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MAR 31 2009
DEPARTMENT OF
WATER RESOURCES

Attorneys for Gerald B. Bashaw & Audrey Bashaw

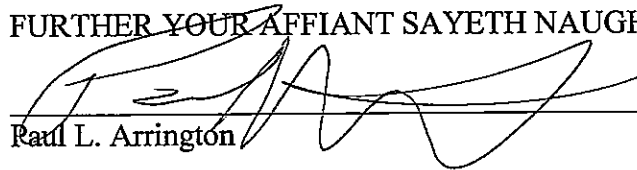
IN THE DISTRICT COURT OF THE FIFTH JUDICIAL DISTRICT
OF THE STATE OF IDAHO, IN AND FOR THE COUNTY OF TWIN FALLS

In Re SRBA	)	
	)	Subcase No. 37-800 & 37-801
Case No. 39576	)	
	)	
	)	AFFIDAVIT OF PAUL L. ARRINGTON
	)	
	)	

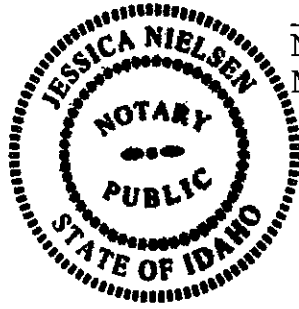
I, PAUL L. ARRINGTON, being first duly sworn upon oath, deposes and hereby states as follows:

1. I reside in Twin Falls County and I am over the age of 18. I am an attorney representing Gerald B. and Audrey Bashaw, in this matter.
2. Attached hereto, as Exhibit A, is a true and correct copy of the water right decree issued in *Clover Land & Livestock Co. v. Allred* (Blaine Cty. District Court, May 10, 1951).
3. Attached hereto, as Exhibit B, are true and correct copies of the *Comments and Evidence*, submitted with the objection filed by Gerald and Audrey Bashaw in subcase 37-4141.

FURTHER YOUR AFFIANT SAYETH NAUGHT


Paul L. Arrington

SUBSCRIBED & SWORN to before me this 30th day of March, 2009.



Jessica Nielsen
Notary Public in and for the State of Idaho
My Commission Expires: 4/3/12

CERTIFICATE OF SERVICE

I hereby certify that on the 30th day of March, 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:

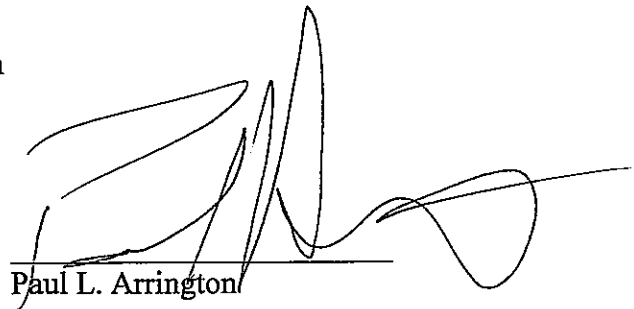
Clerk of the District Court
Snake River Basin Adjudication
253 3rd Ave North
P.O. Box 2707
Twin Falls, Idaho 83303-2707

Copies to:

IDWR Document Depository
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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



Paul L. Arrington

Exhibit A

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12B-5
311-A5-2W
✓

IN THE DISTRICT COURT OF THE FOURTH JUDICIAL DISTRICT OF THE
STATE OF IDAHO, IN AND FOR THE COUNTY OF HEMLOCK,

GLOVER LAND AND LIVESTOCK COMPANY,
a corporation,

Plaintiff,

-vs-

O. E. ALLRED and JENNIE ALLRED,
husband and wife; MRS. WALTER BROWN,
a widow; ALVA RHODES and IDA RHODES,
husband and wife,

Defendants.

DECREE

The above entitled case came on for hearing before D. H. Sutphen, Judge of the District Court of the Fourth Judicial District, in chambers at Gooding, Idaho, the 23rd day of February, 1951, upon the complaint of plaintiff and the cross-complaint of the defendants, plaintiff appearing by G. W. Gardner, its manager, and John H. Daly of the firm of Parry, Keenan, Robertson & Daly, its attorneys, and the defendants appearing in person and by Chas. G. Shaw of the firm of James, Shaw & James, their attorneys, and evidence having been offered and received on behalf of plaintiff and support of its complaint, and on behalf of defendants and in support of their cross-complaint and a stipulation of facts executed by all parties having been introduced in evidence, and the cause having been taken under advisement by the Court, and then by the Court set for further hearing April 30, 1951, and at which latter time before said Judge in chambers at Gooding, Idaho, the same parties appearing, excepting that the defendants Allred and Brown appeared by counsel only, and additional testimony having been taken and documentary evidence introduced and admitted, and all the evidence being by the Court understood and duly considered, and the Court having made and filed its findings of fact and conclusions of law constituting its decision herein, it is by the Court;

