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Claimants: Department of Water Resources  
Adjudication Bureau

Walter J. Bonning, II and Judy L. Bonning

Attorney Name and Address:

HEPWORTH, LEZAMIZ & HOHNHORST,  
CHARTERED  
133 Shoshone St. North  
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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. 36-00108B

)

)

Case No. 39576

)

)

AFFIDAVIT IN SUPPORT OF  
MOTION FOR SUMMARY JUDGMENT

\* \* \* \* \*

Walter J. Bonning, being first duly sworn upon oath, deposes and says:

1. I, Walter J. Bonning, 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.

HEP  
WORTH

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 T.E.  
4 Thompson and Mabel Thompson, 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.

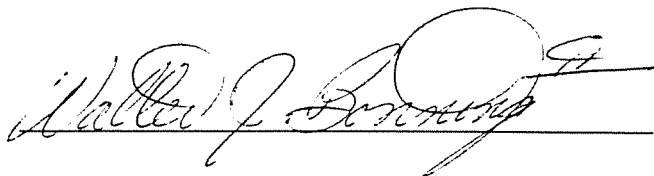
11           5.     Attached to this affidavit as Exhibit "B" and incorporated into it is a  
12 duplicate of the portion of the *New International Mortgage Bank* decree which shows the  
13 water right I acquired through T.E. Thompson and Mabel Thompson.

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.

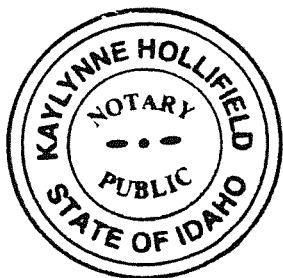
20           7.     I have never intended to abandon my right or any part of it. I do not  
21 believe that any of my predecessors in interest to the right intended to, or did abandon the  
22 water right or any part of it. Since I have owned the water right, there has not been a  
23

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.

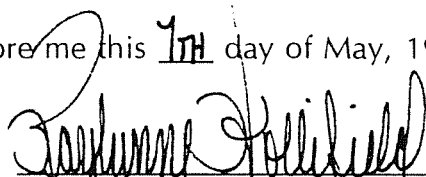
3 Dated May 1, 1996.

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6  
7 Subscribed and Sworn to before me this 1<sup>st</sup> day of May, 1996.



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

ATTN: R.

# WARRANTY DEED

For Value Received Alma E. Blastock, a widow, and Trustee for the Henry H. Trust

the grantor , do hereby grant, bargain, sell and convey unto Walter J. Bonning II and Judy L. Bonning

the grantee , whose current address is P.O. Box 360, Hagerman, Idaho 83332-0360

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

Township 7 South Range 13 East of the Boise Meridian of Gooding County, Idaho, Section 14, Sublot 1, South 1/2 of Outlot A-86, Hagerman Outlots (194), including all water rights thereto.

Reserving a Lifetime Estate for the Grantor.

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

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

Dated:

September 14, 1994

Alma E. Blastock

STATE OF IDAHO, COUNTY OF Gooding  
On this 14th day of September, 1994,  
before me, a notary public in and for said State, personally  
appeared

Alma E. Blastock

known to me to be the person whose name is  
subscribed to the within instrument, and acknowledged to me  
that she executed the same.

Residing at Wendell, Idaho  
Comm. Expires June 30, 2000

Notary Public

STATE OF IDAHO, COUNTY OF Gooding  
I hereby certify that this instrument was filed for record at the request  
of Walter Bonning  
at 40 minutes past 4 o'clock p.m.,  
this 14 day of Sept  
1994, in my office, and duly recorded in Book  
of Deeds at page

JOHN A. MYERS

Ex-Officio Recorder

By Helen K. Piatt

Deputy.

