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DEPARTMENT OF
WATER RESOURCES

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Attorneys for Claimants The Terteling Company, Inc.

IN RE SRBA)
Case No. 38756)
SUBCASE NO. 63-31058; LATE CLAIM NO. 63-33148
AFFIDAVIT OF CHARLES L. HONSINGER IN SUPPORT
OF MOTION TO FILE AMENDED CLAIM TO WATER
RIGHT NO. 63-31058 AND A LATE CLAIM TO A WATER
RIGHT DIVERTED FROM SPRINGS

STATE OF IDAHO)
COUNTY OF ADA) ss

CHARLES L. HONSINGER, being first duly sworn upon his oath, deposes and says that:

1. I make this affidavit based upon my own personal knowledge and belief of the facts contained herein.
2. I am the attorney of record in the Shake River Basin Adjudication for The Terteling Company, Inc.
3. The purpose of this affidavit is to provide information regarding the priority dates claimed for the late claim and the amended claim to water right no. 63-31058 for which motions are submitted concurrently herewith.
4. Attached to this affidavit are true and accurate copies of Bureau of Land Management archive documents related to lands located in T04N R02E Section 15 SE¼SE¼ and Section

AFFIDAVIT OF CHARLES L. HONSINGER IN SUPPORT OF MOTION TO FILE
AMENDED CLAIM TO WATER RIGHT NO. 63-31058 AND A LATE CLAIM - Page 1

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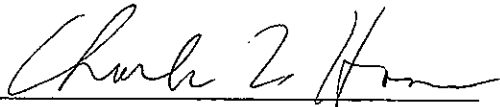
14 S½SW¼ - which lands are currently part of the Terteling Ranch, and to which TICI has claimed water rights as appurtenant. Such documents are designated as Exhibits A - C to this Affidavit, and are described as follows:

Ex. A. Homestead Proof - Testimony of Witness Jacob Bowers dated May 29, 1899, stating that the claimant settled upon the homestead "eight or nine years ago" and that he had irrigated 8 crops on 8 to 10 acres "every season."

Ex. B. Homestead Proof - Testimony of Witness Bud Clark dated May 29, 1899, stating that the claimant cultivated and raised crops on "about 8 or 10 acres - every season, 9 seasons."

Ex. C. Homestead Proof - Testimony of Claimant Orson Eaton dated May 29, 1899 stating that he had, in the spring of 1891, constructed ditches of ¾ miles and 300 yards, and had raised 7 crops on "about 8 acres" since then.

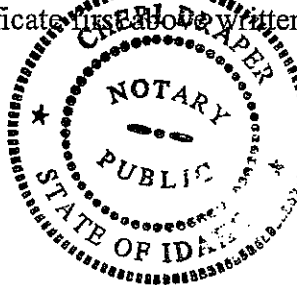
Further your affiant sayeth naught.


Charles L. Honsinger

STATE OF IDAHO)
)ss.
County of Ada)

On this 20th day of December, 2008, before me, the undersigned, a notary public in and for said state, personally appeared Charles L. Honsinger, known to me to be the individual that executed the foregoing affidavit, and acknowledged to me that he executed the same.

IN WITNESS WHEREOF, I have hereunto set my hand and affixed my official seal, the day and year in this certificate first above written.



Charles Draper
Notary Public for IDAHO
Residing at MERIDIAN, IDAHO
My Commission Expires: 12/23/2009

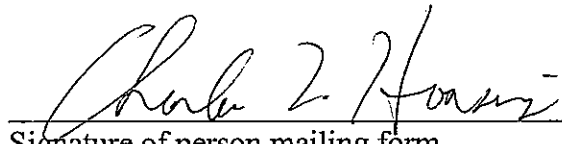
CERTIFICATE OF MAILING

I certify that on December 29, 2008, I mailed the original and copies of this form, including all attachments, to the following persons by mailing the original and/or copies, postage prepaid and addressed as follows:

IDWR Document Depository
PO Box 83720
Boise, ID 83720-0098

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

Dana Hofstetter
Hofstetter Law Office, LLC
608 W. Franklin Street
Boise, ID 83702
Fax: (208)424-8744



Signature of person mailing form

Exhibit A

HOMESTEAD PROOF—TESTIMONY OF WITNESS.

