

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.

RECEIVED

SEP 07 1989

CIVIL CASE NUMBER: 39576

Ident. Number: A02-00100
Date Received: 9-7-89
Receipt No:
Received By: C011153

Department of Water Resources **NOTICE OF CLAIM TO A WATER RIGHT
ACQUIRED UNDER STATE LAW**

208-383-2878

1. Name: IDAHO POWER CO.
Address: P. O. BOX 70
BOISE, ID

83707

2. Date of Priority: JAN 17, 1900

3. Source: SNAKE RIVER

Trib. to: COLUMBIA RIVER

4. Point of Diversion:

Township	Range	Section	1/4 of	1/4 of	1/4 of	Lot	County
02S	01E	18	SE	SW	SE	10	OWYHEE
			NW	SE	SE	11	ADA

5. Description of diverting works:
SWAN FALLS DAM AND POWER PLANT

6. Water is used for the following purposes:

Purpose	From	To	C.F.S.	(or)	A.F.A.
POWER	01/01	12/31	2150.000		

7. Total Quantity Appropriated is:
2150.000 C.F.S. (and/or)

A.F.A.

8. Total consumptive use is

Acre Feet Per Annum.

9. Non-irrigation uses:

POWER PLANT
GENERATING CAPACITY 10265.0 KILOWATTS

10. Place of Use:

Township	Range	Section	1/4 of	1/4 of	Lot	Use	Acres
02S	01E	18	SE	SE	11	POWER	

A02-00100

Page 1

Date: 07/18/89

RECEIVED
NOV 28 1990

Department of Water Resources

*microfilmed
Aug 07, 1992*

11. Place of use in counties: OWYHEE

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

13. Other Water Rights Used:
02-02032, 02-04000, 02-04001

14. Remarks:

15. Basis of Claim: DECREED
Case Number:
Court :
Decree date:

TRADE DOLLAR CONSOLIDATED MINI
Decree Plaintiff

vs

CRUZEN
Decree Defendant

(a.) By signing below, I/We acknowledge that I/We have received, read and understand the form entitled "How you will receive notice in the Snake River Basin Adjudication." (b.) I/We do do not ☒ wish to receive and pay a small annual fee for monthly copies of the docket sheet.

For Organizations:

Date _____

My Commission Expires 12/31/92

17. Notice of Appearance:

Notice is hereby given that I, Thomas G. Nelson will be
Print Name

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 Thomas G. Nelson

Address PO Box 2139 Boise Id 83701

Date 7/24/89

Last Name: IDAHO POWER

STATE

First Name	O W N	Water Right No.	Priority Date	Source	Total Diversion	Use Code Desc
IDAHO POWER CO.						
	✓	A65-03828	01/27/1963	GROUNDWATER	0.040	43 DOMEST
	✓	A65-09368	01/06/1963	GROUNDWATER	0.040	43 DOMEST
	✓	A65-12096	02/21/1978	PAYETTE RIV	2000.000	28 POWER
	✓	A73-07051	03/24/1981	PAHSIMEROI	10.000	19 FISH
	✓	A73-10124	06/20/1984	GROUNDWATER	0.040	43 DOMEST
	✓	A01-02032	03/08/1919	SNAKE RIVER	4600.000	28 POWER
	✓	R36-02018	01/18/1919	CLEAR LAKES	526.000	28 POWER
	✓	A36-15221	03/03/1982	NIAGARA SPR	0.040	43 DOMEST
IDAHO POWER COMPANY						
	✓	A78-07013	08/01/1969	RAPID RIVER	18.600	19 FISH

(Enter=Continue)

(GOLD7=This Query)

(Menu _____)

2/ 7/92 PER INSTRUCTIONS FROM DON SHAFF, I'VE MODIFIED ALL OF IDAHO POWER'S RECORDS BY ENTERING 2 ATTORNEYS--STEVEN L HERNDON OF IPC AND TUCKER/SMITH FROM ROSHOLT, ROBERTSON & TUCKER. I'VE CORRECTED DATA ENTRY WHERE NEEDED AND ADDED PHONE NUMBERS WHERE NEEDED. THESE MODIFICATIONS WERE A RESULT OF A NOTICE OF APPEARANCE FROM THE ATTORNEYS.

