

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 COEUR D' ALENE-SPOKANE RIVER
BASIN WATER SYSTEM

RECEIVED

JUL 16 2009

NOTICE OF CLAIM TO A WATER RIGHT ACQUIRED UNDER STATE LAW

IDWR/North

Please type or print clearly

CIVIL CASE NUMBER: 49576

Ident. Number: 95-4603

Date Received: 07/16/09

Receipt No: N021361

Received By: N. Standing

1. Name of Claimant (s) BIGHORN BUILDERS, INC. Phone (208) 772-0841

Mailing Address POB 1836 HAYDEN ID ZIP 83835
Street or Box City State

2. Date of Priority (Only one (1) per claim) JANUARY 1, 1919
Month Day Year (YYYY)

3. Source of water supply (Check one) Ground Water () or Other X (a) UNNAMED STREAM "CHILCO CREEK" + SPRING

which is tributary to (b) SINKS, SINKS

4. a. Location of Point of Diversion is: Township S2N, Range 03W, Section 08,
SE, 1/4 of SE, 1/4 Govt. Lot _____, BM., County of KOOTENAI

Parcel (PIN) no: S: 05373001003A, ~~05373001003B~~

Additional points of diversion if any: PIN #S0K151000010; OK1510010020; SE SE S2N03W08

If available, GPS Coordinates ON FILE: IDWR

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.

DAMS, HEADGATES TO POLYPIPE: 4' DIAMETER VERTICAL CONCRETE + STEEL CURBENT, PERFORATED PVC+ABS PIPE BURIED TO COLLECT TO SPRING BOX, 1" GALV PIPE TO 2000 GAL UNDERGROUND STORAGE TANK FOR DISPENSAL.

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6. Water is claimed for the following purposes:

(both dates are inclusive MM-DD) (cfs) (acre feet)

For IRRIGATION purposes from 0501 to 1115 amount 0.040 or _____

For DOMESTIC purposes from 0101 to 1231 amount 0.040 or _____

For STOCKWATER purposes from 0101 to 1231 amount 0.020 or _____

For _____ purposes from _____ to _____ amount _____ or _____

7. Total quantity claimed (a) 0.100 (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.) DOMESTIC 4 HOMES; STOCKWATER 25 CATTLE/HOMES

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	
<u>S2N</u>	<u>03W</u>	<u>09</u>																<u>20</u>	<u>20</u>
																		<u>D</u>	
																		<u>S</u>	

Parcel (PIN) no(s) OK1510010010; OK1510010020; Total number of acres irrigated 20

OK1510010030; OK1510010040 LOTS 1, 2, 3 & 4 KUGLER CK
10. In which county (ies) are lands listed above as place of use located? KOOTENAI

11. Do you own the property listed above as place of use? Yes (X) 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: ITEM 3, PAGE 3 OF "INSTRUCTIONS FOR FILING" ETC
STATES "ONLY ONE SOURCE PER CLAIM." HOWEVER, THE ATTACHED
TIDWR WATER RIGHT REPORT 95-4603, DEPICTS 2 SOURCES
UNDER THIS ONE CLAIM/RIGHT.

EASEMENT FOR WATER EXISTING ON PIN #S 05373001003A, LOT 3 & 4
BLK 1; 053730010010, LOT 1 BLK 1 AND 053730010020 LOT 2 BLK 1
OF CHILCO MEADOW ESTATES, AS A SOURCE TO SPRING BELONGING TO
BIGHAM BUILDERS, INC. RECORDED AS DOC #1994467.

SEE ATTACHMENTS

Last Name BIGHAM BUILDERS Identification No. _____
(FARLEY)

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

Court _____ Decree Date _____ Plaintiff v. Defendant _____

If applicable provide IDWR Water Right Number 95-4603 STATUTORY CLAIM

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 Coeur d'Alene-Spokane 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: 5 SEE LIST (INCLUDING LIST)

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) B. J. Farley Date: _____

_____ Date: _____

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

SECRETARY Title of BIGHAM BUILDERS, INC. Organization

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

SECRETARY Title of BIGHAM BUILDERS, INC. Organization

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

Signature of Authorized Agent B. J. Farley Date 071309

Title and Organization SECRETARY BIGHAM BUILDERS, INC.

16. Notice of Appearance:

Notice is hereby given that I, _____, 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 _____ Date _____

Address _____

Last Name BIGHAM BUILDERS Identification No. (Farley) **SCANNED**
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Kugler Creek Water Rights
07/15/09

List of Attachments:

1. Aerial Photo
2. IDWR Water Right Report 95-4603, Dated 06/05/07
3. Affidavit of Margaret Kugler Gibson, 2 pages, Dated 08/20/07
4. BBI Correspondence to IDWR, 2 pages, dated 09/11/07

* NOTE *

Please be advised that while Brian and Pamela Farley (Bighorn Builders, Inc.) are still the owners of the parcels of the place of use, they have recently been titled in the name of Inland Pacific Resources, LLC.

