

RECEIVED

MAR 14 2008

DEPARTMENT OF
WATER RESOURCES

S. BRYCE FARRIS (ISB #5636)
RINGERT CLARK CHARTERED
455 S. Third, P. O. Box 2773
Boise, Idaho 83701-2773
Telephone: (208) 342-4591
Facsimile: (208) 342-4657

Attorneys for Hart-Davis Ditch Company, Inc.

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 NOS. 63-134, 63-132, 63-133,
) 63-134A, 63-134B, 63-186A, 63-186B,
) 63-17205 and 63-31772
)
) AFFIDAVIT OF S. BRYCE FARRIS
) IN SUPPORT OF MOTION
) FOR SUMMARY JUDGMENT

STATE OF IDAHO)
) ss.
County of Ada)

S. Bryce Farris, being first duly sworn upon his oath, deposes and says that:

1. That I am an attorney of record for Hart Davis Ditch Company (hereinafter "Hart Davis"), in this matter and make this Affidavit based upon my personal knowledge and am competent to testify to the matters contained herein.

2. I certify that the attached, as Exhibit A, is a true and correct photocopy of the Articles of Incorporation of Hart Davis, which were provided by the State of Idaho (hereinafter "State").

3. I certify that the attached, as Exhibit B, is a true and correct photocopy of the Notice of Claim to Water Right for water right no. 63-134, submitted by the Hart Davis in 1989.

COPY

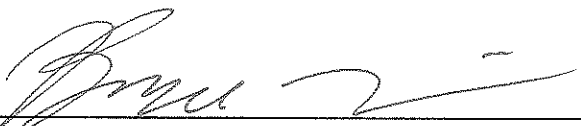
4. I certify that the attached, as Exhibit C, is a true and correct photocopy of IDWR's recommendation for water right no. 63-134 in the name of Hart Davis dated December 12, 2005.

5. I certify that the attached, as Exhibit D, is a true and correct photocopy of the State's Standard Form 1 Objection to water right no. 63-134.

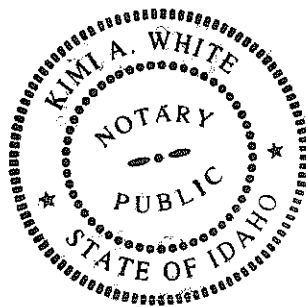
6. I certify that the attached, as Exhibit E, is a true and correct photocopy of an Agreement dated November 19, 1929 and provided by the State in response to discovery requests.

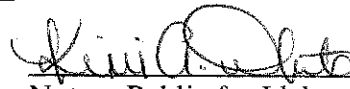
DATED this 3rd day of March, 2008.

RINGERT CLARK CHARTERED

By 
S. Bryce Farris

Sworn to and subscribed before me this 15th day of March, 2008.




Notary Public for Idaho
Residing in Buhl, Idaho
My Commission Expires: 04/01/10

CERTIFICATE OF SERVICE

I hereby certify that on this 13th day of March, 2008, I served a true and correct copy of the foregoing document by U.S. mail, postage pre-paid to the following:

United States Department of Justice
Environment and Natural Resource Div.
550 West Fort Street, MSC 033
Boise, Idaho 83724

David J. Barber
State of Idaho
P.O. Box 44449
Boise, Idaho 83711-4449

IDWR Document Depository
P.O. Box 83720
Boise, Idaho 83720-0098

Idaho Department of Parks
and Recreation
5657 Warm Springs Avenue
Boise, Idaho 83716

Ron Sali & Ron Sali Properties
Ron Sali Properties, Inc.
Represented by:
Michael C. Creamer
Givens Pursley
P.O. Box 2720
Boise, Idaho 83701-2720

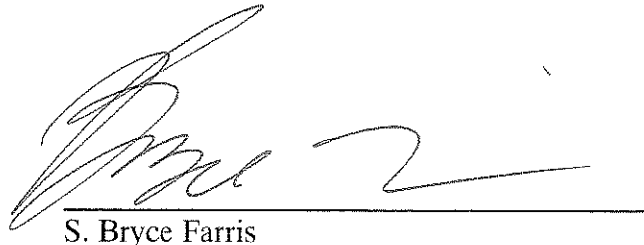
Ron Sali
P.O. Box 448
Boise, Idaho 83701-0488

Ron Sali
919 South Linden Road
Eagle, Idaho 83616

Ron Sali Properties, Inc.
Profit Sharing Plan
100 N. 9th Street, Ste. 200
Boise, Idaho 83702-5700

Chief of Natural Resource Division
Office of the Attorney General
State of Idaho
P.O. Box 44449
Boise, Idaho 83711-4449

Mace Catlin Ditch Company
c/o Bob Kell
1820 Mace Road
Eagle, Idaho 83616



S. Bryce Farris

Exhibit A

ARTICLES OF INCORPORATION,
of the
HART - DAVIS DITCH COMPANY.

