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L A W O F F I C E S

RECEIVED

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DEPARTMENT OF
WATER RESOURCES

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November 5, 2013

Carter Fritschle
Adjudication Section Manager
Idaho Department of Water Resources
PO Box 83720
Boise, Idaho 83720-0098

RE: Response to Letter Dated August 28, 2013 Regarding Evidence of Priority Date and Historic Use for Snake River Basin Adjudication Claim Nos. 22-4027 and 22-4028 (The City of Teton).

Dear Carter:

This letter is a follow up to a couple of phone conversations we have had over the past month. We appreciate your time and attention to the above-referenced water right claims, and apologize for not having information to you by September 30th as requested in your August 28th letter. However, due to the diligent efforts of the City of Teton clerk, she has combed through a number of historical documents maintained by the City, and we believe we have obtained information that will document the historic development of the City's water system. Copies of these documents are enclosed, but we also wish to describe each of them and offer our thoughts as to how the claims submitted by the City of Teton should likely be adjudicated in the Snake River Basin Adjudication, absent any new information that may come to light in the next month or so.

Exhibit 1 is an undated receipt from an onion-skin type piece of paper that the City clerk was barely able to photocopy. It appears to document or summarize the expenses associated with an estimate to drill the City's first well. In the remarks section, it states "well is to be sunk approximately 50 feet thru lava flow. Well is now down 65 ft. and well is making some water. A 2 in. electric pump, compressor outfit is needed." It appears that this was the City's first efforts to drill a well, and constructed it down to sixty-five feet sometime prior to 1935 based upon Exhibit 2.

Exhibit 2 is a handwritten letter to the Governor's Emergency Drouth Committee in Boise. Exhibit 3 is a typed version of the letter, and as you can see, it is dated February 18, 1935. What is interesting about this letter is it states "[t]he drilling of our well finished, we find

Established in 1896

that at 165 feet, the present depth, we have sufficient water to supply our needs.” The letter then references a certificate of approval from the Drouth Committee to install a pump, authorized pursuant to the so-called “Teton City pumping project”, which appears to have been authorized on September 4, 1934.

Based on these three exhibits, it appears that the City of Teton constructed their first well and began using water sometime in the spring or summer of 1935.

As you know from the prior information we have submitted with our SRBA claims, the City actually has two wells. Exhibit 4 appears to be the beginning of when the second well was drilled. These minutes are from December 11, 1941, and indicate that at a special meeting of the City, the purpose was to discuss “the drilling of the village well by C. E. Gunning.” A motion was made to advance \$75.00 for drilling of the well, which was approved. The second page of the exhibit indicates that Austin Bigler made a motion that an additional 30 feet of pipe be placed on the pipe in the well, making a total of 70 feet of pipe in the well, which was approved. Admittedly, it is unclear if these minutes from 1941 address the first well drilled by the City, or the second well. What we do know is that in 1946, the Exhibit 5 minutes indicate that Dean Leavitt made a motion to “dig a new well”. Exhibit 6 indicates that approximately one year later, the clerk was supposed to send notice of a bid for a new well to the Post Register. Exhibit 7 are minutes from the same year, and they indicate at a meeting held on October 6, 1947, Hopkins Brothers from Ashton, Idaho put in a bid to dig the well. The relevant language is highlighted on Exhibit 7. On November 12, 1947, Exhibit 8 demonstrates that there was a special meeting called for the purpose of deciding what to do about a new well and it was decided unanimously to dig a new one. The minutes identify A. J. Schoonover and Sons of Burley, Idaho as the entity awarded the contract. Exhibit 9 is from a board meeting on April 5, 1948, where a motion was made to write Schoonover a letter to come and test the well as soon as possible with the pump. Exhibit 10 is from May 2, 1948, where a motion was made to pay for drilling the well.

It appears that these documents track when the second well was drilled by the City, which is evidenced by water right claim No. 22-4027, and has a priority date of November 1, 1958. The reason for this is that on Exhibit 11, there is a letter from Brown Pump & Sprinkler Company, and associated invoice identifying overhaul of a pump. The date on the invoice is April of 1953.

