

JEANETTE WOLFLEY

ATTORNEY AT LAW

RECEIVED

AUG 19 2005
DEPARTMENT OF
WATER RESOURCES

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August 17, 2005

Snake River Basin Adjudication
Clerk of District Court
253 Third Avenue North
P.O. Box 2707
Twin Falls, ID 83303-2707

Re: Water right Nos. 29-00476; 29-00477; 29-00480; and 29-13215

Dear Clerk:

Please find enclosed for filing in the above-referenced subcases a Motion to Correct Clerical Errors Pursuant to Rule 60(a) and Memorandum in Support of Motion with exhibits. Thank you for your assistance in this matter.

Sincerely,


Jeanette Wolfley

w/enclosures

Jeanette Wolfley, ISB No. 3968
Attorney at Law
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Attorney for Shoshone-Bannock Tribes

**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 Nos. 29-00476; 29-00477; 29-00480; and
	)	29-13215
	)	
	)	
Case No. 39576	)	MOTION TO CORRECT CLERICAL
	)	ERRORS PURSUANT TO RULE 60(a)
_____	)	

COMES NOW, the Shoshone-Bannock Tribes, by and through their attorney Jeanette Wolfley, and moves this Court pursuant to I.R.C.P. 60(a) to grant their motion to correct clerical errors in the Orders of Partial Decrees for Water Rights: 29-00476; 29-00477; 29-00490 and 29-13215. This motion is supported by the Memorandum of Law in Support of the Motion attached hereto.

The water rights, which the Shoshone-Bannock Tribes seek to correct, were originally decreed by this Court on March 22, 2004. These water rights are all located on the Fort Hall Reservation and affect the water rights of the Shoshone-Bannock Tribes as negotiated in the 1990 Fort Hall Indian Water Rights Agreement and partially decreed in the Partial Final Consent Decree Determining the Rights of the Shoshone-Bannock Tribes to the Use of the Water in the Upper Snake River Basin. Subcase No. 92-22.

The Tribes seek only to correct certain water rights referenced in the administration section of the partial decrees, and no other sections. The correction would not decrease or adversely impact the parties' water rights.

The corrections are easily completed by relying upon a prior partial decree entered by this Court on January 5, 2005 in Subcase 29-10990. The correction would coincide with a similarly situated water right on the same creek, which the Shoshone-Bannock Tribes objected to and sought a similar correction. This correction was agreed to by the Idaho Department of Water Resources and the affected party Barry Williams. A partial decree was entered in Mr. Williams case on January 5, 2005. At the time the Tribes objected to Mr. Williams' water rights they were not aware of the present water rights which were similarly situated.

Accordingly, the Shoshone-Bannock Tribes respectfully request that their motion be granted and an order be issued amending the four partial decrees.

DATED this 17th day of August, 2005.

Respectfully submitted,



Jeanette Wolfley
Attorney for Shoshone-Bannock Tribes

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202 North Arthur
Pocatello, ID 83204
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In Re SRBA	)	Subcase Nos. 29-00476; 29-00477; 29-00480 and
	)	29-13215
	)	
Case No. 39576	)	MEMORANDUM OF LAW IN SUPPORT OF
	)	MOTION TO CORRECT CLERICAL
	)	ERRORS PURSUANT TO RULE 60(a)
	)	

INTRODUCTION

Pursuant to Rule 60(a), I.R.C.P., the Shoshone-Bannock Tribes respectfully request this Court to enter an order correcting the clerical errors in the Partial Decree in the above Subcases entered on March 22, 2004. The Shoshone-Bannock Tribes ("Tribes") by and through their attorney, file this memorandum of law in support of their motion.

There are two primary reasons this motion should be granted. First, in 1907 the federal district court in *United States v. Daniels* (D. Idaho April 9, 1907) adjudicated certain water rights on the Fort Hall Reservation and established certain priority dates, use and amount of water for certain lands owned by the Shoshone-Bannock Tribes and non-members residing on the Reservation. Janet Hayball, Glen Bolingbroke and Russell Hayden are the current descendants and/or owners of lands decreed in the 1907 *Daniels* Decree.

The 1990 Fort Hall Indian Water Rights Agreement and Partial Final Consent Decree negotiated by the Shoshone-Bannock Tribes, the United States and the State of Idaho, and presented to the Court correctly set forth certain Tribal water rights and the rights of Barry Williams recognized in the *Daniels* Decree. Subsequently, when the Idaho Department of Water Resources made its Recommendations for Barry Williams' water rights, also a water rights owner on Rattlesnake Creek, the Tribes objected and the Idaho Department of Water Resources corrected certain errors in the provision for administration of the water right.

Second, amending the terms of the four Partial Decrees will accurately reflect the terms of the earlier *Daniels* decree upon which the 1995 Consent Decree was based. It also will effectuate the accord reached by the Tribes, United States and State of Idaho in the 1990 Fort Hall Indian Water Rights Agreement.

FACTS

In 1867, President Andrew Johnson by Executive Order designated the Fort Hall Reservation ("Reservation") for various Shoshone and Bannock bands who occupied the area from time immemorial. On July 3, 1868, the Shoshone and Bannock Tribes concluded the Second Treaty of Fort Bridger which was ratified by the United States Senate on February 24, 1869, 15 Stat. 673. Subsequent cession agreements with the United States reduced the Reservation to its present size and allotted the Reservation. Agreement of May 14, 1880, ratified by Act of February 23, 1889, 25 Stat. 687; the Act of March 3, 1911, ch. 210, 36 Stat. 1058, 1063.

Under the cession agreements, the United States took Tribal lands on the Reservation and gave each individual Indian a parcel of land (known as an "allotment") to be held in trust for the benefit of that individual. Individual Tribal members received 40 acre, 160 and 320 acre parcels,

for grazing or agricultural purposes. Once an individual Tribal member received lands they were permitted to sale the land. Lands in some areas of the Reservation were sold and acquired by non-Indian citizens, who then resided on the Reservation. Some of these non-Indians utilized the waters from creeks and streams located on the Reservation.

In *United States v. Daniels*, (D. Idaho. 1907) an action was filed to adjudicate water rights in Rattlesnake Creek and other tributaries of the Bannock Creek, located on the southwestern area of the Reservation. The *Daniels* Decree is attached hereto as Exhibit 1. The *Daniels* Decree establishes water rights for non-Indian and Tribal water users.

During the negotiations of the 1990 Fort Hall Indian Water Rights Agreement (“Agreement”), the Tribes, United States and State of Idaho agreed to incorporate the *Daniels* Decree water rights into the final Agreement. Pertinent provisions of the Agreement are attached hereto as Exhibit 2.

In 2004, the Idaho Department of Water Resources (“IDWR”) issued its Recommendations for water rights in the Bannock Creek and Rattlesnake Creek areas. The Tribes objected to Barry Williams’ claims as they related to administration of his water rights. As originally recommended by the IDWR it stated in pertinent part:

* * * In times of shortage, this water right and other water rights decreed in *United States v. Daniels*, shall receive their full legal entitlement despite the federal based natural flow water right no. 29-466, 29-467, 29-469, 29-470, 29-471, 29-472, 29-273, 29-474, 29-12049 and 29-12848.

The original Recommendation is attached hereto as Exhibit 3. The Tribes and Barry Williams with the IDWR reached agreement that the listing of water right nos. 29-466, 29-467, 29-469, 29-470, 29-471, 29-472, 29-473, 29-474 in the Recommendation were in error, and stipulated to the removal of the those water rights from the Recommendation. A Partial Decree was entered

showing only water right nos. 29-12049 and 29-12848. A copy of Barry Williams Partial Decree is attached hereto as Exhibit 4.

During the review of Barry Williams water rights in the Fall 2004, the Tribes were advised by IDWR Counsel Candice McHugh, that the water rights for Glen Bolingbroke, Janet Hayball, and Russell Hayden contained similar language in their Partial Decrees. Upon further research the Tribes discovered the similar errors and noted Partial Decrees had been entered by the Court on March 22, 2004. Following discussions with Candice McHugh, it was agreed that these were oversights by the IDWR, and a motion should be filed to correct the errors in the four Partial Decrees. The IDWR intended to put the same language in the present four water rights, but because there was no objection to them, and it did not occur to IDWR to change the language as in Barry Williams' water right.

ARGUMENT

RULE 60(a) AUTHORIZES THIS COURT TO CORRECT ERRORS AND OMISSIONS IN THE PARTIAL DECREES

Courts have the "power and duty to correct judgments which contain clerical errors or judgments which have issued due to inadvertence or mistake." *American Trucking Ass'ns. v. Frisco Transp. Co.*, 358 U.S. 133, 145 (1958). Rule 60(a) of the Idaho Rules of Civil Procedure, like the federal rule, is the mechanism by which courts are empowered to correct errors in "judgments, orders or other parts of the records . . . as errors arising from oversight or omission." 11 Wright & Miller, Fed. Prac. And Proc. § 2854. The present case is illustrative of the instance in which the court should take action to correct omissions in the record.

Rule 60(a), I.R.C.P., provides in part,

Clerical mistakes in judgments, orders or other parts of the record and errors therein arising from oversight or omission may be corrected by the court at any time of its own initiative or on the motion of any party and after such notice, if any, as the court orders.

The Rule embodies a conclusion that justice requires the finality of judgment “be subject to corrective power” in order to ensure a correct result is reached. Moore & Rogers, *Federal Relief from Civil Judgments*, 55 YALE L.J. 623 (1946). Indeed, the purpose of Rule 60(a) is to permit the discrepancies in the record or judgment in order to make them “speak the truth.” Wright and Miller, *supra* at § 2854.

In *Gagnon v. United States*, 193 U.S. 451, 453 (1904), the Supreme Court recognized the inherent power of the court to amend its record and correct mistakes, “[t]he power to amend its own records to correct mistakes of the court or other officers of the court, inadvertencies of counsel, or to supply defects or omissions in the record, even after the lapse of the term, is inherent in courts of justice.” (citations omitted). The Idaho Supreme Court has similarly held in *State v. Winter*, 24 Idaho 749, 135 P. 739 (1913), and stated, “[i]t is a familiar and established doctrine that courts always have jurisdiction over their own records to make them conform to the facts and what was actually done at that time.” Accord, *State v. Douglas*, 35 Idaho 140, 208 P. 236, 237 (1922) (“The power of the court to make such corrections is not lost by the lapse of time.”).

Rule 60(a) clerical mistakes need not be made by a clerk. The phrase “clerical error” merely describes the,

type of error identified with mistakes in transcription, alteration or omission of any papers and documents which are traditionally or customarily handled or controlled by clerks but which papers or documents may be handled by others. It is a type of mistake or omission mechanical in nature which is apparent in the record and which does not involve a legal decision or judgment by an attorney.

In re Mary Queen Transfer Corp., 266 F.Supp. 605, 607 (E.D.N.Y. 1967), accord *Dursterler v. Dursterler*, 112 Idaho 594, 597, 733 P.2d 814 (Ct. App. 1987). Thus, courts have read Rule 60(a) to include errors committed by a party to a proceeding, *In Application of Levis*, 46 F.Supp. 527 (D. Md. 1942), and by the jury. *Myrtle v. Checker Taxi Cab Co.*, 279 F.2d 930 (7th Cir. 1960).

A court can amend a document in the record or a judgment itself to correct typographical errors, *Esquire Radio & Elecs. v. Montgomery Ward & Co.*, 804 F.2d 787, 795-96 (2d Cir. 1986) (granting motion to amend jury verdict forms from \$269,686.89 to \$296,686.89 after judgment), to correct misnomers, *Silas v. Paroh S.S. Co.*, 175 F.Supp. 35, 38-39 (E.D. Va. 1948) (amending default judgment entered against defendant “company” rather than defendant “corporation”), and correct incorrect dates. *Application of Levis*, 46 F.Supp. 527, 530-31 (D. Md. 1942) (holding date may be amended if unintentionally and incorrectly entered).

In this matter, the Tribes seek to correct inadvertent oversights that were made by the Idaho Department of Water Resources in the preparation of the Recommendations for water rights on Rattlesnake Creek and as issued by the Court. Attorneys for the Tribes, the State of Idaho and United States negotiated and drafted the 1990 Fort Hall Indian Water Rights Agreement to settle the claims by the Tribes and the United States to water rights in the Upper Snake River Basin and its tributaries. The Court ratified and confirmed this Agreement pursuant to the 1995 Consent Decree on August 2, 1995. As part of the negotiations, the attorneys incorporated the findings by the Idaho federal district court in the *United States v. Daniels*, (D. Idaho 1907), as they relate to the Fort Hall Reservation into the Fort Hall Agreement and 1995 Consent Decree.

Correction of the errors in the four Partial Decrees would effectuate the purpose of Rule 60(a) to let the record “speak the truth.” Here, as we have shown, the four Partial Decrees mistakenly contain language that was not part of the prior court decreed provisions of the *Daniels* Decree. The *Daniels* Decree is unambiguous and clear with regard to the water rights in Rattlesnake Creek. The Tribes seek merely the correction of the language in the four Partial Decrees. The correction will not limit or diminish any of the water rights in the four Partial Decrees. Accordingly, the motion to correct the errors pursuant to Rule 60(a) should be granted, and an order amending the four Partial Decrees be issued .

Dated this 17th day of August 2005.

Respectfully submitted,


Jeanette Wolfley

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that on this 17th day of August, 2005, I caused to be mailed first class postage prepaid, a true and correct copy of the Shoshone-Bannock Tribes Motion to Correct Clerical Errors Pursuant to Rule 60(a) and Memorandum in Support with Exhibits to the following:

Russell J. Hayden
P.O. Box 598
Soda Springs, ID 83276

Janet Hayball
P.O. Box 725
Fort Hall, ID 83203

Glen Bolingbroke
4365 S Eph Lane
Arbon, ID 83212

Peter Monson
United States Department of Justice
Assistant Chief, Indian Resources Section
999 18th Street, Suite 945
Denver, CO 80202

Candice McHugh
Deputy Attorney General
Idaho Department of Water Resources
P.O. Box 83720
Boise, ID 83720-0098



Jeanette Wolfley

EXHIBIT 1

United States of America,
upon the relation of H. S.
Ray, United States Attorney
for the District of Idaho,

Plaintiff,

v.

