

RECEIVED
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DEPARTMENT OF
WATER RESOURCES

DISTRICT COURT-SRBA Fifth Judicial District County of Twin Falls - State of Idaho	
DEC - 1 2009	
By _____	Clerk _____
_____	Deputy Clerk _____

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: 75-14616
	)	
Case No. 39576	)	ORDER GRANTING MOTION TO FILE
	)	LATE NOTICE OF CLAIM
	)	
	)	

On August 26, 2009, Fourth of July Creek LLC, by and through counsel, Jordan P. Smith, filed a *Motion to File Late Notice of Claim* for the above-captioned water right. Hearing was held on the *Motion* on November 30, 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 December 1, 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 December 01, 2009, with sufficient first-class postage to the following:

FOURTH OF JULY CREEK LLC

Represented by:

JORDAN P. SMITH

807 MAIN ST

SALMON, ID 83467

Phone: 208-756-2257

DIRECTOR OF IDWR

PO BOX 83720

BOISE, ID 83720-0098

A handwritten signature in cursive script, appearing to read "Julie Murphy", is written over a horizontal line.

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

IN RE THE GENERAL ADJUDICATION
OF RIGHTS TO THE USE OF WATER FROM
THE SNAKE RIVER BASIN WATER SYSTEM

CIVIL CASE NUMBER: 39576

Ident. Number 75-14616

Date Received: _____

Receipt No: C089632

Received By: _____

NOTICE OF CLAIM TO A WATER RIGHT ACQUIRED UNDER STATE LAW

Please type or print clearly

1. Name of Claimant (s) Fourth of July Creek LLC Phone (208) 758-2127

Mailing Address 400 West 2nd Avenue Salmon ID ZIP 83467
Street or Box City State

2. Date of Priority (Only one (1) per claim) 4/1/1896
Month Day Year (YYYY)

3. Source of water supply (Check one) Ground Water () or Other (✓) (a) Fourth of July Creek
which is tributary to (b) Salmon River

4. a. Location of Point of Diversion is: Township 24N, Range 22E, Section 29
SW, 1/4 of NW, 1/4 Govt. Lot _____, BM., County of Lemhi

Parcel (PIN) no. _____

Additional points of diversion if any: _____

If available, GPS Coordinates _____

b. If instream flow, beginning point of claimed instream flow is:

Township _____, Range _____, Section _____, _____, 1/4 of _____, 1/4

Govt. Lot _____, BM., County of _____

ending point is: Township _____, Range _____, Section _____, _____, 1/4 of _____, 1/4

Govt. Lot _____, BM., County of _____

5. Description of existing diversion works (Dams, Reservoirs, Ditches, Wells, Pumps, Pipelines, Headgates, Etc),
including the dates of any changes or enlargements in use, the dimensions of the diversion works as constructed
and as enlarged and the depth of each well. Headgate to Southside Ditch #6

DISTRICT COURT - SRBA
TWIN FALLS CO. IDAHO
FILED
2009 AUG 27
PM 10 20

6. Water is claimed for the following purposes:

(both dates are inclusive MM-DD)

(cfs)

(acre feet)

For Irrigation purposes from 04/01 to 08/01 amount 0.25 or

For Irrigation purposes from 08/01 to 11/01 amount 0.18 or

For purposes from to amount or

For purposes from to amount or

7. Total quantity claimed (a) 0.25 (cfs) and/or (b) (acre feet)

8. Non-irrigation uses; describe fully (eg. Domestic: Give number of households served; Stockwater: Type and number of livestock, Etc.)

9. Description of place of use:

a. If water is for irrigation, indicate acreage in each subdivision in the tabulation below.

b. If water is used for other purposes, place a symbol of use (example: D for Domestic) in the corresponding place of use below. See instructions for standard symbols.

Twn	Rng	Sec	NE				NW				SW				SE				Totals
			NE	NW	SW	SE	NE	NW	SW	SE	NE	NW	SW	SE	NE	NW	SW	SE	
24N	22E	29							0.6				0.5						1.1
24N	22E	30				0.6									4.4				5.0

Parcel (PIN) no(s) Total number of acres irrigated 6.13

10. In which county (ies) are lands listed above as place of use located? Lemhi

11. Do you own the property listed above as place of use? Yes (✓) No ()
If your answer is No, describe in Remarks below the authority you have to claim this water right.

