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January 28, 2013

Clerk of the District Court
Snake River Basin Adjudication
253 Third Avenue North
PO Box 2707
Twin Falls ID 83303-2707

RECEIVED

JAN 29 2013

DEPARTMENT OF
WATER RESOURCES

Dear Clerk:

Enclosed for filing is a Motion to File Late Notice of Claim to which the Idaho Department of Water Resources has assigned the water right no. 37-22797. Also enclosed is a check in the amount of \$106.00 for the cost of filing and a front page for conforming and return to this office in the enclosed self addressed envelope.

Please contact me if you have any questions.

Very truly yours,

WILLIAMS MESERVY & LOTH SPEICH, LLP

A handwritten signature in black ink, appearing to read 'REWILLIAMS', written over the printed name of Robert E. Williams.

ROBERT E. WILLIAMS

RECEIVED

JAN 29 2013

DEPT. OF WATER RESOURCES

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 <u>37-22797</u>
	)	(Insert water right number)
	)	
Case 39576	)	STANDARD FORM 4
	)	
	)	MOTION TO FILE:
	)	☒ LATE NOTICE OF CLAIM
	)	☐ AMENDED NOTICE OF CLAIM

INSTRUCTIONS

This form is used to file a late Notice of Claim or an amendment to a Notice of Claim in a reporting area where the Director's Report has been filed. Forms may be obtained from the SRBA Court, the Idaho Department of Water Resources (IDWR), or you may copy or reproduce this blank form. If you copy or reproduce this form, please copy on both sides with the even-number pages upside down.

The water right number for your late or amended claim must be indicated above in the blank space following "Subcase." You must use a **separate form for each** late or amended Notice of Claim.

This form has been adopted by the court in *SRBA Administrative Order 1, Rules of Procedure* (amended Sept. 30, 1996), Section 4, which may be consulted for further information.

By filing a *Motion to File a Late Notice of Claim* or a *Motion to File an Amended Notice of Claim*, you certify that it is well-grounded in fact; is warranted by existing law or a good-faith argument for the extension, modification or reversal of existing law; and is not filed for any improper purpose, such as to harass, cause unnecessary delay, or needlessly increase the cost of litigation.

☐ I have read *SRBA Administrative Order 1, Rules of Procedure* (amended Sept. 30, 1996).

My name is _____

My address is _____

My phone number is: Work _____ Home _____

I am an attorney representing Alvin V. and Sally P. Shoemaker

My name is Robert E. Williams

My address is P.O. Box 168, 153 East Main Street, Jerome, Idaho

My phone number is 1 (208) 324-2303

MOTION TO FILE A LATE NOTICE OF CLAIM

A Motion to File a Late Notice of Claim will require a hearing before the Presiding Judge.

☒ I did not file a Notice of claim to the use of water in the SRBA because:

See **EXHIBIT A** attached hereto.

☐ I filed a Notice of Claim and elected to defer judicial proceedings on my domestic or stock watering use. I desire to reinstate my Notice of Claim for domestic or stock watering use.

☒ I am providing legal and factual documentation for my claimed use of water. You must describe these documents and attach a readable copy. (You do not need to fill this out if you are reinstating a Notice of Claim for domestic or stock watering use, but you **must** attach a copy of your Notice of Claim.)

See **EXHIBIT A** attached hereto.

I have attached:

☒ A fully completed Notice of Claim (available from IDWR).

☐ A claim filing fee for a domestic and stock watering use. IDWR may charge this fee pursuant to I.C. § 42-1414. To determine this amount, contact IDWR at (800) 451-4129. I have enclosed a check payable to: State of Idaho Department of Water Resources in the amount of \$.

☒ A claim filing fee and a late claim fee for those claims other than a domestic or stock watering use for which a notice of claim was not filed. To determine this amount, contact IDWR at (800) 451-4129. I have enclosed a check payable to: State of Idaho Department of Water Resources in the amount of \$ 106.00.

Follow these instructions regarding the hearing on this motion.

1. Contact the Clerk of the SRBA Court (208-736-3011) to request a hearing date and time.
2. Fill in the following information:

This motion will be heard on April 16, 2013 at 1:30 p.m.
(Insert Date and Time)

at the SRBA courthouse, 253 Third Avenue North, Twin Falls, Idaho.

MOTION TO FILE AN AMENDED NOTICE OF CLAIM

A Motion to File an Amended Notice of Claim may require a hearing before the Presiding Judge or Special Master or may be granted by leave of the court or by written consent of the parties and the Idaho Department of Water Resources. Leave to amend a claim shall be freely given when justice so requires.

