

BEFORE THE DEPARTMENT OF WATER RESOURCES
OF THE STATE OF IDAHO

RECEIVED

DEC 05 2001

Department of Water Resources
Eastern Region

IN RE:)

)

AFFIDAVIT OF PAT BARKER

IDWR Water RIGHT NO.)

)

A34-13589.)

)

STATE OF IDAHO)

ss.

County of Blaine)

)

PAT BARKER, first being duly sworn, deposes and states as follows:

1. Water Right No. A34-13589 is a right appurtenant to its place of use on real property that either I or my family previously owned during years 1957 to 1994 inclusive.
2. During the years of our ownership, water was used from approximately 1971 to 1975 inclusive. The existing ditch was cleared to irrigate a new crop of alfalfa. The crop was watered until the drought of 1977 and any year after.
3. During 1994, we conveyed to A. W. and Maxine Molyneux the real property to which the above-reference water right is appurtenant.

See attached map.

Further, sayeth your affiant naught.

DATED this 3rd day of December, 2001.

Pat Barker
PAT BARKER

SUBSCRIBED AND SWORN to before me this 3rd day of December, 2001.

Dina M. Quirk
NOTARY PUBLIC for Idaho
Residing at: Decato
Commission Expires: 2-21-2003

ROSHOLT, ROBERTSON & TUCKER

Chartered

ATTORNEYS AT LAW

JOHN A. ROSHOLT
J. EVAN ROBERTSON
JAMES C. TUCKER
GARY D. SLETTE
JERRY V. JENSEN
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Twin Falls Office
142 3rd Ave. North
P.O. BOX 1906
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1221 WEST IDAHO, SUITE 600
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RECEIVED

NOV 12 1999

Department of Water Resources
Eastern Region

November 10, 1999

State of Idaho
Department of Water Resources
Attn: Dave Carlson
900 North Skyline Drive - Suite A
Idaho Falls, Idaho 83402-1718

Re: **A. W. Molyneux (A34-13589)**

Dear Mr. Carlson:

In response to your letter of October 14, 1999, enclosed please find the following:

1. Notice of Water Right Location dated March 20, 1902.
2. Warranty Deed dated January 24, 1918.

You will note that the Notice of Water Right Location claimed six (6) cfs on the property legally described therein, which is currently owned by A. W. Molyneux. The 1918 deed likewise references that same six (6) cubic feet of water "appropriated by A. Stauffenberg", which "water right was appropriated March 20, 1902, and recorded March 21, 1902". I do not believe that the U.C. decree would preclude my clients from claiming this earlier priority date as we discussed in our phone conversation. Consequently, I would request your further inquiry into that matter, and a follow-up letter from you concerning my client's amendment of the current SRBA claim to show a March 20, 1902 priority date. Thank you in advance for your consideration and assistance.

Yours truly,



GARY D. SLETTE

GDS:rlw

cc: Mr. and Mrs. A. W. Molyneux

docs\rlw\gds\letters\IDWR2

agree, to and with the said party of the second part, his heirs and assign, that they have not done, offered to be done anything whereby the said premises hereby granted, are, or may be, in any manner encumbered or charged, and that they Will Warrant and Forever Defend said premises against all persons lawfully claiming by, through or under any act of said trustees.

Excepting that said Premises are conveyed subject to all Taxes and assessments levied or assessed against the same.

IN WITNESS WHEREOF, The said Charles S. Brantingham, Edward P. Lathrop and Fred S. Glover, as trustees aforesaid and of the first part, have hereunto set their hands and seals, the day and year first above written.

Signed Sealed and Delivered in the presence of M. H. Douglass, R. H. Comly.

Charles S. Brantingham, (Seal)
Edward P. Lathrop, (Seal)
Fred S. Glover, (Seal)
Trustees aforesaid.

STATE OF ILLINOIS,) ss.
COUNTY OF WINNEBAGO,)

I, G. R. Miller a Notary Public in and for said County, in the State aforesaid, DO HEREBY CERTIFY That Charles S. Brantingham, Edward P. Lathrop and Fred S. Glover who are personally known to me and known to me to be the trustees described herein and the real persons whose names are subscribed to the within deed as having executed the same, appeared before me this day, in person, and acknowledged that they signed, sealed and delivered the said instrument of writing as their free and voluntary act, as such trustees for the consideration, uses and purposes therein set forth, and thereby conveyed all their right, title and interest in and to the premises described in said Instrument.

