

BROCKWAY
ENGINEERING
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Hydraulics

Hydrology

Water Resources

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MAR 20 2006

DEPARTMENT OF
WATER RESOURCES

March 17, 2006

Mr. Karl Dreher, Director
Idaho Department of Water Resources
P.O. Box 83720
Boise, ID 83720-0098

RE: Request for Extension of Time
Sun Valley Land and Mineral, Inc. (Permit #37-08205)

Dear Karl:

Thank you for meeting with Jim Stone and I on March 14 to discuss the extension of time for filing of proof of beneficial use on this permit. I realize that there have been some very extenuating circumstances relative to the completion of this project and appreciate your willingness to consider another extension.

Enclosed is a completed Request for Extension of Time in which to submit proof of beneficial use for the above permit.

On the enclosed chronology of events, transactions, litigation and constraints to development (Exhibit A) I have attempted to document significant milestones to assist in following the evolution of the project including geothermal development. Since the submittal of the application for permit in 1985 and approval of the permit on February 8, 1993 the property has been in nearly continuous litigation as shown on the enclosed chronology of events. This litigation over property ownership and access has prevented development of the property and thus the geothermal water permit. Litigation was initiated this month to hopefully clear up the remaining cloud on the property ownership. A copy of that complaint is enclosed (Exhibit B).

Following a difficult process to obtain a water right transfer for the pond system, and to rebuild the former dam and access road, construction was completed and there is now a rehabilitated dam and pond system. The old dam was a problem for the owners and IDWR, and was completely rebuilt with spillway and outlet works. In response to Idaho Department of Fish and Game concerns, a new fish ladder was constructed which now provides fish passage to the upper reaches of Deer Creek which never existed before. Additional fish habitat has been established in the pond system, and the fishery appears to be on the rebound (Exhibits C and D).

Development of the geothermal water was contemplated to serve the proposed subdivision which is still on record in Blaine County. The litigation, which

has plagued the development, has been primarily over ownership and access to the areas planned in the subdivision. Some development of the geothermal resource has been accomplished including heating of several houses and cabins as depicted on the enclosed aerial photograph (Exhibit C) and table (Exhibit E).

As we discussed in our meeting, Blaine County did adopt a moratorium on new building in 2005 and extended it until July 11, 2006. I understand the County is considering another extension on the moratorium and a complete revision of the land use ordinance which could radically affect the property development and utilization of the geothermal resource under the permit.

Brockway Engineering has continued the evaluation of the geothermal resource to develop revised plans for utilization considering the vagaries of the Blaine County ordinances.

I am requesting, on behalf of Sun Valley Land and Mineral Inc., an extension of time for proof of beneficial use for Permit #37-08205 for an additional three (3) years (October 17, 2009).

If you require additional information, please contact me.

Sincerely,



Charles E. Brockway

Enclosure: Exhibits A-E
Request for Extension of Time

cc: Sun Valley Land and Mineral Inc.
Ed Lawson

EXHIBIT A Chronology of Events, Construction, Transactions, Litigation, and Constraints to Development in Aid of Application for Extension of Time to Submit Proof of Beneficial Use, Sun Valley Land and Mineral Inc., Clarendon Project Geothermal Water- Water Right Permit 37-08205

Prepared by C.E. Brockway from data furnished by J. Stone and D. Kelsey and IDWR files March 13, 2006

Date	
March 14, 1935	Water License 17762 issued to E.C. Smith for 10 cfs, dam and headgate for pleasure resort and power
	Mr. Pat Ryan, purchased property, developed subdivision plan including reservoir
October 28, 1975	IDWR indicates owner plans to enlarge embankment and remove silt from the reservoir. Memo. From A. Merritt IDWR
May 18, 1976	Proposal for repair and rehab of the dam and reservoir submitted to IDWR by C.E. Brockway
June 22, 1976	Allegations of violations of Goldsmith lease agreement relative to reservoir elevation. Letter from C.G. McIntyre
April 24, 1978	IDWR order to remove flashboards from spillway to accommodate flood
June 22, 1978	IDWR memo indicating inspection of dam and proposed enlargement of embankment according to plans submitted
May 10, 1979	IDWR order requiring breaching of the dam down to stream bed level or submittal of plans for rehabilitation of the dam and structures
July 6, 1979	Submittal of plans for dam rehabilitation by Sawtooth Engineers
May 1981	Suite by V.W. Goldsmith Case No 9578 Blaine County
May 1985	Travelers Ins. acquires title to property March 12, 1985, Application for Permit 37-08205 submitted for 5.0 cfs of groundwater for Heating and Recreation
Oct 1988	Interstate Investments-Bogner and Kelsey purchase from Travelers group
Late 1989	Legal action by Bogner initiated
1990	Kelsey acquires full ownership
1992	William Burt(Deer Creek Ranch) filed suit against Kelsey/Sun Valley Land and Mineral over property dispute

