

08/01/2005

IDAHO DEPARTMENT OF WATER RESOURCES
PRELIMINARY RECOMMENDATION OF WATER RIGHTS ACQUIRED UNDER STATE LAW

RIGHT NUMBER: 22-13201
NAME AND ADDRESS: RICHARD & SUSAN JACOBSEN FAMILY TRUST
C/O HOLDEN, KIDWELL, HAHN & CRAPO
PO BOX 50130
IDAHO FALLS ID 83405
SOURCE: DRAKE CREEK TRIBUTARY: TETON RIVER
QUANTITY: 1.500 AFY
PRIORITY DATE: 04/01/1934
POINT OF DIVERSION:

T03N R45E S7 SESW Within TETON County

PURPOSE AND
PERIOD OF USE:

<u>PURPOSE OF USE</u>	<u>PERIOD OF USE</u>	<u>QUANTITY</u>
RECREATION	01/01 12/31	1.50 AFY
AESTHETIC	01/01 12/31	1.50 AFY
FISH PROPAGATION	01/01 12/31	1.50 AFY

PLACE OF USE: RECREATION Within TETON County
T03N R45E S07 SESW
AESTHETIC same as RECREATION
FISH PROPAGATION same as RECREATION

OTHER PROVISIONS NECESSARY FOR DEFINITION OR ADMINISTRATION OF THIS WATER RIGHT:

This partial decree is subject to such general provisions necessary for the definition of the rights or for the efficient administration of the water rights as may be ultimately determined by the Court at a point in time no later than the entry of a final unified decree. Section 42-1412(6), Idaho Code.

EXPLANATORY MATERIAL: BASIS OF CLAIM - Beneficial Use

04/14/2006

**NOTICE OF ERROR
REPLY**

Please type or print clearly, fill out this form completely and mail.

Return this reply form to IDWR by the deadline date printed below if you want IDWR to change your recommendation or you want to let IDWR know that you agree with its recommendation.

YOUR DEADLINE FOR RETURNING A NOTICE OF ERROR REPLY IS:

Water right number: 22-13201

RICHARD & SUSAN JACOBSEN FAMILY TRUST
C/O HOLDEN, KIDWELL, HAHN & CRAPO
PO BOX 50130
IDAHO FALLS ID 83405
Telephone Number: (208)523-0620

1. Describe the portion of the proposed recommendation with which you disagree (e.g. priority date, period of use, source):

2. Describe the changes you wish to make in the proposed recommendation:

3. Give a brief explanation as to why you disagree with these portions:

☐ I AGREE with this proposed recommendation: no changes need to be made.

DATE: _____ SIGNATURE: _____

Please print your name: _____

IDWR Regional Office, 900 N Skyline Dr Ste A, Idaho Falls, ID 83402, 2085257161

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TRIBUTARY: TETON RIVER

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EXPLANATORY MATERIAL: BASIS OF CLAIM - Beneficial Use

202 Pmt

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(1877-1967)
Robert B. Holden
(1911-1971)
Terry L. Crapo
(1939-1982)
William S. Holden
(1907-1988)

Of Counsel
Fred J. Hahn

*Also Licensed in Utah and Arizona
**Also Licensed in Missouri & Kansas

RECEIVED

JUL 21 2004

Department of Water Resources
Eastern Region

July 20, 2004

Allen B. Ruberry
Idaho Department of Water Resources
900 N. Skyline Dr., Ste. A
Idaho Falls, ID 83402

3N45E

Re: Evidence of Priority for SRBA Water Right Claim 22-13201

Dear Al:

We are writing this letter in response to your letter to Richard and Susan Jacobsen Family Trust dated July 7, 2004, requesting evidence of priority for the above referenced SRBA claim.

When our client, Richard and Susan Jacobsen Family Trust acquired the property involved on Drake Creek, they indicated there was an old small dam which impounded a small pond on the property and inquired what might be done as far as a claim is concerned. At that time, we obtained as much information from the former owners as we were able. I doubt that we will be able to supply anything else regarding the priority beyond the affidavits that were filed with the claim.

As you will see, there is a statement by Elva Letham and an affidavit of Rodney L. Taylor as well as an affidavit of Don L. Boyle. All are children or grandchildren of Fred J. Drake who allegedly built the dam in about 1927, probably originally for irrigation purposes. As we indicated in the claim, the pond is no longer used for irrigation, but only for recreation, aesthetics and fish propagation purposes.

