

RECEIVED

JUN 25 2009

DEPARTMENT OF
WATER RESOURCES

Robert L. Harris, Esq. (ISB # 7018)
Luke H. Marchant (ISB # 7944)
HOLDEN, KIDWELL, HAHN & CRAPO, P.L.L.C.
1000 Riverwalk Dr., Ste. 200
P.O. Box 50130
Idaho Falls, Idaho 83405
Telephone: (208) 523-0620
Facsimile: (208) 523-9518

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.: See Exhibit A

**AFFIDAVIT OF ROBERT L. HARRIS IN
SUPPORT OF MOTION FOR
SUMMARY JUDGMENT**

STATE OF IDAHO)
) ss.
County of Bonneville)

I, Robert L. Harris, do solemnly swear (or affirm) that the testimony given in this sworn statement is the truth, the whole truth, and nothing but the truth, that it is made on my personal knowledge, and that I would so testify in open court if called upon to do so.

And being so sworn I depose and say:

1. I am an attorney licensed to practice law in the state of Idaho. I am a member of the firm of HOLDEN, KIDWELL, HAHN & CRAPO, P.L.L.C., and represent Mud Lake Water Users, Inc., Montevieu Canal Co., Independent Water Users of Mud Lake, Producers Irrigation Co., and Jefferson Irrigation District in the above entitled matter.
2. The law firm of HOLDEN, KIDWELL, HAHN & CRAPO, P.L.L.C. is a successor law firm to the law firms of HOLDEN & HOLDEN, HOLDEN, HOLDEN, & KIDWELL, and HOLDEN, HOLDEN, KIDWELL & WILLIAMS. Robert B. Holden represented numerous individuals and water delivery entities in the companion Eagle Decree cases of *Burley Irrigation District, et al v. Henry Eagle* and *Aberdeen-Springfield Canal Company v. Henry Eagle* as a member of these Holden firms.
3. HOLDEN, KIDWELL, HAHN & CRAPO, P.L.L.C. has retained the original files for the companion Eagle Decree cases.
4. Attached hereto are true and correct copies of the following documents from the original correspondence and related files referenced in the MLWU Memorandum in Support of Motion for Summary Judgment. For ease of reference, the descriptions after the listed document for most of said documents are affiant's brief description of the document, followed by direct quotations from said document where such quotations use the term or reference of "flood water rights" (emphases below added):

Exhibit No:

1. December 17, 1953; From: W. J. O'Bryant, Idaho Manager, Utah-Idaho Sugar Co.; To: David W. Dick, Secretary-Treasurer, Upper Snake River Water Users Protective Union.
 - a. Letter requesting that Upper Snake River Water Users Protective Union handle the filing of the flood water rights for Utah-Idaho Sugar Co.
 - b. "According to your letter of November 27, 1953 we may file an action to establish a **flood water decree** preceding Palisades Reservoir decree in date of priority..."

- c. "We have consulted with Lynn Crandall relative to our use of flood water and are advised by him that we would be entitled to 20 sec. ft."
 - d. "We would appreciate it greatly if you will handle the filing for us for this amount of flood water."
- 2. April 25, 1955; From: William S. Holden, General Counsel, Upper Snake River Water Users' Protective Union; To: Clarence H. Rands, Secretary, Butler Island Canal Co.
 - a. Letter requesting information from Butler Island Canal Co. regarding their use of flood waters.
 - b. "Will you kindly furnish our office with the following information so that we may proceed with the court actions: (1) Place of diversion of water from Snake River; (2) Legal description of lands irrigated by the flood waters so diverted; (3) Number of acres irrigated by the flood water."
- 3. April 25, 1955; From: William S. Holden, General Counsel, Upper Snake River Water Users' Protective Union; To: James H. Anderson, Secretary, Clark & Edwards Canal Co.; Response from Lee Ormond is handwritten on Mr. Holden's letter.
 - a. Letter requesting information from Clark & Edwards Canal Co. regarding their use of flood waters.
 - b. "Will you kindly furnish our office with the following information so that we may proceed with the court actions: (1) Place of diversion of water from Snake River; (2) Legal description of lands irrigated by the flood waters so diverted; (3) Number of acres irrigated by the flood water."
- 4. April 25, 1955; From: William S. Holden, General Counsel, Upper Snake River Water Users' Protective Union; To: L. Ivan Jensen, Secretary, Snake River Valley Irrigation District; Response from Mr. Jensen is typed above Mr. Holden's letter.
 - a. Letter requesting information from Snake River Valley Irrigation District regarding their use of flood waters.
 - b. "Will you kindly furnish our office with the following information so that we may proceed with the court actions: (1) Place of diversion of water from Snake River; (2) Legal description of lands irrigated by the flood waters so diverted; (3) Number of acres irrigated by the flood water."
- 5. April 25, 1955; From: William S. Holden, General Counsel, Upper Snake River Water Users' Protective Union; To: Grant F. Stucki, Secretary, Harrison Canal Co.; Response from Mr. Stucki is handwritten on Mr. Holden's letter and also attached on separate sheets of paper.
 - a. Letter requesting information from Harrison Canal Co. regarding their use of flood waters.
 - b. "Will you kindly furnish our office with the following information so that we may proceed with the court actions: (1) Place of diversion of water from Snake River; (2) Legal description of lands irrigated by the flood waters so diverted; (3) Number of acres irrigated by the flood water."
- 6. April 25, 1955; From: William S. Holden, General Counsel, Upper Snake River Water Users' Protective Union; To: V. C. Hargrove, Secretary, Dilts Irrigation Company; Response from Roy L. Reed is handwritten on Mr. Holden's letter.
 - a. Letter requesting information from Dilts Irrigation Company regarding their use of flood waters.

- b. “Will you kindly furnish our office with the following information so that we may proceed with the court actions: (1) Place of diversion of water from Snake River; (2) Legal description of lands irrigated by the **flood waters** so diverted; (3) Number of acres irrigated by the **flood water**.”
- 7. May 6, 1955; From: W. J. O’Bryant, Idaho Manager, Utah-Idaho Sugar Co.; To: William S. Holden, General Counsel, Upper Snake River Water Users’ Protective Union
 - a. Letter providing information requested from Mr. Holden regarding Utah-Idaho Sugar Co.’s use of flood waters. Provides place of diversion, place of use and number of acres irrigated by flood water.
- 8. May 14, 1955; From: Rudolph C. Larsen, Vice President, Liberty Park Irrigation Co.; To: William S. Holden, General Counsel, Upper Snake River Water Users’ Protective Union
 - a. Letter providing information requested from Mr. Holden regarding Liberty Park Irrigation Co.’s use of flood waters.
 - b. “Legal description of lands irrigated by **flood waters** so diverted is enclosed on separate sheets...”
 - c. “The number of acres irrigated by **flood water** under our canal according to the records obtained in the court house is 5387 acres.
- 9. March 24, 1956; From: Howard R. Stinson, (Holden & Holden); To: Mr. Jones (Jones, Pomeroy & Jones)
 - a. Letter discussing possible procedures to obtain supplemental flood water decrees.
 - b. “The watermaster, Mr. Lynn Crandall, advised the Bureau of Reclamation’s project superintendent on July 19, 1954, with respect to some forty **flood water rights** for which filings had not been made, but which had been used mostly since 1939. There was a discussion at that time as to how these **flood water rights** would be handled in relation, particularly, to the storage filing for Palisades Reservoir.”
 - c. “It has been and is the program of the Protective Union to obtain decrees for these **flood water rights**...”
- 10. March 29, 1956; From: Howard R. Stinson (Holden & Holden); To: Lynn Crandall, Watermaster, Water District No. 36
 - a. Letter discussing the future preparation of a Complaint for the “securing of a summary supplemental decree for **flood water rights** with priority dates ahead of the Palisades reservoir filing.” Letter also asks Mr. Crandall to review the names of those who should receive a supplemental water right, and what the amount of that right should be.
 - b. “...it has been your expressed opinion, I believe, that it would be useful to have a common priority date for all of these additional **flood water rights**.”
- 11. May 22, 1956; From: Howard R. Stinson (Holden & Holden); To: Ralph Jones (Jones, Pomeroy & Jones)
 - a. Letter discussing the “best course of action to pursue with respect to obtaining a decree for **flood water rights** in accordance with the agreement reached in 1950-1952 during the negotiation of the Minidoka-Palisades contracts...”

- b. "This office, in considering this matter, is speaking primarily for those companies and districts represented in the Protective union, but there are some individuals who are represented by this firm who are interested in **flood water rights.**"
 - c. "There is attached to this letter a letter dated April 2, 1956, from the Watermaster, in which he summarizes the additional **flood water rights** which, in his opinion, should have a common priority date of April 1, 1939, ahead of the Palisades priority date of July 28, 1939."
 - d. "If the only issues involved were those connected with the establishment of **flood water rights** the procedure of obtaining a summary supplemental adjudication of water rights would seem to be proper."
 - e. "...there could be a joinder, for example, of all the companies and districts who are parties to the Minidoka-Palisades contracts, together with all those who are not party to such contract, but who will be claiming **flood water rights.**"
12. March 1, 1958; Document entitled "Proposed Supplemental Water Decrees on the Snake River."
- a. "Suggested **flood water** rights to be decreed with priority of April 1, 1939, which is just ahead of the Palisades priority of July 28, 1939, based on maximum diversion to date in excess of presently decreed rights."
13. June 25, 1958; From: William S. Holden (Holden & Holden); To: Adonis H. Nielson (Nielson & Nielson)
- a. Letter states that he agrees with Adonis's comments in a letter dated June 11, 1958 concerning "the action to adjudicate **flood water rights** on the Snake River."
14. March 24, 1964; From: Lon F. Davis (Holden, Holden & Kidwell); To: Ralph O. Lounsbury, Secretary, The Butler Island Canal Company
- a. Letter detailing need for supplemental flood decree with a date of priority before Palisades rights. Letter states that Holden, Holden & Kidwell is in the process of filing a legal action to obtain this decree for the Upper Snake River Water Users Protective Union and requests information and consent to the adjudication of the other supplemental decrees in the amounts listed for other companies, districts and individuals.
 - b. "During the negotiations on the Palisades Project, the question arose as to how the existing **flood water rights** of companies, districts and individuals could be protected as being prior to the Palisades storage rights. It was then agreed that a supplemental **flood** decree should be obtained..."
15. March 24, 1964; From: Lon F. Davis (Holden, Holden & Kidwell); To: Raymond P. Parry (Parry, Robertson & Daly)
- a. Letter discussing the best method to file an action in Upper and Lower Valley to "obtain a supplemental decree of **flood water rights.**" Letter encloses a form entitled "Notice to Watermaster" which was sent to all of the Upper Valley water users from Henry Eagle (Watermaster, District 36) to obtain information for the supplemental flood water decree.