1993	Permit 37-08205 issued to Sun Valley Land and Mineral Inc. for 5.0 cfs of groundwater for Heating and Recreation.
1994	Burt v. Kelsey settled
March 1, 1994	Notice of intention of proceed with reconstruction and litigation constraints-Letter from J. Speck to IDWR
March 28, 1994	Reiteration of intent to reconstruct the reservoir complex and that JUB and C. Brockway will be utilized-Letter from Jim Stone to IDWR
1995	Pat Ryan, former owner, sued Kelsey(Sun Valley Land and Mineral) for specific performance and land dispute
1996	Extension of Time to Avoid Forfeiture Permit 37-08205 granted to October 1, 2000
1998	Supreme Court decision upholding Kelsey in Kelsey v Ryan
1999	Kelsey sued to quiet title to land parcels adjacent to the reservoir and counter claim for 20 acres of the Clarendon Ranch including roadway across the dam.
1999	Sun Valley Land and Minerals removes dam embankment in preparation for restoration of dam and reservoir in conformance with IDWR water right requirements
2000	Kelsey prevails in District Court. Holders of land parcels adjacent to reservoir have no right to common area. Kelsey has no obligation to complete subdivision as platted (ie geothermal use). Road access across embankment clarified.
2000	Excavation of 3 ponds of complex and rehabilitation of old dam embankment completed. Extension of Time to Avoid Forfeiture Permit 37-08205 granted to January 1, 2004
2001	District Court decision appealed to Supreme Court by inholders
2001	Evaluation of geothermal resource system and alternatives-Brockway Engineering
2002	Water right transfer approved by IDWR for stream, dam and pond system

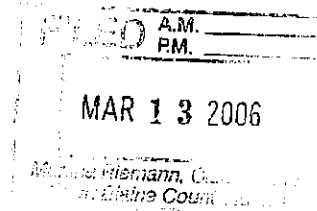
	Continued exploration of geothermal system development alternatives by Brockway Engineering
2003	Supreme Court upholds Kelsey , May 17, 2003.
2003	Extension of Time to Avoid Forfeiture Permit 37-08205 granted to October 17, 2006. Construction of new ponds downstream of old dam, new outlet for ponds, measuring devices installed. Jim Stone diagnosed with cancer.
2005	Blaine County Interim Moratorium Ordinance 2005-04 initiated January 10, 2005
2005	Blaine County Building Moratorium Extended, Ordinance 2005-24, Adopted June 21, 2005 until July 11, 2006
2005	Objection filed to geothermal water SRBA claim 37-12013 by Goldsmith and claim to ownership of Sun Valley Land and Mineral geothermal right 37-4100. Conflicting claim by Deer Creek Ranch to geothermal water at Clarendon 37-4368A Fish ladder on dam constructed
2006	March 13, 2006 Litigation regarding additional in-holding initiated Continued geothermal resource evaluation by Brockway Engineering

This chronology, although not complete, shows the consistent intent and attempt to reconstruct the dam and reservoir and develop the geothermal water rights on the property. The continuous litigation involved on this property, building moratorium, and illness of one of the partners has impeded and prevented the intended action. An extension to provide proof of beneficial use under this water right should be requested beyond the current proof date of October 17, 2009.

COPY

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 Amanda A. Breen, ISB No. 7304
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Attorneys for Plaintiff
 Sun Valley Land and Minerals, Inc.



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

SUN VALLEY LAND AND MINERALS,
 INC., an Idaho corporation,

Plaintiff,

vs.

BRYCE & URETTA MORGAN, husband and
 wife, THE HEIRS AND/OR DEVISEES OF
 BRYCE & URETTA MORGAN, and DOES 1
 THROUGH 10 INCLUSIVE,

Defendants.

