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Department of Water Resources
Adjudication Bureau

Claimants:

Howard L. Morris and Rhonda K. Morris

Attorney Name and Address:

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

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. 36-00063

)

)

Case No. 39576

)

)

AFFIDAVIT IN SUPPORT OF

MOTION FOR SUMMARY JUDGMENT

* * * * *

Howard L. Morris, being first duly sworn upon oath, deposes and says:

1. I, Howard L. Morris, 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.

HLH

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 L.W.
4 Hoffman and Mrs. L.W. Hoffman, to whom the right was decreed in the case of *New*
5 *International Mortgage Bank v. Idaho Power Company, et al*, Equity No. 1602, in the
6 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.

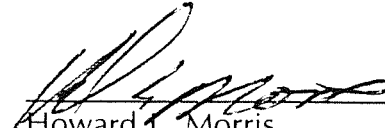
11 5. Attached to this affidavit as Exhibit "B" and incorporated into it is a
12 duplicate of the portion of the *New International Mortgage Bank* decree which shows the
13 water right I acquired through L.W. Hoffman and Mrs. L.W. Hoffman.

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.

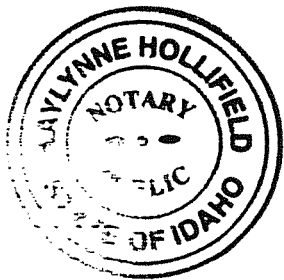
20 7. I have never intended to abandon my right or any part of it. I do not
21 believe that any of my predecessors in interest to the right intended to, or did abandon the
22 water right or any part of it. Since I have owned the water right, there has not been a
23

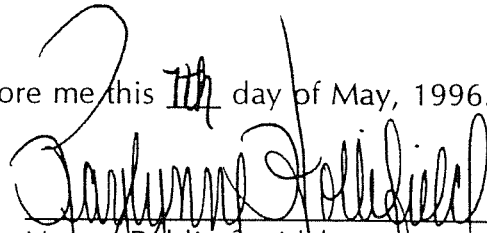
1 continuous five-year period of nonuse. I understand and believe that there has never been
2 a continuous five-year period of nonuse of the right.

3 Dated May 7, 1996.

4 
5 _____
Howard L. Morris

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





Notary Public for Idaho
Residing at: TWIN FALLS, ID
My Commission Expires: 10/2001

WARRANTY DEED

For Value Received

J. ALVIN MUSSER and HOPE I. MUSSER, husband and wife
the grantor s, do hereby grant, bargain, sell and convey unto

HOWARD L. MORRIS and RHONDA K. MORRIS, husband and wife
the grantee s, whose current address is Route #1, Hagerman, Idaho 83332

the following described premises, in Gooding, County Idaho, to-wit:

"SEE ATTACHED EXHIBIT A"
(Consisting of 1 Page)

Alvin Musser
Hope I. Musser
6/13
1987

TO HAVE AND TO HOLD the said premises, with their appurtenances unto the said Grantee s,
their heirs and assigns forever. And the Grantor s do hereby covenant to and
with the said Grantee s, that t he y are the owners in fee simple of said premises; that they are free from all
encumbrances

and that t he y will warrant and defend the same from all lawful claims whatsoever.

Dated: December 1, 1987

J. Alvin Musser
J. Alvin Musser
Hope I. Musser
Hope I. Musser

STATE OF IDAHO, COUNTY OF GOODING

On this 1st day of December, 19 87
before me, a notary public in and for said State, personally
appeared

J. Alvin Musser
Hope I. Musser

known to me to be the persons whose names are
subscribed to the within instrument, and acknowledged to me
that they executed the same.

Donna L. Benge
Notary Public

Residing at Gooding, Idaho
Comm. Expires 8/1/93

STATE OF IDAHO, COUNTY OF

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

at _____ minutes past _____ o'clock m.,
this _____ day of _____
19 _____, in my office, and duly recorded in Book _____
of Deeds at page _____

Ex-Officio Recorder

By _____ Deputy

Fees \$
Mail to:



First American Title Company of Idaho

INSTRUMENT NO.

"EXHIBIT A"

TRACT I:

Township 7 South, Range 14 East of the Boise Meridian
Section 31: All of Lots 1 and 2 South of the North Bank
of John Curran Irrigation Ditch.