- b. "We are now proceeding to draft the necessary pleadings to obtain a supplemental decree of the flood water rights in the Upper Snake River Valley with a priority date of April 1, 1939."
- From the enclosed "Notice to Watermaster" form:**
- c. "During the time of negotiations to obtain the Palisades Project, it became apparent that there was a need for supplemental decrees on the Snake River and its tributaries to several companies, districts and individuals in order to protect their flood water rights as being prior in time to the Palisades Project Storage Rights."
 - d. "I have enclosed a list of the proposed flood water right decrees with a proposed priority date of April 1, 1939, which was compiled by Lynn Crandall, the former Watermaster of District 36, and William S. Holden (sic), Attorney for The Upper Snake River Water Users Protective Union and The Committee of Nine. The Committee of Nine has approved this list at one of their annual meetings."
 - e. "It would seem advisable to adjudicate all of the flood rights of all affected parties in one action if possible."
 - f. "As these flood rights will be prior in time and right to the Palisades storage rights and will protect your priority against subsequent down stream diversions, I think it would be wise to take advantage of this opportunity of obtaining this supplemental decree of an additional right for your lands."
16. April 3, 1964; From Clifford E. Fix (Parry, Robertson & Daly); To: Lon F. Davis (Holden, Holden & Kidwell)
 - a. "Re: Supplemental Flood Decrees on the Snake River"
 - b. Letter in response to letter above from Lon F. Davis dated March 24, 1964. States that separate action would have to be filed for Lower Valley rights, but that they (Parry, Robertson & Daly) propose to defer filing any action until they have made a further study of the water rights involved.
 17. April 9, 1964; From Clifford E. Fix (Parry, Robertson & Daly); To: Lon F. Davis (Holden, Holden & Kidwell)
 - a. Short FYI letter to send Lon a copy of Clifford's response to Mr. Eagle.
 - b. "Re: Supplemental Flood Decrees on the Snake River"
 18. May 6, 1964; From: H.C. Eagle, Watermaster, District 36; To: Leonard Graham
 - a. Letter questioning when the proposed supplemental decrees were approved by the water users.
 19. May 6, 1964; From: H.C. Eagle, Watermaster, District 36; To: Coral Allred, President, Island Irrigation Co.
 - a. Letter explaining why Island Irrigation Co. was not entitled to file for a flood water right.
 20. May 19, 1964; From: Lon F. Davis (Holden, Holden & Kidwell); To: Shattuck Irrigation Company
 - a. Letter detailing need for supplemental flood decree with a date of priority before Palisades rights. Letter states that Holden, Holden & Kidwell is in the process of filing a legal action to obtain this decree for the Upper Snake River Water Users Protective Union and requests information concerning the land serviced by the company.

- b. "During the negotiations on the Palisades Project, the question arose as to how the existing flood water rights of companies, districts and individuals could be protected as being prior to the Palisades storage rights. It was then agreed that a supplemental flood decree should be obtained..."
- 21. May 19, 1964; From: Lon F. Davis (Holden, Holden & Kidwell); To: Utah-Idaho Sugar Company
 - a. Letter detailing need for supplemental flood decree with a date of priority before Palisades rights and requesting additional information about land on which the supplemental water is to be used and the point of diversion.
 - b. "During the negotiations on the Palisades Project, the question arose as to how the existing flood water rights of companies, districts and individuals could be protected as being prior to the Palisades storage rights. It was then agreed that a supplemental flood decree should be obtained..."
- 22. August 18, 1964; From: Lon F. Davis (Holden, Holden & Kidwell); To: R.P. Parry (Parry, Robertson & Daly)
 - a. Letter discussing draft of the pleadings for the "supplemental flood decrees for the Upper Snake River Valley." Also discusses whether certain Palisades contractors should be added as parties and also the nature of North Side Canal Company's water right.
 - b. "We are working on the drafts of the pleadings for the supplemental flood decrees for the Upper Snake River Valley and will have a draft for your consideration and comments in the very near future."
 - c. "An additional question arose as to the flood right of the North Side Canal Company mentioned in Cliff's letter to Henry Eagle dated April 9, 1964, a copy of which was forwarded to us on that date, together with copies of the correspondence between Henry Eagle and Carl Tappan."
- 23. September 16, 1964; From: Lon F. Davis (Holden, Holden & Kidwell); To: R.P. Parry (Parry, Robertson & Daly)
 - a. Letter discussing draft Complaint (which was enclosed) for the "supplemental rights on the Snake River with the accompanying prayer for an adjudication of key paragraphs of the Palisades Contract."
 - b. Also discusses whether to add all Palisades contractors and the best way to accomplish that if they decide to do it.
- 24. March 30, 1966; From: John A. Rosholt (Parry, Robertson & Daly); To: Bob Holden (Holden, Holden & Kidwell)
 - a. Letter discussing progress on assembling party plaintiffs in Lower Valley and how to proceed with "action for supplemental flood water decrees on Snake River".
- 25. August 2, 1966; From: John A. Rosholt (Parry, Robertson & Daly); To: Bob Holden (Holden, Holden & Kidwell)
 - a. Letter discussing proposed party plaintiffs to "Action for Supplemental Flood water Decree on Snake River and Affirmation of Certain Palisades Contract Provisions."
 - b. "I have indicated on this list those entitled to flood water as per Henry Eagle's original list."

26. August 25, 1966; From: John A. Rosholt (Parry, Robertson & Daly); To: Bob Holden (Holden, Holden & Kidwell)
 - a. Letter asking if Bob reviewed list of potential party plaintiffs sent on August 2, 1966 for "Action for **Supplemental Flood water Decree** on Snake River and Affirmation of Certain Palisades Contract Provisions".
27. September 1, 1966; From: Robert B. Holden (Holden, Holden & Kidwell); To: John A. Rosholt (Parry, Robertson & Daly)
 - a. Letter discussing proposed party plaintiffs and other elements of "Action for **Supplemental Flood water Decree** on Snake River and Affirmation of Certain Palisades Contract Provisions".
28. October 12, 1966; From: John A. Rosholt (Parry, Robertson & Daly); To: Bob Holden (Holden, Holden & Kidwell)
 - a. Letter discussing draft of Complaint and procedure for proceeding with "**Supplemental Flood Water Decree**".
29. November 29, 1966; From: John A. Rosholt (Parry, Robertson & Daly); To: Robert B. Holden (Holden, Holden & Kidwell)
 - a. Letter discussing proposed complaint and proposed stipulation as well as process and schedule to proceed with "**Supplemental Flood Water Decree**".
 - b. "Presently, I am busy checking the changes in names which you inserted so that my list of party plaintiffs and persons entitled to **flood water** on Henry's Fork and in the Upper Valley are properly conformed."
30. December 14, 1966; From: William Burpee, Field Solicitor, United States Department of the Interior, Office of the Solicitor, Portland Region, Boise Field Office; To: Robert B. Holden (Holden, Holden & Kidwell).
 - a. Letter thanking Robert Holden for previous communication which included a copy of a proposed complaint to provide for supplemental decree and certain provisions of Palisades contracts. Letter suggests adding Fremont-Madison Irrigation District as a party to the proceeding.
 - b. "I appreciate very much receiving your letter of November 18 forwarding me a copy of a proposed complaint to provide for a supplemental decree confirming **flood waters** and certain provisions of the Palisades contracts."
31. September 27, 1967; From: R. Keith Higginson, State Reclamation Engineer; To: Henry Eagle
 - a. Letter discussing press release made by Henry Eagle regarding high ground water in the Rigby area. Higginson questions the excessive amount of water being diverted in District 36 and the need for the proposed supplemental flood water adjudication.
 - b. "I suspect you can appreciate my concern over the proposed supplemental **flood water** adjudication which is currently pending the district courts in Twin Falls and St. Anthony."
32. December 21, 1967; From: William Burpee, Field Solicitor, United States Department of the Interior, Office of the Solicitor, Portland Region, Boise Field Office; To: William Holden (Holden, Holden & Kidwell) & R.P. Parry (Parry, Robertson & Daly)
 - a. Letter enclosing article from The Idaho Daily Statesmen concerning water adjudication suit. Letter expresses concern over some of the content of the

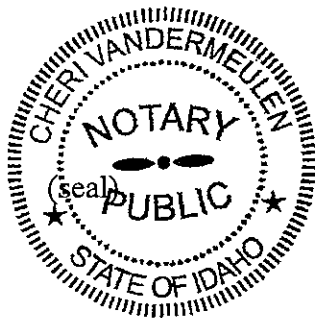
article which indicates that Palisades Reservoir water is not being put to beneficial use. Letter suggests that steps be taken to stop this rumor before it attains any widespread credence.