Julia Hibner, Kepler Sessions,
Merchants Trust Company, a corporation,
successor in interest to J. J. Knollin,
Continental National Bank of Salt Lake
City, a corporation, successor in
interest to Thomas J. Hipper, John W.
Symons, George A. Whitworth, George
John, Cordelia Warner, Dempsey Irrigat-
ing Company, a corporation, Topaz
Irrigation Company, a corporation,
Thomas Hillman, F. A. Reed, James H.
Byington, Noah Keese, Lava Irrigation
Company, a corporation, Mrs. A. A.
Fairchild, Fortneuf Irrigating Company,
a corporation, Fortneuf Marsh Valley
Canal Company, a corporation, A. T.
Shumway, J. T. Gitton, J. J. Lewis,
McCannan Ditch Company, a corporation,
Amexiah Hanson, Brigham H. Green, Orson
V. Robbins, Royal T. Hale, Samuel Orgill,
G. H. Recriell, William J. Lewis, Ed
Murphy, Thomas Orgill, George Goodenough,
Oregon Short Line Railroad Company, A. J.
Butterfield, Harley P. Jensen, Ben D.
Jensen, George Brangham, Westside Canal
Company, a corporation, Poyonce Canal
Company, a corporation, First National
Bank of Pocatello, a corporation,
successors in interest of Joseph and
William F. Purvis, J. A. Eldridge, Union
Grain & Elevator Company, a corporation,
Michael Whitworth, National Loan Company,
a corporation, G. H. Brangham, and
Village of McCannan, a municipal corpor-
ation,

Defendants.

In Equity No. 479

D
E
C
H
E
X

qued by counsel and thereupon, upon consideration thereof,

IT IS ORDERED, ADJUDGED AND DECREED as follows, viz.:

I.

1. The plaintiff herein, the United States of America, is, pursuant to law, the trustee for the rights of certain Indians hereinafter named who are wards of the government, and the adjudication of the rights hereinafter particularly recited are for the use and benefit of the respective Indian wards.

2. That the decree of the water for Indian lands hereinafter adjudicated is fixed at one miner inch per second of time per acre measured at the point of diversion and the right to the use of such water upon Indian lands is continuous and the failure of any of the Indians to use the water hereinafter adjudicated will not cause either an abandonment or a forfeiture of their rights thereto, provided however, the next appropriator in point of time shall have the right to the use of the water hereinafter adjudicated to the Indians when said water is not diverted and used for irrigation or domestic purposes by said Indians, but the relief from forfeiture or abandonment shall not extend to the ownership of said lands in persons other than Indians.

II.

"C.F.S." is used herein to designate a flow of one cubic foot of water per second of time.

Allotment numbers used herein are the numbers of the allotments made by the United States Government to Indians on the Fort Hall Indian Reservation.

INDIAN'S RIGHTS

The names of the Indian wards of the government, the date of priority, the point of diversion and the lands upon which

Northeast quarter of the Northwest quarter, the Northwest quarter of the Northeast quarter; the Southwest quarter of the Northeast quarter; the Southeast quarter of the Northwest quarter, Section 30, Township 6 South, Range 39 East.

- 4 Hibner, Julia
May 1, 1881 .26 c.f.s. Said water to be diverted through Hibner Ditch No. 3, which diverts from the Portneuf River in the Southwest quarter of the Southwest quarter of Section 19, Township 6 South, Range 39 East. From the Southwest corner of Section 19, the point of diversion bears North 48°45' East, 732 feet for the irrigation of 18 acres of land in the South half of the Southwest quarter of Sec. 19, Township 6 South, Range 39 East.
- 5 Hibner, Julia
May 1, 1881 .51 c.f.s. Said water to be diverted through Hibner Ditch No. 3, which diverts from the Portneuf River, in the Southwest quarter of the Northwest quarter of Section 30, Township 6 South, Range 39 East. From the Northwest corner of Section 30, the point of diversion bears South 40°5' East, 1755 feet, for the irrigation of 15.4 acres in the South half of the Northwest quarter, Section 30, Township 6 South Range 39 East.
- 9 Hibner, Julia
May 1, 1881 .64 c.f.s. For the irrigation of 9.28 acres in the North Half of the Northwest quarter; and 23 acres in the Southeast quarter of the Northwest quarter, Section 30, Township 6 South, Range 39 East.
- 37 Hibner, Julia
Nov. 28, 1882 1.22 c.f.s.
(61.22 inches) HIBNER SPRINGS: The location of the point of diversion from Hibner Springs is in the Southwest quarter of the Northwest quarter.

domestic uses and the irrigation of 61.22 acres of land located in the Northeast quarter of the Southwest quarter, the Northwest quarter of the Southwest quarter, the Northwest quarter of the Southeast quarter, the Southwest quarter of the Southwest quarter, the Southeast quarter of the Southwest quarter, Section 19, Township 6 South, Range 39 East.

That the said Julia Hibner do also have the right to maintain a reservoir large enough to impound all the waters of said Hibner Springs, for the uses aforesaid, in addition to the constant flow of said springs.

2 Sessions, Kepler
Sept. 26, 1908 1.54 c.f.s.

Diversions: (West and Brangham Ditch, which diverts from the Topense Creek, in the SE1/4, Sec. 23, Twp. 6 S., R. 38 E.)

Said water to be diverted through Hibner Ditch No. 2 (Knollin-Topense Ditch), last above described, for the irrigation of 77 acres of land in the Southeast quarter of the Northeast quarter; the Northeast quarter of the Southeast quarter, Section 30, Twp. 6 South, Range 39 East; the Southwest quarter of the Northwest quarter; and the Northwest quarter of the Southwest quarter, Section 29, Twp. 6 South, Range 39 East.

76	Sessions, Kepler	
	July 1, 1906	.14 c.f.s.
	July 1, 1907	.23 c.f.s.
	July 1, 1908	.60 c.f.s.
	July 1, 1909	.96 c.f.s.
	July 1, 1910	.29 c.f.s.
	July 1, 1913	.19 c.f.s.
	Total	2.4 c.f.s.

Said water to be diverted through the said West and Brangham Ditch, last above described, for the irrigation of 100 acres of land in the North Half of the Southwest quarter, and the Southeast quarter of the Southwest quarter, Section 28, Township 6 South, Range 38 East.

Merchants Trust Co., a corp.,
successor in interest to:
3 Knollin, A.J.
April 16, 1913 3.99 c.f.s.

Said water to be diverted through Hibner Ditch No. 2 (Knollin-Topense Ditch), last above described, for the irrigation of 80 acres of land in the West Half of the Southwest

acres in the Southeast quarter of the Southwest quarter, Section 9; 80 acres in the East half of the Southeast quarter, Section 8; all in Township 7 South, Range 29 East. This canal, the Hibner No. 2, or the Knollin-Topence Ditch, may be used for carrying water of Topence Creek in addition to the River water, subject to the rights of Julia Hibner, and Kepler Sessions. The water for this ditch is delivered through a syphon of the Fortneuf-Marsh Valley Irrigation Company's dam to the point of diversion described above.

Merchants Trust Co., a corp.,
successor in interest to:
Knollin, A.J.
May 1, 1881

1.18 c.f.s.

Said water to be diverted through Hibner Ditch No. 4, which diverts from the Fortneuf-Marsh Valley Irrigation Company's drainage canal, in the Northwest quarter of the Southeast quarter of Section 30; from the East quarter corner of Section 30, the point of diversion bears West 8410 feet. Point of diversion is a dam across the Fortneuf-Marsh Valley Irrigation Company's canal, for the irrigation of 56.76 acres of land, located as follows: The Northeast quarter of the Southwest quarter, Section 30, 17 acres; the South half of the Southwest quarter, Section 30, 15.2 acres; the North half of the Northwest quarter, Section 31, 24.56 acres, all in Township 6 South, Range 29 East.

all
Merchants Trust Co., a corp.,
successor in interest to:
Knollin, A.J.
May 1, 1881

.24 c.f.s.
(12 inches)

Said water to be diverted by means of a dam across the Fortneuf River, which diverts in Lot 3, Section 30, Township 6 South, Range 29 East. The point

and
Date of Priority

Second Feet

and
Place of Use

Merchants Trust Co., a corp.,
successor in interest to:

8

Knollin A.J.
May 1, 1881

.75 c.f.s.

30, Township 6 South,
Range 39 East, for the
irrigation of 12 acres
in Lot 3, and the North-
east quarter of the
Southwest quarter, Sec-
tion 30, Twp. 6 South,
Range 39 East.

Said water to be diverted
through Knollin Ditch No.
1, which diverts from the
Fortneuf-March Valley
Irrigation Company's
drainage canal in the
Northwest quarter of the
Northeast quarter, Section
31, Township 6 South,
Range 39 East. From the
North quarter corner of
Section 31, the point of
diversion bears South 30°
30' East, 560 feet, for the
irrigation of 37.36 acres
in the West half of the
Northeast quarter; the
Southeast quarter of the
Northwest quarter, Section
31, Township 6 South, Range
39 East.

Merchants Trust Co., a corp.,
successor in interest to:

10

Knollin, A.J.
May 1, 1881

1.03 c.f.s.

For the irrigation of 12
acres in the Northeast
quarter of the Southwest
quarter, Section 30, Twp.
6 South, Range 39 East, and
23.3 acres in the Southeast
quarter of the Southwest
quarter, same Section,
Township 6 Range

These lands were formerly
irrigated by ditch, having
same location as the Fort-
neuf-March Valley Irriga-
tion Company's drainage
canal. Should these lands
cease to sub, due to change
of location of above des-
cribed canal, or for any
other reason, the owner may
divert water to the said
land from the canal or the
river, from such point or
points as the land may be
advantageously watered,
from date of priority, May
1, 1881.

Merchants Trust Co., a corp.,
successor in interest to:

12

Knollin, A.J.

.96 c.f.s.

Said water to be diverted

No.	Name of Claimant and Date of Priority	Amount of Second Feet	Point of Diversion and Place of Use
			in the East half of the Southeast quarter, Section 6, Township 7 South, Range 39 East; 11.68 acres in the North half of the Southeast quarter, section 31, Town- ship 6 South, Range 39 East; 32.68 acres in the Northeast quarter of Section 31, Twp. 6 South, Range 39 East.
15	Merchants Trust Co., a corp., successor in in- terest to: Knollin, A.J. April 16, 1880	.18 c.f.s.	Said water to be diverted through Cooch-Johnson Ditch No. 2, which diverts in the Southwest quarter of the Northeast quarter of Sec- tion 21, Township 6 South, Range 39 East. From the South quarter corner of Section 30, the point of diversion bears South 7° 35' East, 2530 feet, for the irrigation of 7 acres of land in the North half of the North half of the Southeast quarter, Section 21, Township 6 South, Range 39 East; and 2 acres in the Southwest quarter of the Northeast quarter, same Section, Twp., and Range.
19	Merchants Trust Co., a corp., successor in in- terest to: Knollin, A.J. Sept 1, 1888	1.95 c.f.s.	Said water to be diverted through the said Cooch- Eldredge Ditch, last above described, for the irriga- tion of 97.4 acres of land in the Northeast quarter of the Northwest quarter, the North half of the Northeast quarter, the Southeast quarter of the Northeast quarter, Section 6, Township 7 South, Range 39 East.
	Diversion: (Cooch-Eldredge Ditch, which diverts from the Portneuf River in the NW $\frac{1}{4}$ SW $\frac{1}{4}$, Sec. 6, Twp. 7 S., R. 39 E.)		
65	Merchants Trust Co., a corp., successor in in- terest to: Knollin, A.J. July 1, 1881	1.24 c.f.s.	For the irrigation of 62 acres of land in the South- west quarter of the South- west quarter, Sec. 35, Twp. 6 South, Range 39 East; and the Northeast quarter of the Southeast quarter, Sec-

No.	Name of Claimant and Date of Priority	Amount of Second Feet	Point of Diversion and Place of Use
			Creek in Lot 2, Section 4, Township 7 South, Range 39 East. From the North quarter corner Section 4, Township 7 South, Range 39 East, the point of diversion bears South 64°25' East, 77½ feet, for the irrigation of 88.25 acres of land in the Northwest quarter of the Southeast quarter, the Southwest quarter of the Southwest quarter, Section 4; the Southeast quarter of the Southeast quarter, Section 5, Township 7 South, Range 39 East.
67	Merchants Trust Co., a corp., successor in interest to: Knollin, A.J. July 1, 1881	.55 c.f.s.	Said water to be diverted by means of the Knollin Dam, two in number, Two small dams located across the channel of Twenty-four Mile creek, in the Northeast corner of Lot 2, Section 4, Township 7 South, Range 39 East, for the irrigation of 27.4 acres of land in Lot 2, Section 4, Township 7 South, Range 39 East.
92	Merchants Trust Co., a corp., successor in interest to: Knollin, A.J. 1882, July 1 1902, June 17 at noon 1903, July 1 1908, July 1 1910, June 1 Total	.43 c.f.s. (24 inches) .72 c.f.s. (36 inches) 1.10 c.f.s. (25.24 inches) 2.68 c.f.s. (134.10 inches) 1.08 c.f.s. (64 inches) 6.06 c.f.s.	Said water to be diverted through Knollin Ditch which diverts water from the North Fork of Popoone Creek, in the Northeast quarter of the Northwest quarter, Section 35, Township 6 South, Range 39 East. From the Northwest corner of Section 35, said Township and Range, the point of diversion bears South 71°10' East, 1748 feet, for the irrigation of land described as follows: 5 acres in the Northeast quarter of the Southwest quarter; 10 acres in the Northwest quarter of the Southeast quarter; 5 acres in Lot 3; 2 acres in the Southeast quarter of the Southwest quarter; 30 acres in the Southwest quarter of the Southeast

and
Date of Priority

Second Foot

and
Place of Use

33.4 acres in Lot 1;
33.4 acres in Lot 2;
Section 36, Township 6
South, Range 38 East; 40
acres in Lot 2; 55.44
acres in the North half
of the Northwest quarter,
Section 31, Township 6
South, Range 39 East.

17

Eldredge, J. A.
Sept. 1, 1898

2.35 c.f.s. Said water to be diverted
through Goose-Eldredge
Ditch, which diverts from
the Fortneuf River in the
Northwest quarter of the
Southwest quarter, Section
5, Township 7 South, Range
39 East. From the North-
west corner of Section 5,
the point of diversion
bears South 34°10' East,
21 55 feet, for the irri-
gation of 117.52 acres of
land in the Southwest
quarter of the Northeast
quarter; the East half of
the Southwest quarter,
the West half of the
Southeast quarter, Section
8, Twp. 7 South, Range 39
East.

8

Eldredge, J.A.
June 17, 1902
(Noon)

2.0 c.f.s.