Jacob R. Bowers, being called as witness in support of the Homestead entry of Oscar Eaton for std 2958, testifies as follows:

Ques. 1.—What is your name, age, and post-office address?

Ans. Jacob R. Bowers, age 57 years, po Boise, Ind

Ques. 2.—Are you well acquainted with the claimant in this case and the land embraced in his claim?

Ans. I am

Ques. 3.—Is said tract within the limits of an incorporated town or selected site of a city or town, or used in any way for trade or business?

Ans. No sir

Ques. 4.—State specifically the character of this land—whether it is timber, prairie, grazing, farming, coal, or mineral land.

Ans. It is poor hill land - grazing and farming

Ques. 5.—When did claimant settle upon the homestead and at what date did he establish actual residence thereon?

Ans. Eight or nine years ago - Residence at same time

Ques. 6.—Have claimant and family resided continuously on the homestead since first establishing residence thereon? (If settler is unmarried, state the fact.)

Ans. Yes the law

Ques. 7.—For what period or periods has the settler been absent from the land since making settlement, and for what purpose; and if temporarily absent, did claimant's family reside upon and cultivate the land during such absence?

Ans. No absence except a few days working in the neighborhood to gain a livelihood. Family resided continuously

Ques. 8.—How much of the homestead has the settler cultivated and for how many seasons did he raise crops thereon?

Ans. From 8 to 10 acres - Every season 8 crops

Ques. 9.—What improvements are on the land and what is their value?

Ans. Stumps, fences; fruit trees; shade trees; ditching; outbuildings
Value \$200 I guess

Ques. 10.—Are there any indications of coal, salines, or minerals of any kind on the homestead? (If so, describe what they are, and state whether the land is more valuable for agricultural than for mineral purposes.)

Ans. Not to my knowledge - most valuable for agriculture

Ques. 11.—Has the claimant mortgaged, sold, or contracted to sell, any portion of said homestead?

Ans. Not that I know of

Ques. 12.—Are you interested in this claim; and do you think the settler has acted in entire good faith in perfecting this entry?

Ans. No sir. I think so, yes

(Sign plainly with full christian name.)

Jacob R. Bowers

I HEREBY CERTIFY that the foregoing testimony was read to the witness before being subscribed and was sworn to before me this 29 day of May, 1899, at my office at Boise in Ada County, Ind

[SEE NOTE ON FOURTH PAGE.]

Edward C. Garrett
Recorder

(The testimony of witnesses must be taken at the same time and place and before the same officer as claimant's final affidavit. The answers must be full and complete to each and every question asked, and officers taking testimony will be expected to make no mistakes in dates, description of land, or otherwise.)

Exhibit B

HOMESTEAD PROOF—TESTIMONY OF WITNESS.

Bud Clark being called as witness in support of the Homestead entry of Oran E. Egan for 14th 29 58, testifies as follows:

Ques. 1.—What is your name, age, and post-office address?

Ans. Bud Clark - age 58 years, P. O., Boise, Idaho

Ques. 2.—Are you well acquainted with the claimant in this case and the land embraced in his claim?

Ans. Yes

Ques. 3.—Is said tract within the limits of an incorporated town or selected site of a city or town, or used in any way for trade or business?

Ans. No

Ques. 4.—State specifically the character of this land—whether it is timber, prairie, grazing, farming, coal, or mineral land.

Ans. Farming & grazing land - hills

Ques. 5.—When did claimant settle upon the homestead and at what date did he establish actual residence thereon?

Ans. Dec 1891 - when he settled 1891

Ques. 6.—Have claimant and family resided continuously on the homestead since first establishing residence thereon? (If settler is unmarried, state the fact.)

