

3. Water right 74-871 is a water right used in our ranching operation. We use that water to irrigate the hay and alfalfa we grow to feed our cattle. The water right has been used in association with the ranching operation since my family moved to the Ranch in 1959. The ranch consists of 978 acres. We raise cattle and have some farm land to grow hay and alfalfa for the cattle. I helped out on the ranching and irrigating responsibilities.

4. I moved on the ranch in 1959 with my parents, Maxwell F. and Reva S. Beyeler.

5. With the exception of a few years when I went to college and taught school in Richfield, Idaho, I have lived on and/or worked at the ranch continuously since 1959.

6. My parents claimed water right 74-871 in the Lemhi Adjudication. The right was decreed with an August 9, 1948 priority date.

7. In 1983, I purchased the ranching operation, including all water rights, from my parents.

8. In 1991, I filed claims for the Ranch's water rights with the Snake River Basin Adjudication. There are a number of water rights associated with the ranching operation. Somehow, I failed to file a claim for water right 74-871. I thought that I had filed all claims but inadvertently missed this one.

9. I continued to use water right 74-871 in the ranching operation and continue to use it to this day. It is a very important water right that the Ranch cannot afford to lose.

10. In 2003, I formed Beyeler Ranches, LLC and transferred ownership of all properties and water rights to that company.

11. I filed the appropriate paperwork with the Idaho Department of Water Resources in order to have the ownership of our water rights changed to reflect the new ownership. Water Right 74-871 was included in the application. The Department processed the application.

12. When the Department began reviewing the Ranch's water right claims in the SRBA, I had numerous conversations with the Department, including Roxanne Brown and Bob Foster.

13. At first, neither water rights 74-31 nor 74-871 showed up on the Department's records as being claimed in the SRBA. Ms. Brown told me that not all of the claims in the Lemhi River drainage had been processed but that they would soon work their way through the system. Shortly thereafter, water right 74-31 was processed and returned to us.

14. Based on Ms. Brown's statements, and the fact that water right 74-31 was then processed and returned, I assumed that water right 74-871 was still waiting to be processed and would soon be returned.

15. I did not realize that I had mistakenly failed to file a claim in the SRBA until December, 2008. At that time, I quickly contacted an attorney to correct this problem and to file this motion.

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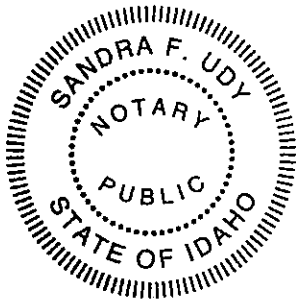
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FURTHER YOUR AFFIANT SAYETH NAUGHT

Merrill Beyeler
Merrill Beyeler

SUBSCRIBED & SWORN to before me this 9th day of February, 2009.



Sandra F. Udy
Notary Public in and for the State of Idaho
My Commission Expires: 9/18/2014

CERTIFICATE OF SERVICE

I hereby certify that on the 18th day of February, 2009, I served a true and correct copy of the foregoing document(s) on the person(s) listed below, in the manner indicated:

Original to:

Clerk of the District Court
Snake River Basin Adjudication
253 3rd Ave North
P.O. Box 2707
Twin Falls, Idaho 83303-2707

Copies to:

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

Chief, Natural Resources Division
Office of the Attorney General
State of Idaho
P.O. Box 44449
Boise, Idaho 83711-44449

United States Department of Justice
Environment and Natural Resource Division
550 West Fort St., MSC 033
Boise, Idaho 83724



Travis L. Thompson
Paul L. Arrington