Diversion: (Goose Ditch, which
diverts from Teponce Creek in the
NW 1/4 Sec. 24, Twp. 6 S., R.
38 E.)

Said water to be diverted
through the said Goose
Ditch last above described
for the irrigation of 60
acres of land (Tracts K
and L), Lots 3 and 4,
Section 7; 50 acres in
part of Lots 1 and 2, and
tract in the Southwest
quarter of the Northeast
quarter, Section 7, Town-
ship 7 South, Range 39
East.

Eldredge, J. A.
June 1, 1896

Up to July 1 of
each irrigating season

.80 c.f.s.

Diversion: (See page 19.
urvis, Jos. & Wm. F. - Right
o. 89)

Said water to be diverted
by means of the dam, last
above described, diverting
water from the South Fork
of Teponce Creek, for the
irrigation of 40 acres of
land in the East half of
the Southwest quarter,
Section 8, Township 7 South,
Range 39 East.

Eldredge, J. A.

Up to July 1st of
1893-April 15, each

.80 c.f.s.

Said water to be diverted
by means of a dam located
at a point west 1893

Hoyan
Part 12

bears South 22°30' West 1370 feet from the Center of Section 1, Township 6 South, Range 39 East, B.M., for the irrigation of 40 acres of land located in Lot 3 and the East half of the Southwest quarter of Section 31, Township 6 South, Range 39 E.B.M.

Eldredge, J.A.
1885-April 15
Up to July 15
each irrigating season

2.10 c.f.s.

Said water to be diverted by means of 5 dams, numbered from 1 to 5 inclusive. No. 1 is located in Lot 3, Section 30, Twp. 6 South, Range 38 East. From the center of Section 31, the point of diversion bears South 75°45' West, 3520 feet. No. 2 has its point of diversion South 78°30' West, 3710 feet from the center of Section 31. No. 3 has its point of diversion South 80° West, 2690 feet from the center of Section 31. No. 4 is located in Lot 3, Section 31 and from the center of Section 31, the point of diversion bears South 71°30' West, 2710 feet. No. 5 is located in the Southeast quarter of the Southwest quarter, Section 31, and from the center of Section 31, the point of diversion bears South 27°30' West, 2300 feet, for the irrigation of 105 acres of land in Lots 3 and 4 of Section 34, Twp. 6 South, Range 38 East; Lots 3 and 4, and the Southeast quarter of the Southwest quarter of Section 31, Twp. 6 South, Range 39 East; and Lot 1, Section 6, Twp. 7 South, Range 39 East.

Eldredge, J.A.
April 15, 1886
Up to July 1st of each
irrigating season

.60 c.f.s.

Said water to be diverted by means of a dam located at a point which bears South 34° West 840 feet from the Northeast corner of Section 6, Twp. 7 South, Range 39 East, B.M., for the irrigation of 30 acres of land in Lot 1, and the East half of the Southeast

and
Date of Priority

Second Feet

and
Place of Use

Elldredge, J.A.
April 15, 1885
Up to July 1st of each
irrigating season

.90 c.f.s.

Said water to be diverted by means of a dam located at a point which bears North 43° 15' West 1150 feet from the Southeast corner of Section 6, Twp. 7 South, Range 39 East, B.M., for the irrigation of forty-five (45) acres within the South half of the Southeast quarter of Section 6, and the Northeast quarter of Section 7, Twp. 7 South, Range 39 East, B.M.

Elldredge, J. A.
June 17, 1902
(12 o'clock M.)
Up to July 1st of each
irrigating season

.70 c.f.s.

Said water to be diverted by means of a dam located at a point which bears South 80°45' West, 3110 feet from the Northeast corner of Section 7, Twp. 7 South, Range 39 East, for the irrigation of thirty-five (35) acres of land lying within Lot one (1), and the Northeast quarter of Section 7, Twp. 7 South, Range 39 East, B.M.

Elldredge, J.A.
June 17, 1902
(12 o'clock M.)
Up to July 1st of each
irrigating season

.60 c.f.s.

Said water to be diverted by means of a ditch having its intake at a point which bears North 26°30' West 2660 feet from the Southwest corner of Lot 4 Section 26, Twp. 6 South, Range 38 East, B.M. for the irrigation of 30 acres of land lying within Lot 3, Section 36, Twp. 6 South, Range 38 East, B.M., Lot 3 and the East Half of the Southwest quarter of Section 31, Twp. 6 South, Range 39 East B.M.

Elldredge, J. A.
June 17, 1902
(12 o'clock M.)
Up to July 1st of each
irrigating season

1.70 c.f.s.

Said water to be diverted by means of a ditch having its intake at a point which bears North 49°15' West, 1800 feet from the South quarter corner of Section 36, Twp. 6 South, Range 38 East, for the irrigation of 80 acres of land lying within Lots 3 and 4, Section 36, Twp. 6 South, Range 38 East;

and Date of Priority	Second Feet	and Place of Use
Eldredge, J. A. June 17, 1902 at 12 o'clock M. For the entire irrigat- ing season of each and every year	2.1 c.f.s.	Said water to be diverted by means of a ditch having its intake at a point which bears South one thousand feet from the South quarter corner of Section 26, Twp. 7 South, Range 38 East; for the irrigation of 105 acres of land lying within Lots 1, 2, 3, 4 and 5, and the Southeast quarter of Section 6, Twp. 7 South, Range 39 East.
Eldredge, J. A. June 17, 1902 (12 noon) Up to July 1st of each irrigating season	2.1 c.f.s.	Said water to be diverted by means of a ditch having its intake in Lot 4, Section 1, Twp. 7 South, Range 38 East, for the irrigation of 105 acres of land lying within Lots 4 and 5; and South half of the Southeast quarter of Section 6, and Lot 1 and North half of the Northeast quarter of Section 7, Twp. 7 South, Range 39 East, S.M.
21 Continental Nat'l Bank of Salt Lake City, a corp., successor in interest to: Hipper, Thomas J. Oct. 13, 1889	3.84 c.f.s.	Said water to be diverted through Hipper Ditch which diverts from the Portneuf River, in the Southeast quarter of the Southwest quarter, Section 8, Twp. 7 South, Range 39 East. From the South quarter corner of Section 8, the point of diversion bears North 29°13' West, 1130 feet, for the irrigation of 29 acres of land in the Northwest quarter of the Southwest quarter, Section 17; 5 acres in the Southwest quarter of the Southwest quarter, Section 17; 59.52 acres in the West half of the Northwest quarter, Section 20; 27.24 acres in the East half of the Northeast quarter Section 19; 33.4 acres in the Northwest quarter of the Southwest quarter, Section 20; 36.1 acres in the Northeast quarter of the Southwest quarter.

and
Date of Priority

Second Feet

and
Place of Use

22 Continental Nat'l Bank
of Salt Lake City, a
corp., successor in
interest to:

Hipper, Thomas J.
May 1, 1887

3.43 c.f.s.

Said water to be diverted
by means of Hipper Dam
across Portneuf River,
which diverts water from
the river at the point
where the North line of
the South half of the
South half, Sec. 17, Twp.
7 South, Range 39 East,
crosses said River, for
the irrigation of 20.46
acres of land in the
East half of the Southeast
quarter of Section 18;
34.04 acres in the East
half of the Northeast
quarter, Sec. 19; 35.16
acres in the Southwest
quarter of the Northeast
quarter, Sec. 19; 41.3
acres in Lots 2 and 3,
Sec. 19; 40.9 acres in the
North half of the South-
east quarter, Sec. 19, all
in Twp. 7 South, Range
39 East.

26 Continental Nat'l Bank
of Salt Lake City, a
corp., successor in
interest to:

Hipper, Thomas J.
~~Myrland~~
June 17, 1902
(noon)

2.5 c.f.s.

Said water to be diverted
through Goose Ditch, which
diverts from Topence Creek
in the Northwest quarter,
of the Southeast quarter,
Section 34, Twp. 6 South,
Range 38 East. From the
South quarter corner of
Section 34, the point of
diversion bears North
14°45' East, 2137 feet,
for the irrigation of 170
acres of land described as
follows: 29 acres in Lot
2; 40 acres in the South-
west quarter of the North-
east quarter; 28 acres in
Lot 3; 40 acres in the
Northwest quarter of the
Southeast quarter; 33
acres in the Northeast
quarter of the Southeast
quarter, Sec. 18, Twp. 7
South, Range 39 East.

23 Continental Nat'l Bank
of Salt Lake City, a
corp., successor in interest
to:

Hipper, Thomas J.
June 17, 1902

1.0 c.f.s.

Said water to be diverted
through the Hipper Ditch,
which diverts from King
Creek in the Southwest
quarter of the Southwest
quarter, Sec. 14, Twp. 7
South, Range 38 East.

- 20 First Nat'l Bank of
Pocatello, a corp.,
successor in interest to:

Purvis Brothers
(Joseph & William F.)

Sept. 1, 1888

.14 a.f.s.

for the irrigation of 80
acres of land in the legal
subdivisions hereinafter
described: Lot 4, the
Southwest quarter of the
Southeast quarter, the
Southeast quarter of the
Southeast quarter, Sec. 18;
Lots 1 and 2, the Northwest
quarter of the Northeast
quarter; the Northeast quarter
of the Northeast quarter
the Southwest quarter of the
Northeast quarter, Sec. 19,
Twp. 7 South, Range 39 East.
- 27 First Nat'l Bank of
Pocatello, a corp.,
successor in interest to:

Purvis & Joseph
William F.
June 17, 1902 (noon)
June 17, 1902 (noon)
up to July 1st each year

3.5 a.f.s.

1.4 a.f.s.

Said water to be diverted
through the said Gooch-
Kildredge Ditch, last above
described, for the irri-
gation of 7.04 acres of
land in the Southwest
quarter of the Northwest
quarter, Sec. 8, Twp. 7
South, Range 39 East.
The above defendants are
also allowed the right to
maintain a dam across the
Fortneuf River, located at
the point of diversion
above described, of suffi-
cient height to divert the
water as decreed.
- 37 First Nat'l Bank of
Pocatello, a corp.,
successor in interest to:

Purvis & Joseph
William F.
June 17, 1902 (noon)
June 17, 1902 (noon)
up to July 1st each year

3.5 a.f.s.

1.4 a.f.s.

Said water to be diverted
through the said Gooch
Ditch, last above described
for the irrigation of 248
acres of land in the South-
east quarter, and part of
the Southeast quarter of the
Northeast quarter, Sec. 7;
and part of the East half
of the Northeast quarter,
Sec. 18, Twp. 7 South,
Range 39 East.
- 39 First Nat'l Bank of
Pocatello, a corp.,
successor in interest to:

Purvis, Joseph &
William F.
June 1, 1888
Up to July 1st of each
irrigating season

4.2 a.f.s.

TOPONOE CREEK, SOUTH FORK.
A DAM. The point of diver-
sion is located in the
Southwest quarter of the
Northwest quarter, Sec. 8,
Twp. 7 South, Range 39 East.
From the Northeast corner
of Section 17, Twp. 7 South,
Range 39 East, said dam
bears South 1920 feet, for
the irrigation of 210 acres
of land in the legal sub-
divisions described as
follows: A tract in the

and
Date of Priority

Second Test

and
Place of Use

- 23 Symons, John W.
 July 1, 1889 .30 c.f.s. Said water to be diverted through the Dempsey and Topaz Canals. The Dempsey and Topaz Canals have a common heading from the River, the Topaz being a continuation of the Dempsey. The Dempsey Canal diverts in the Northeast quarter of the Southwest quarter of Section 28, Twp. 8 South, Range 38 East. From the South quarter corner of Section 28, the point of diversion bears North 34° West, 2130 feet, for the irrigation of land described as follows:
Beginning at the Northeast corner of Lot 2, Sec. 4, Twp. 9 South, Range 38 East, running thence South 69 rods; thence West at right angles 160 rods to the east bank of the Portneuf River; thence running North following the meandering of said East bank of said River to the North line of Lot 3; running thence East on the Twp. line to the point of beginning, being the North 69 rods of Lots 2 and 3, Sec. 4, Twp. 9 South, Range 38 East.
- 28 Symons, John W.
 July 14, 1902 .80 c.f.s. Said water to be diverted through a ditch having an intake North 30°39' East, 2110 feet, from the Southwest corner of Sec. 28, Twp. 8 South, Range 38 East, for the irrigation of land in the Southwest quarter of Section 33, Twp. 8 South, Range 38 East.
- 24 Whitworth, Geo. A.
 July 1, 1889 .40 c.f.s. Said water to be diverted through the said Dempsey and Topaz Canals, last above described, for the irrigation of 20 acres of land in the West half of the Southeast quarter, Sec. 4, Twp. 9 South, Range 38 East.

the Northeast corner of Lot 4, Sec. 9, Twp. 9 South, Range 33 East, for the irrigation of 110 acres in Lots 4 and 5, and the East half of the Northwest quarter of Sec. 9, Twp. 9 South, Range 33 East.

30

Whitworth, Geo. A.
July 1, 1889

1.4 c.f.s.

Said water to be diverted through a ditch having its intake on the East bank of the Portneuf River, in Lot 5, Sec. 4, Twp. 9 South, Range 33 East, for the irrigation of 40 acres in Lot 5, Sec. 4, Twp. 9 South, Range 33 East; and that portion of the West half of the Southeast quarter of said Sec. 4 which lies West of the O.S.L. R.R. Company's right of way; and approximately 30 acres in Lot 10 in said Sec. 4, to which said last mentioned tract water is conveyed by means of a flume crossing the Portneuf River in Lot 9, of said Sec. 4, Twp. 9 South, Range 33 East.

25

John, George
May 1, 1889

.70 c.f.s.

Said water to be diverted through the said Dempsey and Popax Canals, last above described, for the irrigation of that portion of land of Lot 2, and the Northeast quarter of the Northeast quarter, Sec. 9, Twp. 9 South, Range 33 East, lying East of the O.S.L. R.R. right of way.

31

John, George
May 1, 1889

.50 c.f.s.

Said water to be diverted by means of the Durfee Ditch having its intake near the Northwest corner of Lot 1, Sec. 9, Twp. 9, South, Range 33 East, for the irrigation of approximately 25 acres in said Lot 1, lying West of the O.S.L. R.R. Company's right of way.

by the Dempsey Canal,
and on the West by the
right of way of the
O.S.L. R.R.