Case No. CV-2006- 207

COMPLAINT TO QUIET TITLE

Fee Category: G(3)

Fee: \$82.00

COMES NOW Sun Valley Land and Minerals, Inc. ("Plaintiff"), by and through its
 counsel of record, Amanda A. Breen of Lawson & Laski, PLLC, and files this Complaint to
 Quiet Title in connection with the hereinafter described property, and Plaintiff hereby alleges and
 complains of Defendants Bryce and Uretta Morgan and the Heirs and Devisees of Bryce and
 Uretta Morgan (collectively "Defendants") as follows:

THE SUBJECT PROPERTY

1. In this action, Plaintiff seeks a declaratory judgment regarding, and to quiet the title to, a parcel of land located in Blaine County, Idaho which is described as follows:

The original point of beginning is a well casing, from the well bearing 160° for 65 feet to the point of beginning on West side of Harp Creek Road. Thence South 50 feet. Thence West 100 feet. Thence North 50 feet. Thence East 100 feet to the point of beginning; together with right of ingress and egress from Deer Creek Road to such premises; on certain property owned by Defendant in the NW1/4, NW1/4 NE1/4, & NE1/4 NE1/4, Sec. 34, T.3N, R.17E, Boise Meridian, Blaine County, Idaho.

("Property"). The location of the Property is depicted as Lot H on the survey attached hereto as Exhibit "A."

THE PARTIES

2. Plaintiff is a corporation organized and existing under the laws of the state of Idaho, doing business in Blaine County, Idaho. Plaintiff is the record owner of the Property.

3. Plaintiff is in possession of and controls the Property. Plaintiff claims all right, title, and interest in or to the Property based on Defendants' abandonment of the Property and default under the lease to the Property.

4. Defendants Bryce & Uretta Morgan were a husband and wife who signed a 99-year lease to the Property ("Lease") on September 3, 1969. A true and correct copy of the Lease is attached as Exhibit "B."

5. Upon information and belief, Defendant Uretta Morgan died on January 30, 1978. Plaintiff is unaware of the whereabouts of Defendant Bryce Morgan.

6. The heirs and/or devisees of Bryce and Uretta Morgan are unknown to Plaintiff at this time. Plaintiff will amend this Complaint to set forth the true names of such heirs and/or devisees when and if their identities are ascertained.

7. Defendants Does 1 through 10 are any and all persons, or corporations or other legal entities unknown to plaintiff at the date of filing this Complaint, or any unknown heirs or devisees of any deceased person, or unknown successors to any corporation, who may claim some right, title, estate, lien, leasehold, encumbrances or interest adverse to Plaintiff in the Property. Plaintiff will amend this Complaint to set forth the true names of these fictitiously named defendants if and when their respective interests appear.

JURISDICTION AND VENUE

8. This Court has jurisdiction pursuant to Idaho Code § 6-401.

9. Venue is proper in this Court because the Property is located in Blaine County, Idaho.

CLAIM FOR RELIEF – QUIET TITLE

10. As stated above, Plaintiff claims all right, title, and interest in and to the Property described in paragraph 1.

11. On or about September 3, 1969, R.B. Randell, the record owner of the Property at the time, entered into the Lease with Defendants. Pursuant to the terms of the Lease, the Defendants had a right of possession to the Property for 99 years from August 15, 1961, for rent of \$50.00 per year.

12. On or about November 7, 1984, Travelers Leasing Corporation acquired title to the Property.

13. On or about October 18, 1988, Travelers Leasing Corporation conveyed title to the Property to Interstate Investment Corporation by a deed recorded as Instrument No. 299670 in the records of Blaine County.

14. On or about October 28, 1998, Plaintiff acquired its interest in the Property through and by virtue of a quitclaim deed made to Plaintiff, as Instrument No. 299785 in the



BROCKWAY ENGINEERING, PLLC.
ALR - March 16, 2006



EXHIBIT D - CLARENDON



Exhibit D2

Clarendon Ponds 05-26-2005
Brockway Engineering

EXHIBIT E

Geothermal Water Uses

March 2006

Sun Valley Land and Minerals

Water Rights: 37-08205 Permit

37-4370 Claim

37-4100 Claim

Current Developed Geothermal Uses

1. Heating-Main ranch house
2. Heating-Small house next to main ranch house
3. Heating-Caretaker cabin
4. Recreation-Pond west of caretaker cabin-
5. Heating-Fairbanks main house
6. Recreation-Fairbanks hot pool
7. Recreation-Goldsmith lease pool
8. Heating-Fairbanks house #2
9. Heating-Fairbanks house #3
10. Equipment yard-equipment cleaning

Planned Additional Geothermal Uses

1. Wellness center, spa and subdivision community amenities, RD zone, approx. 30 acres. Planned potential amenities: community greenhouse, warm water pond/aquatic species(2nd use),
2. Heating and recreation-Ranchetts with creek and pond frontage, R5 zone, approx. 50 acres
3. Heating and recreation-Larger ranchetts with timber sites, approx. 105 acres
4. Heating and recreation-Open area view lots, ponds
5. Geothermal effluent into Pond #3 to enhance aquatic species