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Department of Water Resources
Adjudication Bureau

COPY

1 Claimants:

George J. Korbis and Nellie W. Korbis

2 Attorney Name and Address:

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CHARTERED
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Twin Falls, ID 83303-0389
Telephone: (208)734-7510

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

10 * * * * *

11 In Re SRBA

) Subcase No. 36-00039N

)

12 Case No. 39576

) AFFIDAVIT IN SUPPORT OF
) MOTION FOR SUMMARY JUDGMENT
)

14 * * * * *

15 George J. Korbis, being first duly sworn upon oath, deposes and says:

16 1. I, George J. Korbis, 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.

HLH
Chartered
Hepworth,
Lezamiz &
Hohnhorst

AFFIDAVIT IN SUPPORT OF MOTION FOR SUMMARY JUDGMENT - 1

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.

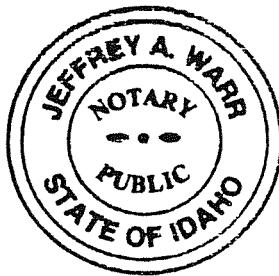
20 7. I have never intended to abandon my right or any part of it. I do not
21 believe that any of my predecessors in interest to the right intended to, or did abandon the
22 water right or any part of it. Since I have owned the water right, there has not been a
23

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 17th, 1996.

4 Heidi Karsner

5
6
7 Subscribed and Sworn to before me this 17th day of May, 1996.



Jeffrey A. Warr
Notary Public for Idaho

Residing at: Green Hills, Del.

My Commission Expires: 10/30/03



WARRANTY DEED

For Value Received

Philip T. Kinnison and Patsy A. Kinnison, husband and wife,
hereinafter referred to as Grantor, does hereby grant, bargain, sell, and convey unto

George J. Korbis and Nellie W. Korbis, husband and wife,
hereinafter referred to as Grantee, whose current address is

5721 South 1080 East, Salt Lake City, UT, 84121

the following described premises, to-wit:

Lot 1 in Block 1 of **WILLOW BROOK SUBDIVISION**, Gooding County, Idaho,
being a part of Parcel "C" of Robert L. Justice Ranch, located in
part of the Northwest Quarter of the Southeast Quarter of Section 11,
Township 7 South, Range 13, East of the Boise Meridian, according to
the plat thereof, recorded August 13, 1979, as Instrument No. 78287,
in the Office of the County Recorder of said County.

TOGETHER with 6 (six) shares of water from Buckeye Ditch Co.

TO HAVE AND TO HOLD the said premises, with their appurtenances unto the said
Grantee, his heirs and assigns forever. And the said Grantor does hereby covenant
to and with the said Grantee, that Grantor is the owner in fee simple of said
premises; that said premises are free from all encumbrances except current years
taxes, levies, and assessments, and except U. S. Patent reservations, restrictions,
easements of record, and easements visible upon the premises, and that Grantor will
warrant and defend the same from all claims whatsoever.

Dated: May 14, 1991.

X Philip T. Kinnison
Philip T. Kinnison

X Patsy A. Kinnison
Patsy A. Kinnison

STATE OF COLORADO)
COUNTY OF Jefferson) SS

On This 14th day of May, in the year 1991, before me, a Notary Public
in and for said State, personally appeared Philip T. Kinnison and Patsy A. Kinnison,
known or identified to me to be the persons whose names are subscribed to the within
Instrument, and acknowledged to me that they executed the same.

144864

STATE OF IDAHO)
COUNTY OF GOODING)
FILED FOR RECORD OF FIRST AMERICAN TITLE

Filed for record of the County of Gooding, Idaho, at _____
57 min. p.m. 3 o'clock P.M. this 17

of May, 1991.

JOHN A. RAYBURN, Recorder fu 300

By Currah Sites

Notary Public for
Residing at
Commission Expires:

MY COMMISSION EXPIRES:
JUNE 20, 1991
2625 S. COLORADO BLVD.
DENVER, CO 80222

First American Title Company of Idaho

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 1300 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. 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 1085 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 3.2 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:	George J. Korbis and Nellie W. Korbis 5721 South 1080 East Salt Lake City, UT 84121
2.	Source of Water:	Billingsley Creek
3.	Quantity of Water Used:	.12 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
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 11, NW1/4SE1/4, Gooding County, Idaho - 1 acre 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:	4.5 afa
10.	Conditions on the Exercise of Water Right:	None
11.	Remarks necessary for Definition:	None