12. Describe any other water rights used at the same place and for the same purposes as described above.

or None (✓)

13. Remarks:

Last Name Fourth of July Creek LLC Identification No. 75-14616

T 24 N R 22 E

Fourth of July Creek LLC



Fourth of July Creek LLC

14. Basis of Claim (Check One) Beneficial Use () Posted Notice () License () Permit () Decree (✓)

Court Dist for Lemhi Co Decree Date 1982 Plaintiff v. Defendant Brown et al. v. Nelson et al.

If applicable provide IDWR Water Right Number 75-14616

15. Signature(s)

(a.) By signing below, I/We acknowledge that I/We have received, read and understand the form entitled "How you will receive notices in the Snake River Basin Adjudication." (b.) I/We do () do not (X) wish to receive and pay a small annual fee for monthly copies of the docket sheet.

Number of attachments: 1 (Judgment)

For Individuals: I/We do solemnly swear or affirm under penalty of perjury that the statements contained in the foregoing document are true and correct.

Signature of Claimant (s) _____ Date: _____

_____ Date: _____

For Organizations: I do solemnly swear or affirm under penalty of perjury that I am

MANAGING MEMBER of Fourth of July Creek LLC,
Title Organization

that I have signed the foregoing document in the space below as

MANAGING MEMBER of Fourth of July Creek LLC,
Title Organization

and that the statements contained in the foregoing document are true and correct.

Signature of Authorized Agent Jordan P. Smith Date Aug. 11, 2009

Title and Organization Managing Member of Fourth of July Creek LLC

16. Notice of Appearance:

Notice is hereby given that I, JORDAN P. Smith, will be acting as attorney at law of behalf of the claimant signing above, and that all notices required by law to be mailed by the director to the claimant signing above should be mailed to me at the address listed below.

Signature Jordan P. Smith Date Aug. 11, 2009

Address 400 West 2nd Avenue
Salmon, ID 83467

Last Name Fourth of July Creek LLC Identification No. 75-14616

JAMES C. HERNDON
ATTORNEY AT LAW
P. O. BOX 799
SALMON, IDAHO 83467
AREA CODE (208) 756-2412

Filed in District Court Lemhi County
Idaho, Dec 16 1982
at 16 minutes past 1 o'clock P. M.
Walter H. Hiedemick Clerk
By *Boyd R. Thomas* Deputy

File of Judgments
IN THE DISTRICT COURT OF THE SEVENTH JUDICIAL DISTRICT OF
THE STATE OF IDAHO, IN AND FOR THE COUNTY OF LEMHI

MERRILL M. BROWN and VIRGINIA :
K. BROWN, husband and wife, :
Plaintiffs, :
vs. :
FRANK R. NELSON and LOUISE C. :
NELSON, husband and wife, et al, :
Defendants. :

Case No. 5235

J U D G M E N T

This matter coming on to be heard on this 16th day of
December, 1982 before the Honorable Boyd R. Thomas, District
Judge, and the parties appeared as follows:

C. Walker Lyon, Esq. appeared representing Ivan H. and Wilma
Bolander and the Estate of Mary Sharkey, Dec., James C. Herndon,
Esq. appeared representing Frank R. and Louise C. Nelson; Dorsey
and Barbara D. McLaughlin; Jack R. and Shirley Copeland; Glen M.
and Irene L. May; Billie J. Bloodgood, individually and as successor
of Mark H. Bloodgood, deceased; Glenn C. Hanss, contract pur-
chaser from Billie J. Bloodgood; Richard William Nelson and Devon
Denny, husband and wife, successors in interest to Richard M. and
Barbara W. Young; Richard and Jennie H. Smith; Robert and Jean
Vehn, and Muriel Hemmingway, contract purchaser from Jack R. and
Shirley Copeland, and Fred Snook, Esq. appeared representing Peter
M. and Lila Hanson, James R. and Gwen B. Moorehead selling to
Melvin and Glenda Wilde; Robert H. and Frances Appleman; Clarence
and Madge L. Seher, selling to F. Wilmer and Ruth B. Rigby;

JUDGMENT

1 and Bill McCook, United Outdoors Investments.