And that my commission expires on July 30th, 1918.

Given under my hand and official seal, this 27th day of November A. D. 1917.

(NOTARIAL SEAL)

G. R. Miller,
Notary Public in and for
Winnebago County, Ill.

Recorded at the request of Roy Hawley,
January 17, 1918 at 2:00 P.M.
Book 1 Deeds, page 151.
By Lydia Toombs, Deputy. Fee \$1.20.

John T. Welch,
Recorder.

Instrument No. 0717.

WARRANTY DEED.

This Indenture, Made this 24th day of January in the year of our Lord, one thousand nine hundred and Eighteen, between Cyrus A. Justesen, a single man of Arco, County of Butte, State of Idaho the party of the first part, and Oscar B. Morris of Moore, Butte County, Idaho the party of the second part:

WITNESSETH: That the party of the first part, for and in consideration of the sum of Three Thousand and no/100 Dollars in hand paid by the said party of the second part, the receipt whereof is hereby acknowledged, has granted, bargained, sold, remised, released alienated, and confirmed and by these presents does grant, bargain, sell, remise, release, alienate and confirm unto the said party of the second part, and to his heirs and assigns forever, all the following described lot, piece, or parcel of land, situated in the County of Butte, State of Idaho, known and described as follows, to-wit:

The South half of the southwest quarter and the southwest quarter of the southeast quarter of section three (3) and the northeast quarter of the northwest quarter of section ten (10) in township Two (2) north of Range Twenty-four (24) East of the Boise Meridian, Idaho, containing one Hundred and sixty acres.

Also a waterright of Six (6) cubic feet of water from Hatfield Creek appropriated by Stauffenberg and sold to the party of the first part December 22nd, 1906. Said right was appropriated March 20th, 1902 and recorded March 21st 1902 in Book 1 of rights on page 187, at Hailey, Idaho. Also all ditches and ditch rights appertaining or belonging thereto.

This deed is given subject to one certain mortgage for \$550.00 given November 2nd, and recorded in Book 94 of Mortgages on page 13.

Revenue stamps attached and cancelled. In the amount of \$3.00.

Together with all and singular the tenements, hereditaments and appurtenances there-
belonging or in anywise appertaining; and the reversion and reversions, remainder
remainders, rents, issues and profits thereof; and all the estate, right, title
claim or demand whatsoever of the said party of the first part, either in law
equity, of, in and to the above bargained premises with the hereditaments and appur-
tenances.

HAVE AND TO HOLD the said premises above bargained and described with the appur-
tenances, unto the said party of the second part, his heirs and assigns forever.
And the said party of the first part, for his heirs, executors, and administrators,
do hereby grant, bargain and agree to and with the said party of the second part,
his heirs and assigns, that at the time of signing and delivery of these presents he
is seized of the premises above conveyed, as of a good, sure, perfect, absolute and
able estate of inheritance in law in fee simple, and had good right, full power
and full authority to grant, bargain, sell and convey the same in manner and form
aforesaid; that the same are free and clear of all former or other grants, bargains
debts, liens, taxes, assessments and incumbrances of what kind or nature soever; and
the said party of the first part has and lawfully possesses the said premises in the quiet and peaceable possession of the said party of
the second part, his heirs and assigns, against all and every person or persons lawfully
claiming or to claim the whole or any part thereof, the said party of the first part
will Warrant and forever Defend.

WITNESS WHEREOF, The said party of the first part has hereunto set his hand
and year first above written.

Given and Delivered in the presence of Otto B. Fleischer,

Cyrus A. Justesen, (Seal)

IDAHO,) ss.
COT BUTTE,)

On this 24th day of January, 1918, before me Otto B. Fleischer, a Notary Public in
said county, personally appeared Cyrus A. Justesen a single man, known to me
a person whose name is subscribed to the within instrument, and acknowledged to
me executed the same.

