

APR 13 2009

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Jerry R. Rigby (Bar No. 2470)
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Rexburg, Idaho 83440
Phone: 208 356-3633
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IN THE DISTRICT COURT OF THE FIFTH JUDICIAL DISTRICT OF
THE STATE OF IDAHO IN AND FOR THE COUNTY OF TWIN FALLS

AFFIDAVITS GIVEN AS ADDITIONAL
SUPPORT FOR MOVANT DONNETTA
M. NELSON'S MOTION TO ALTER OR
AMEND SPECIAL MASTER REPORT
AND RECOMMENDATION

Ray W. Rigby
of RIGBY, ANDRUS,
& MOELLER, Chartered

F:\WP6\DK\NELSOND.AFF

CERTIFICATE OF SERVICE

I HEREBY CERTIFY That on this 9th day of April, 2009, a true and accurate copy of the foregoing was sent by facsimile transmission and/or U.S. Mail, postage prepaid to the following:

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

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

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

United States Department of Justice
Environmental and Natural Resource
550 West Fort Street, MSC 033
Boise, ID 83724

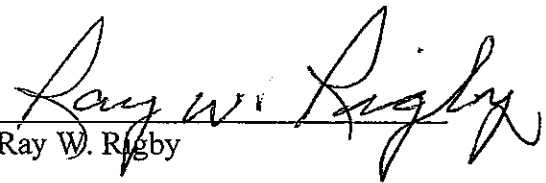
Don and Ruth Adams
2201 W. 1200 S.
Aberdeen, ID 83210

Steven Adams
2215 W. 1100 S.
Aberdeen, ID 83210

Richard Koompin
2229 W. 1000 S.
Sterling, ID 83210

Conan Feld
2781 W. 1800 S.
Aberdeen, ID 83210

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


Ray W. Rigby

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 35- 2019
Case No. 39576,) (Stieglitz)
)
) **AFFIDAVIT OF LARON ALLRED**
_____)

STATE OF IDAHO)
)ss
County of _____)

LARON ALLRED being first duly sworn on oath, deposes and says:

1. That I was born in the year 1977, a citizen of the United States, and make this affidavit of my own personal knowledge.
2. I currently reside at 4197 E 345 N, Rigby, Idaho 83442. I have lived at this address for approximately 10 years.
3. Prior to moving to Rigby and for about 45 years, I lived within about one mile of the property in Bingham County, Idaho known as the "Pond Place" and owned by Merland and Donnetta Nelson which is legally described as:

T4N. R32E., Sec. 20: NE ¼ NW ¼, W ½ NE ¼ and NW ¼ SE ¼
4. I knew Merland and Donnetta Nelson ~~and farmed myself near where they operated.~~
5. I observed that the Nelsons had a small cattle operation with cows, calves and some bulls.
6. I was familiar with and saw that the Nelsons grew hay ~~on the Pond Place~~ and stored hay in stacks on the north end of the Pond Place next to the county road. Over the years, I saw that Merland calved on the north end of the property near the haystacks where the Russian Olive trees grow.
7. The last year I lived in the Stirling area near the Pond Place, was about the year 2000, so from about 1955 to 2000, I lived in that area.

8. ~~I personally observed the way the Nelsons irrigated the Pond Place. Water from the creek that runs through the middle of the Pond Place was used to irrigate there.~~
9. Merland had a pump operated with a propane motor with a main line and hand lines.
10. I saw Merland pull his tractor in and out of the Pond Place when he farming, and I know that he farmed the Pond Place using the creek water every year during the time that I was living in that area and about one mile from his place.
11. Further, Affiant saith not.

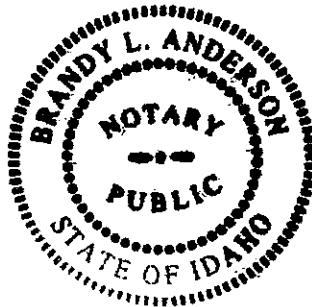
DATED this 26 day of January, 2009.

Laron Allred
LARON ALLRED

SUBSCRIBED AND SWORN to before me this 26 day of March, 2009.