52

Warner, Cordelia
April 1, 1890

1.50 a.f.s. Said water to be diverted
through a ditch having
its intake about 20 rods
South of the North line
of Sec. 4, and from the
East bank of the Portneuf
River in Sec. 4, Twp. 9
South, Range 38 East, for
the irrigation of lands
lying between the River
and the O.S.L. R.R.
Company's right of way in
Lot 4, Sec. 4, Twp. 9
South, Range 38 East.

27

Dempsey Irrigating
Company & Texas
Irrigation Company
April 18, 1898
Jan. 14, 1907

52 a.f.s.
7.5 a.f.s.

Said water to be diverted
through the said Dempsey
and Texas Canals, last
above described for the
irrigation of lands under
the Dempsey and Texas
Canals, described as
follows: 45.2 acres in
Lots 1 and 2, the East
half of the Southwest
quarter, Sec. 10, Twp. 9
South, Range 38 East;
103.24 acres in Lots 1,
2, 3, and 4, Sec. 22, Lot
5, Sec. 15, and the
Southwest quarter of the
Southeast quarter, Sec.
32, Twp. 9 South, Range
38 East; 11.1 acres in
the Northwest quarter of
the Northeast quarter,
Sec. 26, above Twp. and
Range; 51.45 acres in Lot
2, Sec. 21; 7 acres in
the Northeast quarter of
the Northwest quarter,
Sec. 25; 65 acres in Lots
2, 3, and 6, Sec. 9, and
the Northwest quarter of
the Southeast quarter,
Sec. 9; 11.64 acres in
the West half of the
Northwest quarter, Sec.
10; 8.65 acres in the
Southeast quarter of the
Northwest quarter; Sec.
23; 65 acres in the South
half of the Northeast

29 acres in the North-west quarter of the Northwest quarter, Sec. 28; 14.7 acres in Lots 1 and 2, the Southwest quarter of the Northwest quarter, and the North half of the Southwest quarter, Sec. 18; 20.76 acres in Lot 1, Sec. 18; 4.76 acres in the North-east quarter of the Northwest quarter, Sec. 18; 66.45 acres in Lots 1 and 3, Sec. 21; 8 acres in Lot 10, Sec. 22; 3.6 acres in the North-east quarter of the Southeast quarter, Sec. 22; 125 acres in the South half of the South-west quarter, Sec. 28, the Northwest quarter of the Southwest quarter, Sec. 28, the North half of the Southeast quarter Sec. 29; 15.3 acres in the Southeast quarter of the Southeast quarter, Sec. 22; 5 acres in the Northwest quarter of the Southeast quarter, Sec. 22; 158.2 acres in Lot 4, the Southwest quarter of the Southwest quarter, Sec. 21 and Lots 1 and 2, the South half of the Southeast quarter, Sec. 20, Twp. 9 South, Range 38 East.

Tepax Irrigation Company Canal, a continuation of the Dempsey Canal. This canal also diverts water of Dempsey Creek in the Northwest quarter of the Northwest quarter, Sec. 28, Twp. 9 South, Range 38 East. From the Northwest quarter of Section 38, the point of diversion from Dempsey Creek bears South 44° East, 1890 feet

April 1, 1888
(Source Dempsey Creek)

13.44 a.f.s.

Said water to be diverted through the said Tepax Irrigation Company Canal, last above described, for the irrigation of 90 acres in Lots 1 and 2, Sec. 19, Twp. 9 South, Range 38

ter of the Northeast quarter, Sec. 30, Twp. 9, South, Range 38 East; 144.44 acres in Lots 5 and 6, Sec. 34, Twp. 9 South, Range 37 East, the North half of the Northeast quarter, Sec. 25, Twp. 9 South, Range 27 East, Lot 5, Sec. 19, Twp. 9 South, Range 38 East; 55.54 acres in Tract of East half of the Northwest quarter, Sec. 30, Twp. 9 South, Range 38 East; 37.88 acres in the West half of the Northeast quarter, Sec. 27, Twp. 9 South, Range 37 East, the Northeast quarter of the Northeast quarter, Sec. 27, Twp. 9 South, Range 37 East, the South half of the Southeast quarter, the South half of the Southwest quarter, the Lots 6, 7 and 8, Sec. 22 Twp. 9 South, Range 37 East, the East half of the Northwest quarter, Sec. 27, Twp. 9 South, Range 37 East; 45.77 acres in the West half of the Northwest quarter of the Northeast quarter, Tract of the Northeast quarter of the Northwest quarter, Sec. 30, Twp. 9 South, Range 38 East, and Tract to River, Sec. 19, Twp. 9 South, Range 38 East; 25.24 acres in the West half of the Northwest quarter, Sec. 26, Twp. 9 South, Range 37 East, and the Southeast quarter of the Northeast quarter, Sec. 27, Twp. 9 South, Range 37 East; 159.40 acres in the South half of the Southwest quarter, and Lots 7 and 8 of Sec. 33, Twp. 9 South, Range 37 East; 24.08 acres in the North half of the Northeast quarter, the Northeast quarter of the Northwest quarter, Sec. 26, and Tract in corner of same.

No.	Name of Claimant and Date of Priority	Amount in Second Feet	Point of Diversion and Place of Use
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22, Twp. 9 South, Range 37 East; 86.44 acres in the South half of the Northeast quarter, the Southeast quarter of the Southwest quarter, the Southeast quarter of Sec. 30, Twp. 9 South, Range 38 East; 76.86 acres in Lot 7, the South half of the Southwest quarter, Sec. 24, Twp. 9 South, Range 37 East, and the Northwest quarter of Sec. 25, Twp. 9 South, Range 37 East; 44.36 acres in the West half of the Northwest quarter, Sec. 30, Twp. 9 South, Range 38 East; 70 acres in Lots 5 and 6, Sec. 23, Twp. 9 South, Range 37 East, and the South half of the Southeast quarter of Sec. 23, Twp. 9 South, Range 37 East, 73.88 acres in the South half of the Northwest quarter of Section 29, Twp. 9 South, Range 38 East; 92.47 acres in Lots 1 and 2, Sec. 29, Twp. 9 South, Range 38 East, and Lot 3, Sec. 20, Twp. 9 South, Range 38 East.

The lands above described as being irrigated through the Dempsey and Topas Canals, are entitled to a total of one (1) inch to the acre from all sources from which water is derived for their irrigation under this Judgment; and where such lands receive water from other sources than the Main Channel of the Portneuf River through the Dempsey and Topas Canals, water shall be delivered to these lands through the private ditches and canals during the irrigating season, unless lack of sufficient water from such private ditches and canals makes it impossible to deliver said

Date of Priority

Place of Use

- | 133 | Topan Irrigation Co.
April 1, 1885 | 13.44 c.f.s. | Said water to be diverted at a point South 44° East 1500 feet from the Northwest corner of the Northwest quarter, Sec. 33, Twp. 9 South, Range 38 E.B.M., for the irrigation of the following described land:
Township 9 South, Range 38 E.B.M.
Section 29- Lots 1 and 2, the South half of the Northwest quarter and the North half of the Southwest quarter.
Section 30-The Northeast quarter, the Northwest quarter, the North half of the Southeast quarter.
Section 19-The following lots: 1, 2, 5 and 4.
Township 9 South, Range 37 E.B.M.
Section 24-Lots 5, 6 and 7, the South half of the Southwest quarter.
Section 23-The North half of the Northeast quarter, the North half of the Northwest quarter.
Section 25-Lots 5, 6 and 7, and 8, the South half of the Southeast quarter, the South half of the Southwest quarter.
Section 26-The North half of the Northeast quarter, the Northwest quarter of the Northwest quarter.
Section 27-The Northeast quarter of the Northeast quarter.
Section 22-The Southeast quarter of the Southeast quarter, Lots 5, 6, 7 and 8. |
|-----|---------------------------------------|--------------|--|
| 33 | Hallinan, Thomas
May 1, 1889 | 1.2 c.f.s. | Said water to be diverted through the Durfee Ditch having its intake near the Northwest corner, Lot 1, Sec. 9, Twp. 9 South, range 38 East, for the irrigation of land in Lots 2 and 3, Sec. 9, same Twp. and Range. |
| 34 | Reed, F. A.
July 1, 1889 | .4 c.f.s. | Said water to be diverted through a ditch having its intake on the East bank of the Southwest Durfee Ditch |

and
Date of Priority

Second Feet

and
Place of Use

- 35 Myington, James H. .40 c.f.s. Said water to be diverted through a ditch having its intake on the West side of the Portneuf River, which point bears North 30°30' East, 2110 feet, from the Southwest corner of Section 28, Twp. 9 South, Range 38 East, for the irrigation of 20 acres in the West half of the West half of Sec. 4, Twp. 9 South, Range 38 East.
- 36 Reese, Noah 2.24 c.f.s. Said water to be diverted through the Reese Ditch. The point of diversion of the said Reese Ditch bears South 85° East, 1225 feet from the Northeast corner of Sec. 16, Twp. 9 South, Range 38 East, for the irrigation of 10 acres of land in Lot 1; 10.2 acres in the Southwest quarter of the Northwest quarter, 20 acres in the North half of the Southwest quarter, 4.5 acres in Lot 2, all in Sec. 15, Twp. 9 South, Range 38 East; 20.3 acres in Lot 1, Sec. 16, Twp. 9 South, Range 38 East.
- 37 Lava Irrigation Company 20.5 c.f.s. Said water to be diverted through the Lava Irrigation Company's canal, which diverts water from the Portneuf River in Lot 3, Sec. 10, Twp. 9 South, Range 38 East. From the Southwest corner of Sec. 10, the point of diversion bears North 5° East, 2120 feet, for the irrigation of land under the Company's canal, described as follows: 45.1 acres in Lot 5, Sec. 20; 12 acres in the Southwest quarter of the Northwest quarter, Sec. 20; 26.92 acres in the Northeast quarter of the Northeast quarter, 40.14 acres in the Northeast quarter of the Northwest quarter. Sec.

quarter of Sec. 17;
 66.68 acres in Lot 7 and
 the Southeast quarter of
 the Northwest quarter,
 Sec. 20, 45.8 acres in
 Lots 8 and 9, Sec. 20;
 50.75 acres in the North-
 west quarter of the North-
 east quarter, and the
 North half of the South-
 west quarter of the North-
 east quarter, Sec. 20;
 39.85 acres in the South
 half of the Southwest
 quarter of the Northeast
 quarter, and Lot 6, Sec.
 20; 71.2 acres in the
 North half of the North-
 west quarter, Sec. 21;
 50.48 acres in the South
 half of the Southeast
 quarter, Sec. 17; 1.2 acres
 in Lots 4 and 5, and the
 Northwest quarter of the
 Southeast quarter of Sec.
 19; 21.8 acres in Lots 6
 and 7, Sec. 19; 104.8
 acres in Lots 4 and 5, Sec.
 15; and the Northeast
 quarter of the Southeast
 quarter, and the East half
 of the Northeast quarter
 Sec. 16; 50 acres in Lots
 7 and 8, Sec. 21; 17.2
 acres in Lot 6, Sec. 21;
 42.7 acres in Lot 5, Sec.
 21; 5.9 acres in the North
 west quarter of the North-
 east quarter of Sec. 21;
 32.8 acres in the South
 half of the Northeast and
 the Northeast quarter of
 the Northeast quarter of
 Sec. 21; 55.4 acres in the
 South half of the South-
 west quarter, Sec. 16;
 55.5 acres in the South-
 east quarter of the North-
 west quarter, Sec. 21; all
 in Township 9 South, Range
 38 East.

Said water to be diverted
 by means of the Fairchild
 Pumping Plant. The point
 of diversion of the said
 Fairchild Pumping Plant
 bears North 21° 3' East,
 2125 feet, from the North-
 west corner of Sec. 27,
 Twp. 9 South, Range 37

No.	Name of Claimant and Date of Priority	Amount in Second Feet	Point of Diversion and Place of Use
39	Fairchild, Mrs. A.A. May 1, 1903	.10 c.f.s.	Said water to be diverted through the Fairchild Ditch, which diverts water furnished through a private pumping system called the Fairchild pumping plant, in Lot 4, Sec. 23, Twp. 9 South, Range 37 East. From the Southwest corner of Sec. 15, Twp. 9 South, Range 37 East, the point of diversion bears South 22° East, 2930 feet, for the irrigation of 5 acres of land in Lot 4, Sec. 22, Twp. 9 South, Range 37 East.
40	Portneuf Irrigating Company March 27, 1889	25. c.f.s.	Said water to be diverted through the Portneuf Irrigating Company's Canal which diverts water from the Portneuf River in the Southeast quarter of the Northwest quarter, Sec. 22, Twp. 9 South, Range 37 East. From the Southwest corner of Sec. 22, the point of diversion bears North 44°45' East, 3550 feet. The water is carried from the point of diversion through a short stretch of canal, to the Portneuf Marsh Valley Irrigation Company's canal, through which it is delivered to points of diversion of the Company's laterals and main canals, diverting directly from the Portneuf Marsh Valley Irrigation Company's main canal. The point of diversion of the main lateral, called the Portneuf Irrigating Company's Ditch, is located in the Northwest quarter of the Northeast quarter, Sec. 30, Twp. 9 South, Range 37 East. From the North quarter corner of Sec. 30, the point of diversion bears South 9°50' East, 1170 feet. The water entering the headgates of the Portneuf-M Marsh Valley Irrigation