S. FRAZEE

A02-00100

MICROFILMED
AUG 67 1992

James C. Tucker
Bruce M. Smith
ROSHOLT, ROBERTSON & TUCKER
P. O. Box 2139
Boise, Idaho 83702-2139
Telephone: (208) 336-0700
4743p/shs/1-2-92

Steven L. Herndon
Assistant General Counsel
Idaho Power Company
P. O. Box 70
Boise, Idaho 83707

- 383-2692

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.

CASE NO: 39576

The State of Idaho, ex rel.
A. Kenneth Dunn in his official
capacity as director of the
Idaho Department of Water
Resources,

NOTICE OF
APPEARANCE

petitioner,

vs.

The United States; the State
of Idaho; and all claimants
to the use of water from the
Snake River Basin Water System,

Defendants.

* * * * *

COMES NOW, IDAHO POWER COMPANY, by and through its
attorneys, Steven L. Herndon, Assistant General Counsel of

done 1-13-92

1 IDAHO POWER COMPANY, and James C. Tucker and Bruce M. Smith of
2 the firm of ROSHOLT, ROBERTSON & TUCKER, and, pursuant to Order
3 of this Court entered December 17, 1991, enters its appearance
4 in the above-captioned case.

5 DATED this 2nd day of January, 1992.

6 ROSHOLT, ROBERTSON & TUCKER

7 
8 for JAMES C. TUCKER

9 CERTIFICATE OF MAILING

10 I hereby certify that on this 2nd day of January,
11 1992, I caused to be served a true copy of the foregoing NOTICE
12 OF APPEARANCE by the method indicated below, and addressed to
13 each of the following:

14 Larry Echohawk
15 Attorney General
16 State of Idaho
Statehouse, Room 210
Boise, Idaho 83720

☒
☐
☐
☐

U.S. Mail, Postage Prepaid
Hand Delivered
Overnight Mail
Telecopy (Fax)

17 David Shaw
18 Adjudication Bureau Chief
Idaho Department of Water
Resources
19 1301 North Orchard
Statehouse Mail
20 Boise, Idaho 83720 (6 copies)

☒
☐
☐
☐

U.S. Mail, Postage Prepaid
Hand Delivered
Overnight Mail
Telecopy (Fax)

21 Peter C. Monson, Esq.
22 Assistant Attorney General
U.S. Department of Justice
23 Land and Natural Resources
Division
24 Indian Resources Section,
Rm. 6317
25 P. O. Box 44378
Washington, D.C. 20026-4378

☒
☐
☐
☐

U.S. Mail, Postage Prepaid
Hand Delivered
Overnight Mail
Telecopy (Fax)

26
27
28 MICROFILMED

AUG 07 1992

1 Don A. Olowinski
HAWLEY, TROXELL, ENNIS
2 & HAWLEY
P. O. Box 1617
3 Boise, Idaho 83701

✓
U.S. Mail, Postage Prepa
Hand Delivered
Overnight Mail
Telecopy (Fax)

for James A. Roschert

JAMES C. TUCKER

MICROFILMED
AUG 07 1992

ROSHOLT, ROBERTSON, TOLMAN & TUCKER

Chartered

ATTORNEYS AT LAW

1020 MAIN STREET

SUITE 400

P.O. BOX 2139

BOISE, IDAHO 83701-2139

TELEPHONE (208) 336-0700

FAX (208) 344-6034

JOHN A. ROSHOLT
J. EVAN ROBERTSON
STEVEN K. TOLMAN
JAMES C. TUCKER
TERRY R. McDANIEL
GARY D. SLETTE
JERRY JENSEN
F. BRUCE COVINGTON
CAROLYN M. MINDER
BRUCE M. SMITH
G. RICHARD BEVAN
GARY L. QUIGLEY
TIM J. WILLIAMS
JUSTIN R. SEAMONS
JOHN O. FITZGERALD