SCANNED

JUL 27 2004

Yours very truly,



Kent W. Foster

c: Dick Jacobsen

PROFILED

Priority Date Data Entry Form

Claim Number: _____

Water Right Priority Date: _____ Water Right Basis: _____

Claimed Priority Date: 4/01/1934 Claimed Basis: BURecommended Priority Date: _____ Recommended Basis: BU

Document the evidence submitted/reviewed for the priority date claimed, include your analysis of the evidence:

Evidence Supports 1934

Reviewer: _____

Date: _____



Dam and pond for Jacobsen claim A2213201. DO 6/29/05



Water Right No(s). _____

GPS DATA:

Tag # A0014250 Location: Frame for wheel on headgate

Diversion Data:

Source: Drake Creek Trib to: Teton River

MOTOR

Make: _____ Model: _____ Hp: _____
SN: _____

PUMP

Make: _____ Model: _____ Disch: _____
SN: _____

NOTES:

Diversion device is a pipe with a screw type gate

Field Exam Date: 6/29/05 Agent: DD

Point of Diversion and Source Data Entry Form

Claim Number: _____

Water Right Point(s) of diversion and Source.

Water Right Point of Diversion: T _____, R _____, Sec. _____, _____, _____, _____, County: _____

Source: _____ Tributary to: _____

Water Right Point of Diversion: T _____, R _____, Sec. _____, _____, _____, _____, County: _____

Source: _____ Tributary to: _____

Claimed Point(s) of Diversion and Source.

Twp	Rge	Sec	Gov Lot	QQQ of QQ of Q	County	Source	Tributary to

Recommended Point(s) of Diversion and Source.

Twp	Rge	Sec	Gov Lot	QQQ of QQ of Q	County	Source	Tributary to

Other rights from this POD? _____

Transfers Pending or approved: _____

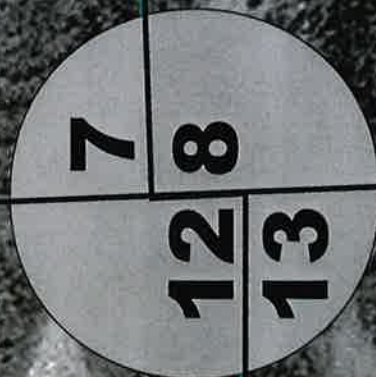
Document how the POD and Source were verified:

DO
6/29/05 Source is Drape Creek. When POD device is closed a pond is formed. Pond is approx. 30-40 yds wide and approx. 70-80 yds long, it appears to be 5-12 ft deep in the center. The sides do have a gradual slope into the center.

Reviewer: _____ Date: _____

T3N, R44E
T3N, R45E

POND



Place Of Use Data Entry Form

Claim Number: _____

Claimed Place Of Use			QQ	Q	County	Lot Num	Acres	Purpose of Use
Twp	Rge	Sec						

Total acres _____

Recommended Place of Use			QQ	Q	County	Lot Num	Acres	Purpose of Use
Twp	Rge	Sec						

Total acres _____

Pending or approved Transfers: _____

Overlapping rights: _____

Document how the POU was verified:

6/29/05
DD

The pond is used for fishing and swimming
by the boys at Bennions Boys Ranch.

Reviewer: _____ Date: _____

June 7, 2004

**RICHARD & SUSAN JACOBSEN FAMILY TRUST
3201 ASH ST
PALO ALTO CA 94306**

RE: EVIDENCE OF PRIORITY FOR SRBA WATER RIGHT CLAIM 22-13201

Dear Claimant (s):

The Idaho Department of Water Resources is nearing the end of water rights review in Basin 22, the Teton River drainage. The Notice(s) of Claim identified with the number shown above has been filed in the Snake River Basin Adjudication (SRBA). The Notice of Claim indicates water usage is based on "Beneficial Use". Water rights of this type are established by the historical use of water, dating back to when water was first used for the purpose claimed, at or on the place of use identified on the Claim. The date the water was first put to beneficial use, known as the priority date, has not been confirmed by License, Decree, or Permit. For this reason, proof must be provided supporting the priority date. **As the claimant, you are responsible for submitting the necessary proof to support the priority date.**

Your claim, as referenced above, claims a Priority Date of APR 1 1934, from DRAKE CREEK.

It is important that each element of the Notice of Claim be verified. For instance, regarding claims for irrigation, the evidence should tend to show that diversion works were in place, that they were capable of diverting the claimed diversion rate, and that the diverted water was beneficially used on the entire claimed place of use on or before the claimed priority date.