laterals and the main canal above described:
 For the irrigation of 3234.7 acres located as follows:
 5.4 acres in the Southwest quarter of the Northeast
 quarter, 20.7 acres in the Southwest quarter of the
 Southwest quarter of Section 24, Twp. 9 South, Range 36
 East; 14.5 acres in the Southeast quarter of the North-
 west quarter, 22.5 acres in the Northeast quarter of the
 Southwest quarter; 78.5 acres in the South half of the
 Southwest quarter; Sec. 31, Twp. 9 South, Range 37 East;
 24.6 acres in the Southeast quarter of the Southeast
 quarter, Sec. 36, Twp. 9 South, Range 36 East; 95 acres
 in Section 1, Twp. 10 South, Range 36 East; 532.6 acres
 in Section 6, Twp. 10 South, Range 37 East; 76.8 acres in
 the North half of the Northwest quarter, 75.2 acres in the
 North half of the Northeast quarter, .8 acre in Lot 2,
 Tract Lot 3, 38 acres in Tract in the Northwest quarter
 and a tract in the Northeast quarter, Section 7, Twp. 10
 South, Range 37 East; 40.1 acres in the Southeast quarter
 24.8 acres in the Northeast quarter, 14.7 acres in the
 North half of the Northwest quarter of Sec. 36, Twp. 9
 South, Range 36 East; 12.1 acres in the East half of the
 Southwest quarter, 127 acres in the Southeast quarter
 Section 25, Twp. 9 South, Range 36 East; 91.5 acres in the
 Southwest quarter of Section 30, Twp. 9 South, Range 37
 East; 23.9 acres in the Northwest quarter of the Northeast
 quarter, 78 acres in the East half of the Northeast quarter,
 21.6 acres in the Northeast quarter of the Southeast quarter
 Section 36, Twp. 9 South, Range 36 East; 68.4 acres in the
 West half of the Northwest quarter, 5 acres in the Northeast
 quarter of the Northwest quarter, 40 acres in the Northwest
 quarter of the Southwest quarter, Section 31, Twp. 9 South,
 Range 37 East; 7.4 acres in a Tract in the Southwest quarter
 of the Southwest quarter, Section 19, Twp. 9 South, Range 37
 East; 8 acres in a tract in the Northwest quarter of the
 Northwest quarter, Section 30, Twp. 9, Range 37 East; 12.5
 acres in Lot 6, 39.6 acres in Lot 7, 7.5 acres in Lot 8,
 Section 20, Twp. 9 South, Range 37 East; 66.9 acres in the
 Southwest quarter, 4.5 acres in the Northwest quarter of the
 Southeast quarter, Section 17, Twp. 10 South, Range 37 East;
 25 acres in the East half of the Southeast quarter, Section
 18, 10.4 acres in a tract in the Northwest quarter of the
 Northwest quarter, Section 20, 8.1 acres in a tract in the
 Northeast quarter of the Northeast quarter, Section 19, 5
 acres in the Southwest quarter of the Northeast quarter,
 Section 17, Township 10 South, Range 37 East; 78.7 acres in
 the West half of the Southeast quarter, 41.5 acres in the
 East half of the Southwest quarter, Section 18, Twp. 10 South,
 Range 37 East; 10.3 acres in the Southwest quarter of the
 Northeast quarter, 20.2 acres in the Northwest quarter of the
 Southeast quarter, 9 acres in the Northeast quarter of the
 Southwest quarter, Section 24, Twp. 9 South, Range 38 East;
 25.2 acres in the Northeast quarter of the Southwest quarter,
 15.4 acres in the Southeast quarter of the Northwest quarter,
 Section 3, Twp. 10 South, Range 37 East; 12.2 acres in a
 tract in the South half of the Northwest quarter, Section 30,
 Twp. 9 South, Range 37 East; 64.2 acres in a tract in the
 Northeast quarter, 37 acres in a tract in the north half of
 the Northwest quarter, Section 26, Twp. 9 South, Range 36
 East; 44.6 acres in a tract in the Northwest quarter, 26.5

36.3 acres in the Northeast quarter of the Southeast quarter, Section 7, Twp. 10 South, Range 36 East; 40 acres in the Northwest quarter of the Southwest quarter, Section 8, Twp. 10 South, Range 36 East; 10 acres in a tract in the Northwest quarter of the Northeast quarter, 12 acres in a tract in the Northwest quarter, Section 20, Twp. 9 South, Range 37 East; 13.8 acres in Lot 9, 50 acres in the Southwest quarter of the Southeast quarter, 47.3 acres in a tract in the South half of the Southwest quarter, Section 19, Township 9 South, Range 37 East; 37 acres in a tract in the West half of the Northwest quarter, 26.8 acres in the Northwest quarter of the Southwest quarter, Section 20, Twp. 10 South, Range 37 East; 12.1 acres in a tract in the East half of the Northeast quarter; 8.7 acres in a tract in the Northeast quarter of the Southeast quarter, Section 19, Twp. 10 South, Range 37 East; 15.6 acres in a tract in the South half of the Northwest quarter of Section 17, Twp. 10 South, Range 37 East; 17.2 acres in a tract in Lot 8, 13.4 acres in a tract in the Southwest quarter of the Southwest quarter, Section 20, 4.1 acres in Lot 8, Section 21, 4.9 acres in the West half of the Northwest quarter, Section 29, 10.5 acres in the Southeast quarter of the Southwest quarter, 24.6 acres in a tract in the West half of the Southwest quarter, 4.1 acres in a tract in Lot 8, Section 20, 73.6 acres in a tract in the Northwest quarter of Section 20, 32.3 acres and a tract in the East half of the Northeast quarter, Section 20, Twp. 9 South, Range 37 East; 27.3 acres in a tract in the North half of the Northwest quarter, Section 17, 5.3 acres in a tract in the Northeast quarter of the Northwest quarter, Section 18; 43.1 acres in a tract in the Northwest quarter, Section 17, Twp. 10 South, Range 37 East; 16 acres in Lot 8, Section 20, and Lot 6, Section 21, Twp. 9 South, Range 37 East; 21.4 acres in a tract in the Northwest quarter of Section 17, 69.4 acres in a tract in the East half of the Northeast quarter, Section 18, 71.6 acres in the West half of the Northwest quarter, Section 8, 50.4 acres in the West half of the Southwest quarter, Section 8, 12.4 acres in a tract in the South half of the Southwest quarter, Section 8, 2.4 acres in a tract in the Southeast quarter of the Southeast quarter, Section 7; 62.7 acres in a tract in the South half of the Southwest quarter, Section 8, 31.6 acres in a tract in the Southeast quarter of the Southeast quarter, Section 7, 24.7 acres in a tract in the South half of the Northwest quarter, 1 acre in a tract in the Southwest quarter of the Northwest quarter, Section 17, Twp. 10 South, Range 37 East; 54.5 acres in the North half of the Northeast quarter, 5 acres in a tract in the Northeast quarter of the Northwest quarter, Section 20, 42.7 acres in the Southeast quarter of the Southeast quarter, Lot 8, in Section 19, tract in the Northeast quarter of the Northeast quarter, Section 20, and tract in Lot 8, Section 20, Twp. 9 South, Range 37 East.

PORTRUF-MARSH VALLEY CANAL COMPANY'S CANAL. This canal diverts from the Portneuf River in Lot 7, Section 22, Twp. 9 South, Range 37 East. From the Southwest corner of Section 22, the point of diversion bears North 81°30' East, 3125 feet.

POPOHON FINDER CANAL, of the Portneuf-Marsh Valley Canal Company.

corner of Section 3, Twp. 7 South, Range 38 East the point of diversion bears North 58°40' West, 395 feet.

THE PORTNEUF-MARSH VALLEY CANAL COMPANY RESERVOIR AND DAM is located in the following legal subdivisions: The dam proper is located in Lot 4, Section 19, Twp. 6 South, Range 39 East, and covers lands in Sections 11, 13, 14 and 24, Twp. 6 South, Range 39 East. The point of diversion of this dam, which is located across the channel of the Portneuf River, is in Lot 4, Section 19, Twp. 6 South, Range 39 East. From the Southwest corner of Section 19, the point of diversion bears North 41°30' East, 1285 feet.

The drainage canal of said company begins at the outlet of impounding dam above described or in the Southwest quarter of the Southwest quarter, Section 19, and enters the Portneuf River at or about the North quarter corner of Section 26, Twp. 7 South, Range 38 East.

41 Portneuf-Marsh Valley
Canal Company
Normal Flow
Dec. 18, 1907
July 6, 1912
176.85 c.f.s.

Storage water 16,410
Acres Feet.

This being the capacity of the storage reservoir above described.

This storage water to be delivered free from loss, from the reservoir to the point of diversion on the Portneuf-River above described, for the Portneuf-Marsh Valley Canal Company's Canal, through said Company's drainage canal, and the River channel.

42 Portneuf-Marsh Valley
Canal Company Feeder
Canal from Toponce
Creek
Dec. 18, 1907
July 6, 1912

During the non-irrigating season, that amount being the maximum capacity of said feeder canal, to supply storage water above

and
Place of Use

legal sub-division: The East half of the Southwest quarter, Section 5; the Northeast quarter of the Southeast quarter, the Northwest quarter of the Northeast quarter, the East half of the Northeast quarter, Section 17; the Northwest quarter of the Northeast quarter, the Southeast quarter of the Northwest quarter, the Southwest quarter of the Northeast quarter, the Northwest quarter of the Southeast quarter, Section 20; the East half of the Northwest quarter, the West half of the Northeast quarter, the East half of the Southwest quarter, the Southwest quarter of the Southwest quarter, Section 29; the Northwest quarter of the Northwest quarter, the West half of the Southeast quarter, the East half of the Southwest quarter, the Northwest quarter of the Northeast quarter, the Northeast quarter of the Southeast quarter, the Southwest quarter of the Southwest quarter, the Southeast quarter of the Southeast quarter, the Northeast quarter of the Northwest quarter, the Southeast quarter of the Northeast quarter, Section 33; the West half of the Southeast quarter, the East half of the Southeast quarter, Section 31; all in Twp. 10 South, Range 37 East, the South half of the Southwest quarter, the Northeast quarter of the Southwest quarter, the Southwest quarter of the Northwest quarter, the Northwest quarter of the Southwest quarter, the Northwest quarter of the Northwest quarter, the Northeast quarter of the Northeast quarter, Section 6; the Southwest quarter of the Northwest quarter, the Northwest quarter of the Southwest quarter, the Southeast quarter of the Southeast quarter, the Southwest quarter of the Southeast quarter, Section 8; the South half of the Southwest quarter, Section 4; the South half of the Southwest quarter, the North half of the Southwest quarter, the Northwest quarter of the Northwest quarter, Section 9; the Southwest quarter of the Southwest quarter, the North half of the Northwest quarter, the Southeast quarter of the Southeast quarter, the Northeast quarter, the West half of the Southeast quarter, the South half of the Northwest quarter, the Northeast quarter of the Southwest quarter, the Southeast quarter of the Southwest quarter, Section 8; the Northwest quarter of the Southeast quarter, the Northeast quarter of the Southwest quarter, the North half of the Northeast quarter, the South half of the Southeast quarter, the Southeast quarter of the Southwest quarter, the Southeast quarter of the Northwest quarter, the West half of the Southwest quarter, the South half of the Northeast quarter, the Northeast quarter of the Southeast quarter, the West half of the Northwest quarter, Section 7; the Southwest quarter of the Southwest quarter, the Northeast quarter of the Northwest quarter, the Northeast quarter of the Northeast quarter, the Southeast quarter of the Southeast quarter, the West half of the Northwest quarter, the North half of the Southeast quarter, the Northwest quarter of the Northeast quarter, the Southwest quarter of the Southeast quarter, the Northwest quarter of the Southwest quarter, the South half of the Northeast quarter, Section 13; the Southwest quarter of the Northwest quarter, the West half of the Southwest quarter, the Northwest quarter of the Northwest quarter, the Southeast quarter of the Northwest quarter, the Southwest quarter of the Northeast quarter, the East half of the Northeast quarter, the Northwest quarter of the Northeast quarter, the Northeast quarter of the Southwest quarter, the Southeast quarter of the Southeast quarter, Southeast quarter of the Southwest quarter, Section 17; the South half of the Southeast quarter of the Southeast quarter, the West half of the Northwest quarter, the West half of the Southwest quarter, the Northwest quarter of the Southeast quarter, a tract in the East half of the West half, the Southwest quarter of the Southeast quarter, the Southeast quarter of the Southwest quarter, a tract in the Southeast

half of the Northeast quarter, the Southwest quarter of
the Southeast quarter, the Southwest quarter of the South-
east quarter, a tract in the Southwest quarter of the
Northwest quarter, Section 19; the Northeast quarter of
the Southeast quarter, the West half of the Southwest
quarter, the East half of the Northeast quarter, the East
half of the Southwest quarter, the South half of the
Southeast quarter, the Southwest quarter of the Northeast
quarter, the Northwest quarter of the Southeast quarter,
the East half of the Northwest quarter, Section 20; the
Southeast quarter of the Northeast quarter, a tract in the
Northwest quarter of the Southeast quarter, a tract in the
Southwest quarter of the Southeast quarter, a tract in the
Southeast quarter of the Southeast quarter, the Northwest
quarter of the Northeast quarter, the Southwest quarter of
the Northwest quarter, the Northwest quarter of the South-
west quarter, the Southeast quarter of the Northwest quarter,
the Northeast quarter of the Southwest quarter, a tract in
the South half of the Southwest quarter of the Southeast
quarter, a tract in the Northeast quarter of the Southeast
quarter, the Northwest quarter of the Northwest quarter, a
tract in the Northeast quarter of the Northeast quarter, a
tract in the Southeast quarter of the Northeast quarter, a
tract in the Northeast quarter of the Southeast quarter,
the South half of the Southwest quarter, Section 21; a
tract in the South half of the Northwest quarter, the South
half of the Southwest quarter, the Southwest quarter of the
Southeast quarter, a tract in the West half, the South half
of the Northwest quarter, the North half of the Southwest
quarter, Section 22; the Southwest quarter of the Northeast
quarter, the Southeast quarter of the Northwest quarter, the
North half of the Northwest quarter, the Northwest quarter
of the Northeast quarter, the North half of the Southeast
quarter, Section 23; the Northwest quarter, the East half of
the Northeast quarter, the West half of the Northeast quarter
the Northeast quarter of the Southwest quarter, the West half
of the Southeast quarter, the Northwest quarter of the South-
west quarter, the East half of the Southeast quarter, the
South half of the Southwest quarter, Section 24; the South
half of the Southeast quarter, the South half of the Northwest
quarter, the East half of the Northeast quarter, the Northeast
quarter of the Southeast quarter, the East half of the South-
west quarter, the Northwest quarter of the Southeast quarter,
the Southwest quarter of the Northeast quarter, the West half
of the Southwest quarter, the Northwest quarter of the North-
east quarter, the North half of the Northwest quarter, Section
25; the East half of the Northwest quarter, the Northwest
quarter of the Northeast quarter, the Southwest quarter of the
Northeast quarter, the Northwest quarter of the Southeast
quarter, the East half of the Northeast quarter, the East half
of the Southeast quarter, the East half of the Southwest quar-
ter, the Southwest quarter of the Southeast quarter, Section
26; the Southwest quarter of the Northeast quarter, the North-
east quarter of the Northwest quarter, the East half of the
Northeast quarter, the Northwest quarter of the Northeast
quarter, Section 27; the West half of the Northeast quarter,
the East half of the Northwest quarter, the West half of the
Southeast quarter, the Northeast quarter of the Southwest
quarter, the East half of the Northeast quarter, the West half
of the Southwest quarter, the West half of the Northwest
quarter, Section 28; the Northeast quarter of the Northeast
quarter, the Southwest quarter of the Southeast quarter, the

west quarter, the East half of the Northwest quarter, a tract in the Northwest quarter of the Northeast quarter, of the Northeast quarter, Section 33; the East half of the Southwest quarter, a tract in the Southwest quarter of the Southeast quarter, a tract in the East half of the Northwest quarter of the Southwest quarter, Section 34, all in Township 11 South, Range 37 East; the Northeast quarter of the Southeast quarter, Section 1; the Northwest quarter of the Northeast quarter, the Northeast quarter of the Northwest quarter, the East half of the Northeast quarter, Section 12; the South half of the Northeast quarter, the Southeast quarter of the Southwest quarter, the South half of the Southeast quarter, the Northeast quarter of the Southwest quarter, the North half of the Southeast quarter, Section 13; the South half of the Northeast quarter, the Northeast quarter of the Southeast quarter, Section 24, all in Township 11 South, Range 36 East; the Southwest quarter of the Northwest quarter, the Northwest quarter of the Northwest quarter, the West half of the Northeast quarter, the Southeast quarter of the Northeast quarter, the Northwest quarter of the Southeast quarter, Section 3; the North half of the Northeast quarter, the Southeast quarter of the Northeast quarter, the Northeast quarter of the Northwest quarter, Section 4; the Northeast quarter of the Southeast quarter, the Southeast quarter of the Northeast quarter, Section 5, all in Township 12 South, Range 37 East.