☐ I must amend my Notice of Claim to the use of water in the SRBA because:

- ☐ I am providing legal and factual documentation to support my amended Notice of Claim. You must describe these documents and attach a readable copy.

I have attached:

- ☐ An amended Notice of Claim (available from IDWR).

- ☐ Payment of the following additional fees required by IDWR:

VERIFICATION (Must be completed)

State of IDAHO

County of JEROME

Robert E. Williams, being first duly sworn, upon oath, deposes and says:
(Insert name of person filing form)

That I am the party/claimant filing this motion for late or amended claim (as listed on Page 2) as defined by I.C. §§ 42-1401A(1) and (7) or that I am the attorney for the party/claimant filing this motion for late or amended claim and that I have read this motion, know its contents, and believe that the statements are true to the best of my knowledge.

Signature of person filing motion

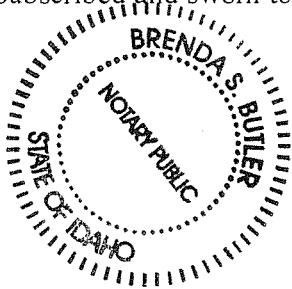


Attorney signing in representative capacity

Subscribed and sworn to before me on

January 28, 2013.

(Insert Date)



Brenda S. Butler

Notary Public for

Idaho

Residing at:

Gooding

My Commission expires:

3/5/2016

INSTRUCTIONS FOR MAILING

You must mail this form, including all attachments, to the Clerk of the SRBA Court. **FAX filings will not be accepted by the SRBA Clerk of the Court.** You must also send a copy

to all the parties listed below in the Certificate of Mailing.

CERTIFICATE OF MAILING

I certify that on January 28, 2013, I mailed the original and copies of this form, including all attachments, to the following persons by mailing the original and/or copies, postage prepaid and addressed as follows:

1. Original to:

Clerk of the District Court
Snake River Basin Adjudication
253 Third Avenue North
PO Box 2707
Twin Falls, ID 83303-2707

2. Copies to:

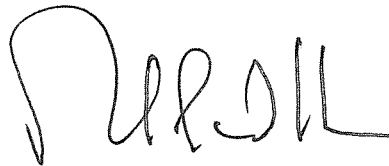
IDWR Document Depository
PO Box 83720
Boise, ID 83720-0098

Chief, Natural Resources Division
Office of the Attorney General
State of Idaho
PO Box 44449
Boise, ID 83711-4449

United States Department of Justice
Environment and Natural Resource Division
550 West Fort Street, MSC 033
Boise, ID 83724

3. If you are filing an amended Notice of Claim in a subcase being heard before the Presiding Judge or a Special Master, you must serve a copy on all parties to that subcase.

(Insert Names/address of parties)



Signature of person or attorney mailing the form

NARRATIVE IN SUPPORT OF PETITION TO FILE A LATE CLAIM E-DA-HOW RANCH - ALVIN SHOEMAKER

INTRODUCTION

After a conference with IDWR officials in September, 2012 concerning an alleged notice of violation, Alvin and Sally Shoemaker, owners of E-Da-How Ranch east of Bellevue, Idaho, determined that they would file a motion to file a late claim in SRBA for storage of irrigation water and associated uses involving the eastern most pond on their real property. E-DA-HOW Ranch is located in the Seamans Creek drainage east of Bellevue, Idaho and contains the major portion of irrigated area in the Seamans Creek valley. Water supply for irrigation is provided entirely by natural flow of Seamans Creek and springs which contribute to the flow of the stream. The discharge of Seamans Creek is inadequate for continuous irrigation of the 206 decreed acres of the E-DA-HOW ranch and as a result, a pond upstream of the ranch is utilized to store and enhance the discharge. A version of this pond has been in use for irrigation of all lands in the valley since at least 1909 according to decree. It is believed that the pond identified in *Joslyn vs Daly vs Campbell*, under decree filed May 25, 1909 in the District Court for Blaine County, was re-established at its present location after the original pond was filled in by landslide. The pond has likely been cleaned and improved since it was originally installed and currently includes a pipeline outlet and a gated open channel outlet. An aerial photo, attached as **EXHIBIT A-1** taken in 1950, shows the pond as it existed at that time and the 2011 photo attached as **EXHIBIT A-2** shows the current configuration of the pond. No significant changes have been made in the pond between these two dates. Similarly, examinations of aerial photographs in 1964, 1969, and 1991 indicate the same pond configuration. The moving parties own Water Right No. 37-22582, for 4.33 cfs in Seamans Creek, for irrigation purposes.