Twin Falls Office
142 3rd AVENUE NORTH
P.O. BOX 1906
TWIN FALLS, IDAHO 83303-1906
TELEPHONE (208) 734-0700
FAX (208) 736-0041

November 27, 1990

RECEIVED
NOV 28 1990

Department of Water Resources

John D. Carlson
Adjudication Supervisor
Department of Water Resources
Statehouse Mail
Boise, Idaho 83720

Re: Snake River Basin Adjudication Owyhee and Ada
Counties - Idaho Power/Swan Falls Notices of
Claim #A02-00100, A02-04000 & A02-04001

Dear Mr. Carlson:

Enclosed are the Notices of Claim to a Water Right filed for Idaho Power Company's water rights at Swan Falls Dam. Please note that we have had the notary public's verification signed. We are sorry for any inconvenience this oversight may have caused.

Sincerely,

Darla Joyce
Bruce M. Smith for

BMS/dj
55121

Enclosures:

Notices of Claim Referenced Above

MICROFILMED
AUG 07 1992



State of Idaho

DEPARTMENT OF WATER RESOURCES

1301 North Orchard Street, Statehouse Mail, Boise, Idaho 83720 -(208) 327-7900

CECIL D. ANDRUS

GOVERNOR

R. KEITH HIGGINSON

DIRECTOR

November 26, 1990

Bruce M. Smith
Attorney at Law
Rosholt, Robertson, Tolman
& Tucker
P.O. Box 2139
Boise, ID 83707

RE: Snake River Basin Adjudication (SRBA)
Owyhee and Ada Counties - ~~Idaho Power~~/Swan Falls
Notices of Claim #A02-00100, A02-04000 & A02-04001

Dear Mr. Smith:

We are returning Notices of Claim to a Water Right filed for Idaho Power Company's water rights at Swan Falls Dam. We have noted some problems with the claims which we would like you to correct.

The notary public's verification of the signature of the claimant is a required element of the claim form. Sally Chambers notarized only one of the four claims out of the Swan Falls group. After you have obtained the notary public's verification of Mr. Stahl's signature at the bottom of the last page, we will be able to process these claims.

Please return the documents to this office to my attention. If you will make these corrections before December 26, 1990, you will not be assessed a late filing fee. Please do not hesitate to contact this office if you have any questions or concerns.

Sincerely,

John D. Carlson
Adjudication Supervisor

JDC:CF:sf:state:tf
Enclosures:

Notices of Claim Referenced Above

MICROFILMED

AUG 07 1992



State of Idaho

DEPARTMENT OF WATER RESOURCES

1301 North Orchard Street, Statehouse Mail, Boise, Idaho 83720 - (208) 327-7900

Ada Co.

CECIL D. ANDRUS

GOVERNOR

R. KEITH HIGGINSON

DIRECTOR

June 29, 1989

Mr. Bruce Smith
Nelson, Rosholt, Robertson,
Tolman & Tucker
P.O. Box 2139
Boise, ID 83701

RE: Notices to Claim to a Water Right in the Snake River Basin
numbers A02-00100, A02-02032, A02-04000, and A02-04001

Dear Bruce:

Enclosed are draft copies of adjudication claims for Idaho Power's water rights at Swan Falls Dam. Please review the claims and make the necessary corrections or additions. Please note in Item 9, that each claim should have the nameplate generating capacity entered.

The corrected claims may be returned to this office to update the information. Please feel free to contact me if you have any questions or need assistance.