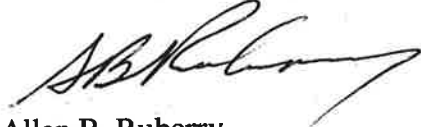
For your reference, I have provided a printout of your Notice of Claim and the pamphlet entitled "**Evidence of Priority**". The pamphlet describes the types of evidence which are acceptable and suggests which documents will fulfill this requirement. While I encourage you to read the entire pamphlet, I direct your attention to the two sections entitled "**What Kind of Evidence is Required**" and "**Some Examples of Documents Which May Be Evidence of the Priority Date**". **PLEASE READ THE ENCLOSED PAMPHLET.**

It is our goal to recommend historical water rights within the Snake River Basin as accurately as possible. Field exams to verify other elements of the Notice of Claim have been or soon will be conducted by Department personnel.

.....
The Department will not recommend the Notice of Claim be decreed by the court if evidence of a priority date is not submitted. The Notice of Claim will be disallowed.
.....

Please submit documentation supporting the priority date within 30 days of the date of this letter, referencing all documents with the corresponding claim number. If you have any questions not covered by this letter or the enclosed pamphlet, please feel free to contact this office.

Respectfully submitted,



Allen B. Ruberry
Sr. Water Resource Agent
Adjudication Bureau

cc: File

Enclosure: Brochure on "Evidence of Priority"

Law Offices
HOLDEN, KIDWELL, HAHN & CRAPO, P.L.L.C.

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(1907-1988)

Of Counsel
Fred J. Hahn

October 16, 2001

RECEIVED

OCT 22 2001

Department of Water Resources
Eastern Region

IDWR Western Region
2735 Airport Way
Boise, ID 83705-5082

Dear Ladies and Gentleman:

We are enclosing with this letter a late Notice of Claim to a Water Right Acquired under State Law on behalf of the Richard and Susan Jacobsen family trust. This is a claim relating to a small pond which impounds water in Drake Creek for recreation, aesthetics, and some fish propagation. We have also enclosed our check in the amount of \$ 101.00 for the filing fee and some affidavits we have obtained from those who have some knowledge of the pond and why it was constructed. Thank you for your kind attention to this matter.

Very truly yours,



Kent W. Foster

Enclosures

RECEIVED

OCT 22 2001

Department of Water Resources
Eastern Region

October 3, 2001

Richard Jacobsen
3201 Ash Street
Palo Alto, CA 94306



Dear Dick,

This letter is in response to your request concerning the pond and dam on the property formerly owned by Marion and Katherine Weeks and adjacent to the property formerly owned by the Boyle family.

2001
- 64
1937

To the best of my knowledge, the dam was built before I was born. I am now 64 years old and it has been in place as long as I can remember. My grandfather, Fred J. Drake, built the dam for irrigation purposes.

I hope this information helps you. If I can be of further service, please let me know.

Sincerely,

Don L. Boyle
Don L. Boyle

STATE OF IDAHO }
 } ss.
COUNTY OF BONNEVILLE }

On October 3, 2001, before me, the undersigned, a Notary Public for this State, personally appeared Don L. Boyle, personally known to me or proved to me on the basis of satisfactory evidence to be the person whose name is subscribed to this instrument. IN WITNESS WHEREOF, I have hereunto set my hand and affixed by official seal the day and year above written.

[Signature]
Notary Public of Idaho
Residing at: [Signature]
My Commission Expires: 05-04





RECEIVED

OCT 22 2001

Department of Water Resources
Eastern Region

Dad built it in ^{about} 1927 used it to irrigate.
Dad went to St Anthony with wagon and brought
back some fish which ~~he~~ ^{the} he put some in pond. George
would shovel the snow off to ice skate. my brothers and
I would swim horses across it. my kids would try to
swim in it, but it was damned cold. ~~After George~~
When George's brothers would come up they would
fly fish on it.
Eva Lettman

The above statement is from my mother.

as for myself I don't remember much. One time
my brother and I tried to build a raft around 1950
I would guess. I do remember fishing on it several
times.