The pond serves to regulate the entire flow of Seamans Creek and it also collects subsurface water from various springs up-gradient and adjacent to the pond. Adjacent to the E-DA-HOW property, the City of Bellevue has installed subsurface collectors to obtain municipal water which is conveyed down the valley to the City of Bellevue through a pipeline. The pond and associated seepage are hydraulically connected and early decrees recognize the City of Bellevue water right as earlier in priority than the E-DA-HOW ranch and three other irrigation water rights downstream of the ranch. That priority has been confirmed by partial decrees issued in the SRBA.

There was no water right claim for storage in the pond filed in the Snake River Basin Adjudication. It is believed that a right associated with the pond was not claimed because language in the *Joslyn* decree cited above indicates that the pond should be considered as an integral part of Seamans Creek for the benefit of all users as follows:

“That a certain lake or pond situated on the so-called Water Company Ranch to wit: The NE¼NE¼ Section 33 and W½NW¼ and NE¼SW¼ Section 34, Township 2 North, Range 19 East and the waters thereof are part of and tributary to Seamans Creek and that neither Plaintiff herein nor any of the other parties has any exclusive

right to the use of the same, nor any right thereto except as part of the waters of said Creek.”

This language indicates that no storage claim was necessary, or that if any claim was made, it should have been a joint claim made by all users of the pond. A full copy of the decree in *Joslyn vs. Daly vs. Campbell* is attached to this Exhibit as **EXHIBIT A-3**.

OPERATION AND MANAGEMENT OF E-DA-HOW RANCH UPPER POND

According to the long time ranch manager of E-Da-How Ranch, the pond has been operated as an irrigation storage reservoir and provides interim storage to assure adequate discharge to the irrigation system and provide hydraulic head to maintain adequate sprinkler pressure in the main line for the lower part of the ranch. The area of the pond, when full, is estimated at 5.9 acres and the average depth is approximately 7 feet for an estimated total volume of 41.3 acre feet. During an average irrigation season, the pond may be filled early with Seamans Creek flow and then a cycle of filling and release from spring inflow is followed as needed until the end of the season. The pond is usually drawn down about 2.5 feet during each cycle and, depending on the inflow from springs, the refill requires about 3 days. This 2.5 ft draw down per cycle includes diversion from the pond for irrigation, evaporation from the pond open water surface, and seepage into the aquifer through the pond bottom. The pond also provides recreation, wildlife, and aesthetic benefits to local fisherman and bird hunters so it is apparently maintained at this level if possible. Seamans Creek in most years now provides little, if any, inflow during the irrigation season. It is estimated that the pond may fill and release between 12 and 24 times over the irrigation season from May 1 through October 15 (24 weeks). A drawdown of 2.5 feet results in a volume release of 13.4 acre feet per irrigation cycle. This irrigation operation results in a total volume release for irrigation of 160 to 322 acre feet per year. The pond is near full or full over the winter so no total refill is required in the spring. Total annual storage consists of storage for irrigation diversion, evaporation from the pond water surface, and seepage from the pond. Open water evaporation is estimated at 782 mm (2.57 ft) per year (University of Idaho ET, Hailey Ranger Station) and seepage is estimated at 0.3 ft/day or 50.4 ft/year. Total storage inflow during the year is therefore equal to the storage and subsequent diversion to irrigation (322 acre feet) plus annual evaporation (15.2 acre feet) plus seepage (297 acre feet) for a total of 634 acre feet. The inactive storage level in the pond at the end of the season is estimated to be at the 2.5 ft drawdown level with the storage volume remaining in the pond at the end of the irrigation season at 27.9 acre feet .