Sincerely,

Carter Fritschle
Senior Water Resource Agent
Adjudication Bureau

Enclosures
Draft claim forms

MICROFILMED

AUG 07 1992

DATE RECEIVED <u>9-7-89</u>	CK # _____	AMOUNT \$ _____	YES	NO	Required Info?
1. Is the name and address complete with zip code?			☒	☐	*
2. Is a priority date entered?			☒	☐	*
Is the priority date acceptable in view of mandatory filing dates?			☒	☐	*
See Adjudication Memos #1 and #4 to determine if a Permit is required.			☒	☐	*
3. (a) Is a source entered?			☒	☐	*
(b) Is a tributary to entered? (if required)			☒	☐	
4. Is the legal description of the p.d. sufficient?			☒	☐	*
5. Is there a description of the diverting works?			☒	☐	
6. Are the water uses appropriate for the form? The short form is limited to domestic and stockwater uses with direct diversion. All claims that include storage or instream stockwater must use long form.			☒	☐	*
Is the period of use included?			☒	☐	
Is a quantity claimed for each use?			☒	☐	*
7. Is a total quantity claimed entered?			☒	☐	
8. If required is a consumptive use entered?			☒	☐	
Is the consumptive use correct?			☒	☐	
9. Are the non-irrigation uses listed properly? If this claim is on the short form, and more than one domestic use is listed, single ownership must be stated. If not under single ownership, see Adjudication Memo # 4.			☒	☐	*
10. Is (are) the place(s) of use and purpose(s) indicated?			☒	☐	*
11. Is (are) the county(ies) entered?			☒	☐	
12. Is the ownership of p.u. checked?			☒	☐	
13. Are other water rights listed or "none" indicated?			☒	☐	
14. If required, are remarks correct? (If the claimant does not own the place of use, authority for filing the claim must be explained in the remarks.)			☒	☐	
15. Is the basis of the claim indicated?			☒	☐	
16. If the claimant requested a monthly docket sheet, is payment enclosed? (If yes, describe payment status in "Comments" below.)			☒	☐	
17. Is the claim signed by the claimant, and is the signature appropriate? Organizations must complete the organization block.			☒	☐	*
18. Has the claim been signed, sealed, and dated by a notary?			☒	☐	*
19. Was this claim filed on time, or was an extension granted?			☒	☐	*
20. Is the fee enclosed correct?			☒	☐	*
21. If this claim is based on an existing water right, has the identification number been entered?			☒	☐	
22. Should this claim be data entered?			☐	☐	

Claim checked by: CA Date: 11-15-90

Claim must be returned to claimant: ☒ (Yes) ☐ (No)

Claimant must be notified of modifications: ☐ (Yes) ☐ (No)

Receipt Prepared by: _____ Date: _____

Claim data entered by: _____ Date: _____

Sent to claimant by: _____ Date: _____

Checked by: _____ Date: _____

Comments: No notary signature or seal OK CA 11-29-90

IN THE DISTRICT COURT OF THE Fourth JUDICIAL DISTRICT
OF THE STATE OF IDAHO, IN AND FOR THE COUNTY OF Ada

IN THE MATTER OF THE GENERAL DETER-
MINATION OF RIGHTS TO THE USE OF
Snake River from base of Milner
Dam to Oregon DRAINAGE BASIN.
Border.

NOTICE OF CLAIM
TO A
WATER RIGHT

<u>02-0100</u>	
I.D. No.	Map No.
<u>\$10</u>	<u>#18883</u>
Fee Paid	Receipt No.

Notice is hereby given that Idaho Power Company
(Name of Claimant)

P O Box 70, Boise, Idaho 83707 Telephone No. 383-2878
(Mailing Address) (Zip Code)

claims a right to the diversion and beneficial use of the surface or ground water. The extent and nature of said claim is as follows:

(1) Date of priority: (When was the water first applied to a beneficial use, or priority date of decreed, licensed or permit right) January 17, 1900

(2) Describe the source of water: (Name of stream, lake, spring, etc., or ground water) Snake River
tributary to _____

(3) Describe the purpose for which the water has been used and the time during the year when you have used the right claimed:
Quantity 2150cfs Use power generation Period of Use From Jan 1 To Dec 31
(CFS, GPD, AF) (Domestic, irrigation, stock, etc.) (Mo., Day) (Mo., Day)
(Both dates inclusive)

Quantity _____ Use _____ Period of Use From _____ To _____
(CFS, GPD, AF) (Domestic, irrigation, stock, etc.) (Mo., Day) (Mo., Day)
(Both dates inclusive)