Parry, Keenan, Robertson & Daly
Attorneys
TWIN FALLS, IDAHO

ORDERED, ADJUDGED AND DECREED:

37 0800

(1). That there is hereby adjudged and decreed to defendants and cross-complainants Alva Rhodes and Ida Rhodes, husband and wife, for the irrigation of and domestic purposes on those lands in Blaine County, Idaho, described as follows:

Fr. SE $\frac{1}{4}$ SE $\frac{1}{4}$ being Tax No. 1670, Section 3; Fr. SE $\frac{1}{4}$ SW $\frac{1}{4}$ being Tax No. 3, NW $\frac{1}{4}$ SE $\frac{1}{4}$, SW $\frac{1}{4}$ of NE $\frac{1}{4}$ SE $\frac{1}{4}$, S $\frac{1}{2}$ SE $\frac{1}{4}$, Fr. NW $\frac{1}{4}$ SW $\frac{1}{4}$ being Tax No. 167, NW $\frac{1}{4}$ SW $\frac{1}{4}$, Section 2; and Fr. NE $\frac{1}{4}$ NE $\frac{1}{4}$ being Tax No. 1717, NE $\frac{1}{4}$ of SE $\frac{1}{4}$ NE $\frac{1}{4}$, E $\frac{1}{2}$ of NE $\frac{1}{4}$ SE $\frac{1}{4}$, and Fr. NW $\frac{1}{4}$ NE $\frac{1}{4}$ being Tax No. 1718, Section 11, all in Township 1 South, Range 19 E.B.M.

the use of 2 cubic feet per second of time of underground waters diverted on NE $\frac{1}{4}$ of SE $\frac{1}{4}$ of Section 3, Township 1 South, Range 19, E.B.M., with priority of April 1, 1930; that the use of said quantity of water is necessary for the production of agricultural crops on said lands and for domestic purposes thereon.

37 0801

(2). And there is hereby also adjudged and decreed to defendants and cross-complainants Alva Rhodes and Ida Rhodes, husband and wife, for the irrigation of and domestic purposes on the same lands before described the use of 2 cubic feet per second of time of underground waters diverted on NE $\frac{1}{4}$ of SE $\frac{1}{4}$ of Section 3, Township 1 South, Range 19 E.B.M., with priority of April 1, 1950; that the use of said quantity of water is necessary for the production of agricultural crops on said lands and for domestic purposes thereon.

37 0802

(3). That there is hereby adjudged and decreed to plaintiff Clover Land and Livestock Company for the irrigation of and domestic purposes on those lands in Blaine County, Idaho, described as follows:

A parcel of land in square form in the Northeast corner of the NE $\frac{1}{4}$ of the SE $\frac{1}{4}$ of Section 3, Township 1 South, Range 19 East, Boise Meridian, containing one-fourth ($\frac{1}{4}$) acre.

NW $\frac{1}{4}$ of the NW $\frac{1}{4}$, SW $\frac{1}{4}$ of the NW $\frac{1}{4}$, SE $\frac{1}{4}$ of the NW $\frac{1}{4}$, NW $\frac{1}{4}$ of the SW $\frac{1}{4}$, NW $\frac{1}{4}$ of the SW $\frac{1}{4}$, NE $\frac{1}{4}$ of the SE $\frac{1}{4}$, SW $\frac{1}{4}$ of the SE $\frac{1}{4}$, SE $\frac{1}{4}$ of the SE $\frac{1}{4}$ of Section 12, Township 1 South, Range 19 East, Boise Meridian.

Also the SE $\frac{1}{4}$ of Section 13, Township 1 South, Range 19 East, Boise Meridian.

Lot 2 of Section 7, Township 1 South, Range 20 East, Boise Meridian.

NE $\frac{1}{4}$ of the NW $\frac{1}{4}$, NW $\frac{1}{4}$ of the NW $\frac{1}{4}$, SW $\frac{1}{4}$ of the NW $\frac{1}{4}$,
SE $\frac{1}{4}$ of the NW $\frac{1}{4}$, NE $\frac{1}{4}$ of the SW $\frac{1}{4}$, of Section 18,
Township 1 South, Range 20 East, Boise Meridian.

(2) Cont.

the use of 5 cubic feet per second of time of underground waters diverted on:

A parcel of land in square form in the Northwest corner of the NE $\frac{1}{4}$ of the SE $\frac{1}{4}$ of Section 3, Township 1 South, Range 19 East, Boise Meridian, containing one-fourth (1/4) acre,

with priority of April 1, 1935; that the use of said quantity of water is necessary for the production of agricultural crops on said lands and for domestic purposes thereon.