KNOW ALL MEN BY THESE PRESENTS: That we, whose names are subscribed hereto, do in pursuance of Title XXXVII, Chapter 186, of the Compiled Statutes of the State of Idaho, and all Amendments thereto, hereby organize, constitute and associate ourselves, and such other persons as may hereafter become associated with us, into a body politic corporate, and to that end execute the following articles of incorporation, and we hereby set forth and declare as follows, to wit:

1. The name of this corporation shall be the "Hart-Davis Ditch Company. "

2. The purpose for which this corporation is formed is to build, enlarge, repair, operate, construct and maintain irrigating ditches and canals, flumes and reservoirs, and buy and sell water and water rights in Ada County, State of Idaho, and to own, hold and convey water through ditches, laterals and canals for the purposes of husbandry, irrigation, and domestic uses and purposes, for the sole and only benefit of the respective stockholders in this corporation.

3. The office and principal place of business of this corporation is established at J.M. Silver's^{residence} in Ada County, State of Idaho.

4. The term for which this corporation is to exist is fifty years from and after the date of the incorporation thereof.

5. The officers of said corporation shall be three in number, and consist of a President, Secretary, and Treasurer.

6. The President, Secretary, and Treasurer of said corpora-

tion, together with two members to be elected from among the stockholders as members of such Board, shall constitute the Board of Directors of said corporation.

7. The amount of capital stock of said corporation shall be \$ 24,900.00, divided into 498 shares, of the par value of \$ 50.00 per share.

8. The amount of the capital stock actually subscribed in said corporation, and the amount of the respective subscription thereto are as follows, to wit:

(Name)	(Residence)	(Amount)
<u>J.M. Silver,</u>	<u>Ada County,</u>	<u>1 share</u>
<u>D.W. Shaffer,</u>	<u>Ada County,</u>	<u>1 share</u>
<u>John Rader,</u>	<u>Ada County,</u>	<u>1 share</u>
<u>E.F. Kunkler,</u>	<u>Ada County,</u>	<u>1 share</u>
<u>Thomas Williams,</u>	<u>Ada County,</u>	<u>1 share</u>

9. The officers and Board of Directors of said corporation shall be elected at each annual meeting of the stockholders thereof, by a majority of the paid-up capital stock of said corporation, either in person, or by proxy, and shall be elected to fill their respective offices as follows, to wit:

President; term of office, one year.

Secretary; term of office, one year.

Treasurer; term of office, one year.

Members of Board of Directors; term of office, one year.

10. The time, place, and manner of holding annual stockholders' meetings, and all meetings of the Board of Directors, shall be regulated by the by-laws of said corporation, to be hereinafter made and adopted by said corporation.

IN WITNESS WHEREOF, we have hereunto set our hands and seals this 10th day of March, 1924.

J. M. Silver
D. H. Shaffer
John Rader

State of Idaho

ss

County of Ada

On this 10th day of March, 1924, before me, P. E. Cavaney, a Notary Public, personally appeared J. M. Silver
D. H. Shaffer, and John Rader

known to me to be the persons whose names are subscribed to the wit in Articles of Incorporation, and they acknowledged to me that they executed the same.

IN WITNESS WHEREOF, I have hereunto set my hand and official seal this 10th day of March, 1924.

 Seal

P. E. Cavaney

Notary Public for Idaho,
Residing at Boise.

State of Idaho

SS

County of Ada

I.

John Rader

being first duly sworn, upon my oath depose and say that I am one of the incorporators of the foregoing corporation, and my name is subscribed to the within Articles of Incorporation, and that I am a resident of the State of Idaho.

John Rader

Subscribed and sworn to before me this 10th day of March, 1924.

J. E. Carver

Notary Public for Idaho,
Residing at Boise.

State of Idaho,

County of Ada } SS.

CERTIFICATE

I, STEPHEN UTTER, Ex-Officio Recorder in and for Ada County, State of Idaho, do hereby certify that the annexed is a full, true and correct copy of certain Articles of Incorporation of the

"Hart-Davis Ditch Company."

Numbered 2414 as the same appears in my office.

In Witness Whereof, I have hereunto set my hand and affixed my official Seal this 14th day of April 19 24.

By Danvers Chord Deputy.

Stephen Utter
Ex-Officio Recorder.

Exhibit B

Ex 4

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

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

CIVIL CASE NUMBER: 39576

Ident. Number: A63-00134
Date Received: 9/11/1989
Receipt No: W005863
Received By: EW

NOTICE OF CLAIM TO A WATER RIGHT
ACQUIRED UNDER STATE LAW

1. Name: HART-DAVIS DITCH CO., INC. 208-939-0284
Address: C/O LORNA HIBBARD
1320 LINDER RD.
EAGLE, ID 83616

2. Date of Priority: JUN 01, 1864

3. Source: BOISE R. Trib. to: SNAKE R.

4. Point of Diversion:

Township	Range	Section	1/4 of	1/4 of	1/4	Lot	County
04N	01E	18		NE	NE		ADA

5. Description of diverting works:
DIVERSION DAM, SLOUGH TO CULVERT, DITCH, GRAVITY FLOW

6. Water is used for the following purposes:

Purpose	From	To	C.F.S.	(or)	A.F.A.
IRRIGATION	03/15	11/15	3.300		

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

8. Total consumptive use is Acre Feet Per Annum.

9. Non-irrigation uses:

10. Place of Use:

Township	Range	Section	1/4 of	1/4	Lot	Use	Acres
04N	01E	7	SW	SW		IRR	8.0
Section Acres							8.0