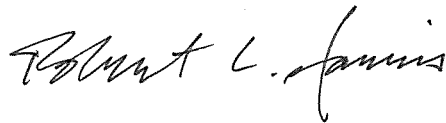
It would have been helpful for these documents to identify which well they were referring to, as presently there are two wells that are in operation for the City of Teton. It appears to me that the priority dates claimed on 22-4028 and 22-4027 correlate to when the wells were fully operational, and not when they were originally drilled or even used. It appears that an argument could be made for an earlier priority date, which is something the City may consider, but at this point it seems from the minutes that certainly by November of 1958 there were two fully operational wells existing within the City of Teton. When the license for Water Right 22-7251 was issued, the associated field exam indicated that the well could pump 1.75 cfs. The application for permit stated that the City had been pumping the well at a rate of 1.11 cfs, which calculates to 500 gallons per minute, and the intent was to increase it to divert another 500 gallons per minute for a total of a 1000 gallons per minute. The field exam actually

demonstrated that it could divert 1.75 cfs. Based on the field exam, it seems that the combined limit of 22-4027 and 22-7251 should be equal to that amount.

As to the other water right, 22-4028, the record we had provided indicates that the well existed likely much earlier than its claimed January 1, 1948 priority date. In combination, both wells and their three associated water rights should therefore be limited to the diversion of 2.95 cfs (1.75 cfs + 1.2 cfs), based on the best available information that we have at this time.

We believe this provides you with the information you need to issue recommendations for the water rights in the SRBA. If there are any additional questions or concerns, please let us know. We appreciate your attention to this matter.

Best Regards,

A handwritten signature in black ink, appearing to read "Robert L. Harris". The signature is fluid and cursive, with a large initial "R" and a long, sweeping underline.

Robert L. Harris
Holden, Kidwell, Hahn & Crapo, PLLC

Enclosures

livestock

2

ation of town. If stock watering give in 150

12. To ete project and put water to actual use days

13. Will this project Permanent be one of permanent or temporary value?

14. Give kind and amount of special equipment required for construction purposes Compressor, concrete mixer, pump, truck for hoist
Yes

Draglines, steam shovels, concrete mixers, pumps, etc.
Is equipment available in your community?

15. Detailed estimate of total cost

Compressor	10 weeks @ \$48	\$480
Lumber	8,000 ft. @ \$30	240
Gasoline	750 gals. @ \$16¢	120
Blacksmith repairs and Misc. supplies		100
Electric Power		150
Common Labor		576
Skilled Labor		702
Shaft Man and Foreman		300
Pump with gear connection for water power		750
Water wheel		500
		1,230

Total equipment rental \$ 1,110

Total material cost \$ 1,578

Total labor cost \$ 3,918

Well is to be sunk approximately 50 feet thru lava flow.
GRAND total \$

16. Remarks Well is now down 65 ft. and well is making some water. A 2 in.

electric pump, compressor outfit is needed.

EXHIBIT

1

Gov. E. Norath Comm.

Baise

Genl.

The drilling of well finished. The
first shot at 165 ft. p.w. depth we have
sufficient water to supply needs. This
part of project completed we are ready
to proceed with the compl. of project
of installing pump, etc. as per your
ack. of ^{Litan City Pump Proj. No. 1369} ~~Sept. 4, 1934~~ ^{Sept. 4, 1934} ~~minutes of meeting held~~
Sept. 4, 1934. Whereas you state
that if sufficient water supply is developed
further consideration will be given
to furnish suitable pumping equip.
Please advise what steps should now
be taken to reach project to completion
Yours truly,

EXHIBIT

2

Teton City, Idaho
February 18, 1935

Governor's Emergency Drouth Committee
Boise, Idaho

Gentlemen:

The drilling of our well finished, we find that at 165 feet, the present depth, we have sufficient water to supply our needs. This part of the project finished, we are ready to proceed with the completion of the project of installing pump, etc., as per your certificate of approval, (Teton City Pumping Project, Fremont Co. #369. Minutes of meeting held Sept. 4, 1934) whereas, you state that if sufficient water supply is developed, further consideration will be given to furnish suitable pumping equipment.

Please advise what steps should now be taken to rush the project to completion.

Yours truly,

Acting Clerk

EXHIBIT

3

tabbies

Minutes of a Special Meeting of Village Board held in hall December 11, 1941.

Present: C.V. Rackham, Ernest Siddoway, Austin Bigler, & Melvin Johnson.

The purpose of the meeting is to discuss the drilling of the Village Well by C.E. Gunning.

Drilled 52 ft 4 in. Bills paid by Village
\$ 264.65 5. a foot for C.E. Gunning to be held out of his pay.

deductions -	<u>163.96</u>	are: - C.V. Rackham (labor)	20.30
due him.	97.69	Jack Misseldine (")	27.55
advance of	<u>75.00</u>	Jeton Merc. (groceries)	22.79
due.	22.69	Steel	10.00
		O.F. Rudolph (tools)	40.00
		A.H. Martin (welding tools)	40.00
		Miller Bros. (coal)	5.00
		Wis State Lumber Co (m.dse)	.69
		Total	\$ 163.96

Ernest Siddoway made motion to advance C.E. Gunning \$75.00 on his drilling of the Village well. 2nd by Melvin Johnson.