TESTIMONY WHEREOF, I have hereunto set my hand and official seal, on the day and
this certificate above written.

(NOTARY SEAL)

Otto B. Fleischer,
Notary Public, residing at
Arco, Idaho.

Commission expires July 13th, 1919.

At the request of Otto B. Fleischer,

25th, 1918 at 11:00 A. M.

Page 152.

Toombs, Deputy. Fee \$1.50.

John T. Welch,
County Recorder.

NOTICE OF WATER RIGHT LOCATION. 34-13589

page 3 of 3.

TO WHOM IT MAY CONCERN:

NOTICE IS HEREBY GIVEN, That Christopher A. Stauffenberg

of Martin County of Blaine State of Idaho have, this 20th day of March, 1902, appropriated and hereby claims the use of the waters of Hatfield Creek and tributaries thereof

to the extent of Six (6) cubic feet per second, flowing at the point of intended diversion, which said point of intended diversion is particularly described as follows, to-wit:
About half mile in a northerly direction from N.E. corner of the S.E. 1/4 S.W. 1/4 of Section 3 Township 2 North of Range 24 East Boise Meridian

That the special purpose or purposes for which said water is claimed domestic and irrigating purposes.

The place of its intended use is S.E. 1/4 S.W. 1/4 Section 3 N.E. 1/4 N.W. 1/4 Section 10 Township 2 North Range 24 E. B. M.

That the general course of the proposed canal or conduit is Southerly

The length of said proposed canal or conduit is about half a mile

That it is intended to complete the works for the diversion and use of said water as aforesaid within five years

A copy of this notice was duly posted at or near the point of intended diversion, on the 19th day of March, 1902.

WITNESS my hand at Martin County of Blaine State of Idaho, this 20th day of March, 1902.

Christopher A. Stauffenberg

Appropriator and Claimant

STATE OF IDAHO, } ss.
County of Blaine

Christopher A. Stauffenberg

being first duly sworn, deposed and says that he is of lawful age and the appropriator and claimant of the Water Right described in the within and foregoing notice, and whose name is subscribed thereto. That the statements in said notice are true, and that the original notice, of which the foregoing is a true copy, was posted in a conspicuous place at or near the point of intended diversion, at 2 o'clock P.M., the 19th day of March, 1902.

Subscribed and sworn to before me, this 20th day of March, 1902.

Christopher A. Stauffenberg

Otto B. Fleischer
Justice of the Peace.

The foregoing instrument was filed for record at the request of Otto B. Fleischer at 4 o'clock P.M. this 21st day of March, 1902.

By Geo W. Lead Deputy.

V. E. Heard

Ex-officio Recorder.



State of Idaho

DEPARTMENT OF WATER RESOURCES

1301 North Orchard Street, P.O. Box 83720, Boise, Idaho 83720-0098

Phone: (208) 327-7900 FAX: (208) 327-7866

PHILIP E. BATT
GOVERNOR

September 29, 1998

KARL J. DREHER
DIRECTOR

GARY SLETTE
ROSHOLT ROBERTSON AND TUCKER
PO BOX 1906
TWIN FALLS ID 83303-1906

RE: Snake River Basin Adjudication (SRBA)
Notice of Claim #A34-13589
A. W. Molyneux

Dear Mr. Slette:

The filing fees and late fees for your client, A. W. Molyneux, were received recently. We have enclosed your receipt #C043489 for these fees. Please retain the receipt for your records.

A. W. Molyneux's Notice of Claim will be investigated and reported to the Court in a future supplemental Director's Report. Please contact me at 208/327-7932 if you have any questions.

Sincerely,

A handwritten signature in black ink, appearing to read 'Donald V. Shaff', written over a horizontal line.