33. June 24, 1968; From: R. Keith Higginson, State Reclamation Engineer; To: Holden, Holden, Kidwell & Williams
 - a. Letter to Firm expressing concern over excessive quantities of water being diverted from the Snake for irrigation, also certain provisions of the Palisades contracts. Letter also states he is withdrawing his intervention in the proposed supplemental flood water adjudication suit. Encloses a copy of his statement concerning the proposed adjudication suit.
 - b. "I am enclosing a copy of my statement concerning the proposed supplemental **flood water** adjudication suit on the Snake River for your information."
 - c. From Higginson's statement:
 - i. "My major concern is with the so-called '**flood water rights**' which the plaintiffs are attempting to establish."
34. June 26, 1968; From: R. Keith Higginson, State Reclamation Engineer; To: Bureau of Reclamation, Region 1
 - a. Same letter (with enclosure) as that above dated June 24, 1968, to Holden, Holden, Kidwell & Williams.
35. July 9, 1968; From: William S. Holden; To: William Burpee
 - a. Letter to William Burpee discussing public statement made by Keith Higginson concerning the "wasteful use of water in Southeastern Idaho and stating that the Palisades contracts do not conform to Idaho State law." Letter also discusses correspondence with Leonard Braham suggesting that he call a meeting of the Committee of Nine.
 - b. "...we are attorneys of record in the pending suit in which we are seeking to have the Court confirm and approve the Palisades contracts and to grant the supplemental **flood water rights**."
36. February 24, 1969; From: Roger Ling; To: John Rosholt (Parry, Robertson, Daly & Larsen)
 - a. Letter from Roger suggesting that John remain as the attorney of record for A&B Irrigation District in representing them in the Stipulation.
 - b. "In view of the fact that you made the original appearance on behalf of the A&B Irrigation District in the **flood water** adjudication suits... I can see no reason to change the record in any respect."

DATED this 23rd day of June, 2009.

Robert L. Harris
Robert L. Harris, Esq.
HOLDEN, KIDWELL, HAHN & CRAPO, P.L.L.C.

SUBSCRIBED AND SWORN TO before me this 23rd day of June, 2009.



Cheri Vandermeulen
Notary Public for Idaho
Residing at Idaho Falls, Idaho
My Commission Expires: July 7, 2015

CERTIFICATE OF SERVICE

I hereby certify that I am a duly licensed attorney in the State of Idaho, resident of and with my office in Idaho Falls, Idaho; that I served a copy of the following described pleading or document on the attorneys listed below by hand delivering, by mailing or by facsimile, with the correct postage thereon, a true and correct copy thereof on this 23rd day of June, 2009.

DOCUMENT SERVED: Affidavit of Robert L. Harris in Support of Motion for Summary Judgment

ATTORNEYS SERVED:

Clerk of the District Court
Snake River Basin Adjudication Court
PO Box 2707
Twin Falls, ID 83302-2707

Randall C. Budge
Racine, Olson, Nye, Budge & Bailey, Chtd.
101 South Capitol Blvd., Ste. 208
Boise, ID 83702

United States Dept. of Justice
Environment & Natural Resource Div.
550 West Fort Street
MS 033
Boise, ID 83724

Natural Resources Division Chief
State of Idaho
Attorney General's Office
PO Box 44449
Boise, ID 83711-4449

Barker, Rosholt & Simpson, LLP
PO Box 485
Twin Falls, ID 83303-0485

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

Josephine Beeman
409 W. Jefferson St.
Boise, ID 83702

Roger D. Ling
PO Box 396
Rupert, ID 83350-0396

Craig D. Hobdey
PO Box 176
Gooding, ID 83330

Jerry Rigby
Rigby, Andrus & Moeller, Chtd.
PO Box 250
Rexburg, ID 83440-0250

C. Thomas Arkoosh
Capitol Law Group
PO Box 32
Gooding, ID 83330

W. Kent Fletcher
PO Box 248
Burley, ID 83318

M. Evan Call
4373 Cold Water Rd.
American Falls, ID 83211

Call Farms Partnership
c/o Evan Call
4371 Coldwater Rd.
American Falls, ID 83211

Robert A. Maynard
Perkins, Coie, LLP
251 E. Front St., Ste. 400
Boise, ID 83702-7310

Martin & Lorraine Muecke
1250 W. 300 S.
Heyburn, ID 83336

William A. Parsons
Parsons, Smith & Stone, LLP
PO Box 910
Burley, ID 83318

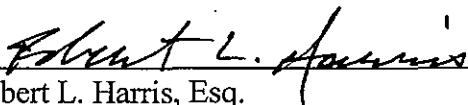
E. Gail McGarry
United States, Department of Interior
Bureau of Reclamation
1150 N. Curtis Rd., Ste. 100
Boise, ID 83706-1234

Tim Eilers
1109 W. 300 S.
Heyburn, ID 83336

Steve Muecke
925 W. Wanda Ln.
Heyburn, ID 83336

Bret Andersen
Robyn Andersen
322 E. Main
Burley, ID 83318

J. Vaughn Hobson
19 S. 700 W.
Burley, ID 83318


Robert L. Harris, Esq.
HOLDEN, KIDWELL, HAHN & CRAPO, P.L.L.C.

G:\WPDATA\ALHM\1047-001 Mud Lake WU\Affidavit of RLH.wpd

EXHIBIT A

WR#	Claimant	Priority Date
1-4	TFCC	12/22/1915
1-5	NSCC	12/23/1915
1-6	AFRD	3/30/1921
1-7	BID	4/1/1939
1-8	MID	4/1/1939
1-9	Milner	4/1/1939
1-10	TFCC	4/1/1939
1-13	FID	4/1/1939
1-14	A&B	4/1/1939
1-16	NSCC	12/23/1915
1-17	Milner	11/14/1916
1-211A	BOR	3/26/1903
1-211B	BID	3/26/1903
1-212	North Side	10/7/1905
1-213	North Side	6/16/1908
1-214A	BOR	8/6/1908
1-214B	BID	8/16/1908
1-219	BOR	12/14/1909
1-2050	Milner	10/25/1939
1-2061	BOR	6/11/1956
1-10034	BOR	3/15/1911
1-10225	A&B	4/1/1984
1-10237	A&B	7/11/1968
1-10238	A&B	7/11/1968
1-10239	A&B	7/11/1968
1-10240	A&B	7/12/1968
1-10241	A&B	4/1/1978
1-10482	BOR	4/1/1940
1-10483	Amalgamated	5/18/1926

Exhibit 1

DOUGLAS SCALLEY
VICE PRESIDENT & GENERAL MANAGER



UTAH-IDAHO SUGAR CO.

IDAHO DISTRICT

OFFICE
IDAHO FALLS, IDAHO

W. J. O'BRYANT
IDAHO MANAGER

FACTORIES : WAREHOUSES
IDAHO FALLS
BLACKFOOT
SHELLEY
RIGBY

December 17, 1953

Mr. David W. Dick, Sec.-Treas.
Upper Snake River Water Users' Protective Union
206 American National Bank Building
Idaho Falls, Idaho

Dear Mr. Dick:

According to your letter of November 27, 1953 we may file an action to establish a flood water decree preceeding Palisades Reservoir decree in date of priority and the business end of the proceedings will be handled through your office.

We have consulted with Lynn Crandall relative to our use of ~~some~~ flood water and are advised by him that we would be entitled to 20 sec. ft.

We would appreciate it greatly if you will handle the filing for us for this amount of flood water.

Very truly yours,
UTAH-IDAHO SUGAR CO.

By

WJO/mdv

Idaho Manager

Exhibit 2

HOLDEN & HOLDEN
ATTORNEYS AT LAW
IDAHO FIRST NATIONAL BANK BUILDING
IDAHO FALLS, IDAHO
TELEPHONE 923 OR 1400
April 25, 1955

POOR QUALITY ORIGINAL

ARTHUR W. HOLDEN
WILLIAM S. HOLDEN
ROBERT B. HOLDEN
ROBERT V. KIDWELL
REED A. WILLIAMS

Mr. Clarence E. Sands, Secretary
Butler Island Canal Co.
Route 2
Rigby, Idaho

Dear Sir:

In connection with the legal proceedings we are bringing for members of the Upper Snake River Valley Water Users' Protective Union, for adjudication of supplemental water rights on Snake River, we are in need of some factual information concerning your company.

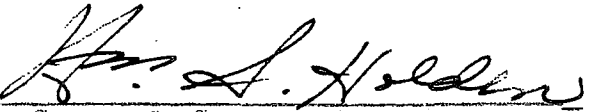
Will you kindly furnish our office with the following information so that we may proceed with the court actions:

1. Place of diversion of water from Snake River (by legal subdivision).
2. Legal description of lands irrigated by the flood waters so diverted.
3. Number of acres irrigated by the flood water.

Kindly send us this information as soon as possible.

Very truly yours,

HOLDEN & HOLDEN

By 
General Counsel, Upper Snake
River Valley Water Users'
Protective Union.

WSH:jk

Exhibit 3

HOLDEN & HOLDEN
ATTORNEYS AT LAW
IDAHO FIRST NATIONAL BANK BUILDING

ARTHUR W. HOLDEN
WILLIAM S. HOLDEN
ROBERT B. HOLDEN
ROBERT V. KIDWELL
REED A. WILLIAMS

IDAHO FALLS, IDAHO
TELEPHONE 923 OR 1400
April 25, 1955

Mr. James H. Anderson, Secretary
Clark & Edwards Canal Company
Route 2
Rigby, Idaho

Dear Sir:

In connection with the legal proceedings we are bringing for members of the Upper Snake River Valley Water Users' Protective Union, for adjudication of supplemental water rights on Snake River, we are in need of some factual information concerning your company.

