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Claimants: Department of Water Resources
Adjudication Bureau

Roger Shaffer

Attorney Name and Address:

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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 No. 36-00034B

)

Case No. 39576

)

AFFIDAVIT IN SUPPORT OF

)

MOTION FOR SUMMARY JUDGMENT

)

* * * * *

Roger Shaffer, being first duly sworn upon oath, deposes and says:

1. I, Roger Shaffer, am a claimant of a previously decreed water right, which is the water right before the Court in this subcase. I make the foregoing and following statements in this affidavit based on my personal knowledge and beliefs and I am otherwise competent to testify regarding those statements.

2. I own real property described in the deed attached to this affidavit as Exhibit "A" and incorporated by reference into this affidavit. Exhibit "A" is a duplicate of my deed, which is recorded in the official property records of the Gooding County Recorder's Office, Gooding, Idaho. I also own the water right claimed in this subcase.

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Chartered
Hepworth,
Lezamiz &
Hohnhorst

1 3. The real property described in Exhibit "A" includes decreed,
2 appurtenant water rights. The water right involved in this subcase is appurtenant to that real
3 property. I acquired that water right as successor in interest in the real property to Edna N.
4 Clifford, Frances M. Clifford, Wm. H. Clifford, Howard F. Clifford, Richard O. Clifford,
5 Doyle O. Clifford, Milton L. Clifford, Elvira E. McCorkle and Ethel C. Smith, to whom the
6 right was decreed in the case of *New International Mortgage Bank v. Idaho Power*
7 *Company, et al*, Equity No. 1602, in the District Court of the United States, for the District
8 of Idaho, Southern Division.

9 4. I request this Court take judicial notice of the contents of the final
10 decree entered in that case, dated March 22, 1932, and decreed by the Honorable Charles
11 Cavanah, Federal District Court Judge. A certified copy of that decree is in the files of this
12 Court.

13 5. Attached to this affidavit as Exhibit "B" and incorporated into it is a
14 duplicate of the portion of the *New International Mortgage Bank* decree which shows the
15 water right I acquired through Edna N. Clifford, Frances M. Clifford, Wm. H. Clifford,
16 Howard F. Clifford, Richard O. Clifford, Doyle O. Clifford, Milton L. Clifford, Elvira E.
17 McCorkle and Ethel C. Smith.

18 6. My water right has been used and exercised on the real property
19 identified in Exhibit "A" and which is also identified in Exhibit "B". The purposes for which
20 that right has been used and is being used are set forth in the attached Exhibit "C," along
21 with the periods and places of use and other elements of my right. Exhibit "C," which is
22 incorporated into this affidavit, shows how my decreed right has been beneficially used and
23 how it should be decreed.

Roger Shaffer

DEED

EXHIBIT "A"

TOWNSHIP 7 SOUTH, RANGE 13, EAST OF THE BOISE MERIDIAN,
GOODING COUNTY, IDAHO

Section 27: That part of the NW ¼, described as follows:

Commencing at the North quarter corner of said
Section 27;
Thence South 0°55'18" West along the West boundary
of the NW ¼, 516.50 feet, said point lies North
0°55'18" East, 4735.16 feet from the South quarter
corner of said Section 27;
Thence South 89°38'42" East, 325.00 feet to THE TRUE
POINT OF BEGINNING;
Thence South 89°38'42" East, 259.47 feet to a point
on the East bank of the Bell Irrigation Ditch;
Thence along said East bank the following courses
and distances:
Thence South 34°47'18" West, 82.85 feet;
Thence South 14°34'18" West, 114.66 feet;
Thence South 54°54'18" West, 68.01 feet;
Thence leaving said East bank North 89°38'42" West,
131.22 feet to a point that lies South 89°38'42"
East, 325.00 feet from the West boundary of said
NW ¼;
Thence North 0°55'18" East, 218.94 feet to THE TRUE
POINT OF BEGINNING.