Austin Bigler made a motion
that 30 feet of pipe be placed onto
the pipe in the well; making a
total of 70 feet of pipe in the well. 2nd
by Ernest Siddoway.

Moved the meeting adjourn.

Attest:

Clerk, Sara Bright. Chairman C. V. Rackham

Jack Misseldine was given an advance
of twenty dollars on his labor services
at the Village Well; on December 22, 1941.
At the request of C. V. Rackham.

Minutes of regular Village Board Meeting
held July 1st. Present Stan Kelch, Dean Leavitt
Mark Clark.

Minutes & treas. report of preceding meeting
read. Mark Clark made a motion to accept them.
Seconded by Dean Leavitt. Passed by board.

Bills presented for payment are:

C. D. Miley	Marshals salary	# 119.30
Collector of Internat. Rev.	3 months tax on marshals salary	17.10
Utah Power & Light	lights & power	116.11
Thompson Plumbing Co.	coupling & valve	13.65
Can. Do. Shop	Cutting & welding pipe	2.00
Clerks salary	General Purke	35.00
Alice Thompson	labor (3 hrs. at 85¢)	2.55
By following turned to water account:		
Edward Howard	5 hrs with team (mowing hay)	6.25
Edward Nelson	4 hrs on leak	3.40
Edgar Nelson	5 hrs on leak	4.25
Stan Kelch	stop to Idaho Falls	5.00
	6 hrs cutting hay	18.00

Mark Clark made a motion to pay all bills.
Seconded by Dean Leavitt. Passed by board.

Dean Leavitt made a motion to dig a
new well. Seconded by Mark Clark.

It was decided to sell part of the hay on the
square at 8⁰⁰ a ton.

Meeting adjourned.

Minutes of regular Village Board Meeting
 held Sept. 8. Present Artell Bright, Clean ^{pay}
 Leavitt, James Siddyway, ~~James Siddyway~~ ^{Stewart}
 Minutes and Treas. report read. ^{of preceding meeting} James Siddyway
 made a motion to ~~pass~~ accept them as read.
 Seconded by Roy Stewart. Passed by board.

Bills presented for payment are:

Utah Power & Light Co.	Lights & power	\$118.68
Jess Rackham	marshals salary	180.00
Geneva P. Briggs	clerk & Treas. salary	35.00
dept. of Aeronautics	contrib. for air marker	25.00
Idaho Municipal League	dues for 1947-48	10.00

James Siddyway made a motion to pay all
 bills except the dept. of Aeronautics and Idaho
 Municipal League. Seconded by Clean Leavitt.
 Passed by board.

Jess was told to see Lavene Hansen and
 Lee Gridding about there water bills. If they
 don't pay some on them shut the water off.

Erwin Archibald asked what the board
 would do about crossing his water line across
 the road or moving it. The board decided
 to pay for half the digging and half the
 pipe the same as a new water user.

The clerk was told to send a notice of
 bid for a new well to the Post Registrar.
~~Jess Rackham is to tell~~

C.

1947

EXHIBIT

6

Minutes of regular Village Board Meeting
held Oct. 6, 1947 Present: Artell Bright,
Melvin Johnson, & Dean Leavitt.

Minutes & Treasurer report of preceding meeting
were read. Melvin Johnson made a motion to
accept them. Seconded by Dean Leavitt.
Passed by board.

Bills presented for payment are:

Utah Power & Light Co. - Lights & power -	104.93
Jess Packham - Marshal's salary -	180.00
Collector of Int. Revenue 3 months I. Tax on	9.20
Geneva P. Briggs - Clerk & Treas. salary 35.00 1000 stamped envelopes 12.80	47.80
Post Registrar Printing bid for well for 1 week	3.50
Gray Mamm. Co. washers	2.60
County Treasurer Co. share on 3 slot machines	156.16
State Treasurer State share on 3 slot machines	156.16
Teton Merc. Co. merch. to date.	39.80

To be turned to water account -
C. V. Rackham - ~~labor~~ & Material on Water \$39.80

Dean Leavitt made a motion to pay
all bills. Seconded by Melvin Johnson.
Passed by board.

Hopkins Brothers, Box 471, Ashton,
Idaho put in a bid to dig the well. He said
he would clean it for nine dollars an hour
or drill it for \$25 a foot if the City would
furnish everything.

The clerk handed in her resignation but
the board said to think it over awhile longer.