Will you kindly furnish our office with the following information so that we may proceed with the court actions:

1. Place of diversion of water from Snake River (by legal subdivision). *1/4 mi. West of Burgen land of 1891*
2. Legal description of lands irrigated by the flood waters so diverted. *2 1/2 Jefferson County*
3. Number of acres irrigated by the flood water. *1770*

Kindly send us this information as soon as possible.

Very truly yours,

HOLDEN & HOLDEN

By

Wm S. Holden
General Counsel, Upper Snake River
Valley Water Users' Protective Union

*File & record sec
Clark & Edwards Canal Co. of*

Exhibit 4

HOLDEN & HOLDEN
ATTORNEYS AT LAW
IDAHO FIRST NATIONAL BANK BUILDING

ARTHUR W. HOLDEN
WILLIAM S. HOLDEN
ROBERT B. HOLDEN
ROBERT V. KIDWELL
REED A. WILLIAMS

IDAHO FALLS, IDAHO

TELEPHONE 923 OR 1400

April 25, 1955

Dear Bill: E. Milton Christensen has the information for questions 1 and 2. The answer to question 3, is 21,286 acres. I can get 1 and 2 if Milton is too busy.

L. Ivan.

Mr. L. Ivan Jensen, Secretary
Snake River Valley Irrigation District
Shelley, Idaho

Dear Sir:

In connection with the legal proceedings we are bringing for members of the Upper Snake River Valley Water Users' Protective Union, for adjudication of supplemental water rights on Snake River, we are in need of some factual information concerning your company.

Will you kindly furnish our office with the following information so that we may proceed with the court actions:

1. Place of diversion of water from Snake River (by legal subdivision).
2. Legal description of lands irrigated by the flood waters so diverted.
3. Number of acres irrigated by the flood water.

1954 21,286

Kindly send us this information as soon as possible.

Very truly yours,

HOLDEN & HOLDEN

By 
General Counsel, Upper Snake River
Valley Water Users' Protective Union

Exhibit 5

HOLDEN & HOLDEN
ATTORNEYS AT LAW
IDAHO FIRST NATIONAL BANK BUILDING
IDAHO FALLS, IDAHO
TELEPHONE 923 OR 1400
April 25, 1955

ARTHUR W. HOLDEN
WILLIAM S. HOLDEN
ROBERT B. HOLDEN
ROBERT V. KIDWELL
REED A. WILLIAMS

Mr. Grant F. Stucki, Secretary
Harrison Canal Co.
Route 1
Idaho Falls, Idaho

Dear Sir:

In connection with the legal proceedings we are bringing for members of the Upper Snake River Valley Water Users' Protective Union, for adjudication of supplemental water rights on Snake River, we are in need of some factual information concerning your company.

Will you kindly furnish our office with the following information so that we may proceed with the court actions:

1. Place of diversion of water from Snake River (by legal subdivision).
2. Legal description of lands irrigated by the flood waters so diverted.
3. Number of acres irrigated by the flood water.

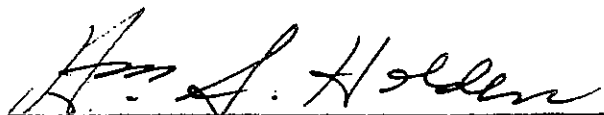
13,000
2,500

Kindly send us this information as soon as possible.

Very truly yours,

HOLDEN & HOLDEN

By


General Counsel, Upper Snake River
Valley Water Users' Protective Union

POOR QUALITY ORIGINAL

3N-38

part of
6-10-10

6	5	4	3	2	
7	8	9	10	11	12
18	17	16	15	14	13
19	20	21	22	23	24
30	29	28	27	26	25
31	32	33	34	35	36

POOR QUALITY ORIGINAL

3 N 2 E 2

6	5	4	3	2	
7	8	9	10	11	12
18	17	16	15	14	13
19	20	21	22	23	24
30	29	28	27	26	25
31	32	33	34	35	36

POOR QUALITY ORIGINAL

AN - 00E-

6	5	4	3	2	
7	8	9	10	11	12
13	17	16	15	14	13
19	20	21	22	23	24
25 XXXXX	29	28	27	26	25
31	32	33	34	35	36

POOR QUALITY ORIGINAL

C-7V 39

6	5	4	3	2	
7	8	9	10	11	12
18	17	16	15	14	13
19	20	21	22	23	24
30	29	28	27	26	25
31	32	33	34	35	36

Exhibit 6

ARTHUR W. HOLDEN
WILLIAM S. HOLDEN
ROBERT B. HOLDEN
ROBERT V. KIDWELL
REED A. WILLIAMS

HOLDEN & HOLDEN
ATTORNEYS AT LAW
IDAHO FIRST NATIONAL BANK BUILDING
IDAHO FALLS, IDAHO
TELEPHONE 923 OR 1400
April 25, 1955

Roy L. Reed
Mr. W. C. Hargrove, Secretary
Dilts Irrigation Company
Route #
Bigby, Idaho

Luengo
Dear Sir:

In connection with the legal proceedings we are bringing for members of the Upper Snake River Valley Water Users' Protective Union, for adjudication of supplemental water rights on Snake River, we are in need of some factual information concerning your company.

Will you kindly furnish our office with the following information so that we may proceed with the court actions:

1. Place of diversion of water from Snake River (by legal subdivision). *Great Ketchikan Canal*
2. Legal description of lands irrigated by the flood waters so diverted. *No record*
3. Number of acres irrigated by the flood water. *No record*

Kindly send us this information as soon as possible.

Very truly yours,

HOLDEN & HOLDEN

By

A. S. Holden
General Counsel, Upper Snake River
Valley Water Users' Protective Union

Exhibit 7



UTAH-IDAHO SUGAR CO.

IDAHO DISTRICT

OFFICE
IDAHO FALLS, IDAHO

May 6, 1955

FACTORIES : WAREHOUSES
IDAHO FALLS
BLACKFOOT
SHELLEY
RIGBY

Mr. Wm. S. Holden, General Counsel
Upper Snake River Water Users
Protective Union
Idaho First National Bank Bldg.
Idaho Falls, Idaho

Dear Sir:

The following is information asked for in your letter of April 25, 1955, in connection with the legal proceedings you are bringing for members of the Upper Snake River Water Users Protective Union.

1. Place of diversion of water from Snake River by legal subdivision.

We pump all water used on the Osgood and Hayes Projects from the Great Western Canal which serves the New Sweden District, therefore, our diversion from the Snake River would be at the head of the Great Western Canal. Mr. Kidwell advises us that you will have this legal subdivision in a report from the New Sweden District and can use it in connection with our report.

2. Legal description of the lands irrigated by the flood waters so diverted.

Osgood Project, Bonneville County: All of Sections 3, 4, 9, 10, 16, 21, 22, 27, 28, 33 except the S.W. $\frac{1}{4}$ of the S.W. $\frac{1}{4}$; and 34, T.W.P. 3N., Range 37 E.B.M.

Hayes Project, Bingham County: S.E. $\frac{1}{4}$ of Section 22; S. $\frac{1}{2}$ of the N.W. $\frac{1}{4}$ of Section 23; S.W. $\frac{1}{4}$ of Section 23; W. $\frac{1}{2}$ of Section 24; N.W. $\frac{1}{4}$ of the N.W. $\frac{1}{4}$ of Section 25; All of Section 26; E. $\frac{1}{2}$ of the N.E. $\frac{1}{4}$ of Section 27; E. $\frac{1}{2}$ of the S.E. $\frac{1}{4}$ of Section 27; All of Section 35; and the W. $\frac{1}{2}$ of the N.W. $\frac{1}{4}$ of Section 36; T.W.P. 1 N. 36 E.B.M.

3. Number of acres irrigated by the flood water.

6400 acres on the Osgood Project and 2000 acres on the Hayes Project, making a total of 8400 acres.

Trusting that this will give you the information needed, we are,

Very truly yours,
UTAH-IDAHO SUGAR CO.
By:

Idaho Manager

Exhibit 8

Rexburg, Idaho Route # 1
May 14, 1955

Mr. William S. Holden
General Counsel, Upper Snake River Water Users' Protective Union
Idaho Falls, Idaho

Dear Mr. Holden:

The Liberty Park Irrigation Company received a letter from you asking for the following information.

1. Place of diversion of water from the Snake River.
The Bannock Feeder Canal Headgates.
2. Legal description of lands irrigated by flood waters so diverted is enclosed on separate sheets giving the description of land and the acres of land in each farm as well as the shares of water stock of each stockholder.
3. The number of acres irrigated by flood water under our canal according to the records obtained in the court house is 5387 acres.

I hope this information answers your questions satisfactory.

Yours truly,



Rudolph C. Larsen
Vice-President of the
Liberty Park Irrigation Co.