I hope this will help

Rodney L. Taylor

State of Idaho
County of Teton

Rodney Taylor appeared before me and signed
This document on this date -



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

IN RE THE GENERAL ADJUDICATION
OF RIGHTS TO THE USE OF WATER FROM
THE SNAKE RIVER BASIN WATER SYSTEM

CIVIL CASE NUMBER: 39576

Ident. Number 22-13201
Date Received: 10/23/2001
Receipt No:
Received By:

**NOTICE OF CLAIM TO A WATER RIGHT
ACQUIRED UNDER STATE LAW**

1. Name of Claimant(s)

RICHARD & SUSAN JACOBSEN FAMILY TRUST Phone: (650)493-5310
3201 ASH ST
PALO ALTO CA 94306

2. Date of Priority: 04/01/1934

3. Source: DRAKE CREEK Trib. to: TETON RIVER

4. Point of Diversion:

Township	Range	Section	1/4 of 1/4 of 1/4 Lot	County	Type
03N	45E	7	SE SW	TETON	

5. Description of diverting works:

DIKE AND POND

6. Water is used for the following purposes:

Purpose	From	To	C.F.S.	(or) A.F.A
FISH PROPAGATION	01/01	12/31		1.5
RECREATION	01/01	12/31		1.5
AESTHETIC	01/01	12/31		1.5

7. Total Quantity Appropriated is:
1.5 A.F.A.

8. Total consumptive use:

9. Non-irrigation uses:

10. Place of use:

Township	Range	Section	1/4 of 1/4 Lot	Use	Acres
03N	45E	7	SE SW	RECREATION	



11. Place of use in counties: TETON

12. Do you own the property listed above as place of use? Yes

13. Other Water Rights Used:

14. Remarks:

SMALL POND USED FOR RECREATION AESTHETICS AND FISH PROPAGATION

NEIGHBORS INDICATE THE POND WAS ALSO USED AT ONE TIME TO PROVIDE IRRIGATION WATER THROUGH A WOODEN PIPELINE, BUT THAT IS NO LONGER EXISTENT AND IRRIGATION CEASED MANY YEARS AGO.

15. Basis of Claim: Beneficial Use

9. Non-irrigation uses; describe fully (eg. Domestic: Give number of households served; Stockwater: Type and number of livestock Etc.) Small pond used for recreation, aesthetics and fish propagation
10. Description of place of use:
- If water is for irrigation, indicate acreage in each subdivision in the tabulation below.
 - If water is used for other purposes, place a symbol of use (example: D for Domestic) in the corresponding place of use below. See instruction for standard symbols.

TWP	RNG	SEC	NE 1/4				NW 1/4				SW 1/4				SE 1/4				TLS
			NE	NW	SW	SE	NE	NW	SW	SE	NE	NW	SW	SE	NE	NW	SW	SE	
3N	45E	7												R					

Total number of acres irrigated _____

11. In which county(ies) are lands listed above as place of use located? Teton
12. Do you own the property listed above as place of use? Yes ☒ No ☐
If your answer is No, describe in Remarks below the authority you have to claim this water right.
13. Describe any other water rights used at the same place and for the same purposes as described above.
_____ or None (☒)

14. Remarks:

Neighbors indicate the pond was also used at one time to provide irrigation water through a wooden pipeline, but that is no longer existent and irrigation ceased many years ago.

15. Basis of Claim (Check one) Beneficial Use ☒ Posted Notice _____ Permit _____ Decree _____ License _____
If applicable provide IDWR Water Right Number _____
Court _____ Case Number _____ Decree Date 12/16/1910
Plaintiff vs Defendant _____

16. Signature(s)

For Individuals: I do solemnly swear or affirm that the statements contained in the foregoing document are true and correct.

Signature of Claimant(s) _____ Date _____

_____ Date _____

Last Name Jacobsen Ident. Number _____

For Organizations: I do solemnly swear or affirm that I am Trustee
(Title)

Richard & Susan Jacobsen Family Trust, that I have signed the foregoing document
in the space below as (Organization)

Trustee of Richard & Susan Jacobsen Family Trust and that the statements contained in the
(Title) (Organization)
foregoing document are true and correct.

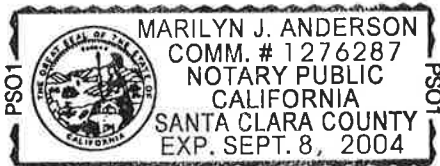
Signature of Authorized Agent

Richard M. Jacobsen, TRUSTEE

Title and Organization Trustee, Richard and Susan Jacobsen Family Trust Date 21 SEP 01

State of California)
County of Santa Clara) SS.

Subscribed and sworn (or affirmed) before me this 21st day of September, 2001.



Notary Public Marilyn J. Anderson
Residing at San Jose California
My Commission Expires September 8, 2004

17. Notice of Appearance:

Notice is hereby given that I, KENT W. FOSTER will be acting as attorney at law on behalf of the claimant signing above, and that all notices required by law to be mailed by the director to the claimant signing above should be mailed to me at the address listed below.

Signature [Signature]
Address PO Box 50130 IDAHO FALLS, ID 83405
Date 10/1/01