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Claimants: Department of Water Resources
Adjudication Bureau

Basil Lester Zink and Myrle Zink

Attorney Name and Address:

HEPWORTH, LEZAMIZ & HOHNHORST,
CHARTERED
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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. 36-00103F

)

)

Case No. 39576

)

)

AFFIDAVIT IN SUPPORT OF
MOTION FOR SUMMARY JUDGMENT

* * * * *

Basil Lester Zink, being first duly sworn upon oath, deposes and says:

1. I, Basil Lester Zink, 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.

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 Charles
4 Skinner and Iva E. Skinner, to whom the right was decreed in the case of *New International*
5 *Mortgage Bank v. Idaho Power Company, et al*, Equity No. 1602, in the District Court of
6 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 Charles Skinner and Iva E. Skinner.

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

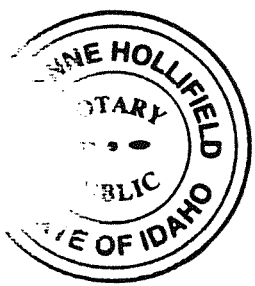
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continuous five-year period of nonuse. I understand and believe that there has never been
a continuous five-year period of nonuse of the right.

Dated May 7, 1996.

Basil Lester Zink
Basil Lester Zink

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



Anne Hollifield
Notary Public for Idaho
Residing at: 1010 N. 1st St.
My Commission Expires: 10/1/2001

WARRANTY DEED

For Value Received

Bruce R. Bothwell and Mary L. Bothwell, husband and wife

Hereinafter called the Grantor, hereby grants, bargains, sells and conveys unto
Basil Lester Zink and Myrle Hyde Zink, husband and wife
P.O. Box 94
Wells, Nevada

Hereinafter called the Grantee, the following described premises situated in Gooding County, Idaho, to-wit:

See Exhibit "A" attached hereto.

TO HAVE AND TO HOLD, the said premises, with their appurtenances unto the said Grantee and to the Grantee's heirs and assigns forever. And the Grantor does hereby covenant to and with the said Grantee, that the Grantor is the owner in fee simple of said premises; that they are free from all incumbrances except as above described and that Grantor will warrant and defend the same from all lawful claims whatsoever.

Dated: September 30, 1980

Bruce R. Bothwell
Bruce R. Bothwell

Mary L. Bothwell
Mary L. Bothwell

STATE OF IDAHO, COUNTY OF GOODING

On this 30th day of September 1980 before me, a notary public in and for said State, personally appeared

Bruce R. Bothwell and Mary L. Bothwell, husband and wife

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

Residing at

Gooding

Notary Public
Idaho.

STATE OF IDAHO, COUNTY OF GOODING

I hereby certify that this instrument was filed for record at the request of SECURITY TITLE CO. at 02 minutes past four o'clock P. m., this 30th day of Sept. 1980, in my office, and duly recorded in Book of Deeds at page

MARGARET F. CLEMENTS

Ex-Officio Recorder

By

Virginia Estes

Deputy.

Fees \$

Mail to:

Instrument No.

85507

EXHIBIT "A"

Township 7 South, Range 13 East of the Boise Meridian

Section 14: Part of the SE $\frac{1}{4}$ NW $\frac{1}{4}$, also being a Part of A-82,
and A-83 adjacent to the town of Hagerman,
according to the plat thereof on file in the office of the
County Recorder of Gooding County, Idaho, described as follows:

Beginning at the North quarter corner of said

Section 14;

thence S 0° 04' 37" W, 1926.38 feet along the
centerline of said Section 14 and the centerline of State
Street of said Townsite to it's intersection with the center-
line of Valley Street;

thence N 89° 55' 23" W, 494.29 feet along the
centerline of Valley Street to the center of the Buckeye Ditch;

thence N 16° 39' 20" E, 26.08 feet along the
center of the Buckeye Ditch to the southerly boundary of said
Lot A-82 and the True Point of Beginning;

thence N 89° 55' 23" W, 244.43 feet along said
southerly boundary to the center of the Bell Ditch;

thence N 18° 14' 37" E, 149.43 feet along the
center of said Bell Ditch;

thence S 81° 15' 23" E, 232.34 feet to the center
of said Buckeye Ditch;

thence S 16° 39' 20" W, 111.61 feet along the
center of said Buckeye Ditch to the True Point of Beginning.