Quantity _____ Use _____ Period of Use From _____ To _____
(CFS, GPD, AF) (Domestic, irrigation, stock, etc.) (Mo., Day) (Mo., Day)
(Both dates inclusive)

Quantity _____ Use _____ Period of Use From _____ To _____
(CFS, GPD, AF) (Domestic, irrigation, stock, etc.) (Mo., Day) (Mo., Day)
(Both dates inclusive)

(4) 2150 cfs TOTAL QUANTITY CLAIMED.
(CFS, GPD, AF) 410 NESWSE - Owyhee
411 NWSESE Ada

(5) A) Point of Diversion: Give location of point where water is diverted from its source
Sec. 18 Twp. 2 S Rge. 1 E B.M., Owyhee County
Additional Points: Lot 10 & 11, T2S, R1E, BM, Owyhee County and Ada County

B) Describe means of diversion of water: (Pump and pipeline, well, diversion dam, reservoir, length of ditch and field, etc.). Give
sizes and capacities: be as specific as possible. Describe any changes in the system and give the date of the change.
dam and powerhouse 521 22200 456.6

(6) A) Describe location of use by listing number of irrigated acres within each 40-acre tract in appropriate box. If use is not for
irrigation, place an "X" in appropriate box to show location.

T	R	SEC.	NE%				NW%				SW%				SE%				TOTAL
			NE%	NW%	SW%	SE%	NE%	NW%	SW%	SE%	NE%	NW%	SW%	SE%	NE%	NW%	SW%	SE%	

Total no. of acres none

B) If water is used for other than irrigation, fully describe that use, being as specific as possible: power generation

NOTE: Include here the type and number of stock watered: _____

(7) If you are claiming water as a member of an organization, list name of organization: no

(8) Remarks Swan Falls Power Plant

(9) Basis of claim (Check one) ☐ A) Right based on diversion and beneficial use.
☒ B) Right decreed by court, cite title of case. Trade Dollar Consolidated Mining
Comp. vs Cruzen
☐ C) Right based on application, permit, license, or previous statutory claim filed with the Idaho
Department of Water Resources. Give No. _____

Be it known that the undersigned, after being duly sworn on oath, depose(s) and say(s) that all statements included herein are true and accurate to
the best of (his, her, their) knowledge.

Individual

(Signature of Claimant)

(Date)

(Signature of Spouse)

State of Idaho

Organization

Organization

IDAHO POWER COMPANY

County of Ada

ss.

Seal

(Signature of Authorized Agent)

On this 27th day of April, in the year 1981 before me

a notary public, personally appeared Garnett H Condit

known to me to be the person(s) whose name(s) are subscribed to the above instrument, and acknowledged to me that (he, she, they, corporation,
partnership or _____) executed the same.

My commission expires 10.25.83

Notary Public residing at Boise, Idaho

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

IN THE MATTER OF THE GENERAL DETERMINATION OF RIGHTS TO THE USE OF _____

NOTICE OF CLAIM
TO A
WATER RIGHT

I.D. No.	Map No.
\$ /	# 1286-2
Fees Paid	Receipt No.

_____ DRAINAGE BASIN.

Notice is hereby given that _____ (Name of Claimant)
_____ (Mailing Address) _____ (Zip Code) Telephone No. _____

claims a right to the diversion and beneficial use of the surface or ground water. The extent and nature of said claim is as follows:

(1) Date of priority: (When was the water first applied to a beneficial use, or priority date of decreed, licensed or permit right) _____

(2) Describe the source of water: (Name of stream, lake, spring, etc., or ground water) _____ tributary to _____

(3) Describe the purpose for which the water has been used and the time during the year when you have used the right claimed:

Quantity _____ (CFS, GPD, AF)	Use _____ (Domestic, irrigation, stock, etc.)	Period of Use From _____ (Mo., Day) To _____ (Mo., Day) (Both dates inclusive)
Quantity _____ (CFS, GPD, AF)	Use _____ (Domestic, irrigation, stock, etc.)	Period of Use From _____ (Mo., Day) To _____ (Mo., Day) (Both dates inclusive)
Quantity _____ (CFS, GPD, AF)	Use _____ (Domestic, irrigation, stock, etc.)	Period of Use From _____ (Mo., Day) To _____ (Mo., Day) (Both dates inclusive)
Quantity _____ (CFS, GPD, AF)	Use _____ (Domestic, irrigation, stock, etc.)	Period of Use From _____ (Mo., Day) To _____ (Mo., Day) (Both dates inclusive)

(4) _____ TOTAL QUANTITY CLAIMED. _____ (CFS, GPD, AF)

(5) A) Point of Diversion: Give location of point where water is diverted from its source _____ ¼ _____ ¼ Sec. _____, Twp. _____, Rge. _____, B.M. _____ County _____
Additional Points: _____

B) Describe means of diversion of water: (Pump and pipeline, well, diversion dam, reservoir, length of ditch and field, etc.). Give sizes and capacities: be as specific as possible. Describe any changes in the system and give the date of the change. _____

(6) A) Describe location of use by listing number of irrigated acres within each 40-acre tract in appropriate box. If use is not for irrigation, place an "X" in appropriate box to show location.

T	R	SEC.	NE¼				NW¼				SW¼				SE¼				TOTAL
			NE¼	NW¼	SW¼	SE¼	NE¼	NW¼	SW¼	SE¼	NE¼	NW¼	SW¼	SE¼	NE¼	NW¼	SW¼	SE¼	

Total no. of acres _____
B) If water is used for other than irrigation, fully describe that use, being as specific as possible: _____

NOTE: Include here the type and number of stock watered: _____

(7) If you are claiming water as a member of an organization, list name of organization: _____

(8) Remarks _____

(9) Basis of claim (Check one) ☐ A) Right based on diversion and beneficial use.
☒ B) Right decreed by court, cite title of case. _____
☐ C) Right based on application, permit, license, or previous statutory claim filed with the Idaho Department of Water Resources. Give No. _____

Be it known that the undersigned, after being duly sworn on oath, depose(s) and say(s) that all statements included herein are true and accurate to the best of (his, her, their) knowledge.

(Date)
State of _____ Organization _____
County of _____ ss. _____ Seal _____
(Signature of Claimant)
(Signature of Spouse)
(Signature of Authorized Agent)

On this _____ day of _____, in the year _____ before me
a notary public, personally appeared _____
known to me to be the person(s) whose name(s) are subscribed to the above instrument, and acknowledged to me that (he, she, they, corporation, partnership or _____) executed the same.

My commission expires _____ Notary Public residing at _____

MEMORANDUM

TO: 02-0100
FROM: J. Noyes
DATE: January 23, 1985
RE: Supporting Data in State Office Files

Number change of decree 03-A and 02-A. 03-0004 to 02-0001 of memorandum dated June 14, 1984, Roberta Garrett, 02-0001 to 02-0100. No engineer report or proof report except Final Decree. The Trade Dollar Consolidated Mining Co. vs Alfred A. Fraser and A.R. Crusen, defendants.

02-0100 - Item #1 of decree. The plaintiff is now the owner of and has applied to beneficial use "two thousand one hundred and ^{FIFTY}~~SIXTY~~ cubic feet per second of the water of Snake River at Swan Falls."

Item #2. Diversion works at Swan Falls is capable of diverting ten thousand cubic feet per second. 2150 cubic feet per second has been put to beneficial use - four years from the date of the decree to apply to beneficial use ⁷seven thousand eight hundred and fifty cubic feet per second (7850 cfs).

Item #3. Nineteen feet of fall or head.

NO PRIORITY DATE
STATED IN DECREE
ONLY AULT. OF INV.

THIRD DIVISION
J. H. Lowell, Commissioner,
Caldwell, Idaho.

1908

In the Circuit Court of the United States, for the District
Court of Idaho.

FINAL DECREE.

THE TRADE DOLLAR CONSOLIDATED MINING COMPANY, a
corporation, Plaintiff.

vs.

