

BEFORE THE DEPARTMENT OF WATER ADMINISTRATION FOR

THE STATE OF IDAHO

IN THE MATTER OF PROTEST AGAINST)
APPROVAL OF APPLICATION FOR)
TRANSFER CLAIM TO WATER RIGHT)
#22-4003 IN THE NAME OF O. J.)
NEELEY RANCH, INC.)

STIPULATION AGREEMENT

The applicant, O. J. NEELEY RANCH, INC., having filed with this department an application to change the point of diversion and place of use of the above claim to a water right, and George H. Browning having filed a protest against approval of said application for the purpose of clarifying the ownership of the waters in Pony Creek;

The parties involved, O. J. Neeley Ranch, Inc., and George Browning and Phebe Browning stipulate and agree to the following:

I. The parties acknowledge and hereby refer to a decree dated May 21, 1954, wherein it was decreed that the maximum flow of Pony Creek was approximately 960 miner's inches of water; that O. J. Neeley and Myrtle Neeley were vested with title to 435 miner's inches of the waters of Pony Creek based on a maximum flow of 960 inches, such interest to be decreased proportionately to any decrease in the total flow of water at any given time. And that George Browning and Phebe Browning, husband and wife, were vested with title to 300 miner's inches of water, such interest to be

To be decreed

And that Morris Slaymaker and Thelma Slaymaker were vested with 225 miner's inches of the waters of Pony Creek, such interest to be decreased proportionately to any decrease in the total flow.

2. That the applicant, O. J. NEELEY RANCH, INC., has purchased all title and interest to the waters of Pony Creek which were vested in O. J. Neeley and Myrtle Neeley, husband and wife, and in Morris Slaymaker and Thelma Slaymaker, husband and wife.

3. That George Browning and Phebe Browning continue to have all right, title and interest in and to 300 miner's inches out of the maximum flow of 960 inches, such interest to be decreased proportionately to any decrease in the total flow of water at any given time.

4. That George Browning and O. J. Neeley Ranch, Inc., have for over five years last past diverted and used the full flow of the waters of Pony Creek for domestic and agricultural purposes.
5. That as between the parties, except as provided in paragraph 6, O. J. Neeley Ranch, Inc., is vested with title to 660 miner's inches of the waters of Pony Creek based on a maximum flow of 960 inches, or 11/16ths of the flow at any given time, such interest to be decreased proportionately to any decrease in the total flow of water at any given time, and that George Browning and Phebe Browning are vested with title to 300 miner's inches of the waters of Pony Creek based on a maximum flow of 960 inches, or 5/16ths of the flow at any given time, such interest to be decreased proportionately to any decrease in the total flow of water at any given time.
6. That George Browning and Phebe Browning agree to allow O. J. Neeley Ranch, Inc., the use of all the waters of Pony Creek during the spring of each year up until the time that the Brownings begin to irrigate. When the Brownings begin to irrigate then each

of the parties shall have the right to use their respective shares as provided in paragraph 5. At that point in time when the waters of Pony Creek no longer reach Canyon Creek, then the Brownings shall have full use of said waters except for what O. J. Neeley Ranch, Inc., needs to water its stock. It is further agreed that O. J. Neeley Ranch, Inc., shall open a roadway to the point of diversion of said waters for the use by both parties and shall install a dividing gate at the point of diversion in order that the waters may be divided as agreed herein.

7. That George Browning and Phebe Browning withdraw the protest filed against the application of O. J. Neeley Ranch, Inc. for the transfer of water right, No. 22-4003, ²²⁻⁰⁶¹⁰ and waiver further protest on the condition that their water rights are ^{GH/3} not lost or injured in any way by said transfer.

8. That the parties agree to be bound according to the above referenced decree regardless of whether any rights under the decree are transferred.

Dated this 18th day of February, 1974.

O. J. NEELEY RANCH, INC.

By Owen J. Neeley
Its President

George Browning
George Browning

Phebe Browning

STATE OF IDAHO,)
County of Madison.) SS.

On this 18th day of February, 1974, before me, the undersigned, Notary Public in and for said State, personally appeared