10. Place of Use: Continued

Total Acres 843.0

11. Place of use in counties: ADA

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

13. Other Water Rights Used:
A63-00186

14. Remarks:
LANDS ON EAGLE ISLAND. P/D INCOMPLETE IN DECREE.
THERE MAY BE ADDITIONAL LANDS IRRIGATED.

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

FARMERS CO-OP DITCH CO.
Decree Plaintiff

vs

RIVERSIDE IRR. DIST.
Decree Defendant

MICROFILMED

AUG 14 1992

MICROFILMED

16. Signature(s)

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

Number of attachments: 1

For Organizations:

I do solemnly swear or affirm that I am Notary of
Title
Shurt Davis Aitch Co., Inc. that I have signed the foregoing
Organization
document in the space below as Secy of
Title
Shurt Davis Aitch Co. and that the statements contained in the
Organization
foregoing document are true and correct.

Linda A. Werner
Signature of Authorized Agent

Shurt Davis Aitch Co.
Title and Organization

9/11/89
Date

State of Idaho)
County of Ada) SS.

Subscribed and sworn (or affirmed) before me this 11 day
of Sept. 19 89

Linda A. Werner
Notary Public

Seal

Residing at Linda A. Werner
Residing at Boise, Idaho
My Commission Expires December 8, 1994

MICROFILMED
AUG 14 1992

Exhibit C

Ex 5

12/12/2005

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

RIGHT NUMBER: 63-134

NAME AND ADDRESS: HART-DAVIS DITCH CO INC
C/O JIM BRESZINSKY
1111 TROUT RD
EAGLE ID 83616

SOURCE: BOISE RIVER

TRIBUTARY: SNAKE RIVER

QUANTITY: 3.300 CFS

This right shall receive 100 percent of its decreed quantity until the natural flow of the waters of the Boise River shall decrease so that all rights containing this condition cannot receive 100 percent of their decreed quantities, at which time this right and the other rights containing this condition shall first be cut to 75 percent of their decreed quantities, as the natural flow of the river decreases, beginning with the latest rights containing this condition and preceding to the earliest rights containing this condition in the order of their priority dates, and after all of the rights containing this condition shall have been reduced to 75 percent of their decreed quantities, should the natural flow of the waters of the river decrease below the amount necessary to supply 75 percent of those decreed quantities, then this right and the other rights containing this condition, beginning with the latest and preceding to the earliest, shall be reduced to 60 percent of their decreed quantities.

PRIORITY DATE: 06/01/1864

POINT OF
DIVERSION: T04N R01E S17 NWNW Within ADA County

PURPOSE AND
PERIOD OF USE:

<u>PURPOSE OF USE</u>	<u>PERIOD OF USE</u>	<u>QUANTITY</u>
IRRIGATION	03/01 11/15	3.300 CFS

Diversion for irrigation under this water right prior to April 1 and after October 31 shall occur only as authorized by the Water District 63 Water Master and only when water is being released for flood control by the United States from the Lucky Peak Dam outlet under procedures and requirements for the Memorandum of Agreement between the U.S. Department of the Army and the U.S. Department of the Interior for Flood Control Operations of the Boise River Reservoirs, dated November 20, 1953, the Water Control Manual for Boise River Reservoir dated April 1985 and any future amendments or revisions made thereto pursuant to state or federal procedures or law; provided that any such use of this water right prior to April 1 and after October 31 shall be subordinated to water rights for storage in Lucky Peak Reservoir, Lake Lowell, Arrowrock Reservoir, and/or Anderson Ranch Reservoir, as decreed in SRBA Case No. 39576.

PLACE OF USE:

498 ACRES TOTAL

The boundary encompassing the place of use for this water right is described with a digital boundary as defined by I.C. Section 42-202B(2) and authorized pursuant to I.C. Section 42-1411(2)(h). The data comprising the digital boundary are incorporated herein by reference and are stored on a CD-ROM disk issued in duplicate originals on file with the SRBA District Court and the Idaho Department of Water Resources. A map depicting the place of use is attached hereto to illustrate the place of use described by the digital boundary.

THIS RIGHT IS LIMITED TO THE IRRIGATION OF 498 ACRES WITHIN THE BOUNDARY OF HART-DAVIS DITCH COMPANY.

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

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

EXPLANATORY MATERIAL: BASIS OF CLAIM - Decreed

THIS RIGHT IS DESIGNATED AS RIGHT NO. 6 IN THE STEWART DECREE AND THE BOISE RIVER WATER MASTERS RECORDS.
RIGHT NO. 63-31772 IS ALSO DIVERTED THROUGH THE POINT OF DIVERSION DESCRIBED ABOVE.
RIGHT INCLUDES ACCOMPLISHED CHANGE IN POINT OF DIVERSION PURSUANT TO SECTION 42-1425, IDAHO CODE.
WATER IS DELIVERED THROUGH THE HARTON DAVIS CANAL.