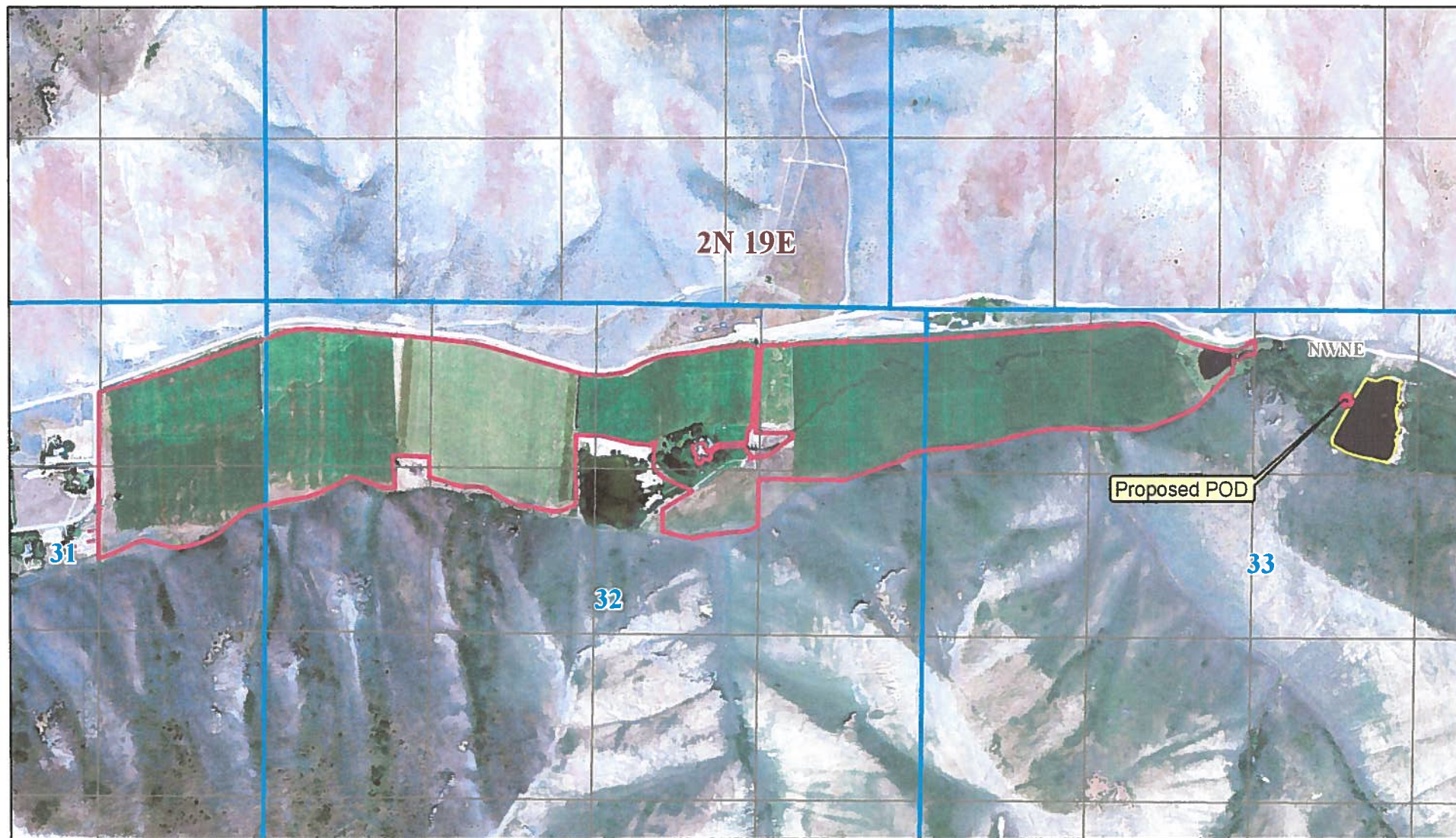
Assuming 24 refills maximum per year of 13.4 acre feet results in an estimated 322 acre feet of irrigation from storage per year. Since essentially all of the irrigation water is cycled through this pond, the 322 acre feet applied to the 216.5 allowed irrigated acres under water right 37-22582 results in 1.1.49 acre feet per acre per year or less than one-half of the estimated irrigation diversion requirement per acre. This estimated irrigation storage comports with the testimony by the ranch manager that there is seldom enough irrigation water to provide a full irrigation on the ranch and the goal is to ‘just keep things green’.

POND IMPACTS

The City of Bellevue primary subsurface water collectors are located below and downstream of the pond and seepage from the pond is likely a major contributor to these collectors. Draining or cessation of storage in the pond will likely have a negative impact on the City of Bellevue water supply. The pond is also used by the public for fishing, recreation, and wildfowl hunting. Affidavits from a long time local resident, Les Cameron, and Bob Marcroft, long time ranch manager, are attached hereto respectively as **EXHIBITS A-4 AND A-5**.