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Bighorn Builders, Inc.

95-4603
BIGHORN BUILDERS, INC

Lot 2

Your parcel
per Title Ins. doc.

Lot 3

Lot 4

Lot 1

HUNT →

POINT UP USE
FOR SPRING

PIN 0T3730010020

PIN 0T3730010010

SPRING BOX
PIN 0T3730010030

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06/05/2007

IDAHO DEPARTMENT OF WATER RESOURCES

Water Right Report 95-4603

WATER RIGHT NUMBER: 95-4603

<u>Owner Type</u>	<u>Name and Address</u>
Current Owner	BIG HORN BUILDERS INC PO BOX 1836 HAYDEN, ID 83835 208-772-0841

Priority Date: 01/01/1919
Basis: Statutory Claim
Status: Active

<u>Source</u>	<u>Tributary</u>
CHILCO CREEK SPRING	SINKS SINKS

<u>Beneficial Use</u>	<u>From</u> <u>To</u>	<u>Diversion Rate</u>	<u>Annual Volume</u>
IRRIGATION	5/01 to 11/15	0.040 CFS	
DOMESTIC	1/01 to 12/31	0.040 CFS	
STOCKWATER	1/01 to 12/31	0.020 CFS	
	<u>Total Diversion:</u>	0.100 CFS	

Location of Point(s) of Diversion

CHILCO CREEK	SE1/4SE1/4	Sec. 8, Twp 52N, Rge 03W, B.M.
KOOTENAI County		
SPRING	SE1/4SE1/4	Sec. 8, Twp 52N, Rge 03W, B.M.
KOOTENAI County		

Place of Use

IRRIGATION

Twp Rge Sec	NE				NW				SW				SE				Totals
52N 03W 8	NE	NW	SW	SE	NE	NW	SW	SE	NE	NW	SW	SE	NE	NW	SW	SE	2.0
																	2.0

Total Acres: 2

DOMESTIC same as IRRIGATION
STOCKWATER same as IRRIGATION

Conditions of Approval:

1. SOURCES ARE SPRING, TRIB. SINKS; CHILCO CK., TRIB. SINKS.

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AFFIDAVIT

8-20-07

To Whom it May Concern,

My name is Margaret Mills-Kugler-Libson. I am telling the history of 80 acres on Rimrock Road (White-Wendlow Road). My father, Kermit D. Mills was raised on this land. His father bought it in 1918 and filed for water rights 1919. They built their home on the east side of the road. They used the creek and also had a spring box. They were located north of the water system that is in place now. The spring box was still in place when we put the new system in for our use.

We resided on the property for 25 yrs and used the new system.

It would be nice if the water rights would stay with the property.

My Grandfather and Uncle drowned in Chilco Lake when my father was 16 years old. They were removing a dead horse from the lake. Families below the rim feared water from the lake.

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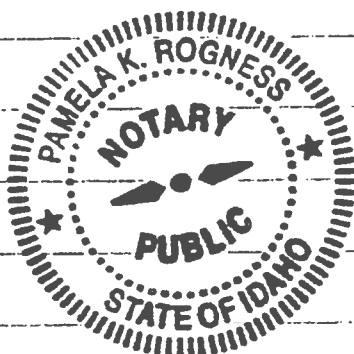
2007

There is more family history.

If there are any questions you may
feel free to call. (208) 772-7381

Sincerely

Margaret Kugler-Tibson



Pamela K Rogness

PRINT NAME: Pamela K Rogness

NOTARY PUBLIC IN AND FOR THE

STATE OF IDAHO, RESIDING AT

Coeur d'Alene

MY COMMISSION EXPIRES: 11-4-2011

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Bighorn Builders, Inc.

General Contracting * Framing Contractor

33 Years of Specialty Wood Frame Excellence

WA License #BIGHOB1025C7

ID Contractor Registration #RCE-435

September 11, 2007

Via Certified Mail

Idaho Department of Water Resources
7600 Mineral Dr.
Suite 100
Coeur D'Alene, Idaho 83815
Phone: 208/762-2816
Fax: 208/762-2819

Attn.: Shaun Maxey, Water Resources Agent
RE: Water Right No.95-04603

Dear Shaun:

Subsequent to the first meeting between Brian Farley, yourself and the two other Idaho Department of Water Resources agents at 21873 N. Rimrock Road regarding the Notice of Change in Water Right Ownership, I received a phone call from your office.

