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Department of Water Resources
Adjudication Bureau

1 Claimants:

Frank L. Glauner and Jean Glauner

2 Attorney Name and Address:

HEPWORTH, LEZAMIZ & HOHNHORST,
CHARTERED
133 Shoshone St. North
P.O. Box 389
Twin Falls, ID 83303-0389
Telephone: (208)734-7510

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7 IN THE DISTRICT COURT OF THE FIFTH JUDICIAL DISTRICT OF THE
8 STATE OF IDAHO, IN AND FOR THE COUNTY OF TWIN FALLS
9

10 * * * * *

11 In Re SRBA

) Subcase No. 36-00039E

12 Case No. 39576

)
) AFFIDAVIT IN SUPPORT OF
) MOTION FOR SUMMARY JUDGMENT
)

13 * * * * *

14
15 Jean Glauner, being first duly sworn upon oath, deposes and says:

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

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

HEH
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 E.W.
4 Dilatush and Alice I. Dilatush and Charles C. Carey, to whom the right was decreed in the
5 case of *New International Mortgage Bank v. Idaho Power Company, et al*, Equity No. 1602,
6 in the District Court of the United States, for the District of Idaho, Southern Division.

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

11 5. Attached to this affidavit as Exhibit "B" and incorporated into it is a
12 duplicate of the portion of the *New International Mortgage Bank* decree which shows the
13 water right I acquired through E.W. Dilatush and Alice I. Dilatush and Charles C. Carey.

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

20 7. I have never intended to abandon my right or any part of it. I do not
21 believe that any of my predecessors in interest to the right intended to, or did abandon the
22 water right or any part of it. Since I have owned the water right, there has not been a
23

1 continuous five-year period of nonuse. I understand and believe that there has never been
2 a continuous five-year period of nonuse of the right.

3 Dated May 1, 1996.

4 Jean E. Glanville
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7 Subscribed and Sworn to before me this 1 day of May, 1996



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Kaylynn Hillfield
Notary Public for Idaho
Residing at: WINN FALLS, IDAHO
My Commission Expires: 10/1/2001

QUITCLAIM DEED

THIS INDENTURE, made the 13th day of February
in the year of our Lord one thousand nine hundred and forty-seven, between
Mabel M. Thompson a widow at all times since the death of her husband
T. E. Thompson,

of Hagerman, County of Gooding, State of Idaho
the part y of the first part, and Frank L. Glauner and Jean E. Glauner, his wife,

of Hagerman, County of Gooding, State of Idaho
the part ies of the second part:

WITNESSETH, That the said part y of the first part, for and in consideration of the sum
of One Hundred and Fifty and no/100 DOLLARS,
lawful money of the United States of America, to her in hand paid by the said
part ies of the second part, the receipt whereof is hereby acknowledged, do es by these pres-
ents, remise, release and forever QUITCLAIM, unto the said part ies of the second part, and to
their heirs and assigns, all those certain lots, piece or parcel
of land, situate, lying and being in the Hagerman County of Gooding, State of
Idaho, bounded and particularly described as follows, to wit:

Lots 13, 14 and 15 in Block 24 of Hagerman Townsite according to the
official Plat thereof on file in the office of the Recorder of Gooding
County, Idaho



TOGETHER with all and singular the tenements, hereditaments and appurtenances thereunto
belonging or in anywise appertaining and the reversion and reversions, remainder and remainders,
rents, issues and profits thereof.

TO HAVE AND TO HOLD, all and singular, the said premises, together with the appurtenances,
unto the said part ies of the second part, and to their heirs and assigns forever.

IN WITNESS WHEREOF, the said part y of the first part has her hereunto set
hand and seal, the day and year first above written.

Mabel M. Thompson (Seal)

..... (Seal)

..... (Seal)

..... (Seal)

STATE OF IDAHO.
County of Gooding ss.

On this 13th day of February, in the year 1947, before me.

M. F. RYAN

a Notary Public in and for said State, personally appeared
Mabel M. Thompson, a widow,

known to me to be 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.