Township 7 South, Range 13 East of the Boise Meridian
Section 36: NW $\frac{1}{4}$ NE $\frac{1}{4}$ NE $\frac{1}{4}$,
S $\frac{1}{2}$ NE $\frac{1}{4}$ NE $\frac{1}{4}$,
SE $\frac{1}{4}$ NE $\frac{1}{4}$,
W $\frac{1}{2}$ NE $\frac{1}{4}$ NE $\frac{1}{4}$ SE $\frac{1}{4}$,
NW $\frac{1}{4}$ NE $\frac{1}{4}$ SE $\frac{1}{4}$ and
That part of the SW $\frac{1}{4}$ NE $\frac{1}{4}$ described as

follows:

Beginning at the Southeast corner of the
SW $\frac{1}{4}$ NE $\frac{1}{4}$;
thence West 330 feet;
thence North 495 feet;
thence East 330 feet;
thence South 495 feet to the place of beginning.

Except strip of land for highway purposes across
the NE $\frac{1}{4}$ NE $\frac{1}{4}$ said Sec. 36, as set forth in Deed to
State of Idaho, recorded June 21, 1938 in Book 30
Deeds Page 103, records of Gooding County, Idaho.

TRACT II:

Township 7 South, Range 13 East of the Boise Meridian
Section 36: North 165 feet of the E $\frac{1}{2}$ SE $\frac{1}{4}$ SW $\frac{1}{4}$ NE $\frac{1}{4}$

IN THE COUNTY OF GOODING, STATE OF IDAHO

Together with all water and water rights, ditches and ditch rights used
thereon or appurtenant thereto including but not limited to water licenses
36-0061, 36-0062, and 36-0063.

NAME	AMOUNT OF WATER IN SECOND FEET AND SOURCE	PRIORITY OF APPROPRIATION	DIVERSION POINT
GRIDLEY, WALTER, AND ANNA GRIDLEY	1.5 Riley Creek .3 Riley Creek	May 1, 1883 May 1, 1883	Gridley Ditch No. 1 Gridley Ditch No. 2

(The point of diversion of Gridley Ditch No. 1 is on the bank of Riley Creek immediately above Riley Falls. The diversion point of Gridley Ditch No. 2 is 75 yards below the diversion point of the Conyers Ditch elsewhere described.)

Two unsurveyed tracts of land situate in Sec. 1, Twp. 8 S. R. 13 E. B. M. as follows: A certain island known as Weatherby Island containing about 30 acres located in Snake River between Gooding County and Twin Falls County, in the above named section, and a certain tract of about three acres of land below the rimrock and on the mainland immediately north of said island in said section.

HAGERMAN	5	Spring	April 7, 1906	Spring No. 1;
WATER USERS	11.2	Spring	April 7, 1906	Spring No. 2;
ASSOCIATION	20	Springs	April 7, 1906	Numerous small springs;

(Said Spring No. 1 is located about the center of the north side of the NE $\frac{1}{4}$ of the NE $\frac{1}{4}$ of Sec. 13, Twp. 7 S. R. 13 E. B. M.; Spring No. 2 is located about the center of the NW $\frac{1}{4}$ of the SW $\frac{1}{4}$ of Sec. 13, Twp. 7 S. R. 14 E. B. M. Said numerous small springs are located about 100 yards north of the "Big Springs", the source of the water supply of the Big Spring Water Users Association.)

HIGLEY, ALBERT	.5	Spring	Dec. 12, 1901	Weatherby Springs; (Hoagland Tunnel)
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All the North Half of the Southwest Quarter of the Northeast Quarter (NE $\frac{1}{2}$ SW $\frac{1}{4}$ NE $\frac{1}{4}$) of Sec. 33, Twp. 7 S. R. 13 E. B. M., excepting that portion thereof, containing approximately 2.07 acres, lying west of the center of the channel of the ditch intersecting said premises, commonly known as the "Brailsford Ditch," the center channel of which ditch intersects the south line of said premises at a point 204.4 feet east of the west boundary of said subdivision, thence running north 9 degrees 29' west 350 feet, thence north 20 degrees 15' west 360 feet to the northwest corner of said SW $\frac{1}{4}$ of the NE $\frac{1}{4}$ of said section, township and range.

