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Department of Water Resources
Eastern Region

Law Offices

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November 8, 2004

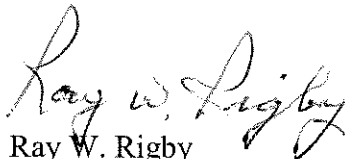
Idaho Department of Water Resources
900 N. Skyline Dr., Suite A
Idaho Falls, ID 83402-1718

RE: Water Right Claim 22-10170
O. Keith or Nina Hathaway

Dear Allen,

I enclose herewith the affidavit of Nina Hathaway in behalf of herself and O. Keith Hathaway to answer your inquiry of June 4, 2004 concerning the above numbered Water Right Claim. If for any reason this does not answer your inquiry in a satisfactory manner, please let me know.

Sincerely,



Ray W. Rigby
RWR/bml

enclosure

AFFIDAVIT

State of IDAHO)
 ss.
County of Madison)

RE: SRBA Water Right Claim 22-10170

Nina Hathaway, being first duly sworn, deposes and says:

1. That she makes this affidavit for herself and her husband, O. Keith Hathaway, in support of the above numbered claim to water right.
2. That she resides at 411 W. Moran View Rd., Rexburg, ID 83440, and her telephone number is (208) 356-7096.
3. On June 4, 2004, Allen B. Ruberry, in behalf of the Idaho Department of Water Resources, by a letter to O. Keith or Nina Hathaway, asked for evidence of Priority (June 15, 1960) for SRBA Water Right Claim 22-10170.
4. That your affiant is the daughter of Lorin Westover, who is now deceased.
5. The said Lorin Westover owned the real property in Section 18, Township 6 North, Range 40 E.B.M. in Madison County Idaho, upon which the above water right is used, and in the early spring of 1960 he established a mobile home or trailer court on said property. Prior to that time the property had been used for growing agricultural crops, and was irrigated by water from the Teton Island Canal Company, in which the said Lorin Westover owned shares of stock, for not only the approximate 5 acres for the trailer court, but for the rest of his farm bordering said trailer court. To be able to furnish culinary water for the Trailer houses and mobile homes, he intended to accommodate in said court, the said Lorin Westover drilled two separate wells, completing the same on or before June 15, 1960, and the water therefrom was piped to each lot in said court and each of said lots has continued to have the use of said domestic water from June 15, 1960 to and including date hereof, and will continue to use water for culinary purposes for all of the lots in said court.

On approximately 2 ½ acres of the land that was being held for future development, the said Lorin Westover grew grass and pastured livestock thereon.

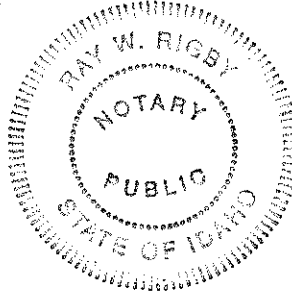
6. Approximately in the latter part of 1974 or the early part of 1975, your affiant and her husband, O. Keith Hathaway, purchased the five acre tract of land above referred to from the said Lorin Westover and continued to operate the Trailer

Court on approximately 2 ½ acres thereof and pastured the remaining 2 ½ acres with cattle.

7. In the year of 1974, after your affiant and her husband purchased the property, they deepened one of the wells that had been drilled by Mr. Westover, and in the year 1977, the other well was deepened and they continued to operate the trailer court and graze the cattle with the water claimed by said water right (#22-10170) furnishing domestic water for at least 19 mobile homes and trailer houses and for watering at least 10 head of range cattle, and for irrigating at least 1 acre of ground.
8. So far as your affiant knows, no permit was ever obtained by the said Lorin Westover, nor your affiant and her husband for the uses claimed in said water right, namely commercial, stockwater, and irrigation.
9. Your affiant was personally involved in the matters ^{described} in this affidavit and knows them to be true and verily believes that said water right is valid in all its terms.

Nina Hathaway
Nina Hathaway

Subscribed and Sworn to before me this 4th day of October, 2004.



Ray W. Rigby
A Notary Public for Idaho
Residing At: Rexburg, ID
My Commission Expires: 3-12-05