Exhibit D

COPY

SRBA



41588

Ex6

704 APR 21 AM 10:19

FILED
TWIN FALLS CO., IDAHO

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

A. Subcase Number: 63-00134

(Insert water right number)

Case No. 39576

STANDARD FORM 1
OBJECTION

Please fill in the following information:

B. NAME AND ADDRESS OF PERSON OBJECTING

Name: State of Idaho, Department of Parks and Recreation
Address: 5657 Warm Springs Avenue
Boise, Idaho 83716
Daytime Phone: (208) 334-2400

Name and Address of Attorney, if any:

Attorney Name: LAWRENCE G. WASDEN
Attorney General
CLIVE J. STRONG
Deputy Attorney General
Chief, Natural Resources Division
DAVID J. BARBER (ISB # 2597)
Deputy Attorney General
Attorney Address: Office of the Attorney General
700 W. Jefferson, Room 210
P.O. Box 44449
Boise, ID 83711-4449
Attorney Phone No. (208) 334-2400

C. CLAIMANT OF WATER RIGHT AS LISTED IN DIRECTOR'S REPORT

Name: HART-DAVIS DITCH CO INC
Address: c/o Jim Breszinsky
1111 Trout Rd
Eagle, ID 83616

D. I object to the following elements as recommended in the Director's Report. (Please check the appropriate box(es)).

1. ☒ **Name and Address**
Should be: State of Idaho, Department of Parks and Recreation
5657 Warm Springs Avenue
Boise, Idaho 83716
2. ☐ **Source**
Should be: _____
3. ☐ **Quantity**
Should be: _____
4. ☐ **Priority Date**
Should be: _____
5. ☐ **Points of Diversion**
Should be: _____
6. ☐ **Instream Flow Description**
Should be: Not applicable.
7. ☐ **Purpose(s) of Use**
Should be: _____
8. ☐ **Period of Year**
Should be: _____
9. ☒ **Place of Use**
Should be: The IDP&R lands need to be described as the place of use.

11. I object because:

- ☐ This water right should not exist.
- ☐ This water right was not recommended, but should be recommended with the elements described above.

E. REASONS SUPPORTING OBJECTION(S):

The State of Idaho acquired the real property on Eagle Island for a prison farm in 1929. When the State of Idaho closed the prison farm, the Idaho Department of Parks and Recreation, (hereinafter "IDP&R"), and the Idaho Department of Fish and Game, (hereinafter "IDF&G"), acquired most of the old prison farm.

William E. Welsh, Watermaster for the Boise River, prepared a "Statement of Water Rights for Eagle Island Penitentiary Farm on Boise River," which summarized the water rights acquired by the State of Idaho on Eagle Island. A copy of this Statement is attached. Water Right No. 63-134 was originally designated as right no. 6 in the Stewart Decree. The State of Idaho owned the entire 330 c.f.s. of water right no. 6. The IDP&R has not found any transfer of the water right to the Hart-Davis Ditch Co.

F.

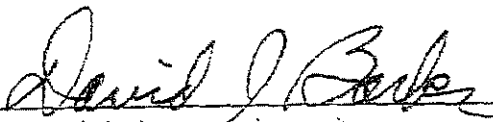
VERIFICATION (Must be Completed)

State of Idaho)
) ss.
County of Ada)

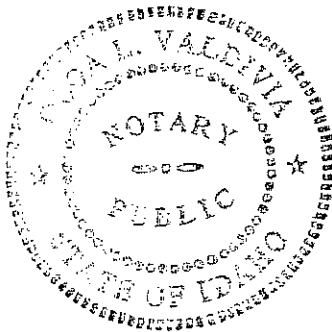
DAVID J. BARBER, Deputy Attorney General, duly sworn, upon oath, deposes and says:

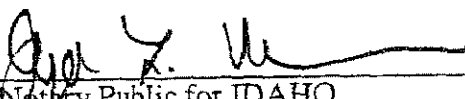
That the State of Idaho, Department of Parks & Recreation, in its proprietary capacity is filing this objection and that I am a Deputy Attorney General authorized to represent the State of Idaho, Department of Parks & Recreation which is a party/claimant in this proceeding, as defined by I.C. § 42-1401A(1) and (7), and I have read this objection, know its contents and believe that the statements are true to the best of my knowledge.

LAWRENCE G. WASDEN
Attorney General
CLIVE J. STRONG
Deputy Attorney General
Chief, Natural Resources Division
DAVID J. BARBER
Deputy Attorney General


By Attorney signing in representative capacity

Subscribed and sworn to before me on: April 20, 2006
(Insert Date)




Notary Public for IDAHO
Residing at: BOISE, ID
My commission expires: 2/5/2012

INSTRUCTIONS FOR MAILING

You must mail the objection to the Clerk of the Court. **FAX filings will not be accepted.** You must also send a copy to all the parties listed below in the Certificate of Mailing.