HOFFMAN, L. W., and MRS. L. W. HOFFMAN	2.22	Spring	Dec. 12, 1901	Weatherby Springs; (Hoagland Tunnel)
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NAME	AMOUNT OF WATER IN SECOND FEET AND SOURCE	PRIORITY OF APPROPRIATION	DIVERSION POINT
	.28 Spring	May 1, 1912	Weatherby Springs;
	.8 Spring	Nov. 1, 1915	Weatherby Springs;
SW$\frac{1}{4}$ of the NE$\frac{1}{4}$ of Sec. 38, S$\frac{1}{2}$ of the NE$\frac{1}{4}$ of the NE$\frac{1}{4}$, NW$\frac{1}{4}$ of the NE$\frac{1}{4}$ of the NE$\frac{1}{4}$, Sec. 38, SE$\frac{1}{4}$ of the SW$\frac{1}{4}$ of the NE$\frac{1}{4}$, of Sec. 38, E$\frac{1}{2}$ of the SW$\frac{1}{4}$ of the SW$\frac{1}{4}$ of NE$\frac{1}{4}$, of Sec. 38, and NE$\frac{1}{4}$ of the SE$\frac{1}{4}$, all in Sec. 38, Twp. 7 S. R. 13 E. B. M. Also that portion of Lot 2 Sec. 31, Twp. 7 S. R. 14 E. B. M. more particularly described as follows: "Beginning at the southwest corner of said Lot 2, thence running north on the Section line about 80 rods to the north bank of John Curran's irrigation ditch; thence east along said ditch bank about 90 rods to the east line of said Lot 2; thence south along said line about 80 rods to the southeast corner of said Lot 2; thence west along the south line of said Lot 2, about 80 rods to the point of beginning; The entire above tract contains 157.85 acres.			
HOMES, GER- TRUDE, AND BEN HOMES	5.6 Billingsley Creek	Sept. 10, 1884	Buckeye Ditch
Starting at the NW corner of NE$\frac{1}{4}$NW$\frac{1}{4}$ of Sec. 38, Twp. 7 S. R. 13 E. B. M. first corner and running due east 804 feet to 2nd corner; thence due south 234 feet to third corner; thence due east 228 to fourth corner; thence due South 65 rods 13 feet to fifth corner; thence due west 1032 feet to sixth corner; thence about due north 80 rods to starting point, said tract containing about 30 acres of land except 7/12ths of an acre lying east of the Dilatush Ditch located in the northeast corner of the above described tract; and the NW$\frac{1}{4}$ of the NW$\frac{1}{4}$ of Sec. 23, Twp. 7 S. R. 13 E. B. M.; containing in both forties approximately 70 acres of land.			
JENSEN,	.7 Billingsley Creek	Sept. 10, 1884	Buckeye Ditch
J. H.,	1.4 Billingsley Creek	April 1, 1885	Sands Ditch
AND MRS.	.5 Billingsley Creek	March 30, 1884	E. H. Bell Ditch
J. H.			
JENSEN	NW$\frac{1}{4}$ of the NW$\frac{1}{4}$ of Sec. 14, Twp. 7 S. R. 13 E. B. M. Excepting therefrom the following described tract of land: Beginning at the southeast corner of the NW$\frac{1}{4}$ of the NW$\frac{1}{4}$, Sec. 14, Twp. 7 S. R. 13 E. B. M.; thence west along the south boundary thereof 286 feet; thence in a northeasterly direction along the Dilatush water ditch 671 feet; thence east 115 feet to the east boundary line of the said NE$\frac{1}{4}$ of the NW$\frac{1}{4}$; thence south along the east boundary line thereof to the southeast corner of the said NE$\frac{1}{4}$NW$\frac{1}{4}$, the place of beginning. Also that part of the Southeast Quarter of the Northwest Quarter (SE$\frac{1}{4}$NW$\frac{1}{4}$) Section 14, Twp. 7 S. R. 13 E. B. M., Tax No. 25, described as follows: Beginning at the northwest corner of the SE$\frac{1}{4}$ of the		

WATER RIGHT ELEMENTS

1.	Name and Address of Claimant:	Howard L. Morris and Rhonda K. Morris 1101 East 2900 South Hagerman, ID 83332
2.	Source of Water:	Weatherby Springs
3.	Quantity of Water Used:	.8 cfs
4.	Date of Priority:	November 1, 1915
5.	Legal Description of the Point of Diversion:	Township 7 South, Range 14 East, Section 30, SE1/4NE1/4SW1/4, 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, Section 36, NE1/4NE1/4 - 30 acres Township 7 South, Range 13 East, Section 36, SW1/4NE1/4 - 5 acres Township 7 South, Range 13 East, Section 36, SE1/4NE1/4 - 40 acres Township 7 South, Range 13 East, Section 36, NE1/4SE1/4 - 15 acres Township 7 South, Range 14 East, Section 31, NW1/4NW1/4 - 5 acres Township 7 South, Range 14 East, Section 31, SW1/4NW1/4 - 30 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:	562.5 afa
10.	Conditions on the Exercise of Water Right:	None
11.	Remarks necessary for Definition:	None