

RECEIVED
JUL 27 2009

DEPARTMENT OF
WATER RESOURCES

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

DISTRICT COURT-SRBA Fifth Judicial District County of Twin Falls - State of Idaho	
JUL 24 2009	
By _____	Clerk _____

In Re SRBA

Subcase: 22-00181C

Case No. 39576

ORDER GRANTING MOTION TO FILE
LATE NOTICE OF CLAIM

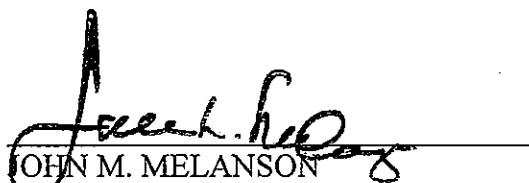
On April 9, 2009, Kenneth Miller filed a *Motion to File Late Notice of Claim* for the above-captioned water right. Hearing was held on the *Motion* on July 21, 2009. This *Motion* complied with all procedural requirements under *SRBA Administrative Order 1*, and no objections were made to this late 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 July 24, 2009.


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 July 24, 2009, with sufficient first-class postage to the following:

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

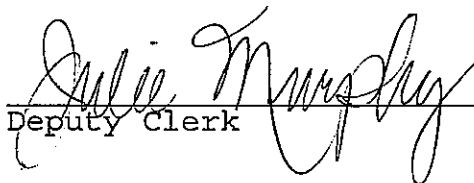
KENNETH MILLER
5297 THUNDER DR
IDAHO FALLS, ID 83406
Phone: 307-248-0600

ORDER

Page 1 7/24/09

FILE COPY FOR 00766

Deputy Clerk

A handwritten signature in cursive script, appearing to read "Julie Murphy", is written over a horizontal line. The signature is fluid and stylized, with the first name "Julie" and last name "Murphy" clearly distinguishable.

Claim No. 22-181
DISTRICT COURT CRDA
Fifth Judicial District
County of Twin Falls - State of Idaho
APR - 9 2009

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WATER RESOURCES

STATE OF IDAHO
DEPARTMENT OF WATER RESOURCES

CLAIM TO A WATER RIGHT

Under the provisions of Section 42-243, *Idaho Code*, any person claiming a water right established by diversion and application of water to beneficial use must file a claim with the Department of Water Resources. **The filing of this claim does not confirm the water right claimed.** Water rights represented by a valid permit, license, decree, or previous claim are exempt from this requirement, as are uses of water for domestic purposes as defined in Section 42-111, *Idaho Code*. A filing fee must be submitted with this claim. See the instruction sheet to determine the appropriate fee.

Notice is hereby given that Kenneth Miller
(Name of Claimant)
Mailing Address: 5297 Thunder Drive Idaho Falls, ID 83406
Telephone No: 307 248-0600 Email: _____

claims a right to the diversion and beneficial use of surface or ground water. The extent and nature of said claim is as follows:

1. Date of Priority: (When the water was first applied to beneficial use) 6/01/1891
A claim is not acceptable for the use of surface water with a priority later than May 20, 1971. A claim is not acceptable for the use of ground water with a priority date later than March 25, 1963, unless the water is used for domestic purposes as defined in Section 42-111, Idaho Code.

2. Describe the source of water: (Name of stream, lake, spring, etc., or ground water)
Unnamed stream tributary to Teton River

3. Describe the purpose for which the water has been used and the time during the year when you have used the right claimed:

Quantity	(cfs or af)	Use	(Irrigation, Domestic, Stock, Etc.)	Period of Use From	(Both dates inclusive) (MM/DD)	(MM/DD)
Quantity	<u>0.30 cfs</u>	Use	<u>Irrigation + Stockwater</u>	Period of Use From	<u>4-15</u>	<u>10/31</u>
Quantity	_____	Use	_____	Period of Use From	_____	_____
Quantity	_____	Use	_____	Period of Use From	_____	_____
Quantity	_____	Use	_____	Period of Use From	_____	_____

4. 0.30 cfs TOTAL QUANTITY USED.
(cfs or af)

5. A) Location of point of diversion is SE $\frac{1}{4}$ of SE $\frac{1}{4}$ of NW $\frac{1}{4}$, Govt. Lot _____
Sec. 33 Township 04N Range 45E B.M., Teton County; additional points of diversion, if any: _____

B) Describe means of diversion of water: (Pump and pipeline, well, diversion dam, reservoir, length of ditch etc.). Give sizes and capacities. Be specific. Describe any changes in the system and give the date of the change.

Ditch carries water to property line, flood irrigation of 5 acres;

Bowles Spring creek irrigates another 10+ acres

6. A) Describe the place of use within each 40-acre tract in the appropriate box using the symbols listed below. If the use is for irrigation, describe the location by listing the number of irrigated acres within each 40-acre tract.