STOCKHOLDERS OF THE LIBERTY PARK CANAL COMPANY AND THE DESCRIPTION OF THEIR LAND

Allred Coral 40 shares 168 acres
 Sec. 21-5-39 S $\frac{1}{2}$ SE $\frac{1}{2}$ 80 acres
 Sec. 28-5-39 Lot 6; NE $\frac{1}{2}$ NE $\frac{1}{2}$ 80 acres
 Sec. 27-5-39 Tax # 6 8 acres

Anderson D. M. 72 shares 188 acres
 Sec. 14-5-39 S $\frac{1}{2}$ SW $\frac{1}{2}$ SE $\frac{1}{2}$ 20 acres
 Sec. 22-5-39 Tax # 3 80 acres
 Sec. 15-5-39 Tax # 9 78 acres

Anderson Samuel S. Mack Anderson 36 shares 80 acres
 Sec. 22-5-39 Tax # 14 55 acres
 Sec. 15-5-39 Tax # 7 25 acres

Anderson Mrs. Nettie 42 shares 80 acres
 Sec. 22-5-39 NW $\frac{1}{4}$ SW $\frac{1}{4}$; W $\frac{1}{2}$ SE $\frac{1}{4}$ NW $\frac{1}{4}$; W $\frac{1}{2}$ NE $\frac{1}{4}$ SW $\frac{1}{4}$; 80 acres

Anderson Mrs. A. C. (Maria) 45 shares 99 acres
 Sec. 16-5-39 N $\frac{1}{2}$ Ne $\frac{1}{4}$ less Tax # 1 60 acres
 Sec. 9-5-39 SE $\frac{1}{4}$ SE $\frac{1}{4}$ less Tax # 15 39 acres

Anderson Morace W. 1 share 1 acre
 Sec. 22-5-39 Tax # 15 1 acre

Anderson Rex G. 1 share 1 acre
 Sec. 22-5-39 Tax # 6 1 acre

Anderson W. C. 15 shares 100 acres
 Sec. 9-5-39 SE $\frac{1}{4}$ NE $\frac{1}{4}$; NE $\frac{1}{4}$ SE $\frac{1}{4}$ 80 acres
 Sec. 10-5-39 Tax # 26 20 acres

Anderson Stanley 1 share 1 acre
 Sec. 16-5-39 Tax # 1 1 acre

Anderson Ross 5 shares 66 acres
 Sec. 15-5-39 Tax # 13 & 17 66 acres

Anderson Mark C. 1 share 1 acre
 Sec. 22-5-39 Tax # 13 1 acre

Barber Theodore 36 shares 127 acres
 Sec. 6-5-39 NE $\frac{1}{2}$ SW $\frac{1}{2}$ 40 acres
 Sec. 9-5-39 Tax # 3 & 4 87 acres

Bowen Grant 52 shares 80 acres
 Sec. 7-5-39 Lot; NE $\frac{1}{2}$ NW $\frac{1}{2}$ 80 acres

Briggs Edward 31 shares 105 acres
 Sec. 26-5-39 NW $\frac{1}{4}$ NW $\frac{1}{4}$; ~~N $\frac{1}{2}$~~ 40 acres
 Sec. 22-5-39 Tax # 1 SW $\frac{1}{4}$ NE $\frac{1}{4}$; NW $\frac{1}{4}$ SE $\frac{1}{4}$ less T-4 and RR 65 acres

Clark Adeline 2 shares David Oram 40 acres
 Sec. 21-5-39 SW $\frac{1}{2}$ NW $\frac{1}{4}$ 40 acres

Clark Allen 40 shares 75 acres
 Sec. 8-5-39 Tax # 22 40 acres
 Sec. 5-5-39 Tax # 4 & 5 35 acres

Clark William Ben 24 shares 34 acres
 Sec. 8-5-39 Tax # 31 16 acres
 Sec. 17-5-39 Tax # 31 18 acres

Chambers Thurman And Rose 40 shares 80 acres
 Sec. 6-5-39 $\frac{1}{4}$ SW $\frac{1}{4}$ SW $\frac{1}{4}$; 20 acres
 Sec. 7-5-39 $\frac{1}{4}$ NE $\frac{1}{4}$ NE $\frac{1}{4}$; 20 acres
 Sec. 6-5-39 $\frac{1}{4}$ SE $\frac{1}{4}$ SE $\frac{1}{4}$; 20 acres
 Sec. 7-5-39 $\frac{1}{4}$ NE $\frac{1}{4}$ NE $\frac{1}{4}$; 20 acres

Daniels Mrs. Arnie Daniels 24 shares Leland Jensen 43 $\frac{1}{2}$ acres
 Sec. 8-5-39 Tax 5 23 $\frac{1}{2}$ acres
 Sec. 17-5-39 Tax # 2 20 acres

Everson Katherine E. 35 shares 80 acres
 Sec. 21-5-39 NE $\frac{1}{4}$ NE $\frac{1}{4}$; 40 acres
 Sec. 16-5-39 S $\frac{1}{2}$ SE $\frac{1}{4}$ SE $\frac{1}{4}$; 40 acres

Firth Lorenzo 34 shares 60 acres
 Sec. 16-5-39 S $\frac{1}{2}$ SW $\frac{1}{4}$ SE $\frac{1}{4}$ 20 acres
 Sec. 21-5-39 NW $\frac{1}{4}$ NE $\frac{1}{4}$ 40 acres

Firth William 39 shares 80 acres
 Sec. 16-5-39 NE $\frac{1}{4}$ SE $\frac{1}{4}$; N $\frac{1}{2}$ S $\frac{1}{2}$ SE $\frac{1}{4}$; 80 acres

Firth Joseph B. 19 shares 80 acres
 Sec. 17-5-39 N $\frac{1}{2}$ SW $\frac{1}{4}$ 80 acres

Freeman Amanda 7 $\frac{1}{2}$ shares 20 acres
 Sec. 9-5-39 E $\frac{1}{2}$ SW $\frac{1}{4}$ SE $\frac{1}{4}$; 20 acres

Freeman D. H. 12 $\frac{1}{2}$ shares 20 acres
 Sec. 9-5-39 E $\frac{1}{2}$ NW $\frac{1}{4}$ SW $\frac{1}{4}$; 20 acres

Freeman Ivan 7 $\frac{1}{2}$ shares 20 acres
 Sec. 9-5-39 W $\frac{1}{2}$ SW $\frac{1}{4}$ SE $\frac{1}{4}$ 20 acres

Freeman Don 12 $\frac{1}{2}$ shares 20 acres
 Sec. 9-5-39 W $\frac{1}{2}$ NW $\frac{1}{4}$ SW $\frac{1}{4}$ 20 acres

Gideon H. S. & Viola 50 shares 146 acres
 Sec. 27-5-39 N $\frac{1}{2}$ NW $\frac{1}{4}$ Less tax # 6 & RR 66 acres
 Sec. 22-5-39 S $\frac{1}{2}$ SW $\frac{1}{4}$ 80 acres

Hansen Curtis 30 shares 47 acres
 Sec. 5-5-39 Tax # 10 7 acres
 Sec. 8-5-39 Tax # 10 40 acres

Hansen Chris 3 shares 5 acres
 Sec. 9-5-39 Tax # 7 5 acres

Hansen James A. 11 shares 23 acres
 Sec. 9-5-39 Tax # 5 - 9-10 E 10 RDS SW $\frac{1}{4}$ SE $\frac{1}{4}$ 23 acres

Hansen Niels Marnius 3 shares 5 acres
 Sec. 9-5-39 Tax # 11 5 acres

Hansen Leonard 10 shares 22 acres
 Sec 5-5-39 Tax # 35 7 $\frac{3}{4}$ acres
 Sec. 8-5-39 Tax # 35 14 $\frac{1}{2}$ acres

Hansen Wesley 2 shares $1\frac{1}{2}$ acres
 Sec. 16-5-39 No. half of Tax # 4 $\frac{1}{2}$ acre
 Sec. 22-5-39 Tax # 5 1 acre

Heilleson Orson F. (Matilda) 13 shares 41 acres
 Sec. 15-5-39 Tax # 11 NW $\frac{1}{4}$ NW $\frac{1}{4}$ 41 acres

Hill Irvin 19 shares 33 acres
 Sec. 16-5-39 Tax # 5 33 acres

Horne Carl A. and Marinda 19 shares 152 acres
 Sec. 21-5-39 Lot 1; NW $\frac{1}{4}$ SW $\frac{1}{4}$; SE $\frac{1}{4}$ SW $\frac{1}{4}$ 112 acres
 Sec. 20-5-39 NE $\frac{1}{4}$ SE $\frac{1}{4}$ 40 acres

Hansen Hans M. 15 shares 50 acres
 Sec. 9-5-39 Tax # 6 10 acres
 Sec. 10-5-39 Tax # 8 & 9 40 acres

Jenkins C. E. 24 shares 40 acres
 Sec. 22-5-39 E $\frac{1}{2}$ SE $\frac{1}{2}$ NW $\frac{1}{2}$; E $\frac{1}{2}$ NE $\frac{1}{2}$ SW $\frac{1}{2}$ 40 acres

Jensen Joseph 156 shares $29\frac{1}{2}$ acres
 Sec. 8-5-39 E $\frac{1}{2}$ Ne $\frac{1}{4}$ SE $\frac{1}{4}$; E $\frac{1}{2}$ SE $\frac{1}{4}$ Ne $\frac{1}{4}$; Tax # 36 41 acres
 Sec. 9-5-39 W $\frac{1}{2}$ NE $\frac{1}{2}$ NE $\frac{1}{2}$; NW $\frac{1}{2}$ NE $\frac{1}{2}$; N $\frac{1}{2}$ NW $\frac{1}{2}$ SW $\frac{1}{2}$ NW $\frac{1}{2}$; W 67 RDS SE $\frac{1}{2}$ NW $\frac{1}{2}$ 213 $\frac{1}{2}$ acres
 Sec. 4-5-39 SW $\frac{1}{4}$ SW $\frac{1}{4}$; 40 acres

Jensen Leland--Grant--Rex L. 37 shares $21\frac{1}{4}$ acres
 Sec. 5-5-39 Tax # 36 25 acres
 Sec. 8-5-39 Tax # 1 $15\frac{1}{4}$ acres
 Sec. 8-5-39 Tax # 33 10 acres
 Sec. 5-5-39 Tax # 33 25 acres

Jensen Niels 35 shares $129\frac{1}{2}$ acres
 Sec. 4-5-39 NW $\frac{1}{4}$ SW $\frac{1}{4}$ Tax # 40 41 acres
 Sec. 5-5-39 Tax # 39 $88\frac{1}{2}$ acres

