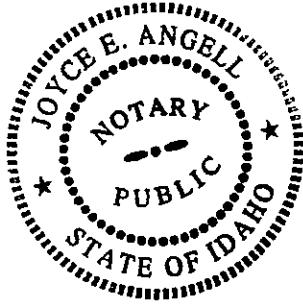


AFFIDAVIT OF JOSEPHINE P. BEEMAN IN SUPPORT OF
LEADORE LAND'S RESPONSE TO WHITTAKER'S MOTION FOR SUMMARY JUDGMENT – PAGE 1

SUBSCRIBED AND SWORN to before me this 28th day of March 2008.



Joyce E. Angell

Notary Public in and for the State of Idaho
My Commission Expires: July 29, 2008

CERTIFICATE OF SERVICE

I hereby certify that on the 28th day of March 2008, I caused a true and correct copy of the foregoing **AFFIDAVIT OF JOSEPHINE P. BEEMAN IN SUPPORT OF LEADORE LAND PARTNERS LTD. PARTNERSHIP'S RESPONSE TO WHITTAKER'S MOTION FOR SUMMARY JUDGMENT** to be deposited in an official U.S. Post Office receptacle with proper First Class postage affixed, addressed to the following:

IDWR Document Depository
P. O. Box 83720
Boise, ID 83720-0098

Purcell Ranch Partnership
Allan, Betty, Kerry Purcell
98 Purcell Road
Leadore, ID 83464

Robert L. Harris
Holden Kidwell Hahn & Crapo
P. O. Box 50130
Idaho Falls, ID 83405

Richard E. Foster
P. O. Box 55
Leadore, ID 83464

Kurt Bird
56 Lower Texas Creek Road
Leadore, ID 83464

Josephine P. Beeman

Josephine P. Beeman

Exhibit 1

Affidavit of Josephine P. Beeman in Support of
Leadore Land Partners Ltd. Partnership's Response to
Whittaker's Motion for Summary Judgment

Subcase Nos. 74-40 and 74-54

March 28, 2008

ADJUDICATIONS MEMO #13

TO: Adjudications Bureau Staff
FROM: Dave Tuthill
REVISED: March 1, 2001
RE: Claim Fees for Recently Adjudicated Water Rights

Idaho Code §42-1414 provides for fees for filing a notice of claim in adjudication proceedings commenced or enlarged on or after January 1, 1985. This language has been interpreted by IDWR as exempting certain claimants from paying a filing fee for notices of claims filed in the SRBA.

If the claimant is claiming a water right determined by a decree or judgment entered in the Payette River Drainage Adjudication (Gem County Civil No. 3667), the Lemhi River Drainage Adjudication (Lemhi County Civil No. 4948), or the Basin Creek Drainage Adjudication (Cassia County Civil No. 11125), the following special rules apply with regard to the payment of fees for filing notices of claims. (This includes permits listed in the director's report in those adjudications, even where the report said that the permits were included for information purposes only or that the permits remained subject to the statutory provisions applicable to permits.)

If the claimant is claiming a water right the same as it was determined in the decree, or the same as it was described in a transfer that was approved or partially approved by IDWR after the right was decreed, then:

1. The claimant is exempt from the fee for filing a notice of claim, but will be subject to late fees for late-filed notices of claims.
2. Shortly after the mailing of the commencement notices in the affected counties, the claimant should have received a notice of claim form from IDWR in the mail with the water right already printed on the form as it was determined in the decree, or as it was described in a transfer approved or partially approved by IDWR after the right was decreed.

If the claimant is claiming a water right differently than it was decreed, or differently than it was described in a transfer that was approved or partially approved by IDWR after the right was decreed, then the claimant is required to pay the fee for filing the notice of claim.

A claimant is not considered to be claiming a water right differently if the only item that is changed is the name, address, and phone number of the claimants). A claimant is also not considered to be claiming a water right differently if the only change is that the water right has been "partitioned by conveyance to" (legal term meaning divided between) different owners. For example, Water User A has a right to 80 inches of water for the irrigation of 80 acres, and then sells 40 acres to Claimant B and 40 acres to Claimant C. If

Claimant B files a notice of claim to 40 inches, for 40 acres described as the place of use in the decree (or in an approved transfer), with the same point of diversion, etc., then Claimant B does not have to pay a fee for filing the notice of claim (but may be required to pay a late fee for a late filed claim).

Late fees should be calculated based upon the filing fee that would apply if the claim were subject to filing fees. For example, the late fee for Claimant B would be \$50.00 (\$50.00 being greater than 15% of \$90.00).

Exhibit 2

Affidavit of Josephine P. Beeman in Support of
Leadore Land Partners Ltd. Partnership's Response to
Whittaker's Motion for Summary Judgment

Subcase Nos. 74-40 and 74-54

March 28, 2008

- From field check after claim was filed, Dept. personnel found on June 9, 1972 that the land was being irrigated but was sagebrush covered.
- Ditch was rebuilt during 1972.
- Limit set to $160(3) = 48 \text{ OAF}$
- Do not incl. incr. rate of div. on this claim since it is questionable if the 3.2 cfs is being put to a ben. use.

6W-136-167-169

74-54

GOV. LOT
1

GOV. LOT
4

GOV.
3

②

40.0

40.0

②

②

74-0054

40.0

74-0054

40.0

②

⑩

①

③

Dry