The amount of water as above awarded does not limit the total amount which may hereafter be found as an amount to which the said Portneuf-Marsh Valley Irrigation Company may be entitled, which according to its permit would ultimately be 244.4 Second Feet. The additional amount over 176.25 up to the 244.4 Second Feet is conditioned upon the compliance with the terms of said permit, upon which the appropriation is based, the said permit having been issued by the State Engineer of the State of Idaho, and being numbered 8378, under the date of priority, December 18, 1907, and the same is subject to the provisions of the Laws of the State of Idaho governing the issuance of water licenses by the Commissioner of Reclamation of said State.

No.	Name of Claimant and Date of Priority	Amount in Second Feet	Point of Diversion and Place of Use
43	Shumway, A. P. May 1, 1909	.80 c.f.s.	Said water to be diverted through the Cutler Ditch, which has its intake from the Portneuf River in Lot 1, Sec. 21, Twp. 9 South, Range 37 East. From the Northeast corner of Sec. 21, the point of diversion bears South 22° East. 1970

	and Date of Priority	Second Feet	and Place of Use
44	Gittins, J.F. May 1, 1896	.34 c.f.s.	Said water to be diverted through the said Cutler Ditch, last above described, for the irrigation of lands in the Northwest quarter of the Northeast quarter, Sec. 20, Twp. 9 South, Range 37 East.
146	Gittins, J.F. July 1, 1892	.22 c.f.s.	Said water to be diverted through the said Cutler Ditch, last above described, for the irrigation of 11 acres of land in Lot 4, and the Northwest quarter of the Northeast quarter, Sec. 20, Twp. 9 South, Range 37 East.
147	Gittins, J.F. July 1, 1892	.17 c.f.s.	Said water to be diverted through the said Cutler Ditch, last above described, for the irrigation of 8.6 acres of land in the Southwest quarter of the Southeast quarter Sec. 17, Twp. 9 South, Range 37 East.
46	McCannon Ditch Company June 11, 1889 June 28, 1901	50 c.f.s. 18.95 c.f.s.	Said water to be diverted through the McCannon Ditch Company's Ditch, which diverts water from the Fortsnuff River in the Southwest quarter of the Northeast quarter, Sec. 21, Twp. 9 South, Range 37 East. From the South quarter corner of Sec. 21 the point of diversion bears North 22°45' East, 5080 feet, for the irrigation of 2447.37 acres of land in the legal subdivisions described as follows: The Southwest quarter, Lots 5, 6 and 7, the West half of the Southeast quarter, the East half of the Northwest quarter, Sec. 12; Sec. 13; The Southeast quarter of the Southeast quarter, the Southwest quarter of the Southeast quarter, the

west quarter, and the Northeast quarter of the Southwest quarter, Sec 14; a tract East of Marsh Creek in the Northeast quarter, and the East half of the Southeast quarter, Sec. 22; Sec. 23; Sec. 24; the West half of the Northeast quarter, the Northwest quarter, the Southwest quarter, the Northwest quarter of the Southeast quarter, Sec. 25; Lot 3, the Southeast quarter of the Northeast quarter, the North half of the Northeast quarter, Sec. 27, all in Twp. 9 South, Range 36 East; Lots 6, 7, 8, 9, 10 and 11, Sec. 18; all that portion of Sec. 19 lying West and South of the Portneuf River; Lot 5, Sec. 20; Lots 6 and 8, Sec. 21, all in Twp. 9 South, Range 37 East.

47 Benson, Amosiah .70 a.f.s. Said water to be diverted through the Hale-Harkness Ditch. Two groups of springs form the source of this ditch. One group is located North 61° East, about 700 feet, and the other group is located South 57° West, about 1900 feet from the Northeast corner of the Southeast quarter of Section 13, Twp. 9 South, Range 36 East, for the irrigation of lands in the East half of the Northeast quarter, Sec. 14, Twp. 9 South, Range 36 East.

48 Brigham R. Green and Orson D. Robbins 2.0 a.f.s. Said water to be diverted through the said Hale-Harkness Ditch, last above described, for the irrigation of lands in the Southeast quarter, Sec. 11 Township 9 South, Range 36 East.

No.	Name of Claimant and Date of Priority	Amount in Second Feet	Point of Diversion and Place of Use
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described, for the irrigation of lands described as follows: Beginning at point on North boundary of Sec. 12, Twp. 9, South, Range 36 East B.M. at its intersection with west right of way line of the O.S.L. R.R., thence in Southeast direction along said West right of way line to North 1-16 Sec. line of Sec. 12; thence West to West boundary of Section; thence South to West quarter corner of said Sec. 12; thence West to center quarter corner of Sec. 11, same Twp. and Range, thence North to North quarter corner of same Section; thence East on North boundary of Sec. 11 and Sec. 12, to place of beginning, same comprising the Northeast quarter of Sec. 11; the Northwest quarter of the Northwest quarter of Sec. 12; and that portion of Lot 4, Sec. 12, lying West of West right of way line of the O.S.L. R.R., and containing 222.18 acres, more or less. Also beginning at corner No. 9 of Second Addition to Markness Townsite thence South 19°20' East, 60 feet; thence South 70°40' West 380 feet; thence South 19°20' East 320 feet, more or less, to latitudinal center line of Section 12, Twp. 9 South, Range 36 East, B.M.; thence West on said center line of Sec. 12 to its intersection with line of Northwest boundary of Markness Townsite projected in a Southwesterly direction; thence North 70°40' East along said projected line to place of beginning, same being part of the South half of the

and
Date of Priority

	and Date of Priority	Second Feet	and Place of Use
50	Orgill, Samuel May 1, 1880	.40 c.f.s.	Said water to be diverted through the said Hale-Harkness Ditch, last above described, for the irrigation of lands in Lot 10, Sec. 1, the South half of the Southeast quarter, and the Northwest quarter of the Southeast quarter, Sec. 2, Twp. 9 South, Range 36 East.
51	Boarriell, C. H. May 1, 1906	.40 c.f.s.	Said water to be diverted through a Private Ditch, having its intake from the Portneuf River in Lot 3, Sec. 19, Twp. 9 South, Range 37 East, for the irrigation of lands in Lots 1 and 2, the Northeast quarter of the Northeast quarter, Sec. 19, Lot 5, Sec. 18, all in Twp. 9 South, Range 37 East.
52	Lewis, William J. July 1, 1902	1.0 c.f.s.	Said water to be diverted through the Lewis-Goodenough Ditch, which diverts from the Portneuf River on the North Bank, in Lot 1, Sec. 12, Twp. 9, South, Range 36 East, for the irrigation of lands in Lots 5 and 6, Sec. 1, Twp. 9 South, Range 36 East.
53	Murphy, Ed. July 1, 1902	1.0 c.f.s.	Said water to be diverted through the Lewis-Goodenough Ditch, last above described, for the irrigation of lands in Lot 4, Sec. 1, Twp. 9 South, Range 36 East, and the Southwest quarter of the Southwest quarter, Sec. 36 Twp. 9 South, Range 36 East.
54	Orgill, Thomas July 1, 1902	.14 c.f.s.	Said water to be diverted through the said Lewis-Goodenough Ditch, last above described, for the irrigation of land in Lot 7, Sec. 1, Twp. 9 South, Range 36 East.
55	Goodenough, George July 1, 1902	1.72 c.f.s.	Said water to be diverted through the said Lewis-Goodenough Ditch, last

Southeast quarter of the Northeast quarter, and the East half of the Southeast quarter, Sec. 36, Twp. 8 South, Range 36 East.

56 O.S.L. R.R. Co.
July 1, 1888 .40 c.f.s.

O.S.L. R.R. Tank Water Supply. The point of diversion from the Portneuf River is located in Lot 7, Sec. 21, Twp. 9 South, Range 37 East. From the Northeast corner of Sec. 21, same Twp. and Range, the point of diversion bears Southwest 2100 feet, for culinary and domestic use.

68 Butterfield, A.J.
June 10, 1907 .06 c.f.s.
(3.1 inches)

Said water to be diverted through the Butterfield Ditch, which diverts water from Toponce Creek in the Southwest quarter of the Southeast quarter, Sec. 33 Twp. 6 South, Range 38 East. From the Northwest corner of Sec. 3, Twp. 7 South, Range 38 East, the point of Diversion bears North 82°30' West, 1295 feet, for the irrigation of 3.1 acres of land in the South half of the Southeast quarter, Sec. 33, Twp. 6 South, Range 38 East.

69 Butterfield, A.J.
April 1, 1914 .11 c.f.s.
(5.4 inches)

Said water to be diverted through the said Butterfield Ditch, last above described, for the irrigation of 5.4 acres of land in the Southwest quarter of the Southwest quarter, Sec. 34, Twp. 6 South, Range 38 East.

70 Butterfield, A.J.
July 18, 1907 .35 c.f.s.
(17.16 inches)

Said water to be diverted through the Jensen No. 7, sometimes called Jensen Ditch, which diverts from the channel of Toponce Creek in the Southeast quarter of the Southeast quarter, Sec. 33, Twp. 6, South, Range 38 East. From the Northwest corner of Section 3, Twp. 7 South, Range 38 East, the point of diversion bears North 43°20' East. 658 feet. for

No.	Name of Claimant and Date of Priority	Amount in Second Feet	Point of Diversion and Place of Use
			acres of land in the Southeast quarter of the Southeast quarter, Sec. 33, and the West half of the Southwest quarter, Section 34, Twp. 6 South, Range 38 East.
71	Butterfield, A.J. June 18, 1911	.06 c.f.s. (2.24 inches)	Said water to be diverted through the Jensen No. 7 sometimes called Jensen Ditch, last above described, for the irrigation of 2.24 acres of land in the West half of the Southwest quarter, Sec. 34, Twp. 6 South, Range 38 East.
72	Jensen, Parley F. May 19, 1906	1.0 c.f.s.	Said water to be diverted through the Jensen No. 7 sometimes called Jensen Ditch, last above described, for the irrigation of 49.9 acres of land in the North half of the Southwest quarter, the Southeast quarter of the Northwest quarter, the Northwest quarter of the Southeast quarter, Sec. 34 Twp. 6 South, Range 38 East.
74	Jensen, Parley F. June 18, 1902	.07 c.f.s.	Said water to be diverted through the said West and Bringham Ditch, last above described, for the irrigation of 3 acres of land in the Northwest quarter of the Northeast quarter, Sec. 34, Twp. 6 South, Range 38 East.
78	Jensen, Parley F. May 19, 1906	.06 c.f.s. (2.72 inches)	Said water to be diverted through Jensen Ditch No. 1, which diverts from Toponoe Creek, in the Southeast quarter of the Southwest quarter, Sec. 34, Twp. 6 South, Range 38 East. From the South quarter corner of Sec. 34, the point of diversion bears North 31°40' West, 1804 feet. For the irrigation of 2.72 acres of land in the Northeast

No.	Name of Claimant and Date of Priority	Amount in Second Feet	Swamp or Watercourse and Place of Use
79	Jensen, Farley P. May 19, 1905	.27 c.f.s. (13.4 inches)	Said water to be diverted through Jensen Ditch No. 2, which diverts from Toponce Creek in the Northeast quarter of the Southwest quarter, Sec. 34, Twp. 6 South, Range 38 East. From the South quarter corner of Sec. 34, the point of diversion bears North 3°15' East, 1850 feet, for the irrigation of 13.4 acres of land in the Northwest quarter of the Southeast quarter, Sec. 34, Twp. 6 South, Range 38 East.
80	Jensen, Farley P. May 19, 1905	.21 c.f.s. (10.5 inches)	Said water to be diverted through Jensen Ditch No. 3, which diverts from Toponce Creek, in the Northwest quarter of the Southeast quarter, Sec. 34, Twp. 6 South, Range 38 East. From the Southwest quarter corner of Sec. 34, the point of diversion bears North 8° 5' East, 2220 feet, for the irrigation of 10.5 acres of land in the Northwest quarter of the Southeast quarter, Sec. 34, Twp. 6 South, Range 38 East.
73	Jensen, Ben D. June 18, 1902	1.58 c.f.s.	Said water to be diverted through the West and Bringham Ditch, which diverts from the Toponce Creek, in the Southeast quarter of the Southeast quarter, Sec. 33, Twp. 6 South, Range 38 East. From the Northwest corner of Sec. 3, Twp. 7 South, Range 38 East, the point of diversion bears North 42°40' East, 452 feet, for the irrigation of 33.2 acres of land in the Northeast quarter of the Northeast quarter; 15 acres in the Southeast quarter of the Northeast quarter; 30 acres in the