G. CERTIFICATE OF MAILING

I certify that on April 20, 2006, I caused the original and the copies of this objection, including all attachments, to be served on the following persons by the method designated:

1. Original to:

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

FEDERAL EXPRESS
OVERNIGHT DELIVERY

2. One copy to the owner of the water right at the following address:

HART-DAVIS DITCH CO. INC.
c/o Jim Breszinsky
1111 Trout Rd
Eagle, ID 83616

U.S. MAIL

3. Copies to:

IDWR Document Depository
PO Box 83720
Boise, ID 83720-0098

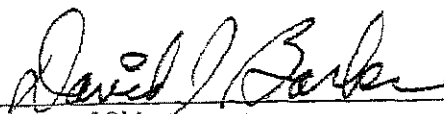
STATEHOUSE MAIL

United States Department of Justice
Environment & Natural Resource Division
550 West Fort Street, MSC 033
Boise, ID 83724

U.S. MAIL

Chief of Natural Resource Division
Office of the Attorney General
State of Idaho
P.O. Box 44449
Boise, Idaho 83711-4449

(not applicable)



Signature of Objector or attorney
Mailing on Objector's behalf

STATEMENT OF WATER RIGHTS FOR EAGLE ISLAND PENITENTIARY FARM ON BOISE RIVER

By Wm. E. Welsh, Watermaster, Boise River

In the case of the Farmers' Cooperative Ditch Company vs. the Riverside Irrigation District, Ltd., et al, commonly referred to as the Stewart Decree, are found the following awards:

Number	Date	Name	Amount Decreed Second Feet	Inches
5	6-1-64	Catlin & Mace	2.86	143
6	6-1-64	T. C. Catlin	3.30	165
52	6-1-71	Catlin & Mace	7.86	393

Upon examining an agreement now on file in the office of the Secretary of State which was entered into by the various parties of interest in the Catlin & Mace Ditch just immediately prior to the time of the purchase of the Penitentiary Farm by the State of Idaho, I find that rights numbers 5 and 52 were divided among these various users as follows: Also right Number 6.

Name	Inches	Date of Priority	Number
Charles P. Mace and Mary Mace	8.03	June 1, 1864	5
Charles P. Mace and Mary Mace	22.05	June 1, 1871	52
Frank Mace and Josie A. Mace	10.70	June 1, 1864	5
Frank Mace and Josie A. Mace	29.38	June 1, 1871	52
Benjamin Mace and Grace J. Mace	8.33	June 1, 1864	5
Benjamin Mace and Grace J. Mace	22.91	June 1, 1871	52
Wesley Mace and Rosa Mace	11.00	June 1, 1864	5
Wesley Mace and Rosa Mace	30.26	June 1, 1871	52
Grover Mace and Cora B. Mace	8.84	June 1, 1864	5
Grover Mace and Cora B. Mace	24.30	June 1, 1871	52
A. G. Coker and Margaret C. Coker	5.35	June 1, 1864	5
A. G. Coker and Margaret C. Coker	14.65	June 1, 1871	52
Karl Fischer, A Bachelor	90.75	June 1, 1864	5

Name	Inches	Date of Priority	Number
Karl Fischer, A Bachelor	249.45	June 1, 1871	52
Karl Fischer, A Bachelor	165.00	June 1, 1864	6

It is also noted that there is in this same file a stock certificate issued to the State of Idaho by the Hart-Davis Ditch Company for 165 shares which covers the 165 inches of water represented in right number 6. The abstract on file in the office of the Secretary of State shows that the State of Idaho purchased the T. G. Catlin Farm as described in the agreement referred to above from Karl Fischer, together with all water rights appurtenant thereto.

Therefore, the water rights now belonging to the State of Idaho for the Eagle Island Penitentiary Farm are as follows:

Number	Date	Name	Amount Decreed Second Feet	Inches
5	June 1, 1864	Catlin & Mace	1.815	90.75 ✓
6	June 1, 1864	T. G. Catlin	3.30	165.00
52	June 1, 1871	Catlin & Mace	<u>4.99</u>	<u>249.5</u>
		TOTAL	10.105	505.25

Exhibit E

Karl Fischer

To

Instrument Number 127565

Chas. P. Mace et al

Dated November 19, 1928

AGREEMENT

THIS AGREEMENT, Made and entered into by and between Karl Fischer, a bachelor; and Charles P. Mace and Mary Mace, husband and wife; Frank Mace and Josie A. Mace, husband and wife; Benjamin Mace and Grace J. Mace, husband and wife; Wesley Mace and Rosa Mace, husband and wife; Grover Mace and Cora B. Mace, husband and wife; and A. G. Coker and Margaret C. Coker, husband and wife; all of Eagle, in Ada County, Idaho;

W I T N E S S E T H :

THAT WHEREAS, the above named parties are the owners of those certain lands on Eagle Island, in Ada County, Idaho, referred to in that certain decree, dated January 18, 1906, rendered and entered by the District Court of the Seventh Judicial District of the State of Idaho, in and for the County of Canyon, which decree was recorded March 30, 1906, at 10:40 A.M., in Book 55 of Deeds, at page 361, records of Ada County, Idaho, they being the successors in interest to certain lands of T. C. Catlin and Polette Mace, therein referred to, and which said decree by reference is hereby made a part of this agreement; and

