

RECEIVED

MAY 3 1 1996

COPY

1 Claimants:

Department of Water Resources
Adjudication Bureau

Mattie P. Grigg

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

3
4
5
6
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 In Re SRBA

) Subcase No. 36-10283B

11
12 Case No. 39576

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

* * * * *

14
15 Mattie P. Grigg, being first duly sworn upon oath, deposes and says:

16 1. I, Mattie P. Grigg, 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.

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 John C.
4 Sanborn and Jessie M. Sanborn, 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 John C. Sanborn and Jessie M. Sanborn.

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
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23

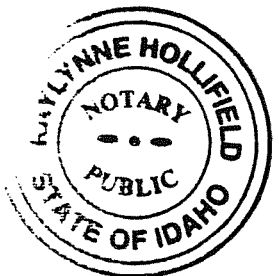
continuous five-year period of nonuse. I understand and believe that there has never been
a continuous five-year period of nonuse of the right.

Dated May 14, 1996.

Mattie P. Grigg
Mattie P. Grigg

Subscribed and Sworn to before me this 14 day of May, 1996.

[Signature]
Notary Public for Idaho
Residing at: [Signature]
My Commission Expires: 10/2001





WARRANTY DEED

FOR VALUE RECEIVED,

YA-TA-HAY INVESTMENTS, a Texas corporation,
a corporation duly organized and existing under the laws of the State of Idaho,
grantor, does hereby Grant, Bargain, Sell and Convey unto

GOLDEN T. GRIGG AND MATTIE P. GRIGG, husband and wife,

whose address is: P.O. Box 278, Hagerman, Idaho 83332
grantee, the following described real estate, to-wit:

SEE ATTACHED EXHIBIT "A"

142283

OF IDAHO, COUNTY OF GOODING

and for record at the request of **FIRST AMERICAN TITLE**

25 min. past 3 o'clock P M. this 17

Sept 1990. See 1990

JOHN A. MYERS, Recorder

By Nelson K. Pratt Deputy

SUBJECT TO current years taxes, irrigation district assessment, public utility easements, subdivision restrictions and U.S. patent reservations.

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

IN WITNESS WHEREOF, The Grantor, pursuant to a resolution of its board of Directors has caused its corporate name to be hereunto subscribed by its President and its corporate seal to be affixed by its Secretary this 14th day of September, 1990.

YA-TA-HAY INVESTMENTS, INC.

PRESIDENT.

Mary Ruth Barrett
Mary Ruth Barrett

ATTEST:

SECRETARY.

Carol Barrett
Carol Barrett

STATE OF NEW MEXICO)

COUNTY OF Lea) ss

On this 14th day of September, in the year 1990, before me, a Notary Public in and for said State, personally appeared Mary Ruth Barrett and Carol Barrett, known or identified to me to be the President and Secretary respectively of the Corporation that executed the instrument or the person who executed the instrument on behalf of said Corporation, and acknowledged to me that such Corporation executed the same.

Robert Lewis
Notary Public of Idaho New Mexico
Residing at: 1110 N. 1st St., Hobbs, NM
Commission Expires: 6-29-93

First American Title Company of Idaho

EXHIBIT A

PARCEL I

Part of the Northwest Quarter of the Northeast Quarter of Section 11, Township 7 South, Range 13, East of the Boise Meridian, Gooding County, Idaho, described as follows:

COMMENCING at the Northwest corner of said Northwest Quarter of the Northeast Quarter;
Thence South 0°04'31" West 994.90 feet along the Westerly boundary of said Northwest Quarter of the Northeast Quarter;
Thence South 36°08'20" East 372.4 feet;
Thence South 89°49'00" East 257.17 feet to the TRUE POINT OF BEGINNING;
Thence South 89°49'00" East 581.54 feet;
Thence North 0°11'00" East 419.75 feet;
Thence East 215.41 feet to the Westerly right of way boundary of U.S. Highway 30;
Thence North 2°24'05" East 8.79 feet along said Westerly right of way boundary to a point 50.00 feet right of Station 266+71.33;
Thence Northerly along said Westerly right of way boundary 150.08 feet on the arc of a curve to the left with a radius of 22,868.32 feet, a central angle of 0°22'34", and a chord which bears North 2°14'54" East 150.08 feet;
Thence West 361.20 feet;
Thence North 1°09'28" East 84.76 feet;
Thence West 444.19 feet;
Thence South 0°04'31" West 661.38 feet to the TRUE POINT OF BEGINNING.

PARCEL II

Part of the Northwest Quarter of the Northeast Quarter of Section 11, Township 7 South, Range 13, East of the Boise Meridian, Gooding County, Idaho, described as follows:

COMMENCING at the Northwest corner of said Northwest Quarter of the Northeast Quarter;
Thence South 0°04'31" West 994.90 feet along the Westerly boundary of said Northwest Quarter of the Northeast Quarter;
Thence South 36°08'20" East 372.4 feet;
Thence South 89°49'00" East 338.71 feet to the TRUE POINT OF BEGINNING;
Thence South 89°49'00" East 200.00 feet to the Westerly right of way boundary of U.S. Highway 30;
Thence Northerly along said Westerly right of way boundary 183.63 feet on the arc of a nontangent curve to the right with a radius of 17,238.74 feet, a central angle of 0°26'27" and a chord which bears North 2°07'44" East 183.63 feet to a point of curvature 50.00 feet right of Station 269+17.62;

MPB

EXHIBIT A CONTINUED

Thence North 2°24'05" East 237.09 feet along said Westerly right
of way boundary;
Thence West 215.41 feet;
Thence South 0°11'00" West 419.75 feet to the TRUE POINT OF
BEGINNING.