Brandy L Anderson
Notary Public for State of Idaho
Residing at: Rigby, ID

My cmn exprs: 12/11/2012



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 35-2019
Case No. 39576,) (Stieglitz)
)
) **AFFIDAVIT OF MARVIN STEVEN**
) **PARSONS**

STATE OF IDAHO)
)ss
County of Bingham)

MARVIN STEVEN PARSONS being first duly sworn on oath, deposes and says:

1. That I was born December 16, 1941, a citizen of the United States, and make this affidavit of my own personal knowledge.
2. I currently reside at 953 S 2150 W, Sterling, Idaho 83210, and I have lived there since 1976.
3. I was born, raised and lived all of my life in Sterling, Idaho near where Merland and Donnetta Nelson lived.
4. I am familiar with the property owned by Merland and Donnetta Nelson known as "The Pond Place" which is located in Bingham County, Idaho and legally described as:
T4N. R32E., Sec. 20: NE ¼ NW ¼, W ½ NE ¼ and NW ¼ SE ¼
5. My brother, Dennis Lynn Parsons, and I have operated a farm next to the Pond Place under the name Parsons Brothers Partnership.
6. The farm we owned and operated consisted of the 257 acre farm adjacent to the Pond Place to the west and south.
7. My father owned the 257 acre farm before my brother and I acquired it, and my father's father, homesteaded that same acreage before my dad ran the place.

8. I am completely familiar with the operation of the Pond Place by Merland and Donnetta Nelson, and I knew Merland's father, Ed, who was killed in about 1960.
9. During the time my brother and I worked as Parsons Brothers we had a dairy, farm, horses and sheep at different times.
10. My brother and I bought my father out in about 1984.
11. I have personally observed Merland and Donnetta make use of the Pond Place.
12. I saw them raise hay, pasture and grain on the Pond Place. I saw that they watered the Pond Place from the creek running through the middle of that property.
13. The means and method of irrigation of the Pond Place was through a pump and propane motor placed in the stream with a main line running east and west. The Nelsons irrigated using hand lines and sometimes, wheel lines to the north and south.
14. The Nelsons had a haystack near a fence known as Vambaur Fence, and I saw them stack hay there on many occasions.
15. I have purchased hay from Merland and hauled it from the Pond Place to mine.
16. I have observed both Merland and Donnetta use a New Holland tractor with a pull stacker to haul hay from the Pond Place to their home place, as well as store the hay on the Pond Place in the middle of the field against the Vambaur Fence.
17. After the Nelsons swather broke down, I saw Don Adams cut hay on the Pond Place. The hay was grown using water pumped from the creek running through the property.
18. I raised my crops and worked my fields adjacent and next to Merland's property for many years.
19. I know that Merland used the Pond Place to raise a crop every year that he was physically able.
20. Merland died in the spring of 2003, and I did not see the water used that year, but every year before that, I saw that water was beneficially used from the un-named creek running through the Pond Place to irrigate and raise crops on the Pond Place.
21. I saw Jeff Trosper, Merland and Donnetta's grandson, help the Nelsons irrigate the property by moving pipe and starting the motor to pump water.
22. I hunted on the Pond Place when I was in high school and shot pheasants, ducks and geese.

23. I'm aware that there have been affidavits signed by people who live in the area that say they didn't see Merland or Donnetta Nelson use water from the creek running through the Pond Place to irrigate their crops. I don't understand why they would say that, when in fact, I can say that every year, since I've been associated with that property and almost to the time of Merland Nelson's death, they used the water from the un-named creek to raise hay, grain and pasture.
24. Further, Affiant saith not.

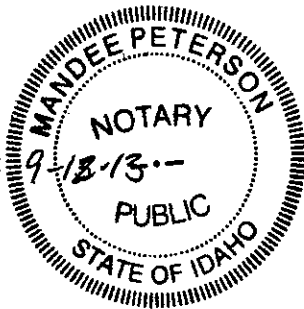
DATED this 26 day of March, 2009.

Marvin Steven Parsons
MARVIN STEVEN PARSONS

SUBSCRIBED AND SWORN to before me this 26 day of March, 2009.

Mandee Peterson
Notary Public for State of Idaho
Residing at: Shelley, ID

My cmn exprs:



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 35-2019
Case No. 39576,) (Stieglitz)
_____) **AFFIDAVIT OF RICHARD A. LINE**
_____)

STATE OF IDAHO)
County of Bingham)ss
_____)

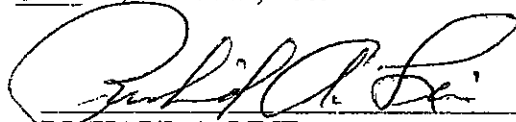
RICHARD A. LINE, being first duly sworn on oath deposes and says:

1. That I am 71 years of age and born a citizen of the United States and make this affidavit of my own personal knowledge.
2. I reside at 2269 W. 800 S., Aberdeen, Idaho.
3. I am familiar with the property owned by Merland and Donnetta Nelson located in Bingham County and known as the Pond Place and described as
T4N. R32E., Sec. 20: NE ¼ NW ¼, W ½ NE ¼ and NW ¼ SE ¼
4. I have lived within approximately one mile of that property for all of my life except for the period of time I left to attend college and am familiar with the use of that property.
5. On my own and during my lifetime, I have run a cow/calf cattle operation at my home place near the Pond Place.
6. Because Merland Nelson and I both worked with cows, I am familiar with his cattle operation as well.
7. I also new Merland's father, Ed Nelson, who owned the Pond Place before Merland and Donnetta bought it.
8. During my lifetime living within in a mile of the Pond Place, I personally observed both Merland's father, Ed Nelson, and Merland Nelson, himself, irrigate the Pond Place. I saw them harvest hay, and usually, they stored their hay in stacks at the north end of the property near the county road.
9. I personally walked over the Pond Place in the year 2003 just after Merland's death and in 2004, and I saw that, located there on the property, he had a main line and other irrigation

equipment to water a portion of the Pond Place. I observed a pump, motor and other equipment that he used to water from the un-named creek running through the middle of the property for irrigating the Pond Place.

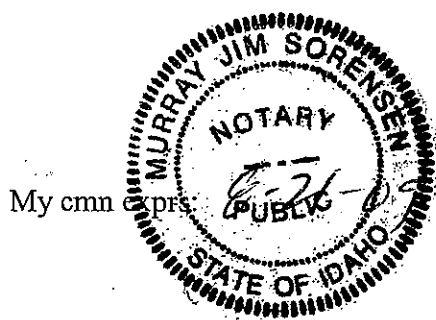
10. I am familiar with the fact that some of the neighbors thereabouts are saying that Merland and his wife, Donnetta, never used the water rights and never irrigated from that un-named creek. That is incorrect, as I personally observed them water from that creek and know for a fact that Merland and Donnetta Nelson were using that water to irrigate the Pond Place and raise some kind of a crop there almost every year.
11. I know that Merland used to raise cows on the Pond Place. He used to winter the cows beginning in the fall there as well as calve some of the herd on the north end of the Pond Place in the spring.
12. Merland and Donnett Nelson were good, hard-working people, and I do not understand why their neighbors would say that the Nelsons didn't water the Pond Place from the creek running through it.
13. Further Affiant saith not.

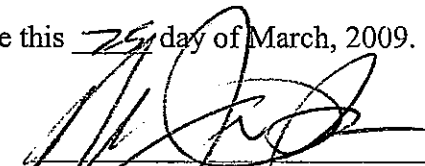
DATED this 25 day of March, 2009



RICHARD A. LINE

SUBSCRIBED AND SWORN to before me this 25 day of March, 2009.





Notary Public for State of Idaho
Residing at: Blauvelt

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,

Case No. 39576,

) Subcase 35- 2019

) (Stieglitz)

)

) **AFFIDAVIT OF STENNA BARCLAY**

)

STATE OF IDAHO

)

)ss

County of Bingham

)

STENNA BARCLAY, being first duly sworn on oath deposes and says:

1. That I was born in 1938, a citizen of the United States and make this affidavit of my own personal knowledge.
2. I currently reside at 1050 S. 2500 W., Sterling, Idaho.
3. I am married Duane Barclay in 1958 and since that time, have resided at that address in Sterling and operated a farm there.
4. I am familiar with the property owned by Merland and Donnetta Nelson located in Bingham County, Idaho, known as the "Pond Place" and legally described as:
T4N. R32E., Sec. 20: NE ¼ NW ¼, W ½ NE ¼ and NW ¼ SE ¼
5. That I knew Donnetta and Merland Nelson well, and my husband Duane Barclay, farmed next to them until Merland Nelson died in 2003.
6. I observed that the Nelsons had a small cattle operations with heifers, calves and some bulls.
7. I observed them growing alfalfa hay on the Pond Place and stored hay in stacks on the north end of Pond Place next to the county road.
8. I observed, during all the years I was there and up to the time of his death, that Merland Nelson watered the Pond Place from the creek that runs through the middle of it, using a

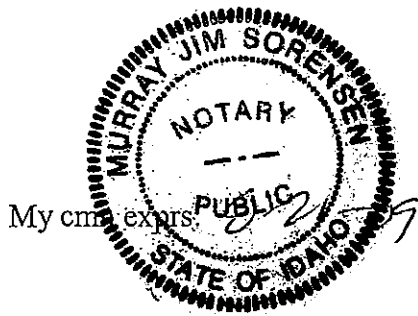
pump and motor to irrigate. I saw him move hand lines. I saw him turning the water on and off. I saw him grow crops and pasture.