Donald V. Shaff
Manager, Adjudication Section

DVS:ss:region
Enclosure:
Receipt #C043489

KOSHOLT, ROBERTSON & TUCKER

Chartered
ATTORNEYS AT LAW

Twin Falls Office
142 3rd Ave. North
P.O. BOX 1906
TWIN FALLS, IDAHO 83303-1906
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JOHN K. SIMPSON
PATRICK D. MADIGAN
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NORMAN M. SEMANKO

RECEIVED
SEP 25 1998
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1121 WEST IDAHO, SUITE 600
P.O. BOX 2139
BOISE, IDAHO 83701-2139
TELEPHONE (208) 336-0700
FAX (208) 344-6034

Department of Water Resources

September 23, 1998

Donald V. Shaff
Manager, Adjudication Section
Department of Water Resources
PO Box 83720
Boise ID 83720-0098

RE: A. W. Molyneux SRBA Claims A34-13588 and A34-13589

Dear Mr. Shaff:

This is in response to your letter of September 16, 1998 requesting further information and payment of filing and late fees regarding the above referenced claims.

Enclosed please find our check in the amount of \$100.00 to cover the \$50.00 filing fee and \$50.00 late fee for SRBA Claim A34-13589, along with the SF4 and copy of the claim.

With regard to Claim A34-13588, I have enclosed as you requested a copy of Notice of Withdrawal of Claim filed in the SRBA court on September 21, 1998.

Lastly, our client does not wish to subscribe to the docket sheet.

Thank you for your assistance in this matter.

Sincerely,



CRYSTAL WINNEY VINCENT
Legal Assistant



State of Idaho

DEPARTMENT OF WATER RESOURCES

1301 North Orchard Street, P.O. Box 83720, Boise, Idaho 83720-0098

Phone: (208) 327-7900 FAX: (208) 327-7866

PHILIP E. BATT
GOVERNOR

September 16, 1998

KARL J. DREHER
DIRECTOR

GARY SLETTE
ROSHOLT ROBERTSON & TUCKER
PO BOX 1906
TWIN FALLS ID 83301-1906

RE: Snake River Basin Adjudication (SRBA)
Notices of Claim #A34-13588 and A34-13589
A. W. Molyneux

Dear Mr. Slette:

The Notices of Claim to a Water Right for your client, A. W. Molyneux, were received from the SRBA Court recently. We have enclosed receipt #C043417 for part of the filing fees. Please retain the receipt for your records.

Before these Notices of Claim can be investigated and reported to the Court, the late fees listed below are required by statute, (Idaho Code para. 42-1409(8)), Administrative Order 1 and Standard Form 4.

Notice of Claim #A34-13588	\$ 50.00
(late fee)	
Notice of Claim #A34-13589	\$100.00
(\$50.00 filing fee and \$50.00 late fee)	

Finally, if he hasn't previously done so, please direct your client to subscribe to the docket sheet with the Court as his interest in so doing was expressed in claim #A34-13588. I have enclosed the Court's docket sheet order form for his use.

Please contact me at 208/327-7932 if you have any questions.

Sincerely,

A handwritten signature in black ink, appearing to read 'Donald V. Shaff'.

Donald V. Shaff
Manager, Adjudication Section

DVS:ss:region

Enclosure:

Receipt #C043417

Docket Sheet Order Form

cc: A. W. Molyneux

4/5/1989

SRBA CLAIMS RECEIVING CHECKLIST #2

CLAIMANT'S NAME Molyneux

CLAIM IDENT. NO. A34-13589

DATE RECEIVED 9-16-98

CK #

AMOUNT \$ 0

YES NO Required Info?

