscribed and sworn to before me this 16th day of August 19 69.

Susan M. Meckling
(Notary Public)

Residing at Swan Valley, Idaho.
My commission expires December 14, 1973

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IN THE MATTER OF:)

Water Rights)

State of Idaho)

County of *Bonneville*)

Department of Reclamation

AFFIDAVIT

William E. Hill

being first duly sworn,

deposes and says: Ed Daniels has shared the water right that is filed in

the name of Albert Peterson on Papoose Creek county of Bonneville near

Swan Valley in the State of Idaho, through verbal agreement since the year

1914. Said water has been used and is being used for culinary, irrigation of

garden and berries, and watering of stock. Said water runs through Ed Daniels

property description: N $\frac{1}{2}$ NW $\frac{1}{4}$ SE $\frac{1}{4}$ NW $\frac{1}{4}$ Sec. 14 Tp 14 N R 43, in order to reach the

Albert Peterson property. Ed Daniels has maintained Papoose Creek with

practically all the labor and his fair share of money since the year 1914.

Therefore, it is completely fitting and proper that he have a water right

filed in his name with the department of Reclamation State of Idaho.



Wm E Hill
(signature)

Subscribed and sworn to before me this 16th day of August 1969.

John W. Meckling
(Notary Public)

Residing at Swan Valley Idaho

My commission expires November 14, 1972