2 And it appearing that on the 11th day of May, 1973 a
3 Complaint was filed in this action to quiet title to the waters
4 of Fourth of July Creek, a tributary to the Salmon River,

5 And it further appearing that the matter has been dis-
6 missed as against Plaintiffs Merrill M. Brown and Virginia K.
7 Brown, and the matter being heard on the Counter-claims and
8 Cross-claims hereto,

9 And it further appearing that the matter was assigned to
10 a Master and that the parties have stipulated hereto for the
11 Entry of Judgment on all contested matters, and the Stipulation
12 having been entered orally before the Master and reduced to
13 writing and executed and filed with this Court and notice having
14 been given, and all objections to the said Stipulation having
15 been heard by the Court, and the Court having been advised in
16 the premises, and good cause appearing therefore,

17 IT IS HEREBY ADJUDGED AND DECREED that the use of the
18 waters of the Fourth of July Creek, a tributary to the Salmon
19 River and situated in Lemhi County, Idaho, be and hereby are
20 decreed in accordance with the Stipulation for Entry of
21 Judgment attached hereto and that the said Stipulation be and
22 hereby is incorporated herein as by Judgment of this Court as
23 if the same is set forth at this point in full.

24 Dated this 16th day of December, 1982.

25 Boyd R. Thomas
26 DISTRICT JUDGE

27
28
29
30
31 JUDGMENT
32

Page 2

1 ALSO: The Northeast Quarter of the Southeast Quarter
2 (NE $\frac{1}{4}$ SE $\frac{1}{4}$), the South Half of the Southeast Quarter of the
3 Northeast Quarter (S $\frac{1}{2}$ SE $\frac{1}{4}$ NE $\frac{1}{4}$), the Northeast Quarter of
4 the Southeast Quarter of the Northeast Quarter
5 (NE $\frac{1}{4}$ SE $\frac{1}{4}$ NE $\frac{1}{4}$), the East Half of the Northwest Quarter
6 of the Southeast Quarter of the Northeast Quarter
7 (E $\frac{1}{2}$ NW $\frac{1}{4}$ SE $\frac{1}{4}$ NE $\frac{1}{4}$) of Section 19, the West Half of the North-
8 west Quarter of the Southwest Quarter of the Northwest
9 Quarter (W $\frac{1}{2}$ NW $\frac{1}{4}$ SW $\frac{1}{4}$ NW $\frac{1}{4}$), the West Half of the Southwest
10 Quarter of the Southwest Quarter of the Northwest Quarter
11 (W $\frac{1}{2}$ SW $\frac{1}{4}$ SW $\frac{1}{4}$ NW $\frac{1}{4}$), the West Half of the Northwest Quarter
12 of the Southwest Quarter (W $\frac{1}{2}$ NW $\frac{1}{4}$ SW $\frac{1}{4}$), and the Southwest
13 Quarter of the Southwest Quarter (SW $\frac{1}{4}$ SW $\frac{1}{4}$) of Section
14 20, Township 24 North, Range 22 East of the Boise
15 Meridian.

16 Copelands are entitled to have, and they are hereby awarded,
17 water rights and privileges of and from the said Fourth of July
18 Creek in amounts, with priorities, points of diversion and
19 places of use as follows:

20 (a) 136 miner's inches or 2.72 cubic feet per second
21 75-0135 of the waters of Fourth of July Creek from the commence-
22 ment of the irrigation season each calendar year until
23 August 1 of each such year and after August 1 until
24 the end of each irrigation season, 102 miner's inches
25 of 2.04 cubic feet per second of the waters of Fourth
26 of July Creek with a priority of appropriation dated
27 from April 1, 1896, and delivered through the existing
28 ditch near the Frank Nelson residence (Ditch No. 3),
29 with the point of diversion in the SE $\frac{1}{4}$ NE $\frac{1}{4}$ of Section 20,
30 Township 24 North, Range 22, East, Boise Meridian. for
31 irrigation of the following described premises in Lemhi
32 County, Idaho, to-wit:

Land situated in the:
W $\frac{1}{2}$ NW $\frac{1}{4}$ of Section 29, and NE $\frac{1}{4}$ NE $\frac{1}{4}$, S $\frac{1}{2}$ NW $\frac{1}{4}$ all
in Section 30, Township 24 North, Range 22 East,
Boise Meridian, containing 68 acres, more or less.