37 0803

(3)

(4). That there is hereby adjudged and decreed to defendants and cross-complainants G. E. Allred and Jennie Allred, husband and wife, for the irrigation of and domestic purposes on those lands in Blaine County, Idaho, described as follows:

Lots 1, 2, 3 and 4, Section 4, and Lot 4, Section 3, all in Township 1 South, Range 19 E.B.M.

the use of 2.54 cubic feet per second of time of underground waters diverted on Lot 4, Section 4, Township 1 South, Range 19 E.B.M. with priority of June 15, 1946; that the use of said quantity of water is necessary for the production of agricultural crops on said lands and for domestic purposes thereon.

37 0804

(5). That there is hereby adjudged and decreed to defendant and cross-complainant Mrs. Walter Brown for the irrigation of and domestic purposes on those lands in Blaine County, Idaho, described as follows:

Fr. Lot 2 being Tax No. 198; Fr. NW $\frac{1}{4}$ SE $\frac{1}{4}$ being Tax No. 2261; Lot 3; and NE $\frac{1}{4}$ SW $\frac{1}{4}$, all in Section 3, Township 1 South, Range 19, E.B.M.

4

the use of 2.61 cubic feet per second of time of underground waters diverted on Lot 3, Section 3, Township 1 South, Range 19 E.B.M. with priority of April 1, 1947; that the use of said quantity of water is necessary for the production of agricultural crops on said lands and for domestic purposes thereon.

That the rights of the respective parties hereto to the use of underground waters for domestic purposes on and for the irrigation of the lands, in the quantity, of the date of priority, and with the place of diversion all as hereinabove to them respectively decreed are hereby established, quieted and confirmed, and no party or parties hereto nor their attorneys, agents or employees shall hereafter assert any rights to the use of said underground waters other than as in this decree awarded.

DATED May 19th, 1951.

D. H. Sutphen

Judge of the District Court.

FILED and Entered
MAY 14 1951
George F. McCoy
CLERK, DISTRICT COURT
BLAINE COUNTY, IDAHO

IN THE DISTRICT COURT OF THE FOURTH JUDICIAL DISTRICT
OF THE STATE OF IDAHO
IN AND FOR THE COUNTY OF BLAINE

... CLOVER LAND AND LIVESTOCK COMPANY,

... a corporation,

Plaintiff

vs.

... G. E. ALLRED, and JENNIE ALLRED, husband

and wife; MRS. WALTER BROWN, a widow;
ALVA RHODES and IDA RHODES, husband and
wife, Defendant

STATE OF IDAHO, }

County of Blaine, } ss.

CLERK'S CERTIFICATE OF
TRUE COPY

I, GEORGE F. MCCOY, Clerk of the District Court of the Fourth Judicial District of the State of Idaho, in and for the County of Blaine, do hereby certify that the foregoing is a full, true and correct copy of the original DECREE

..... in the above entitled action now on file in my office.

Given under my hand and the seal of said Court in my office, at Hailey, this..... 13

..... day of September, A. D., 19⁵¹

By Ethel Buhler Deputy.

Attest: George F. McCoy Clerk.

Exhibit B

BEFORE THE IDAHO DEPARTMENT OF WATER RESOURCES

IN THE MATTER OF THE USAGE OF WATER FOR
IRRIGATION PURPOSES UNDER WATER CLAIMS
37-4141 AND 37-4142 FOR THE PROPERTY KNOWN
AS LOVING SPRINGS RANCH

) COMMENTS AND
) EVIDENCE OF
) _____
)

COMES NOW, W. L. Sheabine, and provides the following comments
and evidence in this matter:

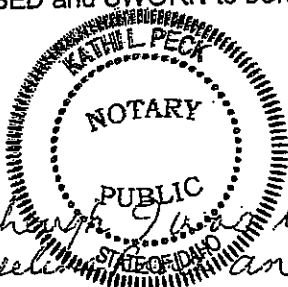
1. I have lived and operated farms and ranches in the Picabo and Gannett area for most of my life and have firsthand knowledge of irrigation and water usage operations on the Loving Springs Ranch property, now owned by Gerald B. Bashaw, located primarily in Sections 2 and 3, T. 1 S, R. 19 E.
2. I was born in the year 1935.
3. To the best of my knowledge, the irrigation well located in the NW1/4 SW1/4 Section 2, T. 1 S., R. 19 E., at the location shown on Exhibit A attached hereto, was drilled in approximately 1947.
4. The well began to be used in 1947 to irrigate land primarily north of Gannett Road. I have observed the irrigation since that time and the extent of irrigation was substantially as shown on Exhibit A attached hereto.
5. The Loving Springs Ranch is located at the lower end of a lateral of the District Canal Company. Excess water that was not taken by upstream diverters on this lateral enters the property at the northwest corner of the ranch and has done so since 1931 or earlier.
6. Beginning on or about the start of the irrigation season in 1931, said wastewater has been diverted into the ditch shown on Exhibit A and used for irrigation on the ranch. I have observed the irrigation since that time and the extent of irrigation was substantially as shown on Exhibit A attached hereto. ~~W~~

DATED this 16 day of October, 20 02.