C. C. Bright

EXHIBIT

7

Special Meeting held Nov. 12, 1947,
Present. Artell Bright, Melvin Johnston,
James Siddoway, Ray Stewart, Dean
Leavitt.

This meeting was called for the purpose
of deciding what to do about a new well.
It was decided unanimously to dig a new one.
Mr. A. J. Schronover & Sons of Burley,
Idaho is to have the contract.

C. A. Bright

EXHIBIT

8

Minutes of the Regular Village
Board Meeting held April 5, 1948
Present - James Siddaway Dean Leavitt
Melvin Johnson Ray Stewart & Artell
Bright.

Melvin Johnson made a motion
to accept the minutes as read recorded
by Ray Stewart.

Bills presented for payment are
as follows:

Garle Lague, Telon Denville Junction gravel	30.00
Dep. A. Garner	189.00
Utah Lague & Light	101.27
Jess Rackham	184.00
Deva Burt	35.00
Montana & Idaho Lumber Co.	69.15
Wester Mear. Co.	19.62
Harold Jensen	5.60
James Siddaway	2.50

Light & Taper
Marshall Salary
Clerk & Treas Salary
Lumber
Mds. & date
gas oil & put road
Lagoon on road

James Siddaway made motion to
pay all bills recorded by Ray Stewart.

Made a motion to write Schoyaven
a letter & ask him to come up & test
the well as soon as possible with
the pump.

Made a motion to buy all the
necessary gravel needed to fix the
road up & have ~~Barrett~~ Liberty Bros
grade the road.

Meeting adjourned

C. A. Bright

Minutes of the Regular Village
Board Meeting held ~~Mar 7~~ 1948 Present
Artell Bright, Ray Stewart & Dean Leavitt
James Siddaway.

Minutes & Treasurer report of
the proceedings meeting read James
Siddaway made motion to accept
minutes as read seconded by Ray
Stewart.

Bills presented for payment are
as follows:

Utah Power & Light	Light & power	98.52
Jess Washburn	Marshall salary	180.00
Lena Butt	Clerk & Treas. salary	37.00

James Siddaway made motion to
pay all bills seconded by Ray Stewart
James Siddaway made a motion
to pay A. J. Schwanen & Son two thousand
dollar ~~for~~ ^{to} apply an ~~account~~ ^{account} for digging
the well. seconded by Ray Stewart
James Siddaway told Jess to get some
lumber to fix the calverts this spring.
Explain to Marvin A. about his
water pipes that the city will stand half
the share of ~~expenses~~ ^{expenses} ~~Sept minutes to her.~~

BROWN PUMP & SPRINKLER CO.

V. MELVIN BROWN - CONSULTING ENGINEER

MANAGER & OWNER

PHONES 330 - 239

495 BROADWAY

SPECIALIST IN
DEEP WELL TURBINES
SPRINKLER IRRIGATION
CITY WATER SYSTEMS
STRUCTURAL DESIGN

P. O. BOX 884
IDAHO FALLS, IDAHO

Village of Teton
Teton City, Idaho.
Attn: Lena Butte:

Dear Madam:

In reply to your inquiry on
your pump.

There is a name plate on the control
panel of the pump which gives you all
the information you have requested.

I am sorry you are having trouble.
I have been up there three times since
we overhauled it, and it was running
beautiful each time.

Sincerely

V. Melvin Brown

P.S. Please find enclosed statement on
over haul of pump.

EXHIBIT

11

BROWN PUMP & SPRINKLER CO.

485 BROADWAY

MEL BROWN, MGR.

P. O. BOX 884

IDAHO FALLS, IDAHO

PHONE 330

Teton City Idaho

DATE	DESCRIPTION	CHARGES	CREDITS	BALANCE
	Overhaul of pump			
Jan 27	Pull Pump	100 ⁰⁰		9 hr
	freight to ship to Coeur d'Alene	38 ⁶⁵		
	Overhaul Pump charges.	191 ⁸⁴		
	freight back to I.F.	39 ¹⁰		112 hr
	labor to reinstall	198 ⁰⁰		
	mileage 6 trips @ 25¢/mi	60 ⁰⁰		
		627 ⁵⁹		627 ⁵⁹
	less 2% if paid by April	10 ⁵⁴		1953

PLEASE ADDRESS ALL CORRESPONDENCE TO P. O. BOX 884-IDAHO FALLS, IDAHO

THE LAST AMOUNT IN RIGHT HAND COLUMN IS YOUR BALANCE

INTEREST WILL BE CHARGED ON ALL PAST DUE ACCOUNTS AT THE RATE OF 8% PER ANNUM

5.00.00