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JUN 10 2010

Department of Water Resources
Eastern Region

IN THE DISTRICT COURT OF THE FIFTH JUDICIAL DISTRICT OF
THE STATE OF IDAHO IN AND FOR THE COUNTY OF TWIN FALLS
SNAKE RIVER BASIN ADJUDICATION DIVISION

In RE: SRBA

) Subcase: 35-13988
)
)

Case No. 39576

) **AMENDED AFFIDAVIT OF**
) **DONNETTA NELSON**
)
)

STATE OF IDAHO)

ss.

County of Bingham)

Donnetta Nelson, having been duly sworn, states under oath as follows:

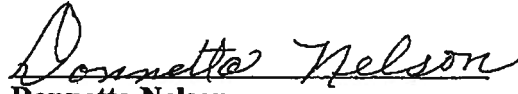
1. I am a resident of Bingham County, Idaho and reside at 757 Aspen Ave., Shelley ID 83274-1464.
2. I was married to Merland Nelson on October 16, 1940. Soon after marrying, my husband and I moved in with his parents into a small home located just west of the Subject Property next to a canal located at the NWNW of Section 20, T04S, R32E, EBM. The house was originally owned by my husband's family and was later owned by my husband and me.
3. I personally recall my father-in-law, Ed Nelson, diverted water from the canal into a ditch that was used to irrigate the 40 acres where we resided (described above). Part of that water was diverted to stock ponds that existed on the same land. These stock ponds were used for watering sheep and cattle that were kept by Ed

Nelson. Subsequent to irrigation and filling of the stock ponds, excess water (waste water) from the ponds was allowed to flow onto the adjacent Subject Property (NENW of Section 20, R32E, T04S EBM) located to the east that are also the subject lands of water right 35-2019.

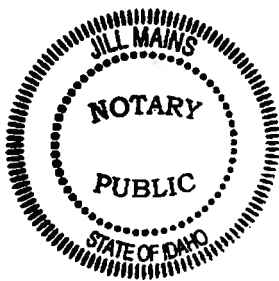
4. The Subject Property was previously owned by Merland's father, Ed Nelson. He died in about 1969. Merland's mother, thereby, owned the Subject Property until around 1971 when it was purchased by my Husband, Merland Nelson. I have personal knowledge that from the time I moved to the adjacent property in 1940 until it was purchased by my husband in 1971, the Subject Property was irrigated from waste water as described above. After purchasing the property, we continued to irrigate the lands in the same basic manner. The ditches that are on the Subject Property today are basically the same that existed at that time.
5. The water which irrigated the Subject Land consisted of two sources. One source was wastewater as described above. The waste water was collected and conveyed to our property via ditch and entered the land near the southwest corner of the NENW 40-acre tract of T04S, R32E, Section 20 of Bingham County. The other source of irrigation of these lands were from a spring-fed creek that is also the source of water for water right 35-2019.
6. Water in the ditches were diverted out onto the land by damming the ditches with hay bale flakes (depending upon availability), soil, or with plastic dams, and allowed to flood across the land.

7. The irrigated lands were used as pasture for grazing cattle and sheep.
8. The conditions I have described within this affidavit would apply to each and every year from the time Ed Nelson owned the Land up to the time of the sale of the Land to Dr. Steiglitz, who is the present owner of the Land. The only major change in the conditions described herein was during the last two years of my husbands life due to the illness which eventually took his life. However, even though the watering wasn't as consistent and as plentiful as before his illness, there was NOT one year where NO watering occurred on any one parcel of the Land.

Respectfully submitted, this 9 day of June, 2010.


Donnetta Nelson

SUBSCRIBED AND SWORN to before me this 9 day of June, 2010.




Notary Public for Idaho
Residing at: Shelley
My Commission Expires: 7-27-13