TOGETHER WITH an easement for ingress and egress
described as follows:

Commencing at the North quarter corner of said Section
27;
Thence South 0°55'18" West along the West boundary of
the NW ¼, 613.44 feet to a point that lies North
0°55'18" East, 4638.22 feet from the South quarter
corner of said Section which point shall be known
as THE TRUE POINT OF BEGINNING;
Thence South 89°38'42" East, 325.00 feet to a point on
the West boundary of the above described property;
Thence South 0°55'18" West along the West boundary of
the above described property 25.00 feet;
Thence North 89°38'42" West, 325.00 feet to a point on
the West boundary of said NW ¼;
Thence North 0°55'18" East along the West boundary of
said NW ¼, 25.00 feet to THE TRUE POINT OF BEGINNING.

Together with all water and water rights, ditches and ditch rights
used thereon or appurtenant thereto including but not limited to
1 share of Bell Ditch water.

SUBJECT TO THE FOLLOWING:

Assessments levied or to be levied by any irrigation district.

Power Line Easement given by Stanley J. Hoskovec and Betty Hoskovec,
husband and wife, and Tracy L. Scheuermann and Ruth Scheuermann, hus-
band and wife, to Idaho Power Company, a corporation, dated October
18, 1971, recorded January 17, 1972 as Instrument Number 38673,
Gooding County records, granting to said corporation a right of way
and easement for erection and maintenance of an electric transmission
line over and across a part of the NW ¼ of Section 27, Township
7 South, Range 13, East of the Boise Meridian.

NAME	AMOUNT OF WATER IN SECOND FEET AND SOURCE	PRIORITY OF APPROPRIATION	DIVERSION POINT
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S $\frac{1}{2}$ of the NE $\frac{1}{4}$ of the NW $\frac{1}{4}$ (or Lot 3), Sec. 1, Twp. 8
S. R. 13 E. B. M.

CLIFFORD, EDNA M.,	3.	Spring	March 8, 1902 Weatherby Springs;
FRANCES	1.5	Billingsley Creek	March 30, 1884 E.M. Bell Ditch;
M. CLIF- FORD, WIL.	1.6	Billingsley Creek	Sept. 10, 1884 Buckeye Ditch;
E. CLIF- FORD, HOW-		NW $\frac{1}{4}$ of the NE $\frac{1}{4}$, E $\frac{1}{2}$ of the NE $\frac{1}{4}$ and the NE $\frac{1}{4}$ of the SE $\frac{1}{4}$, of Sec. 27, and the SE $\frac{1}{4}$ of the SE $\frac{1}{4}$ of Sec. 22, Twp. 7	
AND F. CLIF-		S. R. 13 E. B. M.	
FORD, RICH-			
AND C. CLIF-	.8	Billingsley Creek	April 1, 1909 Sands Ditch;
FORD, DOYLE	3	Billingsley Creek	April 1, 1880 Two Clifford
O. CLIFFORD,			Ditches and flume;
LILTON L. CLIFFORD, ELVIRA E. McCORKLE, ETHEL C. SMITH			

appurtenant to the following land;

(The diversion point of one Clifford ditch is 150 feet below the diversion point of said Sands Ditch, the other 550 ft. below the diversion point of said Sands Ditch and the flume 450 ft. below the diversion point of Sands Ditch, all on the north side of Billingsley Creek.)

All of the SE $\frac{1}{4}$ of the NW $\frac{1}{4}$ of Sec. 11, Twp. 7 S. R. 13 E. B. M. and that portion of Lots 2 and 3 in said section 11 bounded and described as follows:
Commencing at the quarter corner between Secs. 2 and 11, Twp. 7 S. R. 13 E. B. M.; thence west along the section line between said Sections 374.3 feet; thence south 15 degrees 48' east 70 feet; thence south 5 degrees 7' west 63 feet; thence south 13 degrees 39' east 33 feet; thence south 25 degrees 25' east 41 feet; thence south 25 degrees 35' east 248.5 feet; thence south 27 degrees 43' west 323 feet; thence south 35 degrees 53' west 13.4 feet to a point (which said point is south 25 degrees 45' west 823.7 feet