SHOEMAKER
PONDS HISTORICAL ANALYSIS
SCS 1950 AERIAL PHOTO
EXHIBIT A-1



0 500 1,000 2,000 Feet

**ALVIN V & SALLY P SHOEMAKER
AMENDED CLAIM UPPER POND
NAIP 2011 AERIAL**

- Legend**
- 37-22582 WR POU
 - Upper Pond
 - first
 - township
 - ladesco

N

①

~~McFadden and Brodhead~~

~~37-0X~~
37-A.L.

IN THE DISTRICT COURT, FOURTH JUDICIAL DISTRICT, BLAINE COUNTY,
IDAHO .

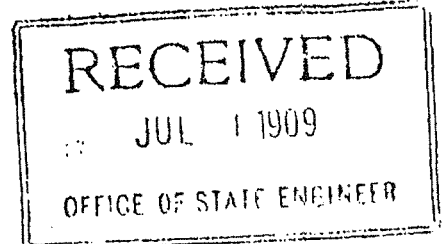
T. A. JOSLYN,
Plaintiff,

— vs. —

M. J. DALY,
Defendant,

— vs. —

NEIL CAMPBELL,
Intervenor.



D E C R E E .

This cause having been submitted to the court upon the issues raised by the pleadings, McFadden and Brodhead, appearing for the plaintiff and R. F. Buller, Esq., for the defendant and intervenor and thereupon pursuant to stipulation and agreement of parties and their counsel, the court now makes this its final decree.

I.

It is ordered, adjudged and decreed that the plaintiff, Joslyn, and the defendant, Daly, and the intervenor, Campbell, are each entitled to use one-third of the waters of Seamans Creek in Muldoon Gulch, Blaine County, Idaho, less the prior right of the City of Bellevue to one hundred fifty inches thereof, under a four inch pressure, by each party during the one-third of the time which he is authorized to use it at any place on said Seamans Creek so that each party can apply it on any part of his lands.

II.

That the plaintiff is the owner of the right to use all of the waters

37 1198

EXHIBIT A-3

of certain springs described in the cross complaint, as about seven hundred seventy-five yards Easterly from plaintiffs residence on his ranch, known as the Kimbrough Ranch in Blaine County, Idaho, on the Northerly side of Seemans Creek. The same being the NE $\frac{1}{4}$ of NE $\frac{1}{4}$ of Section 32 and N $\frac{1}{2}$ NW $\frac{1}{4}$ and NW NE $\frac{1}{4}$ of Section 33, Township 2, North Range 19 East, that said defendant and said intervenor have no right, title or interest therein or any part thereof.

III.

That a certain lake or pond situated on the so called Water Company Ranch, to-wit: The NE $\frac{1}{4}$ NE $\frac{1}{4}$ Section 33 and W $\frac{1}{2}$ NW $\frac{1}{4}$ and NE $\frac{1}{4}$ NW $\frac{1}{4}$ Section 34, Township 2, North Range 19 East, and the waters thereof are part of and tributary to Seemans Creek and that neither the plaintiff herein nor any of the other parties has any exclusive right to the use of the same nor any right thereto, except as part of the waters of said creek.

37 1200

IV.

That the defendant, Daly, as successor in interest of Jennie B. Galbraith, has the exclusive right to the use of the whole of the one-third of the waters of Seemans Creek formerly owned by said Jennie B. Galbraith (less one hundred fifty inches, belonging to the City of Bellevue) for the purpose of irrigating his lands, as follows: E $\frac{1}{2}$ NE $\frac{1}{4}$ Section 31, and W $\frac{1}{2}$ NW $\frac{1}{4}$ Section 32, Township 2 North Range 19 East NW $\frac{1}{4}$ NE $\frac{1}{4}$ Section 31, Township 2 North Range 19 East.

37 1201

V.

That the intervenor, Campbell, as successor in interest of R. F. Buller has the exclusive right to the use of the whole of the one-third of waters of Seemans Creek formerly owned by Simpson Goble (less one hund-

fty inches, belonging to the City of Bellevue) for the purpose of
ting his lands; to-wit: Lots four and five (4 & 5) SE NW Section
nship 1, North Range 19 East 118.17 acres, SW $\frac{1}{4}$ NE $\frac{1}{4}$, S $\frac{1}{2}$ NW $\frac{1}{4}$, NW $\frac{1}{4}$ SE $\frac{1}{4}$,
, SW $\frac{1}{4}$ SW $\frac{1}{4}$, Section 31, Township 2 North, Range 19 East.

VI.