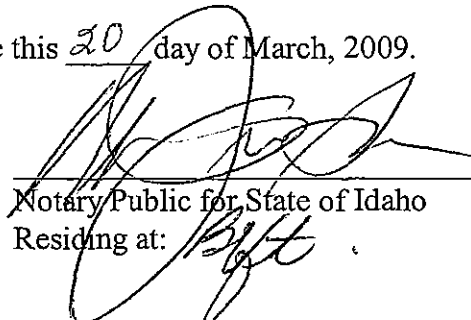
9. I know that Merland Nelson was sick towards the end of his life. In 2002, the year before he died, he irrigated the Pond Place by opening the main line and watering on the high spots. I didn't see him moving any hand lines, but I saw him irrigate the Pond Place.
10. I know saw Merland Nelson beneficially use water on the Pond Place from that creek for all the years that I lived in Sterling from 1958 almost to the date of his death.
11. I was at his home on the day that Merland Nelson died.
12. Merland was very attached to his cows. On the day he died, the cows came around his house and bellowed at the time of his death as if they knew he had died.
13. I say this in support of my neighbors because I know these facts are true and accurate.
14. Further Affiant saith not.

DATED this 20 day of March, 2009


STENNA BARCLAY

SUBSCRIBED AND SWORN to before me this 20 day of March, 2009.




Notary Public for State of Idaho
Residing at: Bft

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 35- 2019
Case No. 39576,) (Stieglitz)
)
) **AFFIDAVIT OF DUANE BARCLAY**
)
_____)

STATE OF IDAHO)
)ss
County of Bingham)

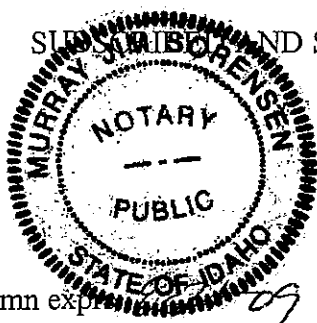
DUANE BARCLAY, being first duly sworn on oath deposes and says:

1. That I was born in 1937, a citizen of the United States and make this affidavit of my own personal knowledge.
2. I was born and raised and have lived my whole life in Sterling, Idaho, and most of it at 1050 S. 2500 W., Sterling, where I currently reside.
3. I am married my wife, Stenna Barclay, in 1958 and since that time, we have resided at the above address in Sterling and operated a sheep farm there.
4. I lived next to Merland and Donnetta Nelson, farmed with them, and observed their farming practices from the time Merland was a young man until his death in 2003.
5. I know that Merland owned some property consisting of approximately 160 acres located in Bingham County, Idaho, known as the "Pond Place" and legally described as:
T4N. R32E., Sec. 20: NE ¼ NW ¼, W ½ NE ¼ and NW ¼ SE ¼
6. I observed Merland in his farming and cattle operations for all these years, and saw him raise hay and other crops on the Pond Place. He stored hay at the north end of the field in several stacks.
7. I actually shot rabbits that were feeding on those haystacks and hunted on Merland's property on many occasions.
8. I observed Merland irrigate the Pond Place. He took the water from the creek running down the middle of the Pond Place with a pump that was powered by a propane motor.
9. I know that the Pond Place was sold by Donnetta Nelson in approximately 2003 to a man named Jeff Stieglitz.

10. I observed that the irrigation equipment that Merland used to irrigate the Pond Place was located on the property at the time that Mr. Stieglitz purchased the property.
11. I personally observed Merland Nelson irrigate the farm in the spring of 2002, and he did this by flood irrigating from the main line on the high spots. He was too sick to move the hand lines, but he did water and try to get as much pasture from the land as possible for his cattle operation.
12. Merland loved his cattle. He would almost cry when he had to have one killed. The Pond Place was an important part of his farming and cattle operation.
13. I saw Merland use the north end of the property near where the Russian Olive trees grow, to do a lot of the calving. He fed the cattle there and let them graze the rest of the property.
14. I observed them growing alfalfa hay on the Pond Place and stored hay in stacks on the north end of Pond Place next to the county road.
15. I observed, during all the years I was there and up to the time of his death, that Merland Nelson watered the Pond Place from the creek that runs through the middle of it, using a pump and motor to irrigate. I saw him move hand lines. I saw him turning the water on and off. I saw him grow crops and pasture.
16. I say this in support of my neighbor Donnetta Nelson because I know these facts are true and accurate. There are some who have filed affidavits in opposition and assert that Merland and Donnetta Nelson did not beneficially use the water on the property during the period of 2002 to 2006. I know for a fact that Merland irrigated the Pond Place in 2002 as best he could, and I know that he beneficially used the water from the creek from the time that I knew him until his death.
17. Further Affiant saith not.