WHEREAS, by said decree the said T. C. Catlin and Polette Mace were awarded the use of the waters of the Boise River, diverted from a point on the South Bank of said River, on Lot Five (5), Section Seventeen (17), Township Four (4) North, Range One (1) East N.M., for use upon their lands on Eagle Island, in Ada County, Idaho, in the following amounts, from the following dates, to-wit:

143 inches from June 1, 1864, designated as right No. 5, in said action; and
593 inches from June 1, 1871, designated as right No. 52 in said action;

AND WHEREAS, the parties herein are the successors in interest of said T.C. Catlin and Polette Mace, in and to said lands therein referred to, and are now the owners thereof;

NOW, THEREFORE, For the valuable consideration of the definite allocation to said several lots, tracts, and parcels of land hereinafter described of said water, pursuant to said decree, the said parties hereto mutually agree to allocate, assign, transfer and convey the above described water rights referred to in said decree as follows, to-wit:

TO CHARLES P. MACE AND MARY MACE, HIS WIFE:

8.05 miners inches of the waters of Boise River of a priority of June 1, 1864, designated as right No. 5, in the above mentioned decree, and 22.05 miners inches of the waters of Boise River of a priority of June 1, 1871, designated as Right No. 52, in the above mentioned decree, the same being a part of the water right awarded in the above referred to decree, said water right to be appurtenant to the following described lands belong to said Charles P. Mace and Mary Mace, his wife, to-wit:

Commencing at a point on the one-half section line 9.52 chains west of the one-fourth section corner common to sections seventeen (17) and eighteen (18), Township Four (4) North, Range One (1) East of Boise Base and Meridian; thence North 1° 52' East a distance of 10.80 chains to a stone marked cross on top, thence North 49° 22' West a distance of 1.70 chains to a point, thence South 25° 08' West a distance of 3.30 chains to a point; thence South 62° 23' West a distance of 4.00 chains to a point;

thence South 27° 36' West a distance of 3.41 chains to a stone marked cross on top; thence South 1° 52' West a distance of 39.28 chains to a stone marked cross on top; thence North 58° 07' East a distance of 1.00 chain to a point; thence North 71° 52' East a distance of 2.00 chains to a point; thence North 83° 54' East a distance of 4.49 chains to a stone marked cross on top; thence North 1° 52' East a distance of 32.72 chains to the place of beginning, containing 30.08 acres, more or less.

TO FRANK MACE AND JOSIE A. MACE, HIS WIFE:

10.70 miners inches of the waters of Boise River of a priority of June 1, 1864, designated as right No. 5, in the above mentioned decree, and 29.38 miners inches of the waters of Boise River of a priority of June 1, 1871, designated as Right No. 52, in the above mentioned decree, the same being a part of the water right awarded in the above referred to decree, said water right to be appurtenant to the following described lands belonging to the said Frank Mace and Josie A. Mace, his wife, to-wit:

Commencing at a point on the one-half section line 16.72 chains west of the one-fourth section corner common to sections seventeen (17) and eighteen (18), Township Four (4) North, Range One (1) East of the Boise Base and Meridian; thence North 1° 52' East a distance of 4.92 chains to a stone marked cross on top; thence South 27° 36' West a distance of 6.08 chains to a point; thence South 59° 38' West a distance of 3.00 chains to a point, thence South 76° 28' West a distance of 3.30 chains to a point, thence North 75° 47' West a distance of 1.60 chains to a stone marked cross on top, thence South 1° 52' West a distance of 41.50 chains to a stone marked cross on top; thence South 86° 09' East a distance of 5.89 chains to a point, thence North 13° 43' East a distance of 9.09 chains to a point, thence North 78° 22' East a distance of 0.70 chains to a point, thence North 58° 07' East a distance of 1.80 chains to a stone marked cross on top; thence North 1° 52' East a distance of 34.36 chains to the place of beginning, containing 40.08 acres, more or less.

TO BENJAMIN MACE AND GRACE J. MACE, HIS WIFE:

8.33 miners inches of the waters of Boise River of a priority of June 1, 1864, designated as right No. 5, in the above mentioned decree, and 22.91 inches of the waters of Boise River of a priority of June 1, 1871, designated as Right No. 52, in the above mentioned decree, the same being a part of the water right awarded in the above referred to decree, said water right to be appurtenant to the following described lands belonging to said Benjamin Mace and Grace J. Mace, his wife, to-wit:

Commencing at a point 2.10 chains south along the section line and 0.73 chains South 74° 03' West from the one-fourth section corner common to Sections Seventeen (17) and Eighteen (18), Township Four (4) North, Range One (1) East of Boise Base and Meridian; thence South 74° 03' West a distance of 4.17 chains to a point; thence North 52° 42' West a distance of 4.50 chains to a point; thence North 5° 12' West a distance of 2.50 chains to a point; thence North 35° 48' East a distance of 3.40 chains to a point; thence North 63° 33' East a distance of 2.00 chains to a point; thence North 18° 03' East a distance of 1.35 chains to a point; thence North 49° 22' West a distance of 6.30 chains to a stone marked cross on top; thence South 1° 52' West a distance of 43.52 chains to a stone marked cross on top; thence North 83° 54' East a distance of 2.21 chains to a point; thence North 78° 54' East a distance of 4.30 chains to a point; thence South 76° 21' East a distance of 3.96 chains to a stone marked cross on top; thence North 0° 25' East a distance of 12.42 chains to a stone marked cross on top; thence North 88° 15' West a distance of 0.51 chains to a stone marked cross on top; thence North a distance of 17.78 chains to a stone marked cross on top the place of

TO WESLEY MACE AND ROSA MACE, HIS WIFE:

11.00 miners inches of the waters of Boise River of a priority of June 1, 1864, designated as right No. 5, in the above mentioned decree, and 30.26 miners inches of the waters of Boise River of a priority of June 1, 1871, designated as Right No. 52, in the above mentioned decree, the same being a part of the water right awarded in the above referred to decree, said water right to be appurtenant to the following described lands belonging to said Wesley Mace and Rosa Mace, his wife, to-wit:

Commencing at a stone on the East and West one-half Section line 32.89 chains West of the one-fourth section corner common to Sections Seventeen (17) and Eighteen (18), Township Four (4) North, Range One (1) East of Boise Base and Meridian, thence West a distance of 4.08 chains to a stone marked cross on top; thence South $1^{\circ} 52'$ West a distance of 37.84 chains to a stone marked cross on top; thence South $59^{\circ} 09'$ East a distance of 11.82 chains to a stone marked cross on top; thence North $1^{\circ} 52'$ East a distance of 41.50 chains to a stone marked cross on top; thence North $75^{\circ} 47'$ West a distance of 3.40 chains to a point; thence North $41^{\circ} 32'$ West a distance of 1.43 chains to a stone marked cross on top, the place of beginning, containing 41.26 acres more or less.

TO GROVER MACE AND CORA B. MACE, HIS WIFE:

8.84 miners inches of the waters of Boise River of a priority of June 1, 1864, designated as right No. 5, in the above mentioned decree, and 24.30 miners inches of the waters of Boise River of a priority of June 1, 1871, designated as right No. 52, in the above mentioned decree, the same being a part of the water right awarded in the above referred to decree, said water right to be appurtenant to the following described lands belonging to said Grover Mace and Cora B. Mace, his wife, to-wit:

Commencing at a stone marked cross on top 2.10 chains South and 0.73 chains South and 0.73 chains South $74^{\circ} 03'$ West from the one-fourth section corner common to Sections seventeen (17) and Eighteen (18), Township Four (4) North, Range One (1) East of Boise Base and Meridian; thence South a distance of 17.78 chains to a stone marked cross on top; thence South $88^{\circ} 15'$ East a distance of 20.83 chains to a stone marked cross on top; thence North $1^{\circ} 25'$ East a distance of 11.64 chains to a stone marked cross on top; thence North $65^{\circ} 05'$ West a distance of 4.80 chains to a point; thence North $38^{\circ} 17'$ West a distance of 2.30 chains to a point; thence North $75^{\circ} 17'$ West a distance of 2.00 chains to a point; thence South $69^{\circ} 58'$ West a distance of 1.40 chains to a point; thence North $68^{\circ} 02'$ West a distance of 2.50 chains to a point; thence North $72^{\circ} 17'$ West a distance of 2.00 chains to a point; thence North $64^{\circ} 32'$ West a distance of 2.10 chains to a point; thence North $95^{\circ} 50'$ West a distance of 5.48 chains to a point on the section line, thence South $74^{\circ} 03'$ West a distance of 0.73 chains to a stone marked cross on top, the place of beginning, containing 33.14 acres, more or less.

TO A. G. COOKER AND MARGARET G. COOKER, HIS WIFE:

5.35 miners inches of the waters of Boise River of a priority of June 1, 1864, designated as right No. 5, in the above mentioned decree, and 14.65 miners inches of the waters of Boise River of a priority of June 1, 1871, designated as right No. 52, in the above mentioned decree, the same being a part of the water right awarded in the above referred to decree, said water right to be appurtenant to the following described lands belonging to said A.G. Cooker and Margaret G. Cooker, his wife, to-wit:

Commencing at a point on the one-half section line 32.90 chains East of the West one-fourth section corner of Section 10, Township 4 North, Range 1 East B.M., thence

North a distance of 30.04 chains to rock marked cross on top, South 87° 00' East a distance of 0.98 chains to a point, thence South 87° 00' East a distance of 2.00 chains to a point; thence South 68° 00' East a distance of 2.00 chains to a point, thence South 11° 30' East a distance of 2.00 chains to a point, thence, South 16° 15' East a distance of 2.90 chains to a point, thence South 39° 45' East a distance of 2.00 chains to a point, thence South 38° 45' East a distance of 2.00 chains to a point, thence South 24° 30' East a distance of 2.00 chains to a point, thence South 35° 00' East a distance 2.60 chains to a point, thence South 3° 15' West a distance of 2.60 chains to a point, thence South 13° 45' West a distance of 3.90 chains to a point, thence South 9° 30' East a distance of 3.35 chains to a point, thence South 36° 45' East a distance of 4.68 chains to a rock marked cross on top, thence west on one-half section line a distance of 11.55 chains to an iron bar 1½ inches by four (4) feet long driven in ground, the place of beginning, all in Section 18, Township Four (4) North, Range One (1) East Boise Meridian, containing 20 acres, more or less.