Keele Ray & Elnora 8 shares 58 acres
 Sec. 21-5-39 So. 58 RDS N $\frac{1}{2}$ NW $\frac{1}{2}$ 58 acres

Keele Ida M. 3 shares 5 acres
 Sec. 9-5-39 Tax # 8 5 acres

Keele Henry J. Keele 1 share 5 acres
 Sec. 8-5-39 Tax # 13 5 acres

Koon Harold C. 6 shares 40 acres
 Sec. 1-5-39 SE $\frac{1}{4}$ SE $\frac{1}{4}$ 40 acres

Kraus Henry & Yvonne 37 shares 80 acres
 Sec. 5-5-39 Tax # 1 & 2 40 acres
 Sec. 8-5-39 Tax # 19 & 20 40 acres

Koon Frank D. 10 shares 40 acres
 Sec. 6-5-39 Lot 5 40 acres

Larsen Alma A. Vera 19 shares 36 acres
 Sec. 17-5-39 Tax # 30 19 acres
 Sec. 8-5-39 Tax # 30 17 acres

Larsen Louis Peter 3 shares 5 acres
Sec. 8-5-39 Tax # 21 5 acres

Larsen Rudolph & Norma 36 shares 72 acres
Sec. 16-5-39 NE $\frac{1}{4}$ NW $\frac{1}{4}$ 40 acres
Sec. 9-5-39 E 64 RDS SE $\frac{1}{4}$ SW $\frac{1}{4}$ 32 acres

McGarry Roy & Mary 25 shares 40 acres
Sec. 9-5-39 NE $\frac{1}{4}$ NW $\frac{1}{4}$ 40 acres

McRae Authur D. 2 shares 30 acres
Sec. 17-5-39 Tax # 9 30 acres

McRae Joseph A. 2 shares 29 acres
Sec. 17-5-39 Tax # 8 25 acres
Sec. 20-5-39 Tax # 3 4 acres

McRae John 2 shares 29 acres
Sec. 17-5-39 Tax #1 25 acres
Sec. 20-5-39 Tax # 6 4 acres

McRae John & Etal 5 shares 30 acres
Sec. 20-5-39 Tax # 2 30 acres

Martin Tille 18 shares 30 acres
Sec. 22-5-39 SW $\frac{1}{4}$ NW $\frac{1}{4}$ 30 acres

Martinsen W. L. & Rose 98 shares 249 $\frac{1}{2}$ acres
Sec. 16-5-39 So. half of Tax # 4 $\frac{1}{2}$ acre
Sec. 17-5-39 Tax # 36 S $\frac{1}{2}$ NE $\frac{1}{4}$; N $\frac{1}{2}$ SE $\frac{1}{4}$; SE $\frac{1}{4}$ NW $\frac{1}{4}$ 209 acres
Sec. 16-5-39 SW $\frac{1}{4}$ NW $\frac{1}{4}$ 40 acres

Martinsen Denece 40 shares 144 acres
Sec. 8-5-39 Tax # 12 76 acres
Sec. 17-5-39 Tax # 35 68 acres

Moss T. Royce & Margaret Nelson Moss 30 shares 90 acres
Sec. 23-5-39 E $\frac{1}{2}$ E $\frac{1}{2}$ S $\frac{1}{2}$ NW $\frac{1}{4}$ 10 acres
Sec. 27-5-39 NW $\frac{1}{4}$ NE $\frac{1}{4}$ 40 acres
Sec. 22-5-39 SW $\frac{1}{4}$ SE $\frac{1}{4}$ 40 acres

Murdock W. L. (Elizabeth) 8 shares 43 acres
Sec. 15-5-39 Tax # 2 43 acres

Murdock Margaret E. 4 shares 10 acres
Sec. 15-5-39 Tax # 16 10 acres

Felton Allen 22 shares 40 acres
Sec. 7-5-39 NE $\frac{1}{4}$ NE $\frac{1}{4}$ 40 acres

Felton George 18 shares 40 acres
Sec. 6-5-39 SW $\frac{1}{4}$ SE $\frac{1}{4}$ 40 acres

Ferry Vern 5 shares 37 $\frac{3}{4}$ acres
Sec. 15-5-39 Tax # 3 37 $\frac{3}{4}$ acres

Remington L. E. 72 shares 325 acres

Sec. 8-5-39 W 46 $\frac{1}{2}$ Rds SW $\frac{1}{4}$ SW $\frac{1}{4}$ 23 acres

Sec. 7-5-39 S $\frac{1}{2}$ S $\frac{1}{2}$ 80 acres

Sec. 18-5-39 NE $\frac{1}{4}$; 160 acres

Sec. 17-5-39 SW $\frac{1}{4}$ NW $\frac{1}{4}$; W 46 $\frac{1}{2}$ RDS NW $\frac{1}{4}$ NE $\frac{1}{4}$ 62 acres

Hall Ray 78 shares 160 acres

Sec. 16-5-39 SW $\frac{1}{4}$; 150 acres

Sec. 12-5-39 N 22RDS NE $\frac{1}{4}$ NW $\frac{1}{4}$ 10 acres

Smith Ervin B. 10 shares 148 acres

Sec. 20-5-39 Lots 3-4-5-6 SW $\frac{1}{2}$ NE $\frac{1}{2}$; NW $\frac{1}{2}$ SE $\frac{1}{2}$ 148 acres

Spaulding Silas E. 27 shares 72 acres

Sec. 4-5-39 Tax # 25 & 26 72 acres

Spaulding Stephen Lavern 85 shares 160 acres

Sec. 16-5-39 S $\frac{1}{2}$ NE $\frac{1}{2}$; NW $\frac{1}{2}$ SE $\frac{1}{2}$; SE $\frac{1}{4}$ NW $\frac{1}{2}$ 160 acres

Taylor Gordon B. 112 shares 236 acres

Sec. 2105039 SE $\frac{1}{4}$ NW $\frac{1}{4}$; NE $\frac{1}{4}$ SW $\frac{1}{4}$; S $\frac{1}{2}$ NE $\frac{1}{2}$; N $\frac{1}{2}$ SE $\frac{1}{2}$ less sch P & T T-L; 236 acres

Ward Harold 5 shares 80 acres

Sec. 20-5-39 E $\frac{1}{2}$ NE $\frac{1}{4}$; 80 acres

Young Vivian S. 44 shares 80 acres

Sec. 6-5-39 Lot 6; SE $\frac{1}{4}$ SW $\frac{1}{4}$ 80 acres

Exhibit 9

POOR QUALITY ORIGINAL

MARCH 24, 1956

JONES, POMEROY & JONES
ATTORNEYS AT LAW
Box 618
POCATELLO, IDAHO

DEAR MR. JONES:

THE WATERMASTER, MR. LYNN CRANDALL, ADVISED THE BUREAU OF RECLAMATION'S PROJECT SUPERINTENDENT ON JULY 19, 1954, WITH RESPECT TO SOME FORTY FLOOD WATER RIGHTS FOR WHICH FILINGS HAD NOT BEEN MADE, BUT WHICH HAD BEEN USED MOSTLY SINCE 1939.

THERE WAS A DISCUSSION AT THAT TIME AS TO HOW THESE FLOOD WATER RIGHTS WOULD BE HANDLED IN RELATION, PARTICULARLY, TO THE STORAGE FILING FOR PALISADES RESERVOIR. THERE WAS GENERAL AGREEMENT AMONG WATER USERS REPRESENTED BY THE PROTECTIVE UNION, THE WATERMASTER AND THE BUREAU OF RECLAMATION THAT IT WOULD NOT BE IMPROPER TO SET UP A COMMON PRIORITY DATE FOR ALL OF THESE USES AHEAD OF THE PALISADES FILING. THE COMMON DATE SUGGESTED BY THE BUREAU OF RECLAMATION AND AGREED TO BY THE WATERMASTER WAS APRIL 1, 1939.

IT HAS BEEN AND IS THE PROGRAM OF THE PROTECTIVE UNION TO OBTAIN DECREES FOR THESE FLOOD WATER RIGHTS, BUT THERE HAVE BEEN SOME COMPLICATING FACTORS IN THAT ONE OF THE PRINCIPAL EXCHANGES REPRESENTED BY THE MINIDOKA IRRIGATION

POOR QUALITY ORIGINAL

JONES, POMEROY & JONES

-2-

MARCH 24, 1956

DISTRICT HAS NOT YET BEEN AGREED TO BY THAT DISTRICT.

AMONG OTHER PLANS TO WHICH CONSIDERATION WAS GIVEN, WAS THAT THERE SHOULD BE INSTITUTED PROCEEDINGS FOR SUMMARY SUPPLEMENTAL DECREES IN WHICH ALL PARTIES WOULD BE BROUGHT IN AS PARTIES PLAINTIFF OR BY WAY OF INTERVENTION. THIS OFFICE IS JUST NOW RECHECKING WITH THE WATERMASTER ON THE RESPECTIVE FLOWS THAT SHOULD BE COVERED BY SUPPLEMENTAL DECREES. AS OF JULY 19, 1954, THE WATERMASTER HAD SUGGESTED THAT THE AMOUNT FOR THE ABERDEEN-SPRINGFIELD COMPANY SHOULD BE 140 C.F.S.

I HAVE NOT HAD AN OPPORTUNITY TO DISCUSS THIS WHOLE PROBLEM WITH MR. HOLDEN AND I AM GOING TO BE OUT OF THE OFFICE UNTIL THE LATTER PART OF NEXT WEEK. AT THAT POINT OF TIME WE WILL CHECK AGAIN WITH THE WATERMASTER AND WILL WRITE YOU WITH RESPECT TO THE SUGGESTED PROCEEDURE THAT COULD BE FOLLOWED BY ALL PARTIES.