1. Is the name and address complete with zip code? ☒ YES ☐ NO *
2. Is a priority date entered? ☒ YES ☐ NO *
- Is the priority date acceptable in view of mandatory filing dates? ☒ YES ☐ NO *
- See Adjudication Memos #1 and #4 to determine if a Permit is required. ☒ YES ☐ NO *
3. (a) Is a source entered? ☒ YES ☐ NO *
- (b) Is a tributary to entered? (if required) ☒ YES ☐ NO N/A *
4. Is the legal description of the p.d. sufficient? ☒ YES ☐ NO *
5. Is there a description of the diverting works? ☒ YES ☐ NO *
6. Are the water uses appropriate for the form? The short form is limited to domestic and stockwater uses with direct diversion. All claims that include storage or instream stockwater must use long form. ☒ YES ☐ NO *
- Is the period of use included? ☒ YES ☐ NO *
- Is a quantity claimed for each use? ☒ YES ☐ NO *
7. Is a total quantity claimed entered? ☒ YES ☐ NO *
8. If required is a consumptive use entered? ☒ YES ☐ NO N/A *
- Is the consumptive use correct? ☒ YES ☐ NO N/A *
9. Are the non-irrigation uses listed properly? If this claim is on the short form, and more than one domestic use is listed, single ownership must be stated. If not under single ownership, see Adjudication Memo # 4. ☒ YES ☐ NO N/A *
10. Is (are) the place(s) of use and purpose(s) indicated? ☒ YES ☐ NO *
11. Is (are) the county(ies) entered? ☒ YES ☐ NO *
12. Is the ownership of p.u. checked? ☒ YES ☐ NO *
13. Are other water rights listed or "none" indicated? ☒ YES ☐ NO *
14. If required, are remarks correct? (If the claimant does not own the place of use, authority for filing the claim must be explained in the remarks.) ☒ YES ☐ NO N/A *
15. Is the basis of the claim indicated? ☒ YES ☐ NO *
16. If the claimant requested a monthly docket sheet, is payment enclosed? (If yes, describe payment status in "Comments" below.) ☒ YES ☐ NO N/A *
17. Is the claim signed by the claimant, and is the signature appropriate? Organizations must complete the organization block. ☒ YES ☐ NO *
18. Has the claim been signed, sealed, and dated by a notary? ☒ YES ☐ NO *
19. Was this claim filed on time, or was an extension granted? ☒ YES ☐ NO *
20. Is the fee enclosed correct? ☒ YES ☐ NO Exempt ☒ YES ☐ NO 9/29 *
21. If this claim is based on an existing water right, has the identification number been entered? ☒ YES ☐ NO N/A *
22. Should this claim be data entered? ☒ YES ☐ NO 9/29

Claim checked by: [Signature] Date: 9-16-98 9/29

Claim must be returned to claimant: ☐ (Yes) ☒ (No)

Claimant must be notified of modifications: ☐ (Yes) ☒ (No)

Receipt Prepared by: [Signature] Date: 9-16-98
Claim data entered by: Date: Checked by: Date:
Sent to claimant by: Date:

Comments: FILING FEE & LATE FEE DUE = \$100

9/29 VARIABLE FEE (ACRES) PD ON CD 43417 (A34-13588)
NO REFUND OF FEES FOR WITHDRAWN A34-13588.

1998 SEP 11 PM 5:08
 DISTRICT COURT - SRBA
 TWIN FALLS CO., IDAHO

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

In Re SRBA

Subcase No. 34-13589

Case No. 39576

ORDER GRANTING MOTION TO
 FILE A LATE NOTICE OF CLAIM

On August 24, 1998, a Motion to File a Late Notice of Claim was filed. All procedural requirements under *Administrative Order 1* were complied with in filing this *Late Notice of Claim*. No valid objections were made to this *Notice of Claim*. The Motion is GRANTED.

IT IS SO ORDERED

DATED: Sept 11, 1998


 DANIEL C. HURLBUTT, JR.
 Presiding Judge
 Snake River Basin Adjudication

CERTIFICATE OF SERVICE

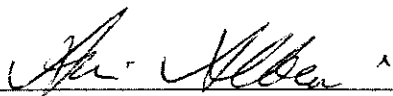
I certify that a true and correct copy of the **ORDER GRANTING MOTION TO FILE A LATE NOTICE OF CLAIM** was served on September 14, 1998, on the following:

IDWR Document Depository
PO Box 83720
Boise, ID 83720-0098
Via first-class mail

Chief, Natural Resources Division
Office of the Attorney General
State of Idaho
PO Box 44449
Boise, ID 83711-4449
Via first-class mail

U.S. Dept of Justice
Environment & Natural Resources Div
550 West Fort Street, MSC 033
Boise, ID 83724
Via first-class mail

Norman Semanko
FOR A.W. MOLYNEUX
Rosholt Robertson & Tucker
142 3rd Avenue North
Twin Falls, ID 83301
Via hand-delivery



Ami Alberdi
Deputy Clerk of the Court
Snake River Basin Adjudication