DATED this 20 day of March, 2009

Stenna Barclay
DUANE BARCLAY



My comn exp

AND SWORN to before me this 20 day of March, 2009.

[Signature]
Notary Public for State of Idaho
Residing at: Beth

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 35- 2019
Case No. 39576,) (Stieglitz)
)
) **AFFIDAVIT OF DENNIS LYNN**
) **PARSONS**

STATE OF IDAHO)
)ss
County of Bingham)

DENNIS LYNN PARSONS being first duly sworn on oath, deposes and says:

1. That I was born June 5, 1946, a citizen of the United States, and make this affidavit of my own personal knowledge.
2. I currently reside at 186 N 360 W, Blackfoot, Idaho 83221.
3. I was born, raised and lived most of my life in Sterling, Idaho near where Merland and Donnetta Nelson lived.
4. I am familiar with the property owned by Merland and Donnetta Nelson known as "The Pond Place" which is located in Bingham County, Idaho and legally described as:
T4N. R32E., Sec. 20: NE ¼ NW ¼, W ½ NE ¼ and NW ¼ SE ¼.
5. My brother, Steve Parsons, and I have operated a farm next to the Pond Place under the name Parsons Brothers Partnership.
6. The farm we owned and operated consisted of the 257 acre farm adjacent to the Pond Place to the west and south.
7. My father owned the 257 acre farm before my brother and I acquired it, and my father's father, homesteaded that same acreage before my dad ran the place.
8. I am completely familiar with the operation of the Pond Place by Merland and Donnetta Nelson, and I knew Merland's father, Ed, who was killed in about 1960.

9. During the time my brother and I worked as Parsons Brothers we had a dairy, farm, horses and sheep at different times.
10. My brother and I bought my father out in about 1984.
11. I have personally observed Merland and Donnetta make use of the Pond Place.
12. I saw them raise hay, pasture and grain on the Pond Place. I saw that they watered the Pond Place from the creek running through the middle of that property.
13. The means and method of irrigation of the Pond Place was through a pump and propane motor placed in the stream with a main line running east and west. The Nelsons irrigated using hand lines and sometimes, wheel lines to the north and south.
14. The Nelsons had a haystack near a fence known as Vambaur Fence, and I saw them stack hay there on many occasions.
15. I have observed both Merland and Donnetta use a New Holland tractor with a pull stacker to haul hay from the Pond Place to their home place, as well as store the hay on the Pond Place at the middle of the field against the Vambaur Fence.
16. After the Nelsons swather broke down, I saw Don Adams cut hay on the Pond Place. The hay was grown using water pumped from the creek running through the property.
17. I raised my crops and worked my fields adjacent and next to Merland's property for many years.
18. I know that Merland used the Pond Place to raise a crop every year that he was physically able.
19. Merland died in the spring of 2003, and I did not see the water used that year, but every year before that, I saw that water was beneficially used from the un-named creek running through the Pond Place to irrigate and raise crops on the Pond Place.
20. I saw Jeff Trospen, Merland and Donnetta's grandson, help the Nelsons irrigate the property by moving pipe and starting the motor to pump water.
21. I hunted on the Pond Place when I was in high school and shot pheasants, ducks and geese.
22. I'm aware that there have been affidavits signed by people who live in the area that say they didn't see Merland or Donnetta Nelson use water from the creek running through the Pond Place to irrigate their crops. I don't understand why they would say that, when in

fact, I can say that every year, since I've been associated with that property and almost to the time of Merland Nelson's death, they used the water from the un-named creek to raise hay, grain and pasture.

23. Further, Affiant saith not.

DATED this 30 day of March, 2009.

Dennis Lynn Parsons
DENNIS LYNN PARSONS

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

Mandee Peterson
Notary Public for State of Idaho
Residing at: Shelley, ID

My cmn exprs:

