

JON C. GOULD (ISB # 6709)
RINGERT LAW CHARTERED
455 S. Third, P. O. Box 2773
Boise, Idaho 83701-2773
Telephone: (208) 342-4591
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RECEIVED

JUN 10 2010

**DEPARTMENT OF
WATER RESOURCES**

Attorneys for Claimant

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 NUMBER 02-02318A
Case No. 39576	)	
	)	AFFIDAVIT OF JON C. GOULD
	)	
	)	
	)	
	)	

STATE OF IDAHO	)
	) ss
COUNTY OF ADA	)

JON C. GOULD, being first duly sworn upon his oath, deposes and says that:

1. I make this affidavit based upon my own personal knowledge and belief of the facts contained herein.

2. I reviewed the water right files for water right nos. 02-2318, 02-2318A and 02-2318B housed at the Idaho Department of Water Resources.

3. The Affidavit of James C. Jackson submitted to the Idaho Department of Water Resources as Proof of Application of Water to Beneficial Use, notarized by Laurette Davis on April 13, 1970, states that water is "farm ditch" conducts water to the place of use. The Affidavit also

COPY

states that "I applied for water 12 years ago - I bought place, pumped out of Snake River ever since."

A true and correct copy of the Affidavit of James C. Jackson submitted to the Idaho Department of Water Resources as Proof of Application of Water to Beneficial Use is attached hereto as Exhibit A.

4. A true and correct copy of the water licence for water right no. 02-02318 obtained from the water right file stored at the Idaho Department of Water Resources is attached hereto as Exhibit B.

5. A Notice of Claim to Water Right No. 02-02318 signed by Doug Larzelier and Joseph Asumendi was submitted to the IDWR on or about May 13, 1981. A true and correct copy of the Notice of Claim to a Water Right for water right no. 02-02318 obtained from the water right file stored at the Idaho Department of Water Resources is attached hereto as Exhibit C.

6. A true and correct copy of the Field Exam conducted by the Idaho Department of Water Resources for water right no. 02-2318 was obtained from the water right file stored at the Idaho Department of Water Resources is attached hereto as Exhibit D.

7. The Notice of Claim To A Water Right Acquired Under State Law for water right no. 02-2318 signed by Peggy J. Jackson under notary, was filed with the Idaho Department of Water Resources on January 30, 1990. A true and correct copy of the Notice of Claim is attached hereto as Exhibit E.

8. The Idaho Department of Water Resources Director's Report recommends water right nos 02-2318A in the name of William and Imogene Wilkerson as claimed by the claimants. A true and accurate copy of the Director's Report for water right no. 02-2318A filed in the SRBA is attached hereto as Exhibit F.

9. I am the attorney representing William Wilkerson in case no. CV 06-05541 in the Third Judicial District, Owyhee County, Idaho and am familiar with the filings in that matter.

10. Case no. CV 06-05541 is a quiet title action where Mr. Wilkerson is asking the court to recognize an easement across Snake River RV Resort property for the use of water under water right no. 02-2318A.

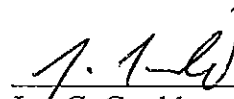
11. The objectors in this matter are defendants in the quiet title action.

12. Counsel for the objectors is counsel for the defendants in the quiet title action and has been since at least June 6, 2006.

13. The Affidavit of Loren Wittrock was filed in case no. CV 06-05541, the above referenced case, on April 13, 2007. A true and correct copy of the Wittrock Affidavit is attached hereto as Exhibit G.

14. The Affidavit of Launie T. Mashburn was filed in case no. CV 06-05541, the above referenced case, on July 3, 2007. A true and correct copy of the Mashburn Affidavit is attached hereto as Exhibit H.

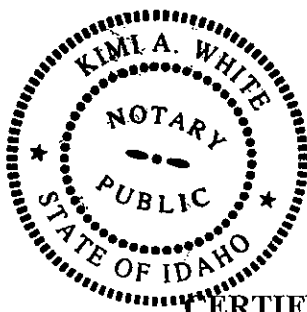
DATED this 9th day of June, 2010.


Jon C. Gould

STATE OF IDAHO)
)ss.
County of Ada)

On this 9th day of June, 2010, before me, the undersigned, a notary public in and for said state, personally appeared Jon C. Gould, known to me to be the individual that executed the foregoing affidavit, and acknowledged to me that he executed the same.

IN WITNESS WHEREOF, I have hereunto set my hand and affixed my official seal, the day and year in this certificate first above written.