W. L. Sheabine
(Signature)

W. L. SHEABINE
(Printed name)

SUBSCRIBED and SWORN to before me this 6th day of November, 20 07.



Kathi L. Peck
NOTARY PUBLIC
Residing at: Carey ID
My Commission Expires: 8/31/12

Although I was born after 1931, as a young boy I lived on Baseline and rode horseback and observed continued farming on the property listed on #3 above Ash.

BEFORE THE IDAHO DEPARTMENT OF WATER RESOURCES

IN THE MATTER OF THE USAGE OF WATER FOR
IRRIGATION PURPOSES UNDER WATER CLAIMS
37-4141 AND 37-4142 FOR THE PROPERTY KNOWN
AS LOVING SPRINGS RANCH

) COMMENTS AND
) EVIDENCE OF
) _____
)

COMES NOW, A.W. Molyneux, and provides the following comments
and evidence in this matter:

1. I have lived and operated farms and ranches in the Picabo and Gannett area for most of my life and have firsthand knowledge of irrigation and water usage operations on the Loving Springs Ranch property, now owned by Gerald B. Bashaw, located primarily in Sections 2 and 3, T. 1 S, R. 19 E.
2. I was born in the year 1929.
3. To the best of my knowledge, the irrigation well located in the NW1/4 SW1/4, Section 2, T. 1 S., R. 19 E., at the location shown on Exhibit A attached hereto, was drilled in approximately 1947.
4. The well began to be used in 1947 to irrigate land primarily north of Gannett Road. I have observed the irrigation since that time and the extent of irrigation was substantially as shown on Exhibit A attached hereto.
5. The Loving Springs Ranch is located at the lower end of a lateral of the District Canal Company. Excess water that was not taken by upstream diverters on this lateral enters the property at the northwest corner of the ranch and has done so since 1931 or earlier.
6. Beginning on or about the start of the irrigation season in 1931, said wastewater has been diverted into the ditch shown on Exhibit A and used for irrigation on the ranch. I have observed the irrigation since that time and the extent of irrigation was substantially as shown on Exhibit A attached hereto.

DATED this 21 day of Feb., 2007.

A.W. Molyneux
(Signature)

A.W. Molyneux
(Printed name)

SUBSCRIBED and SWORN to before me this 22 day of February, 2007.

KATHI L. PECK
Notary Public
State of Idaho

Kathi L. Peck
NOTARY PUBLIC
Residing at: Carey, Id.
My Commission Expires: 8/31/07

BEFORE THE IDAHO DEPARTMENT OF WATER RESOURCES

IN THE MATTER OF THE USAGE OF WATER FOR
IRRIGATION PURPOSES UNDER WATER CLAIMS
37-4141 AND 37-4142 FOR THE PROPERTY KNOWN
AS LOVING SPRINGS RANCH

) COMMENTS AND
) EVIDENCE OF
) _____
)

COMES NOW, Alexander M. Purdy, and provides the following comments
and evidence in this matter:

1. I have lived and operated farms and ranches in the Picabo and Gannett area for most of my life and have firsthand knowledge of irrigation and water usage operations on the Loving Springs Ranch property, now owned by Gerald B. Bashaw, located primarily in Sections 2 and 3, T. 1 S, R. 19 E.
2. I was born in the year 1918.
3. To the best of my knowledge, the irrigation well located in the NW1/4 SW1/4 Section 2, T. 1 S., R. 19 E., at the location shown on Exhibit A attached hereto, was drilled in approximately 1947.
4. The well began to be used in 1947 to irrigate land primarily north of Gannett Road. I have observed the irrigation since that time and the extent of irrigation was substantially as shown on Exhibit A attached hereto.
5. The Loving Springs Ranch is located at the lower end of a lateral of the District Canal Company. Excess water that was not taken by upstream diverters on this lateral enters the property at the northwest corner of the ranch and has done so since 1931 or earlier.
6. Beginning on or about the start of the irrigation season in 1931, said wastewater has been diverted into the ditch shown on Exhibit A and used for irrigation on the ranch. I have observed the irrigation since that time and the extent of irrigation was substantially as shown on Exhibit A attached hereto.

DATED this 5 day of February, 2007
Alexander M. Purdy _____
(Signature) (Printed name)

SUBSCRIBED and SWORN to before me this 6th day of February, 2007.

KATHI L. PECK
Notary Public
State of Idaho

Kathi L. Peck
NOTARY PUBLIC

Residing at:

My Commission Expires:

Carey, ID
8/31/07