TO KARL FISCHER, A BACHELOR:

90.75 miners inches of the waters of Boise River of a priority of June 1, 1834, designated as right No. 5, in the above mentioned decree, and 249.48 miners inches of the waters of Boise River of a priority of June 1, 1871, designated as Right No. 32, in the above mentioned decree; and 105 miners inches of the waters of Boise River of a priority of June 1, 1864, designated as Right No. 6, in the above mentioned decree, the same being a part of the water right awarded in the above referred to decrees, said water right to be appurtenant to the following described lands belonging to said Karl Fischer, a bachelor, to-wit:

Lots Six (6), Seven (7) and Eight (8), The West Half of the Southeast Quarter (W½SE¼), and the Northeast Quarter of the Southeast Quarter (NE¼SE¼), of Section Thirteen (13), and Lots One (1) and Two (2), of Section Twenty-Four (24), all in Township Four (4) North, Range One (1) West B.M., containing 276.66 acres, more or less; and

Lots Three (3), Four (4), Five (5), Ten (10) and Eleven (11), and the Northeast Quarter of the Southwest Quarter (NE¼SW¼), of Section Eighteen (18), Township Four (4) North, Range One (1) East Boise Meridian, containing 237.25 acres, more or less; excepting therefrom twenty (20) acres, more or less of said Lot Three (3), as described in that certain deed dated March 15, 1928, and recorded March 16, 1928, at 4:11 P.M., in Book 182 of Deeds at page 391, records of Ada County, Idaho.

IT BEING MUTUALLY UNDERSTOOD AND AGREED, between the parties hereto that they, and each of them, will clean, repair and maintain the canals, laterals and ditches through which said waters are diverted in proportion to the amount of waters herein allocated to each of said parties; and that the easements of all canals, laterals and ditches heretofore and now existing over the several lands herein described are hereby specifically reserved by each of the parties hereto, together with right to go upon said lands to clean, repair and maintain said canals, laterals and ditches.

IT IS SPECIFICALLY DECLARED, AGREED AND UNDERSTOOD, by and between the parties hereto that this contract is made only for the express purpose of allocating the waters to the specific tracts of land herein described and owned by the parties hereto, making said water appurtenant thereto, and for no other purpose, and does in no wise vary or change the awards or allotments of said decrees herein referred to.

This contract shall be placed of record and shall be binding upon the heirs, executors, administrators, successors and assigns of the respective parties hereto.

IN WITNESS WHEREOF, the parties hereto have hereunto set their hands and seals
this 19th day of November, 1929.

A. G. Coker
Margaret G. Coker
Charles P. Mace
Mary Mace
Frank Mace
Josie A. Mace
Benjamin Mace
Grace J. Mace
Grover Mace
Cora B. Mace
Wesley Mace
Rosa Mace
Karl Fischer

STATE OF IDAHO,)
County of Ada,) ss.

On this 19th day of November, 1929, before me, Claude R. High, a Notary Public for said County and State, personally appeared Karl Fischer, a bachelor; Charles P. Mace and Mary Mace, husband and wife; Frank Mace and Josie A. Mace, husband and wife; Benjamin Mace and Grace J. Mace, husband and wife, Wesley Mace and Rosa Mace, husband and wife; and Grover Mace and Cora B. Mace, husband and wife, known to me to be eleven of the persons whose names are subscribed to the within agreement, and acknowledged to me that they executed the same.

IN WITNESS WHEREOF, I have hereunto set my hand and affixed my official seal, the day and year in this certificate first above written.

(SEAL)

Claude R. High
Notary Public, State of Idaho,
Residing at Boise, Idaho.
My Commission Expires January 30,
1930.

STATE OF IDAHO,)
County of Ada,) ss.

On this 19th day of November, 1929, before me, Claude R. High, a Notary Public in and for said County and State, personally appeared A.G. Coker and Margaret G. Coker, husband and wife, known to me to be two of the persons whose names are subscribed to the within agreement, and acknowledged to me that they executed the same.

IN WITNESS WHEREOF, I have hereunto set my hand and affixed my official seal, the day and year in this certificate first above written.

(SEAL)

Claude R. High
Notary Public,
State of Idaho,
Residing at Boise, Idaho.
My Commission Expires
January 30, 1930.

Recorded at request of State of Idaho at 05 minutes past 5 o'clock P.M., this
20 day of Nov., 1929.

Fees \$7.60

Stephen Utter
Recorder.

CONTRACTS BOOK 12