Kim A. White
Notary Public for Idaho
Residing at Boise, Idaho
My Commission Expires: 04/21/16

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that on this 9th day of June, 2010, I caused to be served a true and correct copy of the foregoing document via U.S. mail, postage pre-paid to the following:

Debra K. Ellers
Attorney at Law
P.O. Box 1122
McCall, Idaho 83638

Dana Hofstetter
Attorney at Law
608 W. Franklin Stret
Boise, Idaho 83702

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

Jon C. Gould
Jon C. Gould

Exhibit A

Identification No. _____

Permit No. 31931/02-2318

STATE OF IDAHO
DEPARTMENT OF RECLAMATION
PROOF OF APPLICATION OF WATER TO BENEFICIAL USE

*chk-
24-70
H-16*

1. a) Name of Permit Holder J. G. Jackson & Sons, Inc.
b) Post Office Address P.O. Box 245, Homedale, Idaho
2. Permit Number 31931/02-2318
3. Date of Priority that you are prepared to establish June 5, 1964
4. a) Source from which water was appropriated Snake River
b) Location of the point of diversion: NW 1/4 NW 1/4, Section 14
Township 3 N, Range 5 W, Boise Meridian, Other points of diversion:
Pump is in the northwest corner of property
5. a) The amount of water and use to which the water has been applied:
amount 1.1 cfs for irrigation purposes from April 1 to September incl.
(cfs and/or acre feet per annum) (Month-Day) (Month-Day)
amount _____ for _____ purposes from _____ to _____ incl.
(cfs and/or acre feet per annum) (Month-Day) (Month-Day)
amount _____ for _____ purposes from _____ to _____ incl.
(cfs and/or acre feet per annum) (Month-Day) (Month-Day)
b) Total amount appropriated 1.1 cfs and/or acre feet per annum
c) Describe how and by whom measurement of rate of flow or amount of storage was made and the qualifications of the person making the measurement: ditch rider
6. If the means of diversion and conveyance are owned by someone other than the Permit Holder:
a) Give the name or description of the canal, ditch or other works by which the water is conducted to the place of use: NW - farm is on river - farm ditch
b) Describe the agreement or understanding by which you take water from the works: I applied for water 12 years ago - I bought place, pumped out of Snake River ever since.
7. a) Briefly describe the works for diverting and conveying the water to the place of use, (If from a subterranean source, give the pump size, motor size, size of well casing, depth of well; if from surface water, give brief description of diversion structure and/or canal or ditch) 12 HP pumps - Parma pump
b) Describe the type and size of measuring device which you have installed at your point of diversion: weigh
c) Give well drillers name and address and date the well was completed Out River

*Examined typed
7/13/70
C.M.*

31931
02-2318

8. If for other than irrigation, describe the beneficial use to which you have applied the water and the place of use _____

9. Irrigation uses: Describe the lands irrigated by giving the acreages irrigated within each 40 acre subdivision: _____

TWP.	RANGE	SEC.	NE1/4				NW1/4				SW1/4				SE1/4				TOTALS
			NE1/4	NW1/4	SW1/4	SE1/4	NE1/4	NW1/4	SW1/4	SE1/4	NE1/4	NW1/4	SW1/4	SE1/4	NE1/4	NW1/4	SW1/4	SE1/4	
3 N	5 W	14					13	4.44	37										54.44

Total number of acres irrigated 54.44

10. Remarks: _____

The above information is a true statement of the extent to which the above numbered permit has been developed.

7/10/70
(Date)

James C. Johnson
(Signature)

State of Idaho)
County of Canyon) ss.

On this 13th day of April, 1970, personally appeared before me the signer(s) of the above instrument, who duly acknowledged to me that he (she) (they) executed the same.

Laurette V. Davis
Notary Public residing at Homedale, Idaho

My commission expires December 15, 1973

Exhibit B

State of Idaho
Department of Water Administration

LICENSE OF WATER RIGHT

License of Water Right No. 31931/02-2318 Priority June 5, 1964 Amount 1.0 cfs

THIS IS TO CERTIFY, that J. C. JACKSON & SONS, INC.
of Homedale, Idaho, has complied with the terms and conditions of Permit
No. 31931/02-2318 issued pursuant to Application for Permit dated June 5, 1964
and has submitted proof to the Department of Water Administration on April 16, 1970
that he has applied water to a beneficial use; an examination by the Department indicates that the
works have a capacity of 1.59 cfs, and that the water has in fact been applied to a
beneficial use; a right to the use of water from the Snake River
tributary of the Columbia River, is hereby confirmed in the following amounts:
Amount 1.0 cfs for irrigation from March 15 to Nov. 15 (both dates inclusive)
Amount _____ for _____ from _____ to _____ (both dates inclusive)
Amount _____ for _____ from _____ to _____ (both dates inclusive)
Subject, however, to the condition that no more than 1.0 cfs of water be diverted at
any one time, said waters to be diverted within the _____

NW $\frac{1}{4}$ NW $\frac{1}{4}$ Sec. 14, Twp. 3 N, Rge. 5 W, B.M.

in the county of Owyhee; and that the amount of water so diverted and to which such
right is entitled and confirmed is for the purposes aforesaid and is limited to the amount which can
actually be beneficially used and shall not exceed 250 acre feet per year or _____
5.0 acre feet per acre.