My commission expires Dec. 8, 1947

M. F. Ryan
Notary Public residing at Gooding, Idaho

INDEXED ✓
RECORDED ✓
CORRECTED ✓
PAGED ✓ No. 99689

QUITCLAIM DEED

Mabel M. Thompson

To

Frank L. Thompson
it up

Dated , 19

I hereby certify that this instrument
was filed for record at the request of

Frank L. Thompson

at 10 minutes past 2 o'clock
8 M., this FEB 13 1947 day of

A. D. 19 , in my office, and duly

recorded in Book 39 of Deeds

at page 443

Dee. L. Fowler
Ex-Officio Recorder.

W. A. G. G. G. G., Deputy

Fees, \$ 1.00

Hyman

This Indenture, Made this 26th day of March
in the year nineteen hundred and forty-seven, between the "ROMAN
CATHOLIC DIOCESE OF BOISE," a corporation sole, organized and existing under and by vir-
tue of the laws of the State of Idaho, the party of the first part, and

Frank L. Glauner
of Hagerman County of Gooding State of
Idaho the party of the second part.

WITNESSETH, That the said party of the first part, for and in consideration of the sum of
one hundred Dollars.
lawful money of the United States of America, to it in hand paid by the said party of the second
part, the receipt whereof is hereby acknowledged, has granted, bargained, and sold, and by these
presents does grant, bargain, sell, convey, and confirm unto the said party of the second part, and
to his heirs and assigns forever, all the following described real estate, situated
in Gooding County, State of Idaho; to-wit:
Lot sixteen (16) in Block twenty-four (24) in NE 1/4 of SW 1/4 of Sect 14
Twp 7 - R. 13 E. Boise, according to the Map or Plat of said town
of Hagerman, on file in the office of the County Recorder of Gooding,
Idaho.

Together with all and singular the tenements, hereditaments, and appurtenances thereunto
belonging or in anywise appertaining, and the reversion and reversions, remainder and remain-
ders, rents, issues, and profits thereof.

TO HAVE AND TO HOLD, All and singular, the above mentioned and described premises,
together with the appurtenances, unto the party of the second part, and to his heirs
and assigns forever. And the said party of the first part, and its successors, the said premises in
the quiet and peaceable possession of the said party of the second part, his heirs and
assigns, against the said party of the first part and its successors, and against all and every per-
son and persons whomsoever lawfully claiming or to claim the same shall and will WARRANT
and by these presents forever DEFEND.

IN WITNESS WHEREOF, The "Bishop of Boise," being the sole representative of said
corporation under its articles and the laws creating it having been authorized by law so to do, has
hereunto signed the corporate name of the party of the first part, and caused its seal to be here-
unto affixed, the day and year first above written.

Signed, Sealed and Delivered in the
Presence of

Roman Catholic Diocese of Boise (Seal)
By Edward J. Kelly (Seal)
Bishop of Boise.

STATE OF IDAHO.

County of Ada. ss.

On this 1st day of April
in the year forty seven, before me,

Charles F. Reddoch
a Notary Public in and for said County, personally
appeared Edward J. Kelly
Bishop of Boise, known to me
to be the person representing the "Roman Catholic Diocese of Boise," the corporation that executed the within instrument and acknowledged to me that such corporation executed the same.

IN WITNESS WHEREOF, I have hereunto set my hand and affixed
my notarial seal, the day and year in this certificate first above
written.

Notary Public,
Residence, Boise, Idaho.

Warranty Deed

ROMAN CATHOLIC DIOCESE
OF BOISE

TO

Frank S. Gammeter

Dated 19

STATE OF IDAHO

ss.

County of Ada

I hereby certify that this instrument was
filed for record at request of

Frank S. Gammeter

at 30 minutes past 1

o'clock P. M., this

day

of April 1 1947 A. D. 19

in my office, and duly recorded in Book 40

of at page 251

Ex-officio Recorder.

By Frank S. Gammeter Deputy.

Fee, \$ 1.20

Book 35 49

IN THE DISTRICT COURT OF THE FOURTH JUDICIAL DISTRICT OF THE STATE
OF IDAHO IN AND FOR THE COUNTY OF GOODING.

Frank L. Glauner and Jean E. Glauner,
his wife,

Plaintiffs,

vs

DECREE QUIETING TITLE

Ralph H. Schneelock and Richard H. Trail,
Statutory trustees of the Orchard Investment
Company, Limited, a defunct Idaho corporation;
J. E. Clinton and C. L. Nelson, statutory
trustees of the Hagerman State Bank, Limited,
a defunct Idaho corporation; all unknown directors,
unknown trustees, unknown creditors, unknown legal
representatives and unknown trustees in bankruptcy
of said corporations or either of them; Boise Trust
Company, a corporation, successor to Boise Title
& Trust Company, Limited, a corporation; F. W. Ruz-
icka and Mrs. F. W. Ruzicka, his wife; Nellie Payne
Johnson and John Doe Johnson, her husband; and if any
of said defendants be deceased then all unknown heirs,
unknown devisees and unknown successors in interest of
any deceased defendants; all unknown owners and all un-
known claimants to any title, estate, interest in or
lien upon Lots 13, 14, 15 and 16 in Block 24 and Lot
5 in Block 14 of the Town of Hagerman (Hagerman Town-
site) in Gooding County, Idaho,

Defendants.

The above cause coming on regularly for hearing before D. H.
Sutphen, Judge of the above court at Gooding, Idaho, the plaintiffs
appearing by their attorney, M. F. RYAN, and the defendants or any of
them appearing not at all, and it appearing to the court that each and
all of said defendants have been duly and regularly served with process
in the manner and form required by law, and the court so finds, and
that each and all of said defendants have failed to appear, plead or
answer to the plaintiff's complaint on file herein and the time allow-
ed by law having expired that the default of said defendants and each
and all of them has been duly and regularly entered herein.

Whereupon evidence was introduced and admitted upon the part of
the plaintiffs in support of the allegations contained in their com-
plaint and the court having heard all of the evidence and proofs pro-
duced and having inspected the pleadings and papers on file in this
cause and being fully advised in the premises and being of the opinion
that the plaintiffs are entitled to the relief prayed for in their com-
plaint. The court finds that each and all of the allegations con-

tained in the complaint are correct.

NOW THEREFORE it is hereby ordered, adjudged and decreed that the plaintiffs have judgment as prayed in their complaint and that the plaintiffs are the owners of the premises described in the complaint and in the caption hereof and every part thereof and entitled to the possession thereof and that none of the defendants have any lawful estate, claim, right, title, equity, interest, lien, ~~encum-~~brance or claim or right of any kind in or to said premises or any part thereof; and all adverse claims of the defendants and each and all of them are hereby adjudged and decreed to be invalid, groundless and without right of any kind. Said defendants and each and all of them are hereby forever debarred and enjoined from asserting any claim of any kind whatsoever in or to said premises or any part thereof adverse to the plaintiffs. The plaintiffs are hereby adjudged and decreed to be the sole and exclusive owners of said premises free and clear of all claims and demands of the defendants and each and all of them and the title to said premises is hereby forever quieted in the plaintiffs against all claims and demands of the defendants and each and all of them.

Given under my hand this 11 day of February, 1950

(Signed) 2 H. [Signature]
DISTRICT JUDGE.

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
DELATUSH, E. W., AND ALICE I. DELATUSH, 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 1036 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	Jan. 2, 1891 Jan. 2, 1891	Granger Ditch Unnamed Spring
	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.		
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

- | | | |
|-----|---|--|
| 1. | Name and Address of Claimant: | Frank L. Glauner and Jean Glauner
P.O. Box 235
Hagerman, ID 83332 |
| 2. | Source of Water: | Billingsley Creek |
| 3. | Quantity of Water Used: | .04 cfs |
| 4. | Date of Priority: | January 2, 1891 |
| 5. | Legal Description of the Point of Diversion: | Township 7 South, Range 13 East, Boise Meridian, Section 11, SE1/4SE1/4NE1/4, Gooding County, Idaho |
| 6. | Purpose of Use: | Irrigation; Diversion System Maintenance; Stockwater; Wildlife; Recreation; Aesthetics; Domestic |
| 7. | Period of Year Water is used for such Purposes: | Irrigation purpose is used during the irrigation season; All other purposes are used year around |
| 8. | Legal Description of the Place of Use: | Irrigation: Township 7 South, Range 13 East, Boise Meridian, Section 14, NE1/4SW1/4 - 1.25 acres
Other Purposes: Place of use is in each quarter section where there are irrigated acres and in the delivery system from the point of diversion to the property |
| 9. | Annual Volume of Consumptive Use: | 5.64 AFA |
| 10. | Conditions on the Exercise of Water Right: | None |
| 11. | Remarks necessary for Definition: | None |