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|----|---------------------------------|------------|---|
| 31 | Jensen, Ben D.
June 18, 1902 | .40 c.f.u. | Said water to be diverted through Jensen Ditch No. 4, which diverts from Toponce Creek, in the Southwest quarter of the Northeast quarter, Sec. 34, Twp. 6 South, Range 38 East. From the North quarter corner of Sec. 34, the point of diversion bears South 13°10' East, 2592 feet, for the irrigation of 20 acres of land in the Southwest quarter of the Northeast quarter; the Southeast quarter of the Northeast quarter; the Northeast quarter of the Southeast quarter, Sec. 34, Twp. 6 South, Range 38 East. |
| 32 | Jensen, Ben D.
June 18, 1902 | .74 c.f.u. | Said water to be diverted through Jensen Ditch No. 6, which diverts from Toponce Creek in the Northwest quarter of the Southeast quarter, Sec. 34, Twp. 6 South, Range 38 East. From the South quarter corner of Sec. 34, the point of diversion bears North 25°30' East, 2532 feet, for the irrigation of 37 acres of land located in the Northeast quarter of the Southeast quarter, Sec. 34, Twp. 6 South, Range 38 East. |
| 33 | Jensen, Ben D.
June 18, 1902 | .20 c.f.u. | Said water to be diverted through Jensen Private Ditch (named on the map of the State Engineer as "North Fork of the Toponce"), which diverts in the Southeast quarter of the Northeast quarter, Sec. 34, Twp. 6 South, Range 38 East. From the East quarter corner of Sec. 34, Twp. 6 South, Range 38 East, the point of diversion bears North 76° West, 1130 feet, for the irrigation of 10 acres of land in the Southeast quarter of the |

Date of Priority

Place of Use

75	Brangham, George June 18, 1902	1.76 c.f.s.	Said water to be diverted through the said West and Brangham Ditch, last above described, for the irrigation of 73.3 acres of land in the Southwest quarter of the Southwest quarter, Sec. 26; and the North half of the Northwest quarter, Sec. 26, Twp. 6 South, Range 38 East.
84	Brangham, George June 18, 1902	1.23 c.f.s.	Said water to be diverted through the Brangham Ditch. The point of diversion is located in the Northeast quarter of the Northeast quarter, Sec. 24, Twp. 6 South, Range 38 East. From the Northeast corner of Sec. 24, the point of diversion bears South 5°50' West, 1328 feet, for the irrigation of 61.7 acres of land in the Northwest quarter of the Northeast quarter, the North half of the Northwest quarter, Sec. 25, Twp. 6 South, Range 38 East.
77	West Side Canal Co. June 2, 1905 April 1, 1913	13.14 c.f.s. 3.48 c.f.s.	be Said water to/diverted through the West Side Canal, a continuation of the West and Brangham Ditch. Point of Diversion see West and Brangham Ditch, for the irrigation of 692.6 acres of land described as follows: 32.6 acres in the Southwest quarter of the Northeast quarter, Sec. 26, Twp. 6 South, Range 38 East; 33 acres in the Northeast quarter of the Northeast quarter, Sec. 20; the Southeast quarter of the Southeast quarter, Sec. 19, Twp. 6 South, Range 38 East; 26 acres in the Northwest quarter of the Northwest quarter, Sec. 29; 20 acres in the Southwest quarter of the Northwest quarter, Sec. 29; the Southeast quarter of the Northeast quarter,

Northeast quarter of the Southwest quarter, the Southwest quarter of the Northeast quarter, the Southeast quarter of the Northwest quarter, Sec. 32; 40 acres in the Southeast quarter of the Northwest quarter, 32 acres in the Southwest quarter of the Northeast quarter, 80 acres in the East half of the Southwest quarter, 80 acres in the West half of the Southeast quarter, 15 acres in the Southwest quarter of the Southwest quarter, in Sec. 29, Twp. 6 South, Range 39 East.

40 acres in the South half of the Southwest quarter, Sec. 3; 36 acres in the West half of the Northwest quarter, Sec. 10; 15 acres in the Northeast quarter of the Northeast quarter, 60 acres in the South half of the Northeast quarter, 40 acres in the Southeast quarter of the Northwest quarter, Sec. 9, Twp. 7 South, Range 39 East.

85 Toponce Canal Co.
June 17, 1902-1 p.m. 26.0 c.f.s.
June 18, 1902 4.0 c.f.s.
June 20, 1902 14.0 c.f.s.
June 28, 1902 .53 c.f.s.

Said water to be diverted through the Toponce Canal which diverts from Toponce Creek in the Southwest quarter of the Southeast quarter, Sec. 34, Twp. 6 South, Range 39 East. From the South quarter corner of Section 24, the point of diversion bears North 14°15' East, 2136 feet, for the irrigation of 1329.23 acres of land in the following legal subdivisions: 60 acres in the Northwest quarter of the Northeast quarter, the Southeast quarter of the Northwest quarter, Sec. 11; the Southwest quarter of the Southeast quarter, Sec. 2; 152 acres in the Southwest

No.	Name of Claimant and Date of Priority	Amount in Second Feet	Point of Beginning and Place of Use
			Sec. 11; 160 acres in the East half of the Northeast quarter, Sec. 11; the West half of the Northwest quarter, Sec. 12; 152.93 acres in the South half of the Southeast quarter, Sec. 1; the Northwest quarter of the Northeast quarter, the Northeast quarter of the Northwest quarter, Sec. 12; 148.25 acres in Lots 1 and 2 in the Southwest quarter of the Northeast quarter, the Southeast quarter of the Northwest quarter, the East half of the Southwest quarter Sec. 12; the North half of the Northwest quarter, Sec. 13; 70 acres in the East half of the Southeast quarter, Sec. 11; the West half of the Southwest quarter, Sec. 12; 27 acres in the Southwest quarter of the Southeast quarter, Sec. 11; the West half of the Northeast quarter, the Southeast quarter of the Northwest quarter, Sec. 14; 152 acres in the East half of the Northeast quarter, Sec. 14; the South half of the Northwest quarter, Sec. 13; 149.32 acres in the South half of the Northeast quarter, Sec. 23; the South half of the Northwest quarter, Sec. 24; 96.83 acres in the West half of the Southeast quarter, the East half of the Southwest quarter, Sec. 14; 16.36 acres in the East half of the Southeast quarter, Sec. 14, 94.05 acres in the South half of Sec. 13; 89 acres in the North half of the Northeast quarter, Sec. 23; the Northwest quarter of the Northwest quarter, Sec. 24; 40 acres in the Southeast quarter Sec. 13; 160 acres in the North half of the Southeast quarter, Sec. 23; the North half of the Southwest quarter Sec. 24; 16.71 acres in the Northeast quarter of the Northwest quarter, Sec. 23; 100 acres in the Southeast quarter of the Northwest

and
Date of Priority

Second Feet

XX and
Place of Use

in the North half of the Northeast quarter, the Southwest quarter of the Northeast quarter, the Northeast quarter of the Northwest quarter, Sec. 24; all in Twp. 7 South, Range 38 East; 136.16 acres in Lot 4, the Southwest quarter of the Southeast quarter, the Southeast quarter of the Southeast quarter, Sec. 13; Lots 1 and 2, the Northwest quarter of the Northeast quarter, the Northeast quarter of the Northeast quarter, Sec. 19, Twp. 7 South, Range 39 East.

94 Whitworth, Michael
June 13, 1902 .40 c.f.s.

Said water to be diverted through Howarth ~~xxx~~ Ditch No. 1, which diverts from King Creek in the Southwest quarter of the Southeast quarter, Sec. 14, Twp. 7 South, Range 38 East. From the South quarter corner of Sec. 14, Twp. 7 South, Range 38 East, the point of diversion bears North 3°45' East, 480 feet, for the irrigation of 30 acres of land in the South half of the Northeast quarter, Sec. 23; the South half of the Northwest quarter, Sec. 24, Twp. 7 South, Range 38 East.

From Heye

WHEREAS, it appears that the judgment in the case of Union Grain & Elevator Company, a corporation, plaintiff, v. McGannon Ditch Company, et al, defendants, rendered on the 6th day of June, 1927, in the Fifth Judicial District of the State of Idaho, in and for the County of Blaine, is an appeal in the Supreme Court of the State of Idaho and it being the intention of this court that the decision herein rendered, so far as the rights of the same parties, involving the same lands, appearing in said state court case and in the instant case are concerned, shall be and remain the same as finally

the entry of this decree for the purpose of correcting clerical errors, inadvertencies, omissions and descriptions in this decree.

It is the intention of the court in this decree to have the operation of the rights of defendants herein, who were parties in said state court case above referred to, to be had in and by said state court so as to avoid conflict in decrees in the operation thereof.

IT IS FURTHER ORDERED that the default of the defendant Union Grain & Elevator Company for failure to appear at the hearing before the referee in this case or submit proof in anywise, be and the same is hereby entered and likewise all other defendants upon whom process was had by the plaintiff or any cross-complainant for failure to appear and answer in this case be and the same is hereby entered.

Done in open court this 8th day of April, 1929.

CHARLES C. CAVANAH
District Judge

Endorsed, Filed April 8, 1929
W. D. McReynolds, Clerk

EXHIBIT 2

Tribal groundwater right set forth in
Article 7.2.1 of this Agreement.

.3 Right No. A27-11374

.i Source: Lincoln Creek/Lincoln Creek Basin
groundwater

.ii Annual Diversion Volume: 5,700 AFY

.iii Diversion Rate: 33.00 CFS

.iv Annual Volume of Consumptive Use: 3,768 AFY

.v Priority Date: June 14, 1867

.vi Existing Points of Diversion:

NENESE Sec 25 Twp 3S Rge 36E BM

NENWSE Sec 31 Twp 3S Rge 36E BM

Future points of diversion may be developed as
needed within the Lincoln Creek Basin to
utilize this water right within the Lincoln
Creek drainage basin.

.vii Purpose and Period of Use:

Irrigation 3/15 - 11/15

.viii Place of Use: 1,701 present and future acres.

.ix Basis of Right: Winters Doctrine

.x Remarks:

.a The Tribes shall have the option of using
surface water or groundwater diverted
within the Lincoln Creek basin to satisfy
this right, in whole or in part, provided
that any diversions of surface water or

groundwater by the Tribes in excess of 5,700 AFY from the Lincoln Creek basin shall be charged against the Tribal groundwater right set forth in Article 7.2.1 of this Agreement.

.4 Right No. 29-00466

- .i Source: Bannock Creek
- .ii Annual Diversion Volume: 3,095 AFY
- .iii Diversion Rate: 16.25 CFS
- .iv Annual Volume of Consumptive Use: 1,842 AFY
- .v Priority Date: June 14, 1867
- .vi Existing Points of Diversion:
 - NENWSE Sec 32 Twp 7S Rge 33E BM
 - SWSWSE Sec 21, NESWNW Sec 25 (2 POD) all in Twp 8S Rge 33E BM
 - NWSENE Sec 9, SWNESW Sec 22, SENESW Sec 27 all in Twp 9S Rge 33E BM
- .vii Purpose and Period of Use:
 - Irrigation 3/15 - 11/15
- .viii Place of Use: 774 present and future acres.
- .ix Basis of Right: The basis of the right is the Winters Doctrine with the relative share and priorities of the water allocations determined by the Bannock Creek Decree [United States v. Daniels (D. Idaho April 9, 1907)].
- .x Remarks:

.5 Right No. 29-00467

- .i Source: Bannock Creek, West Fork Bannock Creek
- .ii Annual Diversion Volume: 629 AFY
- .iii Diversion Rate: 3.30 CFS
- .iv Annual Volume of Consumptive Use: 374 AFY
- .v Priority Date: April 1, 1889
- .vi Existing Points of Diversion:
 - NENWSE Sec 32 Twp 7S Rge 33E BM
 - SWSWSE Sec 21, NESWNW Sec 25 (2 POD) all in Twp 8S Rge 33E BM
 - NWSENE Sec 9, SWNESW Sec 22, SENESW Sec 27 all in Twp 9S Rge 33E BM
- .vii Purpose and Period of Use:
 - Irrigation 3/15 - 11/15
- .viii Place of Use: 157 present and future acres.
- .ix Basis of Right: The basis of the right is the Winters Doctrine with the relative share and priorities of the water allocations determined by the Bannock Creek Decree [United States v. Daniels (D. Idaho April 9, 1907)].
- .x Remarks:

.6 Right No. 29-00468

- .i Source: Rattlesnake Creek
- .ii Annual Diversion Volume: 571 AFY

- .iii Diversion Rate: 3.00 CFS
- .iv Annual Volume of Consumptive Use: 340 AFY
- .v Priority Date: April 1, 1892
- .vi Existing Points of Diversion:
NENWSE Sec 32 Twp 7S Rge 33E BM
SWSWSE Sec 21, NESWNW Sec 25 (2 POD) all in
Twp 8S Rge 33E BM
NWSENE Sec 9, SWNESW Sec 22, SENESW Sec 27 all
in Twp 9S Rge 33E BM
- .vii Purpose and Period of Use:
Irrigation 3/15 - 11/15
- .viii Place of Use: 143 present and future acres.
- .ix Basis of Right: The basis of the right is the
Winters Doctrine with the relative share and
priorities of the water allocations determined
by the Bannock Creek Decree [United States v.
Daniels (D. Idaho April 9, 1907)].
- .x Remarks:

.7 Right No. 29-00469

- .i Source: West Fork Bannock Creek
- .ii Annual Diversion Volume: 190 AFY
- .iii Diversion Rate: 1.00 CFS
- .iv Annual Volume of Consumptive Use: 113 AFY
- .v Priority Date: May 1, 1894
- .vi Existing Points of Diversion:
NENWSE Sec 32 Twp 7S Rge 33E BM

SWSWSE Sec 21, NESWNW Sec 25 (2 POD) all in
Twp 8S Rge 33E BM

NWSENE Sec 9, SWNESW Sec 22, SENESW Sec 27 all
in Twp 9S Rge 33E BM

.vii Purpose and Period of Use:

Irrigation 3/15 - 11/15

.viii Place of Use: 48 present and future acres.

.ix Basis of Right: The basis of the right is the
Winters Doctrine with the relative share and
priorities of the water allocations determined
by the Bannock Creek Decree [United States v.
Daniels (D. Idaho April 9, 1907)].

