

RECEIVED

SEP 18 2008

DEPARTMENT OF
WATER RESOURCES

DISTRICT COURT-SRBA
Fifth Judicial District
County of Twin Falls - State of Idaho

SEP 17 2008

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: 22-00386C

Case No. 39576

ORDER GRANTING MOTION TO FILE
LATE NOTICE OF CLAIM

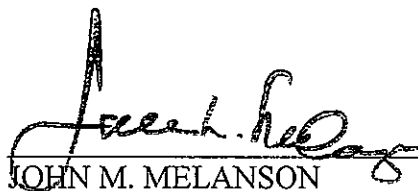
On June 9, 2008, Kane Brightman filed a *Motion to File Late Notice of Claim* for the above-captioned water right. Hearing was held on the *Motion* on September 16, 2008. This *Motion* complied with all procedural requirements under *SRBA Administrative Order 1*, and no objections were made to this late Notice of Claim.

THEREFORE, IT IS ORDERED, that the *Motion to File a Late Notice of Claim* for the above-captioned water right is **granted**.

The original Notice of Claim, as well as any attached filing fees, and a copy of this **Order** will be forwarded to the Idaho Department of Water Resources for further action. Following investigation by the Idaho Department of Water Resources, recommendation for the claim will be reported in the next *Late Claims Director's Report* which is issued on an annual basis. This modifies the provisions of *SRBA Administrative Order 1* 4d(2)(h).

IT IS SO ORDERED.

Dated September 17, 2008.



JOHN M. MELANSON
Presiding Judge
Snake River Basin Adjudication

CERTIFICATE OF MAILING

I certify that a true and correct copy of the ORDER GRANTING MOTION TO FILE LATE NOTICE OF CLAIM was mailed on September 17, 2008, with sufficient first-class postage to the following:

DIRECTOR OF IDWR
PO BOX 83720
BOISE, ID 83720-0098

KANE BRIGHTMAN
528 N HWY 33
TETONIA, ID 83452
Phone: 208-456-2505

ORDER

Page 1 9/17/08

FILE COPY FOR 00689


Deputy Clerk

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 22-386B
Date Received: 5/6/2008
Receipt No:
Received By: MWH

NOTICE OF CLAIM TO A WATER RIGHT
ACQUIRED UNDER STATE LAW

1. Name of Claimant(s)

KANE BRIGHTMAN Phone: (208)456-2505
528 N HWY 33
TETONIA ID USA 83452

2. Date of Priority: 04/01/1889

3. Source: SOUTH LEIGH CREEK Trib. to: TETON RIVER

4. Point of Diversion:

Township	Range	Section	1/4 of 1/4 of 1/4 Lot	County	Type
06N	46E	32	NW NW SW	TETON	

5. Description of diverting works:

DESERT DITCH HEADING.

6. Water is used for the following purposes:

Purpose	From	To	C.F.S.	(or) A.F.A
IRRIGATION	04/15	10/31	1.04	

7. Total Quantity Appropriated is:

1.04 C.F.S.

8. Total consumptive use:

9. Non-irrigation uses:

10. Place of use:

Township	Range	Section	1/4 of 1/4 Lot	Use	Acres
06N	45E	35	NW SW	IRRIGATION	26
Section Acres					26
Total Acres					26

DISTRICT COURT-SRBA
Fifth Judicial District
County of Twin Falls - State of Idaho

JUN - 9 2008

By _____ Clerk
Deputy Clerk

11. Place of use in counties: TETON

12. Do you own the property listed above as place of use? Yes

13. Other Water Rights Used: PORTIONS OF 22-612C AND 22-7002B.

14. Remarks:

AWAITING ACCEPTANCE OF CLAIM BY SRBA COURT.

15. Basis of Claim: Decreed

16. Signature(s)

(a.) By signing below, I/We acknowledge that I/We have received, read and understand the form entitled "How you will receive notice in the Snake River Basin Adjudication." (b.) I/We do _____ do not _____ wish to receive and pay a small annual fee for monthly copies of the docket sheet.

Number of attachments: _____

For Individuals:

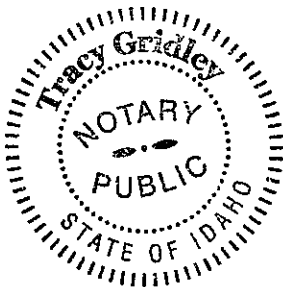
I/We do solemnly swear or affirm that the statements contained in the foregoing document are true and correct.

Signature of Claimant(s): Rene Bejstra Date: June 4, 08
_____ Date: _____

State of Idaho)
County of TETON) SS.

Subscribed and sworn (or affirmed) before me this 4th day
of June 2008 Tracy Gridley
Notary Public

Residing at Tetonia, Idaho
My commission Expires 12/20/2010



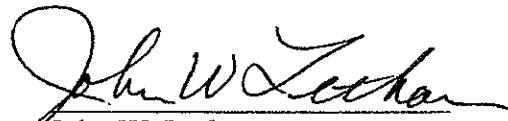
AFFIDAVIT OF JOHN W. LETHAM

STATR OF IDAHO)
)ss.
County of Bonneville)

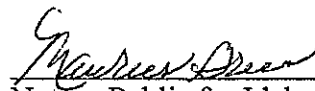
John W. Letham, on his oath deposes and says:

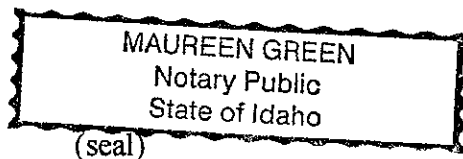
1. Affiant resides at 228 N. Highway 33, Driggs, Idaho 83422, and his telephone number is 208-354-2477. Affiant is 66 years of age and has resided in Teton County, Idaho, his entire life.
2. Affiant has been familiar with certain land owned by Kane Brightman in, T.6N., R.45E. Section 35, NW., 1/4 of SW. 1/4 for many years. Since about 1972 or 1973, Affiant has personally farmed and operated approximately 26 acres of that land. The surface water used for the irrigation of said land always came from the Desert Ditch which heads to the south side of South Leigh Creek in the NWSW Section 32, T.6N., R.46E. Affiant always understood the South Leigh water for said land was delivered under a priority of April 1, 1889.

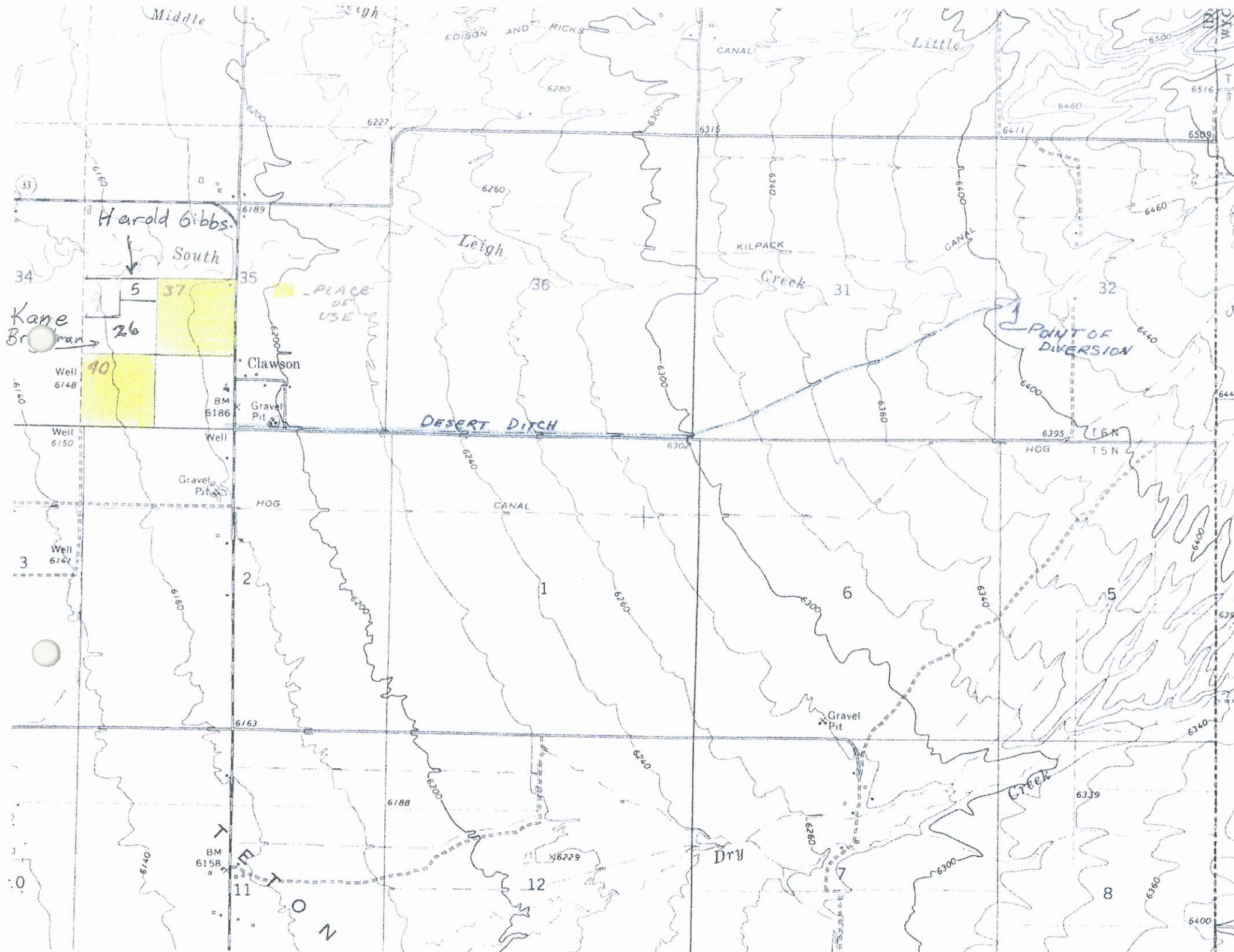
DATED this 4th day of June, 2008


John W. Letham

SUBSCRIBED AND SWORN TO before me this 4th day of June, 2008


Notary Public for Idaho
Residing at: Teton CO
My commission expires: 08/05/14





Law Offices
HOLDEN, KIDWELL, HAHN & CRAPO, P.L.L.C.

KENT W. FOSTER
ROBERT E. FARNAM
WILLIAM D. FALER
CHARLES A. HOMER
GARY L. MEIKLE
DONALD L. HARRIS
DALE W. STORER
MARIE T. TYLER
ROBERT M. FOLLETT
FREDERICK J. HAHN, III
KARL R. DECKER
THEL W. CASPER*
SHAN B. PERRY
AMELIA A. SHEETS
DeANNE CASPERSON**
ROBERT L. HARRIS

1000 RIVERWALK DRIVE, SUITE 200
P.O. BOX 50130
IDAHO FALLS, IDAHO 83405

TELEPHONE (208) 523-0620
FACSIMILE (208) 523-9518
E-MAIL KFOSTER@HOLDENLEGAL.COM

Arthur W. Holden
(1877-1967)
Robert B. Holden
(1911-1971)
Terry L. Crapo
(1939-1982)
William S. Holden
(1907-1988)

Of Counsel
Fred J. Hahn

*Also Licensed in Utah and Arizona
**Also Licensed in Missouri & Kansas

April 1, 2005

Idaho Department of Water Resources
ATTN: Ernie Carlson
900 N. Skyline Dr., Ste. A
Idaho Falls, ID 83402

RECEIVED
APR 04 2005
Department of Water Resources
Eastern Region

Dear Ernie:

We are enclosing with this letter an SRBA claim on behalf of Mr. Wendell Winters. This is a claim to water right number 22-386, originally decreed in the Rexburg Decree to one Zina Little. The land described in the decree as the place of use is the N1/2 NW1/4 and the SWNW, Section 35, T.6N., R.45E., containing 120 acres. We think the legal description of the place of use is wrong, and that it should have described 120 acres of land in the SW1/4 of Section 35, not the NW1/4.

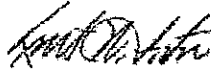
First, Mr. John Letham has operated the property (actually the NWSW and the SWSW, Section 35) and been familiar with it for many years. He says this land was always watered from the Desert Ditch which heads on the south side of South Leigh Creek and brings water only to lands on the south side of the creek. He always understood the priority for the water used on the lands he has operated was April 1, 1889. As you can see on the accompanying map, South Leigh Creek runs from east to west about through the center of Section 35, and virtually no land in the NW1/4 of Section 35 can be irrigated from the south side of the creek. An affidavit of Mr. Letham is enclosed with this letter.

We also had the title company check the deed record. Sure enough, Zina Little owned land in the SW1/4 of Section 35, but not in the NW1/4 of that section. We had the title company check both quarter sections and the chain of title for a period of years during the time the Rexburg Decree would have been considered and entered. We are enclosing copies of those deeds with this letter as well.

Idaho Department of Water Resources
ATTN: Ernie Carlson
April 1, 2005
Page 2 of 2

If there is any additional information or assistance we may provide, please feel free to call upon us at your convenience.

Yours very truly,



Kent W. Foster

Enclosures

G:\WPDATA\KWF\12661 Waters, Wexfield\Ernie Carlson to 040105.wpd\obj

AFFIDAVIT OF JOHN W. LETHAM

STATE OF IDAHO)

)ss.

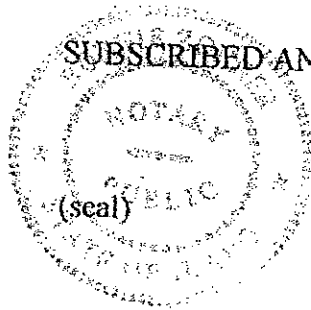
County of Bonneville)

John W. Letham, on his oath deposes and says:

1. Affiant resides at 228 N. Highway 33, Driggs, Idaho 83422, and his telephone number is 208-354-2477. Affiant is 63 years of age and has resided in Teton County, Idaho, his entire life.
2. Affiant has been familiar with certain land owned by the Winters family in the SW1/4 of Section 35, T.6N., R.45E, for many years. Since about 1972 or 1973, affiant has personally farmed and operated approximately 80 acres of that land consisting of most of the NESW and SWSW of said Section. The surface water used for the irrigation of said land always came from the Desert Ditch which heads on the south side of South Leigh Creek in the NWSW Section 32, T.6N., R.46E. Affiant always understood the South Leigh water for said land was delivered under a priority of April 1, 1889.

DATED this 17th day of March, 2005.

John W. Letham
John W. Letham



SUBSCRIBED AND SWORN TO before me this 17th day of March, 2005.

Bonnie Johnson
Notary Public for Idaho
Residing at: Driggs Idaho
My commission expires: 10/13/2010