Fees \$ 3.00  
Mail to:



| NAME                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                    | AMOUNT OF WATER<br>IN SECOND FEET<br>AND SOURCE | PRIORITY OF<br>APPROPRIATION                                                     | DIVERSION POINT                                                                                                                                                                                                                                        |
|-----------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|-------------------------------------------------|----------------------------------------------------------------------------------|--------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| <p>R. 13 E. B. M. less a 12 foot in width right of way on the north side of the SW<math>\frac{1}{4}</math> of said Sec. 25; and less that certain piece and parcel of land described as follows:</p> <p>Beginning at a point on the east line of the SW<math>\frac{1}{4}</math> of said Sec. 11, 1390 feet north of the southeast corner of the SW<math>\frac{1}{4}</math> of said Section 25; thence running north 34 degrees west 468 feet; thence North 20 degrees west 685 feet to within 15 feet of the North boundary of said SW<math>\frac{1}{4}</math> of said Section 25; thence 69 degrees 19 minutes east 500 feet, thence south 1035 feet to the place of beginning.</p>                                                                                                                                                                                                                                                                                                    |                                                 |                                                                                  |                                                                                                                                                                                                                                                        |
| TERRY,<br>JOHN D.,<br>AND SARAH<br>F. TERRY                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                             | 2<br>1                                          | Billingsley Creek<br>Billingsley Creek                                           | April 1, 1880 Barlogi Ditch;<br>April 30, 1887 Terry Ditch;                                                                                                                                                                                            |
| <p>(Said Terry Ditch diverts on the north side of Billingsley Creek at a point immediately below the diversion point of said Barlogi Ditch.)</p> <p>NW<math>\frac{1}{4}</math> of the SW<math>\frac{1}{4}</math> of Sec. 11, Twp. 7 S. R. 13 E. B. M.</p>                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                               |                                                 |                                                                                  |                                                                                                                                                                                                                                                        |
| THOMPSON,<br>T. E., AND<br>MABEL THOMP-<br>SON                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                          | 5.4                                             | Billingsley Creek                                                                | Sept. 10, 1884 Buckeye Ditch;<br>W $\frac{1}{2}$ of the SW $\frac{1}{4}$ and the SW $\frac{1}{4}$ of the NW $\frac{1}{4}$ of Sec. 14, Twp. 7 South R. 13 E. B. M. excepting therefrom Outlots 87 and the South Half of Outlot 86 of Hagerman Townsite. |
| TROVILLO,<br>D., C., AND<br>ESTELLA<br>TROVILLO                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                         | 1.5<br>.5<br>2<br>.6                            | Billingsley Creek<br>Billingsley Creek<br>Billingsley Creek<br>Billingsley Creek | April 1, 1885 Sands Ditch;<br>April 1, 1910 Sands Ditch;<br>Jan. 2, 1891 Granger Ditch;<br>June 26, 1881 Padgett Ditch;                                                                                                                                |
| <p>SW<math>\frac{1}{4}</math> of the NE<math>\frac{1}{4}</math>; the E<math>\frac{1}{2}</math> of the NE<math>\frac{1}{4}</math> of the SW<math>\frac{1}{4}</math> (the same being known as Lots 3 and 4 of said 40 acre tract according to the plat of the R. L. Justice Ranch) and all of the NW<math>\frac{1}{4}</math> of the SE<math>\frac{1}{4}</math>, excepting therefrom that portion thereof now belonging to Charles C. Carey and E. W. Dildtush, more particularly described as follows, to-wit:</p> <p>"Beginning at the southeast corner of the NW<math>\frac{1}{4}</math> of the SE<math>\frac{1}{4}</math> of Sec. 11, Twp. 7 S. R. 13 E. B. M.; thence west along the 40 line 1075'; thence north 20 degrees 49' east 820'; thence north 24 degrees 34' east 450 feet; thence south 81 degrees 26' east 593 feet to the east side of forty, thence south along the forty line 1122 feet to the point of beginning.</p> <p>All in Sec. 11, Twp. 7 S. R. 13 E. B. M.</p> |                                                 |                                                                                  |                                                                                                                                                                                                                                                        |

## WATER RIGHT ELEMENTS

1. Name and Address of Claimant: Walter J. Bonning, II and Judy L. Bonning  
P.O. Box 360  
Hagerman, ID 83332-0360
2. Source of Water: Billingsley Creek
3. Quantity of Water Used: 1.0 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: 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, SE1/4SE1/4NE1/4, Gooding County, Idaho - 14 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: 63.0 AFA
10. Conditions on the Exercise of Water Right: None
11. Remarks necessary for Definition: None