SINCERELY,

HOLDEN & HOLDEN

BY

HOWARD E. STINSON

HRC:JK

Exhibit 10

HOLDEN & HOLDEN

ATTORNEYS AT LAW

IDAHO FIRST NATIONAL BANK BUILDING

IDAHO FALLS, IDAHO

TELEPHONE 4450

ARTHUR W. HOLDEN
WILLIAM S. HOLDEN
ROBERT B. HOLDEN
R. VERN KIDWELL
HOWARD R. STINSON
REED A. WILLIAMS

MARCH 29, 1956

MR. LYNN CRANDALL, WATERMASTER
WATER DISTRICT NO. 36
FEDERAL BUILDING
IDAHO FALLS, IDAHO

DEAR MR. CRANDALL:

THIS OFFICE, IN BEHALF OF THE PROTECTIVE UNION AND MEMBERS OF THAT ORGANIZATION, IS ABOUT TO PREPARE A COMPLAINT FOR THE SECURING OF A SUMMARY SUPPLEMENTAL DECREE FOR FLOOD WATER RIGHTS WITH PRIORITY DATES AHEAD OF THE PALISADES RESERVOIR FILING.

C
O
P
Y
YOU HAVE HERETOFORE SET DOWN YOUR CONCLUSIONS WITH RESPECT TO THE AMOUNTS OF WATER THAT MIGHT BE COVERED BY SUCH A DECREE, THESE BEING IN LETTERS DATED JULY 24, 1952 AND MARCH 13, 1953, TO THE REGIONAL COUNSEL OF THE BUREAU OF RECLAMATION, AND IN A LETTER OF JULY 19, 1954 TO THE BUREAU'S PROJECT SUPERINTENDENT AT BURLEY. BEFORE DRAFTING THE COMPLAINT, WE WOULD LIKE TO HAVE THIS LIST CHECKED BY YOU AGAIN, AND ACCORDINGLY, ARE SETTING DOWN A TABULATION SHOWING THE NAME OF THE ORGANIZATION OR PERSON TO WHOM THE DECREE SHOULD RUN, THE AMOUNTS STATED IN YOUR RESPECTIVE LETTERS AND YOUR COMMENTS WITH RESPECT TO DATE OF USE.

THERE ARE A NUMBER OF RELATED QUESTIONS THAT MIGHT BE TAKEN UP IN THE SUMMARY SUPPLEMENTAL DECREE. PRIMARY AMONG THESE ARE THE QUESTION OF THE DECREE FOR AMERICAN FALLS RESERVOIR (DISTRICT NO. 2) IN ACCORDANCE WITH THE PROVISIONS OF THE MINIDOKA-PALISADES CONTRACTS AND THE QUESTIONS AS TO WHETHER THERE IS ANY WAY IN WHICH A DECREE WITH A PRIORITY DATE AHEAD OF PALISADES CAN BE WORKED OUT FOR THE NORTH SIDE PUMPING DIVISION OF THE MICHAUD FLATS PROJECT. THE LATTER PROJECTS PRESENT A PROBLEM, BECAUSE THERE HAS BEEN NO USE UP TO THIS TIME, SO THAT ANY DECREE FOR THOSE TWO PROJECTS WOULD PERHAPS HAVE TO DEPEND ON STIPULATION AMONG ALL WATER USERS WHO ARE TAKING PART IN THE SUMMARY SUPPLEMENTARY DECREE.

IN RESPONSE TO AN INQUIRY DIRECTED TO YOU BY MR. TULLER ON JULY 30, 1954, YOU FELT THAT THESE TWO PROJECTS SHOULD SHARE IN A PRIORITY DATE PRIOR TO THE PALISADES DATE, AND IT HAS BEEN YOUR EXPRESSED OPINION, I BELIEVE, THAT IT WOULD BE USEFUL TO HAVE A COMMON PRIORITY DATE FOR ALL OF THESE ADDITIONAL FLOOD WATER RIGHTS.

MR. LYNN CRANDALL

-2-

MARCH 29, 1956

IF YOU HAVE THE OPPORTUNITY, THE PROTECTIVE UNION WOULD APPRECIATE YOUR REVIEWING THE LIST SET OUT ABOVE IN THIS LETTER, TOGETHER WITH THE AMOUNTS FOR WHICH A DECREE SHOULD BE SOUGHT.

MY SUGGESTION IS THAT A COMMON PRIORITY DATE OF APRIL 1, 1939 SHOULD BE ESTABLISHED FOR ALL THOSE WHO ARE TO SHARE IN A PRIORITY DATE ANTEDATING THE PALISADES FILING.

THE TABULATION SET OUT IN THIS LETTER ASSUMES THAT USES STATED IN YOUR LETTERS OF MARCH 13, 1953 AND JULY 19, 1954 ARE USES SINCE 1939, UNLESS OTHERWISE INDICATED IN THE LETTER OF JULY 24, 1952.

SINCERELY,

HOLDEN & HOLDEN

BY

HOWARD R. STINSON

HRS:JK
ENCL.

Exhibit 11

POOR QUALITY ORIGINAL

HOLDEN & HOLDEN

ATTORNEYS AT LAW

IDAHO FIRST NATIONAL BANK BUILDING

IDAHO FALLS, IDAHO

TELEPHONE 4450

ARTHUR W. HOLDEN
WILLIAM S. HOLDEN
ROBERT B. HOLDEN
R. VERN KIDWELL
HOWARD R. STINSON
REED A. WILLIAMS

May 28, 1955

Mr. Ralph Jones
Jones, Pomroy & Jones
Attorneys at Law
Portstello, Idaho

Dear Mr. Jones:

C
O
P
Y

This office has had under consideration for quite awhile, the question of the best course of action to pursue with respect to obtaining a decree for flood water rights in accordance with the agreement reached in 1950-1952 during the negotiation of the Minidoka-Palisades contracts and with respect to obtaining the decrees with respect to several features of the Minidoka-Palisades contract. This office, in considering this matter, is speaking primarily for those companies and districts represented in the Protective Union, but there are some individuals who are represented by this firm who are interested in flood water rights.

There is attached to this letter a letter dated April 2, 1955, from the Watermaster, in which he summarizes the additional flood water rights which, in his opinion, should have a common priority date of April 1, 1939, ahead of the Palisades priority date of July 28, 1939. This list will, I believe, be found to be based, with amendments and corrections, on the Watermaster's letters of July 24, 1952, March 13, 1953 and July 19, 1954.

If the only issues involved were those connected with the establishment of flood water rights the procedure of obtaining a summary supplemental adjudication of water rights would seem to be proper. Possibly that is still the best course of action, but whether it is depends on whether the other issues that should be covered by the decree can be embraced with an action brought under that special statute.

It has seemed to me that there would not be any question about raising those issues in a quiet title action under Section 2-471 of the Idaho Code. I do not mean to suggest that there be an encyclopedic adjudication of the river, for that would run into vast and problems, but there could be a joinder, for example,

POOR QUALITY ORIGINAL

Mr. Ralph Jones

-2-

May 27, 1936

of all the companies and districts who are parties to the Minidoka-Palisades contracts, together with all those who are not party to such contract, but who will be claiming flood water rights.

It such an action it seems to me that these things can be decreed:

- (1) The special storage rights obtained in consideration of stopping of the winter use of water for domestic and livestock use, these rights to be superior in time to all storage rights on the river.
- (2) The priority of the natural flow rights in accordance with provisions of the contract with the American Falls Reservoir District No. 2, that being a priority of 1921 in the circumstances stated in the contract provisions to which all Minidoka-Palisades contractors have agreed with the United States but not with each other.
- (3) Priority for the storage of water resulting from the curtailment of winter power production at Minidoka Dam.
- (4) The propriety of the exchange of American Falls and Jackson Lake space, subject to such revisions as may be made hereafter under authority of law.
- (5) The rights to store water in Island Park and Palisades Reservoirs, in aid of the administration of the river by the Watermaster.

It will be recognized that it will be good judgment not to press for all these objectives to their full extent until the pending negotiations with the Minidoka Irrigation District are completed, or until some other course of action has been taken by the United States with respect to that exchange.

Some attention has been given to whether part of the objectives might be obtained through the declaratory judgment route and through the route of confirmation proceedings. The difficulty of the declaratory judgment route (formerly Chapter 12 of Title 10 and now part of the rules of court) is that the Idaho Court has seemingly consistently held that if the results rest on findings of fact that are determinative of the issues, the remedies under that procedure are not available. *Francis V. Casey, 233 Pac. 2d 438 (1933)*. The difficulty with reliance on the confirmation proceeding route is that it is applicable only to irrigation districts and the proceedings do not provide for action in which there will be several parties plaintiff and one or more parties defendant.

While it may be desirable to have the United States joined as a party or parties, especially in some cases, section 203 of the

Mr. Arthur Jones

-2-

May 19, 1945

out of June 10, 1944, it is my suggestion that that aspect of the affidavit be by-passed for the moment.

You are perhaps aware of the Idaho cases that have considered the question of the availability of the quiet title action under section 5-417 of the Idaho Code, in view of the later enactment of the summary supplemental decree statute, 42-1408 Idaho Code. It appears to be the plain holding of the court that the latter statute did not provide an exclusive remedy. This was the holding in the case of *Hayes v. District Court*, 200 Pac. 118 (1921), but there is also an interesting case that was brought under the summary supplemental decree statute (42-1408 Idaho Code) being the action of the *Owensley Canal Company v. Penninger*, 102 Pac. 86 808 (1940). That seems to indicate that the relative priorities can be fixed even under the special statutory proceeding.

This letter is only exploratory and if any of those to whom copies are sent have any suggestions to offer as to the particular course of action to pursue, they will be greatly appreciated by the Protective Union and this office. It is suggested, by the way, that whatever course of action is chosen there should be explored the possibilities of stipulating the facts before the court is asked to make conclusions of law and to enter a decree.