Subject to an easement for the purpose of ingress, egress and
utilities over a 40.00 feet wide strip of land described as
follows:

Beginning at the North quarter corner of said Section

14;

thence S 0° 04' 37" W, 1926.38 feet along the center-
line of said Section 14 and the centerline of State Street of said
Townsite to it's intersection with the centerline of Valley Street;

thence N 89° 55' 23" W, 494.29 feet along the
centerline of Valley Street to the center of Buckeye Ditch;

thence N 16° 39' 20" E, 26.08 feet along the center
of the Buckeye Ditch to the southerly boundary of said Lot A-82;

thence N 89° 55' 23" W, 244.43 feet along said Southerly
boundary to the center of the Bell Ditch and the True Point of Beginning;

thence N 18° 14' 37" E, 149.43 feet along the center
of said Bell Ditch;

thence S 81° 15' 23" E, 40.56 feet;

thence S 18° 14' 37" W, 143.00 feet to the southerly
boundary of said Lot A-82;

thence N 89° 55' 23" W, 42.10 feet along said southerly
boundary to the True Point of Beginning.

Subject to an easement for the purpose of ingress and egress to main-
tain a water line located over the Easterly 32.00 feet of the above
tract.

IN THE COUNTY OF GOODING, STATE OF IDAHO

NAME	AMOUNT OF WATER IN SECOND FEET AND SOURCE	PRIORITY OF APPROPRIATION	DIVERSION POINT
SANDS, BESSIE	1.5 Billingsley Creek	April 1, 1905	Sands Ditch
	Lots 3 of Sec. 16, Twp. 7 S. R. 13 E. B. M. and the West two acres of Lot 5, Sec. 15 and the West five acres of the N $\frac{1}{2}$ of the SW $\frac{1}{4}$ of Sec. 15, Twp. 7 S. R. 13 E. B. M.		
SANDS, JESSIE, AND LA- PRAEL SANDS	7 Billingsley Creek	April 1, 1895	Sands Ditch
	N $\frac{1}{2}$ of the SW $\frac{1}{4}$ excepting therefrom the west five acres thereof; also the SE $\frac{1}{4}$ of the NW $\frac{1}{4}$ and Lot 5, excepting from Lot 5 the West two acres thereof all in Sec. 15, Twp. 7 S. R. 13 E. B. M.		
SANDS, MARTHA A.	8 Billingsley Creek	April 1, 1888	Sands Ditch
	S $\frac{1}{2}$ of the NE $\frac{1}{4}$, N $\frac{1}{2}$ of the SE $\frac{1}{4}$ and N $\frac{1}{2}$ of the SE $\frac{1}{4}$ of the SE $\frac{1}{4}$ of Sec. 15, Twp. 7 S. R. 13 E. B. M.		
SCHOOLER, HENRIETTA	1.2 Billingsley Creek	April 1, 1905	Sands Ditch
	The SW $\frac{1}{4}$ of the SE $\frac{1}{4}$ of Sec. 15, Twp. 7 S. R. 13 E. B. M.		
SHEPARD, FRANK R., AND ALMA A. SHEP- ARD	2 Billingsley Creek	April 1, 1905	Sands Ditch
	The S $\frac{1}{2}$ of the SW $\frac{1}{4}$ of Sec. 15, Twp. 7 S. R. 13 E. B. M.		
SEVEN H. L. SHEEP COMPANY	4.8 Spring	April 1, 1892	Martin Curran Tun- nel and Curran Ditch
	(Said Martin Curran Tunnel is located at the head of Billingsley Creek.)		
	The SW $\frac{1}{4}$ of the NE $\frac{1}{4}$, SE $\frac{1}{4}$ of the NW $\frac{1}{4}$, W $\frac{1}{2}$ of the SE $\frac{1}{4}$, E $\frac{1}{2}$ of the SW $\frac{1}{4}$ all in Sec. 31, Twp. 7 S. R. 14 E. B. M.		
SKINNER, CHARLES, AND IVA E. SKINNER	1 Billingsley Creek	Sept. 10, 1884	Buckeye Ditch;
	Outlots A82, A83, and A84 of Hagerman Townsite, according to the Plat thereof on file in the office of the Recorder of Gooding County, Idaho.		
STROUD, FLORENCE, OWENS	4 Len Lewis Spring	Sept. 1, 1889	Brailsford- Owens Ditch;
	1 Spring	March 8, 1902	Weatherby Springs;
	SW $\frac{1}{4}$ of the SW $\frac{1}{4}$ and N $\frac{1}{2}$ of the SW $\frac{1}{4}$ of Sec. 25, Twp. 7 S.		

WATER RIGHT ELEMENTS

1.	Names and Address of Claimants:	Basil Lester Zink and Myrle Hyde Zink P.O. Box 445 Hagerman, ID 83332
2.	Source of Water:	Billingsley Creek
3.	Quantity of Water Used:	.02 cfs
4.	Date of Priority:	September 10, 1884
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:	Domestic; 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 14, SE1/4NW1/4 - .69 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:	3.105 afa
10.	Conditions on the Exercise of Water Right:	None
11.	Remarks necessary for Definition:	None