During this conversation I was told that if I could obtain an affidavit from the transferee, Margaret Kugler-Gibson whom is the great-granddaughter of Kermit Mills' father, the original claimant, developer and user of the water sources as described in No. 95-04603, outlining such facts of historical use, that this additional documentation would support and guarantee the continuation of my claim on into perpetuity.

You will find enclosed copies of both Mrs. Mills-Kugler-Gibson's narrative of 08/20/07 along with Assignment of Permit form that which IDWR provided to ourselves.

In addition, the IDWR letter of 05/14/07 from Shelly W. Keen regarding the irrigated land indicated in the claim was responded to by returning a plat map with the requested information marked upon it.

Lastly, at your request on 08/01/07 you and I met once again at 21873 Rimrock Road, Water Right No. 95-04603. For some reason you apparently needed additional photographs along with the photos you and the other agents took at the point of diversions during our first visit.

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On that same date, although the record clearly indicates that Water Right No. 95-09252 (21502 N. Derting Road), 95-08968, 95-08966 were licensed/permitted on 11/08/04, 06/27/97, and 06/27/97 respectively, you and I revisited these previously inspected sites as well.

You had indicated that the IDWR had misplaced photographs(?) and were desirous of perhaps obtaining a more accurate locations via GPS techniques.

If there is any other assistance that you may require of any of the parties regarding these or any other water rights owned by either the Farleys or Bighorn Builders, Inc., please contact myself at your earliest convenience.

Regards,

Brian Farley
Cell # 208/661-1218

Enclosures: 1. Affidavit of Margaret Kugler-Gibson, 2 pages
2. Assignment of Permit of Margaret Kugler-Gibson

P.O. Box 1836 - Hayden Lake, Idaho 83835 - P:(208) 772-0841 F:(208) 772-6322

deptwatershaunmaxey

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Bighorn Builders, Inc.

General Contracting * Framing Contractor

34 Years of Specialty Wood Frame Excellence

Washington License #BIGHOB1025C7

Idaho Contractor Registration #RCE-435

Bighorn Nevada, Inc. License #0071401

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JUL 16 2009

IDWR/North

July 16, 2009

Via Hand Delivered

IDWR, Northern Region
760 Mineral Dr. Suite 100
Coeur d'Alene, ID 83815
Phone: 208/762-2800

To Whom It May Concern:

On or about March 20, 2009 we received the Commencement Notices regarding CV#49576, the Adjudication of Water Rights in the Coeur d'Alene, Spokane River Basin.

Upon review of these documents, I noted that although Brian Farley, Brian and Pamela Farley Living Trust and our company Bighorn Builders, Inc. had all received copies of the notices, pursuant to the instructions, none of these persons or entities were subject to this action at this time.

On Page 2, last paragraph entitled "Fees and Deadlines for Filing Notice of Claim", 2nd sentence states "The persons receiving this notice have property in Zip Code areas 83801, 83803 and 83869 in Kootenai County within IDWR's Administrative Basin 95".

This statement of location in our case is of course completely inaccurate. While reviewing the map provided with the notice, while it would be safe to assume that we do have property (with water rights) within Basin 95 our Zip Code "area" is 83835, which is the Zip Code IDWR used to get the notice to us.

It is clear that there exists 2 conditions regarding location that necessitate a response from us in the form of filing a Notice of Claim. These would be both Zip Code area and Basin 95, but only one of these conditions applies to our situation.

On the day we received these notices I telephoned the IDWR regional office in Coeur d'Alene. I spoke to a supervisor there and asked why we, in Zip Code 83835 had received this notice.

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I pointed out to this individual that either we should have not received the notices at all (a waste of government resources, my resources) or the instructions were flawed, and in a legal notice regarding court proceedings of this manner, such errors could not just be explained away verbally or ignored. It would certainly seem reasonable that a legal notice directing citizens to take deliberate actions to protect their rights be taken at its word and not be subject to guesswork, interpretation or "follow up phone calls" by the public at large.

Either way, any recipients in Basin 95 that did not have property in Zip Code 83801, 83803, and 83869 would not be bound by this notice.

This person acknowledged that I was correct in what I was telling him and then gave what I recall as a vague, typical government employee nonsensical explanation with no specifics on what would transpire, what we were to do, etc..

Having never received any other correspondence from IDWR on behalf of the CSRBA District Court, we decided to insure we would not somehow suffer loss due to potential negligence by the IDWR. We decided to complete and file the Notice of Claim by the July 17, 2009 deadline. We have done so by hand delivering the notices to IDWR in Coeur d'Alene.

Regards,



Brian T. Farley

Cc: IDWR Boise, David R. Tuthill Jr., Director
Judge Don Melanson, CSRBA District Court

P.O. Box 1836 - Hayden Lake, Idaho 83835 - P:(208) 772-0841 F:(208) 772-6322