NAME	AMOUNT OF WATER IN SECOND FEET AND SOURCE	PRIORITY OF APPROPRIATION	DIVERSION POINT
	from the said quarter corner first above mentioned and is 729 feet south of the section line between said sections 2 and 11); thence north 80 degrees 28' west 949 feet to a point (which point is 573.8 feet south of a point on the section line between said sections 2 and 11 in said Twp. and Range aforesaid 1320 feet west from the said quarter corner between sections 2 and 11 first above mentioned;) thence north 80 degrees 28' west 199.1 feet to a point; thence south 23 degrees 40' west about 2269 feet to a point 290 feet east from the quarter corner on the west boundary line of section 11, Twp. 7 S. R. 13 E. B. M.; thence east along the south boundary line of Lot 3 of said Section 11 to the southeast corner of said Lot 3; thence north along the east boundary line of said Lot 3 to the northeast corner thereof; thence east along the south boundary line of Lot 2, in said section 11 to the southeast corner of said Lot 2; thence north along the east boundary line of said Lot 2 to the place of beginning.		
CONDIT, JAMES E. AND JENNIE M. CONDIT	.5 Spring (Said Huitt Spring is located on the SE $\frac{1}{4}$ of the NW $\frac{1}{4}$ of Sec. 19, Twp. 7 S. R. 14 E. B. M.) The NW $\frac{1}{4}$ of the SW $\frac{1}{4}$ (also known as Lot 3) of Section 19, Twp. 7 S. R. 14 E. B. M.	April 1, 1930	Huitt Spring
DILATUSH, E. W., AND ALICE I. DILATUSH, AND CHARLES C. CAREY	2.4 Billingsley Creek .3 Spring (Said unnamed spring arises in the SE $\frac{1}{4}$ of the NE $\frac{1}{4}$ of Sec. 11, Twp. 7 S. R. 13 E. B. M. at a point 1035 feet north 2 degrees 2' west from the southeast corner of said tract of land. That the point of diversion of said Granger Ditch is on the bank of Billingsley Creek about 100 feet below the diversion point of said Buckeye Ditch and from the diversion point of said Granger Ditch the quarter section corner common to secs. 11 and 12 Twp. 7 S. R. 13 E. B. M. bears south 31 degrees 27' east a distance of 833.4 ft.) Beginning at the southeast corner of the NW $\frac{1}{4}$ of the SE $\frac{1}{4}$ of Sec. 11, Twp. 7 S. R. 13 E. B. M.; thence west along the forty line 1075'; thence north 20 degrees 49' east 820 feet; thence north 24 degrees 34' east 450 feet; thence south 81 degrees 26' east 593 feet to the east forty line, thence south along the forty line 1122 feet to the point of beginning.	Jan. 2, 1891 Jan. 2, 1891	Granger Ditch Unnamed Spring
ELIASON, ARMEDIA	.8 Spring .4 Spring	Dec. 12, 1901 April 4, 1910	Weatherby Springs; (Hoagland Tunnel) Weatherby Springs;
	The NW$\frac{1}{4}$ of the NE$\frac{1}{4}$ of Sec. 36, Twp. 7 S. R. 13 E. B. M. excepting therefrom, however, the following described tract of land: Beginning at the quarter corner between Sections 25 and 36 of said township and range, running thence east 399 feet to the center of the public highway, thence in a southwesterly direction in the center of said highway 278 feet, thence westerly along the north bank of the Clifford Ditch 370 feet, to the west boundary line of said NW$\frac{1}{4}$ of the NE$\frac{1}{4}$ of said Section 36, thence north along said west boundary line 257 feet to the point of beginning, said tract of land excepted containing 2.2 acres, more or less, and the property herein described containing 37.8 acres, more or less.		

WATER RIGHT ELEMENTS

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| 1. | Name and Address of Claimant: | Roger Shaffer
Box 123
Hagerman, ID 83332 |
| 2. | Source of Water: | Billingsley Creek |
| 3. | Quantity of Water Used: | .02 cfs |
| 4. | Date of Priority: | March 30, 1884 |
| 5. | Legal Description of the Point of Diversion: | Township 7 South, Range 13 East, Boise Meridian, Section 11, SE1/4NE1/4, Gooding County, Idaho |
| 6. | Purpose of Use: | Irrigation |
| 7. | Period of Year Water is used for such Purposes: | Irrigation season |
| 8. | Legal Description of the Place of Use: | Irrigation: Township 7 South, Range 13 East, Boise Meridian, Section 27, NW1/4NE1/4, Gooding County, Idaho - 1 acre |
| 9. | Annual Volume of Consumptive Use: | 4.5 afa |
| 10. | Conditions on the Exercise of Water Right: | None |
| 11. | Remarks necessary for Definition: | None |