ALFRED A. FRASER and A. R. CRUSEN, Defendants.

The plaintiff, The Trade Dollar Consolidated Mining Company, heretofore appealed to the United States Circuit Court of Appeals, for the Ninth Circuit, from certain parts of the final decree made by this Court in this cause on the 27th day of December, 1905, and the said United States Circuit Court of Appeals having duly heard the said appeal upon the transcript of the record and having at the October Term, 1906, rendered an opinion in writing wherein it was ordered, adjudged and decreed that the said final decree was erroneous in not perpetually enjoining the said defendants from making the diversion of the waters covered by their permits at the points or through the ditches or canals indicated on the plans accompanying them, and in not enjoining them from any diversion of the waters of the river that will interfere with the head of water created by plaintiff's dam or in any way injure or destroy its works, and in not providing in said decree the amount of water plaintiff's works are capable of diverting in excess of the said quantity beneficially applied, and in not fixing a time when such amount shall be applied to the beneficial purpose intended, and the said Circuit Court of Appeals having reversed the

judgment herein, with costs in favor of plaintiff, and remanded this cause to this Court with instructions that further proceedings be had in said cause in accordance with the views expressed in said opinion, which said decree, order, opinion and instructions appear to this Court by the mandate of said Circuit Court of Appeals:

Now therefore, on filing of said mandate, and as therein ordered, it is now ordered, adjudged and decreed, as follows:

1. That the plaintiff is now the owner of and has applied to beneficial use of two thousand and one hundred and fifty cubic feet per second of the water of Snake River, at Swan Falls, between Ada and Owyhee Counties, in the State of Idaho, and plaintiffs right thereto is hereby confirmed and its title thereto is adjudged to be quieted against all claims, demands or pretensions of the defendants or either of them and also against those two certain permits granted to the defendants by the State Engineer of Idaho on November 28th, 1904.

2. That the plaintiff is also the owner of a legal and valid appropriation of ten thousand cubic feet per second of the waters of said river at said Swan Falls and plaintiff has constructed a dam and diverting works at said Swan Falls which are capable of diverting and applying to a beneficial use the remaining seven thousand eight hundred and fifty cubic feet per second of said water, being the amount in excess of said two thousand and one hundred and fifty cubic feet per second already so applied, and plaintiff has shown good faith and reasonable diligence in carrying on its work and improvements for the application of the remainder of said water to beneficial purposes, and it is hereby decreed that plaintiff have four years from the date of this decree within which to apply to beneficial purposes the said seven thousand eight hundred and fifty cubic feet per second.

3. That plaintiff by the construction of said dam has created a water fall or head of water of nineteen feet where practically none before existed and plaintiff has the right to the free and undisturbed use and enjoyment thereof and to maintain the same unimpaired by acts of the said defendants.

4. That the said defendants and each of them and their servants, agents and employees and their successors in interest and assigns are hereby perpetually enjoined from diverting the waters of said Snake River covered by the said permits, at the points or through the ditches or canals indicated on the plans accompanying them, and from any diversion of the waters of the river that will interfere with the nineteen foot head of water created by plaintiff's dam, or in any way injure or threaten or destroy its works or impair their value or effectiveness.

5. That plaintiff do have and recover its costs herein to be taxed amounting to seven hundred fifty-four and 35-100 (\$754.35) dollars.

Dated April 2, 1907.

United States of America, JAS. H. BEATTY, Judge.

ss.

District of Idaho.

I, A. L. Richardson, Clerk of the United States Circuit Court for the District of Idaho, do hereby certify that the foregoing copy of Final Decree in Case No. 245, The Trade Dollar Consolidated Mining Co. vs. A. A. Fraser and A. R. Crusen, has been by me compared with the original, and that it is a correct transcript therefrom, and of the whole of such original, as the same appears of record and on file at my office and in my custody.

In testimony whereof, I have set my hand and affixed the seal of said Court in said District this 2d day of April, 1907.

(SEAL)

A. L. RICHARDSON, Clerk.