2
hat the plaintiff, Joslyn as successor in interest of Asa M. Kim-
, has the exclusive right to the use of the whole of the one-
of waters of Seemans Creek formerly owned by Asa M. Kimbrough
one hundred fifty inches belonging to the City of Bellevue) for the
e of irrigating his lands; to-wit: E $\frac{1}{2}$ NW $\frac{1}{4}$ and W $\frac{1}{2}$ NE $\frac{1}{4}$ section 32,
 $\frac{1}{4}$ Section 32 N $\frac{1}{2}$ NW $\frac{1}{4}$, NW $\frac{1}{4}$ NE $\frac{1}{4}$ Section 33 NE $\frac{1}{4}$ NE $\frac{1}{4}$, W $\frac{1}{2}$ NW $\frac{1}{4}$, NE $\frac{1}{4}$ NW $\frac{1}{4}$,
n 34 all in township 2 North Range 19 East Boise Meridian.

VII.

ach party, hereto, is to have the right to use the whole of the
to which they are entitled in rotation for an equal period of time,
d of one-third thereof, for all the time (save and except the
s aforementioned rising on the Kimbrough Ranch on the Northerly side
Seamans Creek, the waters of which plaintiff is entitled to the
continuously), said period of time to be one week for each during
rigating season.

VIII.

t is further ordered, adjudged and decreed, that the plaintiff,
, and the defendant, Daly, and the intervenor, Campbell, and each
m, their servants, agents, employees or successors, in interest or

those acting by, through or under them, be and are hereby perpetually enjoined and restrained from in any manner interfering with or obstructing, the use of the said waters or the various allotments thereof, in time and manner and to the extent hereinbefore set forth.

The plaintiff, Joslyn, and defendant, Daly, to each pay his own costs not heretofore paid; except that the costs of entering this decree, which shall be divided equally between the said parties and paid by them in equal portions.

Dated May 14th, 1909.

Edward A. Walters,

District Judge.

Certificate of True Copy.

STATE OF IDAHO,

County of Blaine,

} ss.

I, W. F. Morse Clerk of the District Court of the Fourth Judicial District of the State of Idaho, in and for the County of Blaine, do hereby certify that the foregoing is a true and correct copy of the original Decree

in the above entitled action now on file of record in my office. Given under my hand and the seal of said Court, at office in Hailey, this, the 26th day of May A.D. 1909.

Attest:

By Des A. McLeod

Clerk.

Deputy

SIMPSON GOBLE, MRS. JENNIE GALBRAITH,

N. C. R. E. E.

-- WOMACK, JOHN W. BROWN,

MICHAEL BROWN, MIKE SMITH, A. BRYAND,

JOHN HUBBARD, AND THE WOOD RIVER

SMELTING COMPANY.

Defendant.

This cause came on regularly to be heard at the May Term 1885 of this Court and by stipulation of the parties was by order of this Court made and entered on the 25th day of July, A.D. 1885, referred to D. E. Waldron, Esq., to take the testimony and report his findings of fact and conclusions of law therein at the October Term, A.D. 1885 of this Court and the said Referee having taken said testimony and having made and filed his report containing his findings of fact and conclusions of law thereon, which report was filed herein on the 31st day of October, 1885, whereby the said Referee found that the plaintiff is entitled to 300 inches of the waters of Seamand's Creek measured under a four inch pressure and that the Defendants had unlawfully interfered with the plaintiff's right to the use thereof as stated in the complaint to which report and findings reference is hereby made, Now on motion of G. L. Waters, Esq. and Messrs. Angel & Sullivan, Attorneys for the Plaintiff,