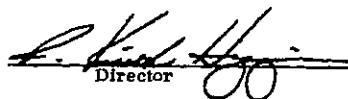
Description and location of place of use:

TWP.	RANGE	SEC.	NE $\frac{1}{4}$				NW $\frac{1}{4}$				SW $\frac{1}{4}$				SE $\frac{1}{4}$				TOTALS
			NE $\frac{1}{4}$	NW $\frac{1}{4}$	SW $\frac{1}{4}$	SE $\frac{1}{4}$	NE $\frac{1}{4}$	NW $\frac{1}{4}$	SW $\frac{1}{4}$	SE $\frac{1}{4}$	NE $\frac{1}{4}$	NW $\frac{1}{4}$	SW $\frac{1}{4}$	SE $\frac{1}{4}$	NE $\frac{1}{4}$	NW $\frac{1}{4}$	SW $\frac{1}{4}$	SE $\frac{1}{4}$	
3 N	5 W	14					3	38	9										50

Total number of acres irrigated 50

The right to the use of the water hereby confirmed is restricted and appurtenant to the lands
or place of use herein described, as provided by the laws of Idaho.

Witness the seal and signature of the Director, affixed at Boise, Idaho, this 23 day of
March, 19 72.


Director

2 2218

Exhibit C

**NOTICE OF CLAIM
TO A
WATER RIGHT**

62-226 I.D. No.	Map No.
\$ 10.00 Fee Paid	2915 Receipt No.

J & L FARNIS

(Mailing Address)

Name of Claimant

Telephone No. _____

1210-1030

Telephone No. 357-3311 or 222-2333

(1) Date of priority: (When was the water first applied to a beneficial use, or priority date of decreed, licensed or permit right)

(2) Describe the source of water: (Name of stream, lake, spring, etc., or ground water)

(3) Describe the purpose for which the water has been used and the time during the year when you have used the right claimed: tributary to The Columbia River

Quantity 1000 Use for irrigation Period of Use From 1985 To 1985

Quantity _____ Use _____ Period of Use From _____ To _____
(See GDS-45) (Both dates inclusive)

Quantity _____ Use _____ Period of Use From _____ To _____
(Both dates inclusive)

Quantity _____ Use _____ Period of Use From _____ To _____
(Both dates inclusive)

(4) 47 11 8 1 TOTAL QUANTITY CLAIMED.

(5) A) Point of Diversion: Give location of point where water is diverted from its source _____ 1/4 _____

Sec. 11 Twp. 3N Rge. 5 W. B.M. Surplus Count

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

17. 1967

(6) A) Describe location of use by listing number of irrigated acres within each 40-acre tract in appropriate box. If use is not for irrigation, place an "X" in appropriate box to show location.

[illegible]

Total no. of acres _____

B) If water is used for other than irrigation, fully describe that use, being as specific as possible:

NOTE: Include here the type and number of stock watered:

(7) If you are claiming water as a member of an organization, list name of organization: _____

{8} Remarks

(9) Basis of claim (Check one) ☐ A) Right based on diversion and beneficial use
☐ B) Right decreed by court, cite title of case.

Department of Water Resources
Western Regional Office

☒ C) Right based on application, permit, license, or previous statutory claim filed with the Idaho Department of Water Resources. Give No.

Be it known that the undersigned, after being duly sworn on oath, depose(s) and say(s) that all statements included herein are true and accurate to the best of (his, her, their) knowledge.

Individual

(Date)

State of

Organization

County of

Seal

On this 4-12-87 day of

In the year 1881 before me

I, Notary Public, a Notary Public, personally appeared John Doe, known to me to be the person(s) whose name(s) are subscribed to the above instrument, and acknowledged to me that (he, she, they, corporation, partnership or) executed the same.

Transmission expires

Notary Public residing at _____

Exhibit D

State of Idaho
Department of Water Resources

ADJUDICATION CLAIM
REPORT OF EXAMINERS

Claim No. 02-2318

1. Name of Applicant Larguer & Sumner
2. Priority 6/5/64
3. Source of Water Bonanza R.
4. (Quantity) (Domestic, Irri., Stock Water, etc.) (Period of Use)
_____ cfs Use _____ From _____ to _____
.66 cfs Use irrigation From 3/15 to 11/15
_____ cfs Use _____ From _____ to _____
5. Location of Point of Diversion: _____ of Section _____
Twp. _____, Rge. _____, County of _____
6. Describe Diversion Works: _____
7. Describe Location of Use: _____

TWP	RGE	SEC	NE $\frac{1}{4}$				NW $\frac{1}{4}$				SE $\frac{1}{4}$				SW $\frac{1}{4}$				TOTALS
			NE	NW	SW	SE	NE	NW	SW	SE	NE	NW	SW	SE	NE	NW	SW	SE	
									16	15									
34	5N	14						4	29										33

TWP.			RGE.			COUNTY			SCALE: 1" = 1 MILE											

8. Purpose other than irrigation: none
 9. Remarks: a written offer from the claimant
sections off for housing development.
- This examination was made on the 16 day of Sept., 19 83.

(Signed) John X. Noyes
Examiner

State of Idaho
Department of Water Resources

ADJUDICATION CLAIM ANALYSIS SHEET

Review by 9/6/83

Date 9/16/83

Right No. 02-2318

Claimant Jargaher & Associates

Recommendation differs from claim:
(Document any differences)

☒ Yes ☐ No ☐ Disallow

Claim Details Verified Against:

Check (X or ✓) those searched. Circle records used for recommendation.
Include copies or memos where applicable to explain findings.

☒ License

☐ Previous Statutory Claim.

☐ Permits, valid or lapsed. Number(s) if different than above _____

☐ Decree. Name & date _____

☐ Conveyance Loss Calculations. See printout included.

☐ Title abstract. ☐ In file. Or, Name & location _____

☐ County records. ☐ In file. Or, Name & location _____

☐ Affidavits. ☐ In file.

☐ Posted Notices, Water Locations Notices. ☐ In file.

☐ Deed Records. ☐ In file. Or, Name & location _____

☐ Patent Records. ☐ In file. Or, Name & location _____

☐ Metzker Maps. Identify _____

☒ A.S.C.S. Records. Year & Photograph No. 1977 photo attached

☐ Irrigation Company/District Records. ☐ In file. Or Name & location _____

☐ Historical Books. Name(s) & location _____

☐ Interview(s). Attach conversation memorandum.

☐ Other _____

☐ _____

Field Exam Made: ☒ Yes ☐ No Date 9/16/83 accompany + P.D. only

☐ Adj. Report in file ☐ Beneficial Use Report in License (S.O.) File

Measurement _____ cfs. Amount recommended _____ cfs.

Type of measuring device: _____ Meter No. _____

Condition _____ Date _____ Time _____

Adjudication Photo(s) Used: Name or No. _____

Field Photographs Taken ☐ Yes ☒ No

Memorandum in file ☐ Yes ☒ No

Remarks H.D. drawn changed from original P.D. info
was with same - still in same place
since a change on license is in error

Exhibit E

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: A02-02318
Date Received: 10/07/1988
Receipt No: W001069
Received By:

NOTICE OF CLAIM TO A WATER RIGHT
ACQUIRED UNDER STATE LAW

1. Name: DOUGLAS D. LARZELIER
Address: PO BOX 323 208-337-4700
HOMEDALE, ID 83628
OR
Name: MARY JO LARZELIAR
Address: PO BOX 323 208-337-4700
HOMEDALE, ID 83628
OR
Name: PEGGY J. JACKSON
Address: PO BOX 245 208-337-4444
HOMEDALE, ID 83628

2. Date of Priority: JUN 05, 1964

3. Source: SNAKE RIVER Trib. to: COLUMBIA RIVER

4. Point of Diversion:

Township	Range	Section	1/4 of	1/4 of	1/4	Lot	County
03N	05W	14	NW	NW			OWYHEE

5. Description of diverting works:
2 PUMPS ON PLATFORM W/PIPELINE TO POU. LARGE PUMP PUTS WATER---

6. Water is used for the following purposes:

Purpose	From	To	C.F.S.	(or)	A.F.A.
IRRIGATION	03/15	11/15	1.000		250.00

7. Total Quantity Appropriated is:
1.000 C.F.S. (and/or) 250.00 A.F.A.

8. Total consumptive use is 175.0 Acre Feet Per Annum.

9. Non-irrigation uses:

A02-02318

Page

1

Date: 01/19/90

MICROFILMED

AUG 16 1994

10. Place of Use:

Township	Range	Section	1/4 of 1/4	Lot	Use	Acres
03N	05W	14	NW	NW	IRR	3.0
			SW	NW	IRR	38.0
			SE	NW	IRR	9.0
Section Acres						50.0
Total Acres						50.0

11. Place of use in counties: OWYHEE

12. Do you own the property listed above as place of use? YES

13. Other Water Rights Used:
NONE

14. Remarks:

---TO DITCH FOR IRRIGATION AND A SMALL PUMP SUPPLIES WATER TO SPRINKLER SYSTEM. WATER RUNS BACK TO JUMP CREEK AND EVENTUALLY BACK TO SNAKE RIVER.

MEMO TO FILE

PEGGY JACKSON CAME TO WESTERN REGION THIS DATE (1/19/90) TO CHECK IF THIS CLAIM HAD BEEN NOTARIZED. THERE WAS NOT A COPY OF THIS CLAIM IN THE FILE! ADJUDICATION BASE DID INDICATE; HOWEVER, THAT THIS CLAIM HAD BEEN FILED AND THE FEE PAID. COPY OF RECEIPT ENCLOSED. THIS CLAIM WAS ORIGINALLY FILED UNDER THE NAME OF DOUGLAS & MARY JO LARZELIAR. PEGGY JACKSON FILED FOR THEM AND I BELIEVE THAT THIS CLAIM HAD TO BE TAKEN BACK TO THEM FOR THEIR SIGNATURE AND NOTARY. SOMETHING HAPPENED TO THE CLAIM BETWEEN THEN AND NOW.

15. Basis of Claim: LICENSE
Water Right Number: 31931

16. Signature(s)

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

Number of attachments: _____

For Individuals:

I/We do solemnly swear or affirm that the statements contained in the foregoing document are true and correct.

Signature of Claimant(s): **D. A. Jackson* Date: 1-19-90

Date: _____

State of Idaho)
County of Ada) SS.

Subscribed and sworn (or affirmed) before me this 19 day
of Jan 19 90

Seal

Linda Werner
Notary Public

Residing at Linda A. Werner
Residing at Boise, Idaho
My Commission Expires December 8, 1994

Exhibit F

12/28/2006

IDAHO DEPARTMENT OF WATER RESOURCES
RECOMMENDED WATER RIGHTS ACQUIRED UNDER STATE LAW

RIGHT NUMBER: 2-2318A
NAME AND ADDRESS: WILLIAM R WILKERSON SR
2520 S POWERLINE RD
NAMPA ID 83686

IMOGENE E WILKERSON
2520 S POWERLINE RD
NAMPA ID 83686

SOURCE: SNAKE RIVER TRIBUTARY: COLUMBIA RIVER

QUANTITY: 0.270 CFS

PRIORITY DATE: 06/05/1964

POINT OF
DIVERSION: T03N R05W S14 NWNW Lot 6 Within OWYHEE County

PURPOSE AND
PERIOD OF USE:

<u>PURPOSE OF USE</u>	<u>PERIOD OF USE</u>	<u>QUANTITY</u>
IRRIGATION	3/15 11/15	0.270 CFS

The use of water for irrigation under this right may begin as early as March 1 provided other elements of the right are not exceeded. The use of water before March 15 under this remark is subordinate to all water rights having no subordinated early irrigation use and a priority date earlier than the date a partial decree is entered for this right.

PLACE OF USE: IRRIGATION in OWYHEE County

T03N R05W S14 Lot 6 SWNW 4.30 T03N R05W S14 Lot 5 SENW 9.00

13.3 ACRES TOTAL

OTHER PROVISIONS NECESSARY FOR DEFINITION OR ADMINISTRATION OF THIS WATER RIGHT:

This partial decree is subject to such general provisions necessary for the definition of the rights or for the efficient administration of the water rights as may be ultimately determined by the Court at a point in time no later than the entry of a final unified decree. Section 42-1412(6), Idaho Code.

EXPLANATORY MATERIAL: BASIS OF CLAIM - License

Place of use is within the area served by Gam Irrigation District.

The following rights are also diverted through point of diversion described above: 2-2318B

12/28/2006

IDAHO DEPARTMENT OF WATER RESOURCES
RECOMMENDED WATER RIGHTS ACQUIRED UNDER STATE LAW

RIGHT NUMBER: 2-2318B
NAME AND ADDRESS: DIANE B KRITZ
415 VOLPI VSABEL RD
PASO ROBLES CA 93446
CHARLES J KRITZ
415 VOLPI VSABEL RD
PASO ROBLES CA 93446
RAYMOND C BARKER JR
415 VOLPI VSABEL RD
PASO ROBLES CA 93446

SOURCE: SNAKE RIVER TRIBUTARY: COLUMBIA RIVER
QUANTITY: 0.730 CFS
PRIORITY DATE: 06/05/1964
POINT OF
DIVERSION: T03N R05W S14 NWNW Within OWYHEE County
PURPOSE AND
PERIOD OF USE:

<u>PURPOSE OF USE</u>	<u>PERIOD OF USE</u>	<u>QUANTITY</u>
IRRIGATION	3/15 11/15	0.730 CFS
The use of water for irrigation under this right may begin as early as March 1 provided other elements of the right are not exceeded. The use of water before March 15 under this remark is subordinate to all water rights having no subordinated early irrigation use and a priority date earlier than the date a partial decree is entered for this right.		

PLACE OF USE: IRRIGATION in OWYHEE County
T03N R05W S14 Lot 6 SWNW 3.00 T03N R05W S14 Lot 5 SENW 33.70
36.7 ACRES TOTAL

OTHER PROVISIONS NECESSARY FOR DEFINITION OR ADMINISTRATION OF THIS WATER RIGHT:

This partial decree is subject to such general provisions necessary for the definition of the rights or for the efficient administration of the water rights as may be ultimately determined by the Court at a point in time no later than the entry of a final unified decree. Section 42-1412(6), Idaho Code.

EXPLANATORY MATERIAL: BASIS OF CLAIM - License

Place of use is within the area served by Gem Irrigation District.

The following rights are also diverted through point of diversion described above: 2-2318a

Exhibit G

JON C. GOULD (ISB #6709)
CHARLES L. HONSINGER (ISB #5240)
RINGERT CLARK CHARTERED
455 S. Third Street, P.O. Box 2773
Boise, Idaho 83701-2773
Telephone: (208) 342-4591
Facsimile: (208) 342-4657

Attorney for Plaintiff

IN THE DISTRICT COURT OF THE THIRD JUDICIAL DISTRICT OF THE
STATE OF IDAHO, IN AND FOR THE COUNTY OF OWYHEE

WILLIAM WILKERSON,

Plaintiff,

v.

SNAKE RIVER R.V. RESORT, LLC,
RAYMOND C. BARKER, JR., CHARLES
KRITZ, and DIANE B. KRITZ.

Defendants.

Case No. CV 06-05541

AFFIDAVIT OF LOREN WITTROCK

STATE OF IDAHO)

) ss

~~COUNTY OF BONNER~~)

LOREN WITTROCK, being first duly sworn upon his oath, deposes and says that:

1. I make this affidavit based upon my own personal knowledge and belief of the facts contained herein.
2. I purchased the property at RR 1 Box 1063 B Jump Creek Road, Homedale, Owyhee County, Idaho (hereinafter referred to as the "Property") in July, 1991 from James C.

FILED

8:30 A.M. P.M.

APR 13 2007

CHARLOTTE SHERBURN, CLERK

Deputy Clerk

Jackson, Sr. and Peggy Jackson. A true and accurate copy of the Warranty Deed is attached as Exhibit A.

3. I sold the Property in 1994 to William Spellman.
4. I irrigated 13.3 acres of the Property using water right no. 02-2318A.
5. The water for this water right was diverted from the Snake River from a point of diversion on what was then James and Peggy Jacksons' property ("Jackson property").
6. Water was withdrawn from the Snake River with my large pump located on a pump stand on the Jackson Property adjacent to the Snake River.
7. Water was pumped from the point of diversion into a buried conduit which crossed the Jackson property and delivered to the Property.
8. Electric power was supplied to the pump from overhead lines. Power was measured by a power meter located on the Jackson property. Because Mr. Jackson used some of the power to divert water for his property, the power bill was split equally between Mr. Jackson and myself.
9. Mr. Jackson never questioned my water right or the right to enter his property to
~~operate, clean, maintain and repair the water delivery system. I was never denied~~
access to the water delivery system on the Jackson property.
10. In the spring of 1994, I sold the Property including the water right and my pump that was located on the pump stand at the point of diversion on the Jackson property to Mr. Spellman.

Further your affiant sayeth naught.

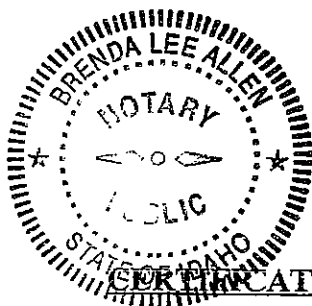
Loren K. Wittrock

Loren Wittrock

STATE OF IDAHO)
)ss.
County of Bonner)

On this 26th day of March, 2007, before me, the undersigned, a notary public in and for said state, personally appeared Loren Wittrock, known to me to be the individual that executed the foregoing affidavit, and acknowledged to me that he executed the same.

IN WITNESS WHEREOF, I have hereunto set my hand and affixed my official seal, the day and year in this certificate first above written.



Brenda Lee Allen
Notary Public for State of Idaho
Residing at Clark Fork, ID
My Commission Expires: 6-5-2008

CERTIFICATE OF SERVICE

I hereby certify that on this 11th day of ~~March~~ ^{April}, 2007, I caused to be served a true and correct copy of the foregoing document via U.S. mail, postage pre-paid to the following:

Debra K. Ellers
Attorney at Law
P.O. Box 1122
McCall, Idaho 83638

Dana Hofstetter
Attorney at Law
608 W. Franklin Stret
Boise, Idaho 83702

Jon C. Gould
Jon C. Gould

13 3/4 Acres

JAMES C. JACKSON, SR. and PEGGY J. JACKSON, husband and wife

the grantors, do hereby grant, bargain, sell and convey unto

LOREN WITTROCK and PAMELA WITTROCK, husband and wife

the grantees, whose current address is, P. O. BOX 2123, Homedale, ID 83628
the following described premises, to-wit:

As more particularly described on Exhibit "A" attached hereto and
made a part thereof:

Subject to exceptions and reservations contained in patents from
the United States.

Subject to taxes and assessments for the year 1992.

Subject to all easements, restrictions and reservations of record
and of use.

205488

FILED-RECORDED

JUL 19 3 57 PM '91

DATE:

NOTARY PUBLIC

BY E. Shepherd

OFFICE

LOREN OF

P. T. C.

P. C. M.

TO HAVE AND TO HOLD the said premises, with their appurtenances unto the said Grantees,
their heirs and assigns forever. And the said Grantors do hereby covenant to and
with the said Grantee s that the y are the owners in fee simple of said premises; that said
premises are free from all incumbrances except taxes and assessments for the year 1992
and subsequent years. (P4)

and that the y will warrant and defend the same from all lawful claims whatsoever.
Dated:

James C. Jackson, Sr.

Peggy J. Jackson

STATE OF IDAHO, COUNTY OF Owyhee

On this 16th day of July, 1991,
before me, a notary public in and for said State, personally
appeared James C. Jackson, Sr.
Peggy J. Jackson

known to me to be the persons whose names are
subscribed to the within instrument, and acknowledged to
me that they executed the same.

Barley D. Smith
Notary Public
Residing at Boise, Idaho
Comm. Expires July 10, 1993

STATE OF IDAHO, COUNTY OF

I hereby certify that this instrument was filed for record at
the request of

at _____ minutes past _____ o'clock _____ m.,
this _____ day of _____,
19 _____, in my office, and duly recorded in Book _____
of Deeds at page _____

Ex-Officio Recorder

By _____

Fees \$ _____

Mail fee _____

Deputy

INSTRUMENT

EXHIBIT A

PARCEL I

TOWNSHIP 3 NORTH, RANGE 5 WEST, B.M., OWYHEE COUNTY, IDAHO
Section 14: That portion of Government Lots 5 and 6 lying Southwesterly of the right of way of the Union Pacific Railroad (formerly Oregon Shortline Railroad) as described in Book 16 of Deeds at pages 333, 335, and 365, Owyhee County records

EXCEPTING THEREFROM:

BEGINNING at the quarter corner of Sections 14 and 15, Township 3 North, Range 5 West, B.M., being also the Southwest corner of Government Lot 6 of said section 14; thence North along the Westerly boundary of said Lot 6 to its intersection with the Southwesterly right of way of the Union Pacific Railroad (formerly Oregon Shortline Railroad) as described in Book 16 of Deeds at pages 333, 335, and 365; thence South $52^{\circ}23'27''$ East, 1348.93 feet (formerly South $52^{\circ}37'00''$ East, 1346.00 feet); thence leaving said right of way South $00^{\circ}20'$ West, 104.00 feet; thence continuing South $0^{\circ}08'00''$ West (formerly South $0^{\circ}20'00''$ West) 550.00 feet; thence South $52^{\circ}24'00''$ East 630.52 feet to a point on the South line of Government Lot 5 of said section 14; thence North $89^{\circ}48'00''$ West along the Southerly boundary of said Government Lots 5 and 6 to the POINT OF BEGINNING.

PARCEL II

A tract of land situated in Government Lot 6, Section 14, Township 3 North, Range 5 West, B. M., Owyhee County, Idaho and more particularly described as follows:
COMMENCING at the SW corner NW $\frac{1}{4}$ (W $\frac{1}{4}$ cor.); thence N $0^{\circ}00'14''$ E, 934.00 feet; thence S $89^{\circ}29'00''$ E, 981.00 feet to the POINT OF BEGINNING; thence continuing S $89^{\circ}29'00''$ E, 87.00 feet; thence N $0^{\circ}20'00''$ E, 104.00 feet to a point on the southwesterly right of way of the Union Pacific Railroad; thence N $52^{\circ}23'27''$ W, 69.00 feet along said southwesterly right of way; thence leaving said right of way S $12^{\circ}46'20''$ W, 149.01 feet to the POINT OF BEGINNING.

Exhibit H

JON C. GOULD (ISB #6709)
CHARLES L. HONSINGER (ISB #5240)
RINGERT CLARK CHARTERED
455 S. Third Street, P.O. Box 2773
Boise, Idaho 83701-2773
Telephone: (208) 342-4591
Facsimile: (208) 342-4657

Attorney for Plaintiff

IN THE DISTRICT COURT OF THE THIRD JUDICIAL DISTRICT OF THE
STATE OF IDAHO, IN AND FOR THE COUNTY OF OWYHEE

WILLIAM WILKERSON,

Plaintiff,

v.

SNAKE RIVER R.V. RESORT, LLC,
RAYMOND C. BARKER, JR., CHARLES
KRITZ, and DIANE B. KRITZ.

Defendants.

Case No. CV 06-05541

AFFIDAVIT OF LAUNIE T. MASHBURN

)
) ss
)

LAUNIE T. MASHBURN, being first duly sworn upon his oath, deposes and says that:

1. I make this affidavit based upon my own personal knowledge and belief of the facts contained herein.
2. I lived on the property at RR 1 Box 1063 B Jump Creek Road, Homedale, Owyhee

FILED
10:25 A.M. PM.
JUL 13 2007
CHARLOTTE SHERBURN, CLERK
Deputy Clerk

County, Idaho (hereinafter referred to as the "Property") between 1994 and 1996.

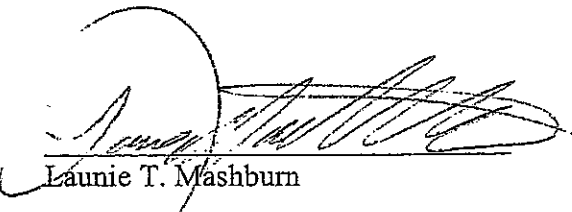
3. While I lived on the Property, I irrigated 13.3 acres of the Property using water right no. 02-2318A.
4. The water for this water right was diverted from the Snake River from a point of diversion on what was then the Snake River RV Resort.
5. Water was withdrawn from the Snake River with a large pump located on a pump stand on the Snake River RV Resort property adjacent to the Snake River.
6. Water was pumped from the point of diversion into a buried conduit which crossed the Snake River RV Resort property and delivering the water to the Property.
7. Electric power was supplied to the pump from overhead lines. Power was measured by a power meter located on the Snake River RV Resort property. Because the Snake River RV Resort used the same power source, measured by the same meter, to divert water for its property, the power bill was split equally.
8. In 1995 or 1996, my pump fell into the Snake River. I removed the pump and had it rebuilt.
9. In 1995 or 1996, the overhead power lines delivering electric power to the pumps were replaced by underground power lines.
10. In the fall of 1996, the owner of Snake River RV Resort, Mr. Brumley, attempted to keep me from maintaining my irrigation system on the Snake River RV Resort property.
11. My attorney sent Mr. Brumley a letter informing him that he could not deny me the use of my water right or access to the water delivery system on the Snake River RV

Resort property.

12. Shortly after receiving the letter, Mr. Brumley demanded that I have a bonded contractor and wanted me to prove insurance coverage of \$200,000,000 to cover any persons entering his property on my behalf.

13. In November, 1996, I quitclaimed my interest in the Property to Kristina Mashburn, William Spellman and Charlene Spellman and moved from the Property.

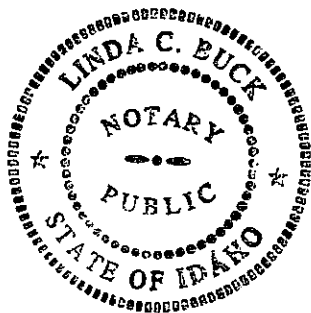
Further your affiant sayeth naught.

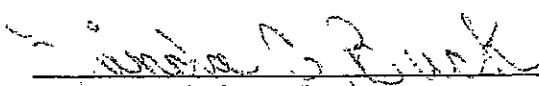

Laurie T. Mashburn

)
)ss.
)

On this 9th day of June, 2007, before me, the undersigned, a notary public in and for said state, personally appeared Laurie T. Mashburn, known to me to be the individual that executed the foregoing affidavit, and acknowledged to me that he executed the same.

IN WITNESS WHEREOF, I have hereunto set my hand and affixed my official seal, the day and year in this certificate first above written.




Notary Public for Idaho
Residing at Mountain Home, ID
My Commission Expires: 12-31-2011