33 (b) 104 miner's inches or 2.08 cubic feet per second
34 75-0136 of the waters of Fourth of July Creek from the commence-
35 ment of the irrigation season each calendar year until
36 August 1 of each such year and after August 1 until the
37 end of the irrigation season 78 miner's inches or 1.56

1 cubic feet per second of the waters of Fourth of
2 July Creek with a priority of appropriation dating from
3 April 1, 1896, and delivered through the existing ditch
4 known as "Upper ditch" (Ditch No. 4), with a point of
5 diversion in the NE $\frac{1}{4}$ NW $\frac{1}{4}$ of Section 29, Township 24
6 North, Range 22 East, Boise Meridian, for irrigation of
7 the following described premises in Lemhi County, Idaho,
8 to-wit:

9 Land situated in the:
10 SW $\frac{1}{4}$ NW $\frac{1}{4}$ of Section 29, S $\frac{1}{2}$ NE $\frac{1}{4}$ of Section 30, N $\frac{1}{2}$ SE $\frac{1}{4}$,
11 NW $\frac{1}{4}$ NE $\frac{1}{4}$, all of Section 30, all in Township 24 North,
Range 22 East, Boise Meridian, containing 52 acres more
or less.

12 (c) 75-0137 10.0 miner's inches or .2 cubic feet per second of
13 the waters of Fourth of July Creek from the commencement
14 of the irrigation season each calendar year until August
15 1 of each such year and after August 1 until the end of
16 such irrigation season 8 miner's inches or .16 cubic
17 feet per second of the waters of Fourth of July Creek
18 with a priority of appropriation dating from April 1,
19 1962 and delivered through the existing ditch called
20 the Short Ditch (Ditch No. 5) with point of diversion
21 in the SW $\frac{1}{4}$ NW $\frac{1}{4}$ of Section 29, Township 24 North, Range
22 22 East, Boise Meridian for the irrigation of the
23 following described premises in Lemhi County, Idaho-
24 to-wit:

25 Land situated in the SW $\frac{1}{4}$ NW $\frac{1}{4}$ of Section 29, Township
26 24 North, Range 22 East, Boise Meridian, containing
5 acres, more or less.

27 (d) 106 miner's inches or 2.12 cubic feet per second
28 of the waters of Fourth of July Creek from the commence-
29 ment of the irrigation season each calendar year until
30 August 1 of each such year and after August 1 until the
31 end of each such irrigation season 79.5 miner's inches
32 or 1.59 cubic feet per second of the waters of Fourth
of July Creek with a priority of appropriation dating

1 from April 1, 1896, and delivered through the existing ditch known
2 as the Southside Ditch (Ditch No. 6), with point of diversion in
3 the SW $\frac{1}{4}$ NW $\frac{1}{4}$ of Section 29, Township 24 North, Range 22, East Boise
4 Meridian, for irrigation of the following described premises in
5 Lemhi County, Idaho, to-wit:

6 (1) Land situated in the NE $\frac{1}{4}$ of Section 30, Township 24
North, Range 22 East Boise Meridian, containing 24
7 acres, more or less.

8 (2) Lands situated in the NE $\frac{1}{4}$ of Section 30, Township
24 North, Range 22 East, Boise Meridian, containing 12
9 acres, more or less, and being part of said lands sold
on July 30, 1980, pursuant to contract to Mariel Hemingway,
10 and more particularly described as follows:
Mariel Hemingway, Purchaser, Jack R. Copeland and Shirley
11 Elaine Copeland, Seller, date of purchase July 30, 1980
for the following described land: Lot 3 of Copeland Green
12 Acres Subdivision according to the official Plat thereof
filed for record in Book 5 of Plats at Page No. 27, records
13 of Lemhi County, Idaho

14 (3) Lands situated in the NE $\frac{1}{4}$ of Section 30, Township
24 North, Range 22 East, Boise Meridian, containing 17
15 acres, more or less, and being part of said lands sold
July, 1979, pursuant to contract to Robert E. Vehn, etux,
16 and more particularly described as follows:
Robert E. Vehn, etux, purchaser, Jack R. Copeland and
17 and Shirley Elaine Copeland, Seller for the following
described land: A fraction of the SE $\frac{1}{4}$, Section 30,
18 Township 24 N., Range 22 E., Boise Meridian, Lemhi County,
Idaho, more particularly described as follows:

19 Commencing at the South 1/4 corner of Section 30 from
20 which the Southeast Corner of Section 30 bears S. 89
59'38" E.; run thence N. 0°12'12" W., 659.78 feet to the
21 POINT OF BEGINNING and the Southwest Corner of the tract
of land herein described;

22 Thence continuing on said bearing of N. 0°12'12" W.,
701.80 feet to the centerline of Fourth of July Creek and
the Northwest Corner of said tract;

23 Thence along said centerline S. 89°28'48" E., 80.44 feet;

24 Thence N. 67°11'21" E., 101.83 feet;

25 Thence N. 64°39'04" E., 103.87 feet;

26 Thence N. 59°52'29" E., 108.53 feet;

27 Thence S. 85°30'11" E., 87.24 feet;

28 Thence N. 64°40'27" E., 106.90 feet;

29 Thence N. 84°54'42" E., 136.99 feet;

30 Thence South, 62.02 feet to the centerline of Fourth
of July Creek Road;

31 Thence along the centerline of said road N. 82°39'00"
E., 119.90 feet;

32 Thence N. 72°42'16" E., 174.94 feet;

33 Thence N. 65°41'46" E., 94.25 feet to the Northeast
Corner of said tract;

34 Thence South, 934.88 feet to the Southeast Corner of
said tract;

35 Thence N. 89°59'18" W., 1051.46 feet to the POINT OF
BEGINNING

STIPULATION FOR ENTRY OF JUDGMENT

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(4) The said lands described in this paragraph are entitled to the waters of Fourth of July Creek under the right described herein in Subsection (d) as follows:

Copeland: 48 Miner's inches or .96 cubic feet per second until August 1 of each such year and after August 1, 36 miner's inches or .72 cubic feet per second for lands described in (1) above.

75-0138

Hemingway: 24 miner's inches or .48 cubic feet per second until August 1 of each such year and after August 1, 18 miner's inches or .36 cubic feet per second for lands described in (2) above.

75-0139

Vehn: 34 miner's inches or .68 cubic feet per second until August 1 of each such year and after August 1, 25.5 miner's inches or .51 cubic feet per second for lands described in (3) above.

75-0140

(e) 8 miner's inches or .16 cubic feet per second of the waters of Fourth of July Creek from the commencement of the irrigation season each calendar year until August 1 of each such year and After August 1 until the end of each such irrigation season, 8 miner's inches or .2 cubic feet per second of the waters of Fourth of July Creek with a priority of appropriation dating from May, 1968 and delivered through the existing ditch known as the Middle Ditch (Ditch No. 7) with point of diversion in the SE $\frac{1}{4}$ NE $\frac{1}{4}$ of Section 30, Township 24 North, Range 22 East, Boise Meridian, for irrigation of the following described premises in Lemhi County, Idaho, to-wit:

Land situated in the NW $\frac{1}{4}$ NE $\frac{1}{4}$ of Section 30, Township 24 North, Range 22 East Boise Meridian, containing 4 acres, more or less.

12. That McLaughlin, as assignees of Carlson, and through them as contract purchasers from Plaintiff Brown, are the owners, in possession and entitled to the possession of the following described land situated in the County of Lemhi, State of Idaho, to-wit:

The East half of the Southwest Quarter (E $\frac{1}{2}$ SW $\frac{1}{4}$), the South Half of the Southeast Quarter of the Northwest Quarter (S $\frac{1}{2}$ SE $\frac{1}{4}$ NW $\frac{1}{4}$), the Southeast Quarter of the Southwest Quarter of the Northwest Quarter (SE $\frac{1}{4}$ SW $\frac{1}{4}$ NW $\frac{1}{4}$) and Lot Three (3), Section Thirty (30), the Northwest Quarter of the Northeast Quarter of the Northwest Quarter (NW $\frac{1}{4}$ NE $\frac{1}{4}$ NW $\frac{1}{4}$) of Section Thirty-one (31) in Township Twenty-four (24) North of Range Twenty-two (22) East of the Boise Meridian containing 159.64 acres.

STIPULATION FOR ENTRY OF JUDGMENT

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