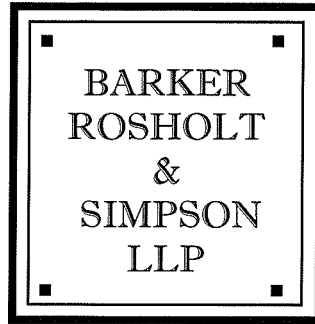


*John A. Rosholt
Albert P. Barker
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Travis L. Thompson
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September 20, 2011

Mr. Nick Spencer
Deputy AG – IDWR
322 E. Front St.
P.O. Box 83720
Boise, Idaho 83702-0098

RECEIVED

SEP 21 2011

DEPARTMENT OF
WATER RESOURCES

Re: Lance Roper – SRBA Subcases 41-42, 41-47, and 41-10285

Dear Nick:

Please find enclosed a copy of the *Affidavit of Ron Nelson* and the statement of John Kildew. The information in Mr. Nelson's affidavit and Mr. Kildew's statement further supports the position outlined in my March 12, 2010 letter to you.

As indicated at our previous meeting, Mr. Roper would like to resolve this matter with IDWR in an expeditious manner. Please advise as to IDWR's position so that we may proceed. If my client's position is acceptable we can proceed to prepare the necessary documents to file with the Court.

Please call me at 733-0700 if you have any questions.

Sincerely,

BARKER ROSHOLT & SIMPSON LLP

Travis L. Thompson

Enc.

cc: Lance Roper

Travis L. Thompson, ISB #6168
Paul L. Arrington, ISB #7198
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Attorneys for Lance & Katrina Roper

**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 Nos. 41-42, 41-47

AFFIDAVIT OF RON NELSON

State of IDAHO)
) ss
County of Power)

RON NELSON, being first duly sworn upon oath, deposes and states as follows:

1. I make the following affidavit upon my personal knowledge of the facts and circumstances set forth herein below.
2. My mailing address is 3870 Rock Creek Road, American Falls, Idaho 83211.
3. I was born on February 12, 1949.

4. I was raised on a farm on the East Fork Road in Rockland Idaho and have lived in the area all of my life.

6. Our family farm received much of its water from the Bench Ditch and the East Fork of Rock Creek. Later, around 1976, we purchased additional farm ground that was irrigated by water from the U.S. Ditch and the West Ditch. I am familiar with the sources of water in the Rockland Valley and have personally irrigated lands under the Bench Ditch, U.S. Ditch, and West Ditch from 1970 to 2011.

7. I am familiar with the farm owned by Lance Roper, it was part of what was referred to as the Filbrook Ranch. It was my understanding that the Filbrook Ranch had senior water rights to the Bench Ditch. During my life in the Rockland Valley I have seen the Bench Ditch curtailed on several occasions in order to send water downstream to senior users, including the Filbrook Ranch and the U.S. Ditch.

8. It is my understanding that the delivery of the Filbook Ranch water right changed sometime in the 1990s because the Bench Ditch has not been curtailed to deliver water downstream during the latter part of the irrigation season.

DATED this 4th day of August, 2011.

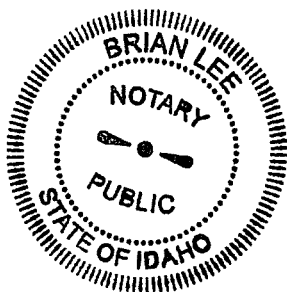


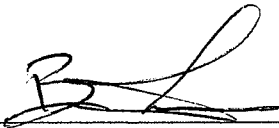
RON NELSON

STATE OF IDAHO)
) ss.
County of Power)

On this 4th day of August, 2011, before me, a Notary Public for said County and State, personally appeared RON NELSON, known or identified to me the person whose name is subscribed to the within instrument, 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.



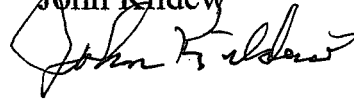


NOTARY PUBLIC FOR IDAHO
Residing at: Rockland Id.
My commission expires: 6/11/16

To Whom It May Concern:

I John Kildew have lived in the Rockland Valley all my life and was born in 1927. I have owned a farm at 3305 Kildew Lane, American Falls, ID since 1958 and receive water from the Frodjam Kelly Ditch and Surplus Filbrick water from the Roper Farm. Over the years I have seen the Bench ditch cut to a stock water right several times and water sent to the Roper or Filbrick ground and the US Ditch. In 2002 before the adjudication was completed the Bench ditch was cut to a Stock water right and despite even dryer years since that time it has not been cut.

John Kildew

A handwritten signature in black ink, appearing to read "John Kildew", written over the printed name.

All-purpose Acknowledgment

STATE OF Idaho, COUNTY OF Power

On September 2nd, 2011 before me, the undersigned, a Notary Public
in and for said State, personally appeared

John Kildew

☐ personally known to me -OR- ☒ proved to me on the basis of satisfactory evidence/ to be the person(s)
whose name(s) is/are subscribed to the within instrument and acknowledged to me that he/she/they
executed the same in his/her/their authorized capacity(ies), and that by his/her/their signature(s) on the
instrument the person(s), or the entity upon behalf of which the person(s) acted, executed the instrument.

WITNESS my hand and official seal.

Signature Tyrell Wyatt Warren
Name (type or printed) Tyrell Wyatt Warren
My commission expires: November 12th, 2016