D - domestic, S - stockwater, M - municipal, C - Commercial, I - Industrial, X - other

Twp	Rge	Sec	NE¼				NW¼				SW¼				SE¼				TOTAL ACRES
			NE	NW	SW	SE	NE	NW	SW	SE	NE	NW	SW	SE	NE	NW	SW	SE	
4N	45E	32				X													10
		33							X										5

TOTAL ACRES 15

- B) If water is used for purposes other than irrigation, fully describe the use. Be specific.

NOTE: Include here the type and number of stock watered: 1 cow/calf pair / acre

7. Remarks: _____

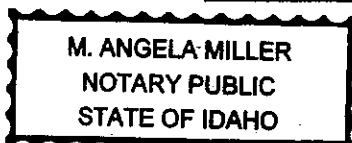
8. **Map** -- Attach an 8½"x11" map clearly identifying the point of diversion and the place of use by 40-acre subdivisions, section, township and range of the public land survey system. (A photocopy of a USGS 7½ minute topographic quadrangle map is preferred.) Attach an **aerial photograph** of the place of use if available.

State of Idaho)
) ss.
County of Teton)

Be it known that the undersigned, being duly sworn, deposes and says that he, she, they subscribed the forgoing claim to a water right, together with all attached information, and that the matters and facts therein are true to the best of the affiant's knowledge.

Kenneth P. Appleton
Claimant's Signature (and title if claim is for an organization)

Sworn to before me this 8th day of April, 2009.



M. Angela Miller
Notary Public
Residing at: Idaho Falls
My commission expires: 2-22-2014

FOR DEPARTMENT USE ONLY

Received by _____	Date _____	Published in _____
Prelim. check by _____	Date _____	Publication dates _____
Fee _____	Receipt # _____	Publication checked by _____ Date _____
Receipt prepared by _____	Date _____	Exceptions filed by _____

March 15, 2009

To Whom It May Concern:

The recommendation of water right #22-180 was protested and the Duane Kunz Trust's portion of this right has been successfully investigated and recommended by Michael Holliday for 2.0 cfs with an 1889 priority date. Neil Kunz, who was recommended for 0.67 cfs of water right # 22-181, owns none of that right. In fact, Neil's water comes both from the HC Bowles spring and from Jones Spring Creek, the latter being associated with water right # 22-181, but all of the water he uses should be adjudicated under #22-180 and not #22-181. For his 40 acres Neil Kunz should be awarded 0.8cfs of water right #22-180.

The 0.67 cfs that Neil was recommended for actually belongs to Ryan Kunz, John Block, Ken Miller, and perhaps Michael Morey. Ryan and his father Merle Kunz, now deceased, own 40.5 acres for which they were recommended a total of 0.67 cfs of 22-181 under water right numbers 22-13732 and 22-13733. The reality is, they put out about 0.02 cfs/acre onto this land and therefore own 0.81cfs of 22-181 to be applied appropriately to 22-13732 and 22-13733. John Block, not related or involved in this motion, should be awarded 0.8 cfs for his 40 acres. Michael Morey, not related or involved in this action, owns about 15 acres of the original Sarah Bowles homestead. Of that, about 5 acres is irrigated below the Jones Spring Creek ditch. The other acreage slopes the wrong way for irrigation water to reach it; however, it receives sub irrigation as a result of the other irrigation going on around it.

Ken Miller, who owns 20 acres of the original Sarah Bowles homestead and rents that to Ryan Kunz, has a little more than 5 acres of his place that is actively flooded from Jones Spring Creek. The rest of his 20 acres is actively irrigated by the HC Bowles Spring. The HC Bowles spring winds its way through Ken's narrow strip and is responsible for the active irrigation of at least another 10 acres. Therefore, I believe the best way to recommend the Bowles rights are as follows:

22-180, decreed to HC Bowles for 2.8 cfs and 1889 priority:

2.0 cfs owned by the Duane Kunz Trust, all water comes from the HC Bowles Spring
0.8 cfs owned by Neil Kunz, water comes both from the HC Bowles spring and Jones spring creek

22-181, decreed to Sarah Bowles for 2.0 cfs and 1891 priority:

0.81 cfs owned by Ryan and Merle Kunz, under 22-13732 and 22-13733
0.8 cfs owned by John Block (claimed as 0.67 cfs under 22-181 B)
0.3 cfs owned by Ken Miller (not yet claimed)
0.09 cfs owned by Mike Morey, formerly the Skip Wright-Clark place.

I have been involved with both the use of this water and the examination of these water rights and I believe the record reflects what I have stated above.

Sincerely,


Michael L Reid

550 S 450 W
Victor, ID 83455

Idaho Department of Water Resources Receipt

Receipt ID: C089050

Payment Amount	\$115.00	Date Received	7/27/09 10:10	Region	STATE
Payment Type	Check	Check Number	1267		
Payer	MILLER, KENNETH R. / CLARICE S.				

Comments 22-00181C

Fee Details

Amount	Description	Fund	Fund Detail	PCA	Subobject
\$115.00	ADJUDICATION FILING FEE	0337		41503	1155

SR7

Signature Line (Department Representative)