Ans. Yes - continuously

Ques. 7.—For what period or periods has the settler been absent from the land since making settlement, and for what purpose; and if temporarily absent, did claimant's family reside upon and cultivate the land during such absence?

Ans. For a few days at a time working for a lumber family resided continuously

Ques. 8.—How much of the homestead has the settler cultivated and for how many seasons did he raise crops thereon?

Ans. About 8 or 10 acres - each season, 9 seasons

Ques. 9.—What improvements are on the land and what is their value?

Ans. House, 3 rooms, black house, 12 x 30, outbuildings, fencing, hitching, 500 fruit trees bearing. Value \$200

Ques. 10.—Are there any indications of coal, salines, or minerals of any kind on the homestead? (If so, describe what they are, and state whether the land is more valuable for agricultural than for mineral purposes.)

Ans. No sir - more valuable for agriculture

Ques. 11.—Has the claimant mortgaged, sold, or contracted to sell, any portion of said homestead?

Ans. No sir

Ques. 12.—Are you interested in this claim; and do you think the settler has acted in entire good faith in perfecting this entry?

Ans. No sir I think so

(Sign plainly with full christian name.)

Bud Clark

I HEREBY CERTIFY that the foregoing testimony was read to the witness before being subscribed and was sworn to before me this 29 day of May, 1899, at my office at Boise in Ada County, Idaho.

[SEE NOTE ON FOURTH PAGE.]

Edward E. Garrett
Recorder

(The testimony of witnesses must be taken at the same time and place and before the same officer as claimant's final affidavit. The answers must be full and complete to each and every question asked, and officers taking testimony will be expected to make no mistakes in dates, description of land, or otherwise.)

Exhibit C

HOMESTEAD PROOF—TESTIMONY OF CLAIMANT.

Oscar Eaton, being called as a witness in his own behalf in support of homestead entry, No. 2958, for N6° N6° E, Sec. 22, T6° S6° E, R. 15, & 8° SW 1/4, testifies as follows:

Ques. 1.—What is your name, age, and post-office address?

Ans. Oscar Eaton, Age 49 years, Boise, Idaho,

Ques. 2.—Are you a native-born citizen of the United States, and if so, in what State or Territory were you born?*

Ans. Yes sir, born in Wisconsin.

Ques. 3.—Are you the identical person who made homestead entry, No. 2958, at the

Boise, Idaho, land office on the 6 " day of

June, 1897, and what is the true description of the land now claimed by you?

Ans. Yes sir: N6° N6° E, Sec. 22, T6° S6° E, R. 15, & 8° SW 1/4

Sec. 14, T6° S6° E, R. 15, & 8° SW 1/4

Ques. 4.—When was your house built on the land and when did you establish actual residence therein?

(Describe said house and other improvements which you have placed on the land, giving total value thereof.)

Ans. In the Spring of 1891 at that time

One house 10 x 25, 3 rooms; 500 fruit trees; 100 poplars; fencing 10 acres; ditch 1/4 mile & one 300 yds. Value about \$300.

Ques. 5.—Of whom does your family consist; and have you and your family resided continuously on the land since first establishing residence thereon? (If unmarried, state the fact.)

Ans. My wife and two children Yes sir

Ques. 6.—For what period or periods have you been absent from the homestead since making settlement, and for what purpose; and if temporarily absent, did your family reside upon and cultivate the land during such absence?

Ans. No absence except a few days at a time work for a livelihood; family resided & cultivated continuously.

Ques. 7.—How much of the land have you cultivated each season and for how many seasons have you raised crops thereon?

Ans. About 8 acres — have raised 7 crops.

Ques. 8.—Is your present claim within the limits of an incorporated town or selected site of a city or town, or used in any way for trade and business?

Ans. No sir.

Ques. 9.—What is the character of the land? Is it timber, mountainous, prairie, grazing, or ordinary agricultural land? State its kind and quality, and for what purpose it is most valuable.

Ans. Grazing — heavy some sandy loam along creek bottom. Fencing & fruit.

Ques. 10.—Are there any indications of coal, salines, or minerals of any kind on the land? (If so, describe what they are, and state whether the land is more valuable for agricultural than for mineral purposes.)

Ans. No sir. More valuable for agriculture.

Ques. 11.—Have you ever made any other homestead entry? (If so, describe the same.)

Ans. No

Ques. 12.—Have you sold, conveyed, or mortgaged any portion of the land; and if so, to whom and for what purpose?

Ans. No sir.

Ques. 13.—Have you any personal property of any kind elsewhere than on this claim? (If so, describe the same, and state where the same is kept.)

Ans. No sir

Ques. 14.—Describe by legal subdivisions, or by number, kind of entry, and office where made, any other entry or filing (not mineral), made by you since August 30, 1890.

Ans. None made none.

(Sign plainly with full christian name.)

Oscar Eaton

*(In case the party is of foreign birth a certified transcript from the court records of his declaration of intention to become a citizen, or of his naturalization, or a copy thereof, certified by the officer taking this proof, must be filed with the case. Evidence of naturalization is only required in final (five-year) homestead cases.)

I HEREBY CERTIFY that the foregoing testimony was read to the claimant before being subscribed, and was sworn to before me this 29th day of May, 1899, at my office at Burien in Adams County, Idaho.

[SEE NOTE ON FOURTH PAGE.]

Edward E. Garrett
Receiver

NOTE.—The officer before whom the testimony is taken should call the attention of the witness to the following section of the Revised Statutes, and state to him that it is the purpose of the Government, if it be ascertained that he testifies falsely, to prosecute him to the full extent of the law.

Title LXX.—CRIMES.—Ch. 4.

Sec. 5392. Every person who, having taken an oath before a competent tribunal, officer, or person, in any case in which a law of the United States authorizes an oath to be administered, that he will testify, declare, depose, or certify truly, or that any written testimony, declaration, deposition, or certificate by him subscribed is true, willfully and contrary to such oath states or subscribes any material matter which he does not believe to be true, is guilty of perjury, and shall be punished by a fine of not more than two thousand dollars, and by imprisonment, at hard labor, not more than five years, and shall, moreover, thereafter be incapable of giving testimony in any court of the United States until such time as the judgment against him is reversed. (See §1750.)

(4-369.)

HOMESTEAD PROOF.

LAND OFFICE AT
BURIE CITY, IDAHO.

Original Application No. 2958

Final Certificate No. 1515

Approved: May 29, 1899.
James King, Register.
Edward E. Garrett, Receiver.

U-57

FINAL AFFIDAVIT REQUIRED OF HOMESTEAD CLAIMANTS.

SECTION 2291 OF THE REVISED STATUTES OF THE UNITED STATES.

I, Orson Eaton, having made a Homestead entry of the N6th N6th E22nd Section No. 14 in Township No. 4 N of Range No. 2 East, subject to entry at Burien, Idaho under section No. 2289 of the Revised Statutes of the United States, do now apply to perfect my claim thereto by virtue of section No. 2291 of the Revised Statutes of the United States; and for that purpose do solemnly swear that I am a native born citizen of the United States; that I have made actual settlement upon and have cultivated and resided upon said land since the 9th day of February, 1890, to the present time; that no part of said land has been alienated, except as provided in section 2288 of the Revised Statutes, but that I am the sole bona fide owner as an actual settler; that I will bear true allegiance to the Government of the United States; and, further, that I have not heretofore perfected or abandoned an entry made under the homestead laws of the United States, except

(Sign plainly full christian name.)

I, Edward E. Garrett, of Adams, Idaho, do hereby certify that the above affidavit was subscribed and sworn to before me this 29th day of May, 1899, at my office at Burien in Adams County, Idaho.

Edward E. Garrett
Receiver