**RESERVING UNTO THE GRANTORS an easement for the purpose of ingress
and egress over a strip of land located in the Northwest Quarter
Northeast Quarter, Section 11, Township 7 South, Range 13 East,
Boise Meridian, in Gooding County, Idaho, more particularly
described as follows:**

Beginning at the northwest corner of said Northwest Quarter of the
Northeast Quarter;
Thence North 90°00'00" East a distance of 1294.64 feet along the
northerly boundary of said Northwest Quarter of the Northeast
Quarter to the westerly boundary of State Highway No. 30';
Thence southerly along said westerly boundary 719.97 feet on the
arc of a non-tangent curve to the right with a radius of
22,868.32 feet, a central angle of 1°48'14" and a chord which
bears South 1°09'42" West a distance of 719.97 feet to the
northeast corner of Parcel 27 of Ya-Ta-Hay Investments
property as shown on Record of Survey as Instrument No. 82083,
recorded March 17, 1990 in the records of survey of Gooding
County, Idaho, and the True Point of Beginning;
Thence southerly 30.02 feet on the arc of a curve to the right
with a radius of 22,868.32 feet, a central angle of 0°04'31"
and a chord which bears South 2°06'29" West a distance of
30.02 feet along said westerly boundary of State Highway 30;
Thence South 90°00'00" West a distance of 148.89 feet;
Thence North 0°00'00" East a distance of 30.00 feet;
Thence North 90°00'00" East a distance of 150.00 feet to the true
point of Beginning.

MPB

NAME	AMOUNT OF WATER IN SECOND FEET AND SOURCE	PRIORITY OF APPROPRIATION	DIVERSION POINT
36-0093 HAWLINGS, NORMA	.3 Spring	April 1, 1901	Florence Live- stock Spring;
36-0094 SANBORN, JOHN C., 36-0095 AND JESSIE 36-0096 M. SAN- BORN	.8 Billingsley Creek 1.3 Billingsley Creek 5.7 Billingsley Creek	June 26, 1881 June 26, 1881 June 26, 1881	John Bell Ditch; Pipe line; Padgett Ditch;

A certain parcel of land situate in the Hagerman Valley, Gooding County, State of Idaho, and more particularly described as follows: Beginning at a point about 740 feet north of the Southwest corner of the NE $\frac{1}{4}$ of the NE $\frac{1}{4}$ of Sec. 14, Twp. 7 S. R. 13 E. B. M. and running thence East 1320 feet, thence North about 250 feet, thence West 1320 feet, thence South about 250 feet, containing 7.575 acres, more or less.

(The diversion point of said Pipe line is on Billingsley Creek at the diversion point of the John Bell Ditch the diversion point of the Padgett Ditch is 50 yards below the diversion point of the John Bell Ditch;)

Lots 2, 3, 6 and the NW $\frac{1}{4}$ of the SE $\frac{1}{4}$ and the SW $\frac{1}{4}$ of the SE $\frac{1}{4}$ of Sec. 2, Twp. 7 S. R. 13 E. B. M. Also beginning at the northeast corner of Lot 7 said Section 2 and running thence west 4 chains; thence south 20 chains; thence east 4 chains; thence north 20 chains to beginning; also the NW $\frac{1}{4}$ of the NE $\frac{1}{4}$ of Sec. 11, Twp. 7 S. R. 13 E. B. M.

Excepting from the above described land the following described tracts:

Beginning at a point on the first standard parallel south 2000 links west from the northeast corner Sec. 2, Twp. 7 S. R. 13 E. B. M. and thence west along said standard parallel 756 links, thence south parallel to eastern boundary of said Sec. 2, 1640 links, thence east parallel to first course 756 links; thence north along the eastern boundary of Lot 2 of the above mentioned Sec. 2 1640 links to the point of beginning, containing 12.40 acres all in Lot 2, Sec. 2, Twp. 7 S. R. 13 E. B. M.

Also beginning at a point on the first standard parallel south 2832 links west from the northeast corner of Sec. 2, Twp. 7 S. R. 13 E. B. M., thence west along said standard parallel 1168 links; thence south along the western boundary of Lot 2, same section, township and range, 1032 links, thence east parallel to the first course 1168 links; thence north parallel to the second course 1032 links, to point of beginning containing 12.05 acres all in Lot 2, Sec. 2, Twp. 7 S. R. 13 E. B. M.

Also all that portion of the NW $\frac{1}{4}$ of the SE $\frac{1}{4}$ of Sec. 2, Twp. 7 S. R. 13 E. B. M. lying north and east of the state highway, known as the "Old Oregon Trail" as now laid out and existing over and across said subdivision of land, containing 4 $\frac{1}{2}$ acres more or less.

WATER RIGHT ELEMENTS

1.	Name and Address of Claimant:	Mattie P. Grigg P.O. Box 278-A Hagerman, ID 83332
2.	Source of Water:	Billingsley Creek
3.	Quantity of Water Used:	.3 cfs
4.	Date of Priority:	June 26, 1881
5.	Legal Description of the Point of Diversion:	Township 7 South, Range 13 East, Boise Meridian, Section 11, NW1/4SE1/4NE1/4, 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, NW1/4NE1/4, Gooding County, Idaho - 11.5 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:	51.75 afa
10.	Conditions on the Exercise of Water Right:	None
11.	Remarks necessary for Definition:	None