.x Remarks:

.8 Right No. 29-00470

.i Source: West Fork Bannock Creek

.ii Annual Diversion Volume: 248 AFY

.iii Diversion Rate: 1.30 CFS

.iv Annual Volume of Consumptive Use: 147 AFY

.v Priority Date: April 1, 1894

.vi Existing Points of Diversion:

NENWSE Sec 32 Twp 7S Rge 33E BM

SWSWSE Sec 21, NESWNW Sec 25 (2 POD) all in
Twp 8S Rge 33E BM

NWSENE Sec 9, SWNESW Sec 22, SENESW Sec 27 all
in Twp 9S Rge 33E BM

- .vii Purpose and Period of Use:
Irrigation 3/15 - 11/15
 - .viii Place of Use: 62 present and future acres.
 - .ix Basis of Right: The basis of the right is the Winters Doctrine with the relative share and priorities of the water allocations determined by the Bannock Creek Decree [United States v. Daniels (D. Idaho April 9, 1907)].
 - .x Remarks:
- .9 Right No. 29-00471
- .i Source: Bannock Creek
 - .ii Annual Diversion Volume: 248 AFY
 - .iii Diversion Rate: 1.30 CFS
 - .iv Annual Volume of Consumptive Use: 147 AFY
 - .v Priority Date: April 1, 1894
 - .vi Existing Points of Diversion:
NENWSE Sec 32 Twp 7S Rge 33E BM
SWSWSE Sec 21, NESWNW Sec 25 (2 POD) all in
Twp 8S Rge 33E BM
NWSENE Sec 9, SWNESW Sec 22, SENESW Sec 27 all
in Twp 9S Rge 33E BM
 - .vii Purpose and Period of Use:
Irrigation 3/15 - 11/15
 - .viii Place of Use: 62 present and future acres.
 - .ix Basis of Right: The basis of the right is the Winters Doctrine with the relative share and

priorities of the water allocations determined by the Bannock Creek Decree [United States v. Daniels (D. Idaho April 9, 1907)].

.x Remarks:

.10 Right No. 29-00472

- .i Source: West Fork Bannock Creek
- .ii Annual Diversion Volume: 190 AFY
- .iii Diversion Rate: 1.00 CFS
- .iv Annual Volume of Consumptive Use: 113 AFY
- .v Priority Date: April 1, 1898
- .vi Existing Points of Diversion:
 - NENWSE Sec 32 Twp 7S Rge 33E BM
 - SWSWSE Sec 21, NESWNW Sec 25 (2 POD) all in Twp 8S Rge 33E BM
 - NWSENE Sec 9, SWNESW Sec 22, SENESW Sec 27 all in Twp 9S Rge 33E BM
- .vii Purpose and Period of Use:
 - Irrigation 3/15 - 11/15
- .viii Place of Use: 48 present and future acres.
- .ix Basis of Right: The basis of the right is the Winters Doctrine with the relative share and priorities of the water allocations determined by the Bannock Creek Decree [United States v. Daniels (D. Idaho April 9, 1907)].
- .x Remarks:

.11 Right No. 29-00473

- .i Source: West Fork Bannock Creek
- .ii Annual Diversion Volume: 190 AFY
- .iii Diversion Rate: 1.00 CFS
- .iv Annual Volume of Consumptive Use: 113 AFY
- .v Priority Date: April 1, 1898
- .vi Existing Points of Diversion:
 - NENWSE Sec 32 Twp 7S Rge 33E BM
 - SWSWSE Sec 21, NESWNW Sec 25 (2 POD) all in
 - Twp 8S Rge 33E BM
 - NWSENE Sec 9, SWNESW Sec 22, SENESW Sec 27 all
 - in Twp 9S Rge 33E BM
- .vii Purpose and Period of Use:
 - Irrigation 3/15 - 11/15
- .viii Place of Use: 48 present and future acres.
- .ix Basis of Right: The basis of the right is the Winters Doctrine with the relative share and priorities of the water allocations determined by the Bannock Creek Decree [United States v. Daniels (D. Idaho April 9, 1907)].
- .x Remarks:

.12 Right No. 29-00474

- .i Source: West Fork Bannock Creek
- .ii Annual Diversion Volume: 190 AFY
- .iii Diversion Rate: 1.00 CFS
- .iv Annual Volume of Consumptive Use: 113 AFY

- .v Priority Date: April 1, 1901
 - .vi Existing Points of Diversion:
 - NENWSE Sec 32 Twp 7S Rge 33E BM
 - SWSWSE Sec 21, NESWNW Sec 25 (2 POD) all in Twp 8S Rge 33E BM
 - NWSENE Sec 9, SWNESW Sec 22, SENESW Sec 27 all in Twp 9S Rge 33E BM
 - .vii Purpose and Period of Use:
 - Irrigation 3/15 - 11/15
 - .viii Place of Use: 48 present and future acres.
 - .ix Basis of Right: The basis of the right is the Winters Doctrine with the relative share and priorities of the water allocations determined by the Bannock Creek Decree [United States v. Daniels (D. Idaho April 9, 1907)].
 - .x Remarks:
- .13 Right No. A29-12049
- .i Source: Bannock Creek
 - .ii Annual Diversion Volume: 18,833 AFY
 - .iii Diversion Rate: 98.87 CFS
 - .iv Annual Volume of Consumptive Use: 11,205 AFY
 - .v Priority Date: June 14, 1867
 - .vi Existing Points of Diversion:
 - NENWSE Sec 32 Twp 7S Rge 33E BM
 - SWSWSE Sec 21, NESWNW Sec 25 (2 POD) all in Twp 8S Rge 33E BM

NWSENE Sec 9, SWNESW Sec 22, SENESW Sec 27 all
in Twp 9S Rge 33E BM

NESWSE Sec 6 Twp 7S Rge 33E BM

(3 - 20 HP pumps for Michaud Project)

Future Points of Diversion may be developed
within the Bannock Creek basin to utilize this
water right within the Bannock Creek drainage
basin.

.vii Purpose and Period of Use:

Irrigation 3/15 - 11/15

.viii Place of Use: 4,708 present and future acres.

.ix Basis of Right: Winters Doctrine

.x Remarks:

.a The Tribes and the United States agree to
exercise this right in a manner that will
ensure that persons with water rights
decreed in the Bannock Creek Decree
[United States v. Daniels (D. Idaho
April 9, 1907)] and that are confirmed in
the SRBA continue to receive their full
legal entitlement.

.14 Right No. A29-12050

.i Source: Portneuf River/Jeff Cabin Creek

.ii Annual Diversion Volume: 970 AFY

.iii Diversion Rate: 9.70 CFS

.iv Annual Volume of Consumptive Use: 727.50 AFY

EXHIBIT 3

IDAHO DEPARTMENT OF WATER RESOURCES
RECOMMENDED WATER RIGHTS ACQUIRED UNDER STATE LAW

RIGHT NUMBER: 29-10990

NAME AND ADDRESS: BARRY T WILLIAMS
1277 MINK CREEK RD
ARBON ID 83212

SOURCE: RATTLESNAKE CREEK

TRIBUTARY: BANNOCK CREEK

QUANTITY: 4.200 CFS

PRIORITY DATE: 04/01/1892

POINT OF
DIVERSION: T09S R34E S35 NESWSE Within POWER County

PURPOSE AND
PERIOD OF USE:

<u>PURPOSE OF USE</u>	<u>PERIOD OF USE</u>	<u>QUANTITY</u>
IRRIGATION	04/01 10/31	4.200 CFS

PLACE OF USE: IRRIGATION Within POWER County

T10S R33E S12	SWSE	19.0	T10S R33E S12	SESE	39.0
T10S R33E S13	NENE	40.0	T10S R33E S13	NWNE	40.0
T10S R34E S18 Lot 1 NWNW		29.0			

167 ACRES TOTAL

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

This water right will be delivered in accordance with the 1990 Fort Hall Indian Water Rights Agreement and Partial Final Consent Decree Determining the Rights of the Shoshone-Bannock Tribes to the Use of Water in the Upper Snake River Basin. The parties agreed to "continue the historic water allocations pursuant to the Bannock Creek Decree [the decree in United States v. Daniels, (D. Idaho April 9, 1907, unpublished)]." Directors Report for the 1990 Fort Hall Indian Water Rights Agreement, p. 8 para. 4. "The Tribes and the United States shall exercise this right in a manner that ensures persons with water rights decreed in the Bannock Creek Decree [United States v. Daniels (D. Idaho April 9, 1907)] and that are confirmed in the SRBA continue to receive their full legal entitlement." Partial Final Consent Decree Determining the Rights of the Shoshone-Bannock Tribes to the Use of Water in the Upper Snake River Basin, p. 19-20, 25-26, Right Nos. 29-12848 and 29-12049 respectively (August 2, 1995). In times of shortage, this water right and other water rights decreed in United States v. Daniels, shall receive their full legal entitlement despite the federal based natural flow water right nos. ~~29-466, 29-467, 29-469, 29-470, 29-471, 29-472, 29-473, 29-474,~~ 29-12049 and 29-12848.

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 - Decreed

RIGHT INCLUDES ACCOMPLISHED CHANGE IN PLACE OF USE PURSUANT TO SECTION 42-1425, IDAHO CODE.

THIS RIGHT IS A COMBINATION OF OLD RIGHT NOS. 29-468 AND 29-475.

Other Stipulations of Parties: By December 1, 2005, Claimant will install a control structure and measuring device at the point of diversion.

**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

Case No. 39576

) Subcase No. 29-10990
)
)
)
)
)
)
)

STANDARD FORM 5

**STIPULATED ELEMENTS OF A
WATER RIGHT**

This form is used to report the stipulated elements of one water right acquired under state law and/or one federal reserved water right. Submission of this form will not automatically result in the issuance of a partial decree. The Presiding Judge or Special Master will conduct any hearing necessary to determine whether the facts, data, expert opinions and law support the issuance of a partial decree for the water right.

The parties agree that the Snake River Basin Adjudication Court has jurisdiction of the parties and subject matter to enter a partial decree for this water right; that they have been served with sufficient process, according to the law; and that they have appeared, prosecuted, and defended their positions with regard to this water right dispute.

The parties and IDWR agree and stipulate that the elements of this water right should be described per the attached. The parties and IDWR have further indicated their concurrence by initialing each of the attached pages.

CLAIMANT(s)
Barry T. Williams

OBJECTOR(s):
Shoshone-Bannock Tribes

Barry T. Williams

Date

Jeanette Wolfley 10/18/05

Jeanette Wolfley Date
Attorney for Objector

STANDARD FORM 5 -29-10990

IDWR Concurrence:

Ernie Carlsen Oct 14, 2004
Ernie Carlsen Date
IDWR Adjudication Supervisor

Candice McHugh 10-14-04
Candice McHugh Date
Deputy Attorney General
Attorney for IDWR

EXHIBIT 4

2004 NOV 23 PM 3 47

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	)	SPECIAL MASTER'S REPORT AND
	)	RECOMMENDATION; FINDINGS OF
Case No. 39576	)	FACT AND CONCLUSIONS OF LAW
	)	
	)	
	)	WATER RIGHT NO.: 29-10990

I. FINDINGS OF FACT

A notice of claim was filed for this water right pursuant to I.C. § 42-1409. The Director of the State of Idaho Department of Water Resources examined the water system for this reporting area. The *Director's Report* contained a recommendation for the elements of this water right.

An *Objection* was filed by the Shoshone-Bannock Tribes on November 14, 2003. The *Objection* was resolved on October 20, 2004 with the filing of a *Standard Form 5*. All parties to the subcase and IDWR are signatories to the *Standard Form 5*.

II. CONCLUSIONS OF LAW

Therefore, based on the file and record herein, IT IS RECOMMENDED that this water right be decreed with the elements set forth in the attached *Special Master's Recommendation for Partial Decree*.

DATED: November 23, 2004.



BRIGETTE BILYEU
Special Master
Snake River Basin Adjudication

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

DISTRICT COURT-SRBA
TWIN FALLS CO., IDAHO
FILED

2004 NOV 23 PM 3 47

In Re SRBA)
Case No. 39576)
PARTIAL DECREE PURSUANT TO
I.R.C.P. 54(b) FOR
Water Right 29-10990

NAME AND ADDRESS: BARRY T WILLIAMS
1277 MINK CREEK RD
ARBON, ID 83212

SOURCE: RATTLESNAKE CREEK TRIBUTARY: BANNOCK CREEK

QUANTITY: 4.20 CFS

PRIORITY DATE: 04/01/1892

POINT OF DIVERSION: T09S R34E S35 NESWSE Within Power County

PURPOSE AND PERIOD OF USE:	PURPOSE OF USE	PERIOD OF USE	QUANTITY
	Irrigation	04-01 TO 10-31	4.20 CFS

PLACE OF USE:	Irrigation	Within Power County
	T10S R33E S12 SWSE 19.0	SESE 39.0
	S13 NENE 40.0	NWNE 40.0
	R34E S18 LOT 1 (NWNW) 29.0	
	167.0 Acres Total	

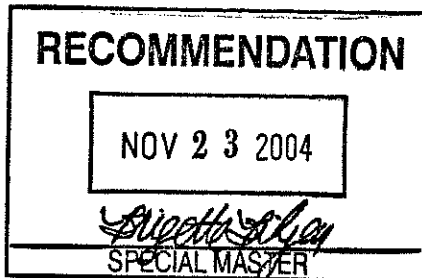
OTHER PROVISIONS NECESSARY FOR DEFINITION OR ADMINISTRATION OF THIS WATER RIGHT:

This water right will be delivered in accordance with the 1990 Fort Hall Indian Water Rights Agreement and Partial Final Consent Decree Determining the Rights of the Shoshone-Bannock Tribes to the Use of Water in the Upper Snake River Basin. The parties agreed to continue the historic water allocations pursuant to the Bannock Creek Decree [the decree in United States v. Daniels, (D. Idaho April 9, 1907, unpublished)]. Directors Report for the 1990 Fort Hall Indian Water Rights Agreement, p. 8 para. 4. The Tribes and the United States shall exercise this right in a manner that ensures persons with water rights decreed in the Bannock Creek Decree [United States v. Daniels (D. Idaho April 9, 1907)] and that are confirmed in the SRBA continue to receive their full legal entitlement. Partial Final Consent Decree Determining the Rights of the Shoshone-Bannock Tribes to the Use of Water in the Upper Snake River Basin, p. 19-20, 25-26, Right Nos. 29-12848 and 29-12049 respectively (August 2, 1995). In times of shortage, this water right and other water rights decreed in United States v. Daniels, shall receive their full legal entitlement despite the federal based natural flow water right nos. 29-12049 and 29-12848.

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. I.C. SECTION 42-1412(6).

RULE 54(b) CERTIFICATE

With respect to the issues determined by the above judgment or order, it is hereby CERTIFIED, in accordance with Rule 54(b), I.R.C.P., that the court has determined that there is no just reason for delay of the entry of a final judgment and that the court has and does hereby direct that the above judgment or order shall be a final judgment upon which execution may issue and an appeal may be taken as provided by the Idaho Appellate Rules.



John M. Melanson
Presiding Judge of the
Snake River Basin Adjudication