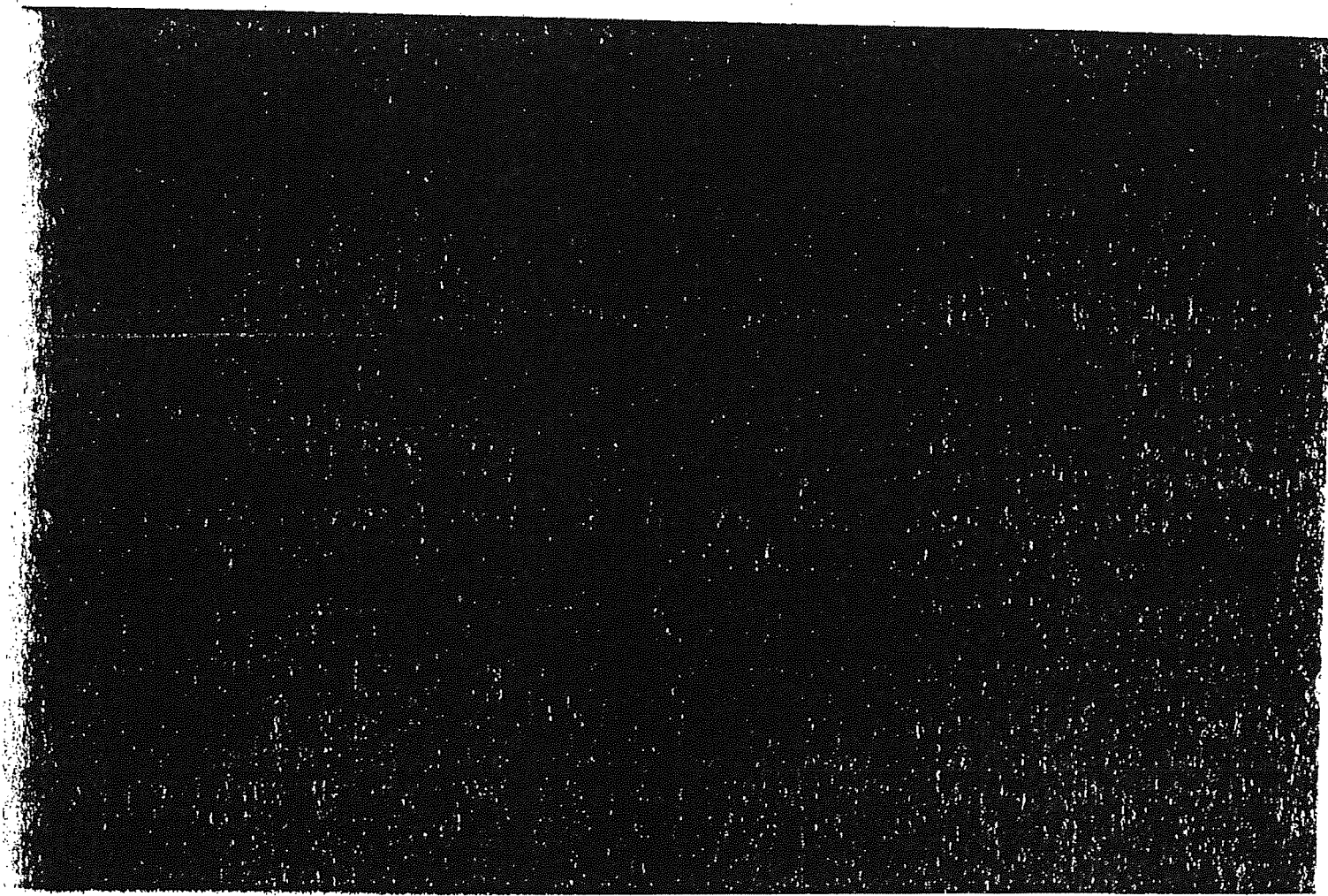
37-1208 It is ordered, adjudged and decreed that the plaintiff in this action, the City of Bellevue, is the owner of and entitled to the possession of Three Hundred ^{150 (see modification at end of decree)} (300) inches measured under a four inch pressure of the waters of Seamand's Creek under and by virtue of the appropriation, diversion, and use thereof as stated in the complaint and found by the said Referee and that the

37-AG

1. DECREE -- T. A. Joslyn -vs- M. J. Daly 37-1198 thru 37-1200.
2. LAND LIST -- M. J. Daly, et al. -vs- Torrensto A. Josslyn
3. DECREE -- The City of Bellevue -vs- Simpson Goble, et al.
4. JUDGMENT -- Frank Drake, et al. -vs- Gustave Bohlke, et al.
5. FINDINGS OF FACT AND CONCLUSIONS OF LAW -- Frank Drake, et al. -vs- Gustave Bohlke, et
6. JUDGMENT -- John E. Miller vs. Peter Weber, et al.

also

37-1208, 1209 thru 1211



AFFIDAVIT OF LES CAMERON

STATE OF IDAHO)
 :SS
County of Blaine)

LES CAMERON, first being duly sworn, deposes and says as follows:

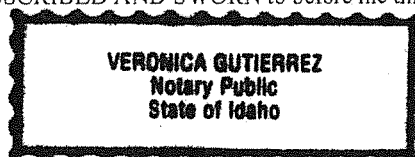
1. I am a resident of Bellevue, Idaho. My current mailing address is P.O. Box 326, Bellevue, Idaho 83313. I am a lifelong resident of Bellevue, Blaine County, Idaho. I am presently sixty-five (65) years of age.
2. Commencing in the early 1950s and continuing through the 1960s I frequently hiked or drove to a pond approximately five (5) acres in size located in the NE $\frac{1}{4}$ NE $\frac{1}{4}$ Section 33 and W $\frac{1}{2}$ NW $\frac{1}{4}$ and NE $\frac{1}{4}$ SW $\frac{1}{4}$ Section 34, Township 2 North, Range 19 East. My purpose in going to the pond was to hunt or fish. During my frequent visits to the pond during the time period I have mentioned, I became aware that the pond was used for the storage of irrigation water from Seamans Creek for irrigation purposes. The irrigation water was used for irrigation of what is now Ee-Da-How Ranch, and a ranch to the west of EE-Da-How Ranch. The property west of Ee-Da-How Ranch is now a subdivision.
3. When I commenced visiting the pond in the early 1950s there were many dead aspen trees within the perimeter of the pond. These aspen trees appeared to have been dead for a long time, and must have been dead, in my estimation, for several decades prior to the early 1950s.
4. From the early 1950s through approximately 1961 I would visit the pond four (4) or (5) during each summer.
5. I recently visited the pond I have previously described. The pond currently appears to have the same configuration in terms of its location and area that it had when I visited it in the 1950s and 1960s.

FURTHER YOUR AFFIANT SAYETH NAUGHT.

DATED this 26th day of November, 2012.

Les Cameron
LES CAMERON

SUBSCRIBED AND SWORN to before me this 26th day of November, 2012.



[Signature]
NOTARY PUBLIC
Residing at: Hailey, ID
My commission expires: 8/21/18

AFFIDAVIT OF ROBERT E. MARCROFT

STATE OF IDAHO)
 :SS
County of Blaine)

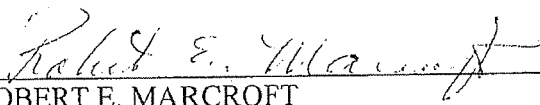
ROBERT E. MARCROFT, first being duly sworn, deposes and says as follows:

1. I am currently a resident of Idaho, residing at 8210 East Sun River Street, Nampa, Idaho.
2. From 1990 through 2010 I was employed as the Manager of Ee-Da-How Ranch in Blaine County, Idaho, east of the City of Bellevue. Ee-Da-How Ranch is currently owned by Alvin and Sally Shoemaker.
3. Part of my responsibilities as Manager was to oversee the irrigation system for the ranch and to carry out the irrigation of the property. During the time period that I was Manager of Ee-Da-How Ranch, the upper, most easterly pond was utilized for the purpose of storing irrigation water in order to properly irrigate the property.
4. During the time I was Manager certain improvements were made to the embankment at the west end of the pond to allow it to more effectively filter moss and to avoid water from the pond penetrating the domestic water collection system of the City of Bellevue near the pond's location.
5. The most easterly pond and irrigation system was used for fishing by the public throughout the time I was Manager. My son, Robert C. Marcroft, took over for me and has served as the Manager of the ranch since 2012. I am still at the ranch frequently. The most easterly pond is currently leased by Silver Creek Outfitters for the purpose of fly fishing school instruction and general fishing.
6. Wildlife frequently visit and utilize the most easterly pond. I have personally observed Blue Herons, ducks, geese, deer, elk and other species utilizing the pond.
7. The pond continues to be occasionally used by duck hunters.

8. The pond adds a great deal to the scenic beauty of the local area and is frequently photographed by the public.

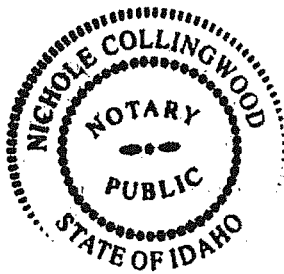
FURTHER YOUR AFFIANT SAYETH NAUGHT.

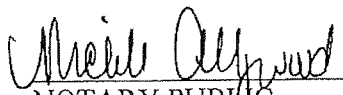
DATED this ____ day of December, 2012.



ROBERT E. MARCROFT

SUBSCRIBED AND SWORN to before me this 18 day of December, 2012.





NOTARY PUBLIC
Residing at: Canyon County
My commission expires: 7/18/16

EXHIBIT A-5