Yours very truly,

HOLLYN A. HOLDEX

By

Howard A. Stinson

WAC:jn

Encl.

cc: Lynn Grandsall
Branch Bird (Encl.)
R. P. Parry (Encl.)
H. T. Nelson
W. L. Willery

Exhibit 12

PROPOSED SUPPLEMENTAL WATER DECREEES ON THE SNAKE RIVER

SUGGESTED FLOODWATER RIGHTS TO BE DECREEED WITH PRIORITY OF APRIL 1, 1939, WHICH IS JUST AHEAD OF THE PALISADES PRIORITY OF JULY 25, 1939, BASED ON MAXIMUM DIVERSIONS TO DATE IN EXCESS OF PRESENTLY DECREEED RIGHTS, EXCEPT IN CASE OF MICHAUD PROJECT. A PROVISION SHOULD BE INCLUDED THAT THESE RIGHTS ARE NOT TRANSFERABLE TO OTHER LANDS.

ALL FIGURES IN SECOND-FEET

MAIN RIVER. UPPER VALLEY

ABERDEEN-SPRINGFIELD CANAL	230	KITE & NORD	4
BEAR ISLAND CANAL (HOLDEN BROS.)	6	LABELLE IRR. CO	30
BLACKFOOT IRR. CO.	100	LIBERTY PARK IRR. CO	20
BRAMWELL DITCH	4	LONG ISLAND IRR. CO	35
BUTLER ISLAND CANAL	16	R. D. MACRAY	4
BUTTE & MARKET LAKE	120	NELSON COREY CANAL	5
CLARK & EDWARDS	5	NEW SWEDEN IRR. DIST	220
CORBETT SLOUGH	13	NIELSEN-HANSEN CANAL	4
JAMES A. CROFT	2	OSGOOD CANAL	21
DANSKIN DITCH CO.	80	PROGRESSIVE IRR. DIST	80
DILTS & LABELLE DITCH	6	REID CANAL CO	35
DENEY FOX	6	RIVERSIDE DITCH CO	50
HARRISON CANAL	55	SHATTUCK IRR. CO	16
HEISE DITCH (WILKINS)	3	SMITH DITCH (S. SAKAGUCHI)	2
DO (STONE)	3	SNAKE RIVER VALLEY IRR.	100
IDAHO IRRIGATION DISTRICT	130	STEELE DITCH (R.D. SCOTT)	9
T. W. JACKSON	3	TEXAS SLOUGH IRR. CO.	20
KELLER DITCH	2	WEST LABELLE IRR. CO.	35
WILLIAM S. HOLDEN	6		

MAIN RIVER. LOWER VALLEY

MINIDOKA CANALS	4308
MILNER LOW LIFT IRR. DIST	121
TWIN FALLS CANAL CO.	180
C. D. THORNTON, AMERICAN FALLS	7
NASH PUMP, AMERICAN FALLS	4
MICHAUD BUREAU OF RECLAM. PRG	125
MINIDOKA NORTH SIDE PUMP	242 267
MICHAEL SANDHOTENA	4

TO BE DIVIDED BETWEEN MINIDOKA AND BURLEY DISTRICTS.

HENRYS FORK & TRIBUTARIES

FARMERS OWN	12	WILFORD IRR. CO.	50
ENTERPRISE IRR. DIST.	29	TETON IRR. CO.	9
BELL DITCH	6	STEWART	30
FALL R. IRR. CO.	32	PINGREE-BYINGTON	38
ST. ANTHONY UNION	24	PINGOCK-BARNER	4
FARMERS FRIEND	9	SAURE-BOWMERS	9
SALEM UNION	15	D.F. RICHARDS (HENRYS LAKE OUTLET)	10
ECOL IRR. CO.	23	MARY GRACE (LOCHHOUSE CR.)	3
DEWENT	15	DAVE MAGENDANTH (MORAIN CR.)	3
AL FLANNERY (JESSE & SON. (WIN. CO.))	20		2

Exhibit 13

JUNE 25, 1958

MR. A. H. NIELSON
NIELSON & NIELSON
ATTORNEYS AT LAW
BURLEY, IDAHO

DEAR ADONIS:

I AGREE WITH YOUR COMMENTS SUGGESTED IN YOUR LETTER OF JUNE 11TH LAST CONCERNING THE ACTION TO ADJUDICATE FLOOD WATER RIGHTS ON THE SHARKE RIVER FOR VARIOUS WATER USERS ORGANIZATIONS WITH A PRIORITY PRECEDING THAT OF THE FALISADES DAM APPROPRIATIONS. I WILL LET YOU KNOW WHEN WE START TO GET THE MATTER UNDER WAY.

BEST WISHES.

SINCERELY,

HOLDEN, HOLDEN & KIDWELL

By

WILLIAM S. HOLDEN

WCH:cc

Exhibit 14

LAW OFFICES

HOLDEN, HOLDEN & KIDWELL

IDAHO FIRST NATIONAL BANK BUILDING

IDAHO FALLS, IDAHO

TELEPHONE 523-0620
AREA CODE 208

REED A. WILLIAMS (1923-1962)
HOWARD R. STINSON (1905-1957)

WILLIAM S. HOLDEN
ROBERT B. HOLDEN
R. VERN KIDWELL
BLAINE S. BUTLER
FRED J. HAHN
LON F. DAVIS
TERRY L. CRAPO
OF COUNSEL
ARTHUR W. HOLDEN

MARCH 24, 1964

MR. RALPH O. LOUNSBURY, SECRETARY
THE BUTLER ISLAND CANAL COMPANY, LTD.
ROUTE 2
RIGBY, IDAHO

RE: SUPPLEMENTAL WATER RIGHTS

DEAR MR. LOUNSBURY:

DURING THE NEGOTIATIONS ON THE PALISADES PROJECT, THE QUESTION AROSE AS TO HOW THE EXISTING FLOOD WATER RIGHTS OF COMPANIES, DISTRICTS AND INDIVIDUALS COULD BE PROTECTED AS BEING PRIOR TO THE PALISADES STORAGE RIGHTS. IT WAS THEN AGREED THAT A SUPPLEMENTAL FLOOD DECREE SHOULD BE OBTAINED WITH A DATE OF PRIORITY OF APRIL 1, 1939, WHICH IS BEFORE THE PALISADES RIGHTS.

BILL HOLDEN AND LYNN CRANDALL, THE FORMER WATERMASTER OF DISTRICT 36, COMPILED A LIST OF ALL PARTIES WHO WERE ENTITLED TO A SUPPLEMENTAL DECREE AND THE AMOUNT OF EACH SUCH PROPOSED DECREE. THIS LIST, A COPY OF WHICH IS ENCLOSED, WAS APPROVED BY THE COMMITTEE OF NINE AT ONE OF THEIR ANNUAL MEETINGS.

WE ARE NOW IN THE PROCESS OF FILING LEGAL ACTION ON BEHALF OF THE AFFECTED MEMBERS OF THE UPPER SNAKE RIVER WATER USERS PROTECTIVE UNION. IN ORDER TO FILE THIS ACTION, IT IS NECESSARY TO OBTAIN FROM YOU THE INFORMATION LISTED ON THE ENCLOSED NOTICE TO WATERMASTER. THE PURPOSE OF THIS NOTICE IS TO OBTAIN THIS INFORMATION AND GET YOUR CONSENT TO THE ADJUDICATION OF THE OTHER SUPPLEMENTAL DECREES IN THE AMOUNTS LISTED FOR OTHER COMPANIES, DISTRICTS AND INDIVIDUALS. PLEASE FILL OUT THE BLANKS ON THE NOTICE TO WATERMASTER AND RETURN IT TO US.

WE WILL BE IN CONTACT WITH YOU SOON AND GIVE YOU FURTHER DETAILS. IF YOU HAVE ANY QUESTIONS IN THE MEANTIME, DO NOT HESITATE TO CALL UPON US.

SINCERELY YOURS,

HOLDEN, HOLDEN & KIDWELL

BY 
LON F. DAVIS

ENCLOSURE

Exhibit 15

March 24, 1964

Mr. Raymond P. Parry
Parry, Robertson & Daly
Attorneys at Law
P. O. Box 525
Twin Falls, Idaho

Dear Pat:

Re: Supplemental Flood Decrees on the Snake River
Our File 608-R

We are now proceeding to draft the necessary pleadings to obtain a supplemental decree of the flood water rights in the Upper Snake River Valley with a priority date of April 1, 1939. Bill Holden is out of town at this time and asked me to write to you concerning the question of where such an action or actions should be filed.

As we read the statute on summary supplemental adjudications, it is necessary to file the action for supplemental decrees in the same Court which made the original adjudication. As we are under the Rexburg Decree, we intend to file an action for the Upper Valley at St. Anthony. We were wondering what your thoughts were as to where the action should be filed for the Lower Valley. It appears to us that you will probably have to file a separate action in the Court which originally adjudicated the rights of your area. For this reason, we felt that we would proceed independently with an action for all of the Upper Valley water users.

We are enclosing a reprint of the list of Proposed Supplemental Decrees, dated March 1, 1958, which was approved by the Committee of Nine sometime ago.

Henry Eagle advises us that there may be one error in regard to the amount allocated to the North Side Pump.

Mr. Raymond P. Parry

Page Two

March 24, 1964

We are also enclosing a form entitled Notice to Water-master which we are submitting to all of the Upper Valley water users involved for the purpose of obtaining the necessary information to file the action as well as to obtain their consent to a similar adjudication of all of the other proposed supplemental decrees, including those on the main river in the Lower Valley.

After you have had an opportunity to review this matter, please let us know if you are in accord that we should proceed independently in the Upper Valley and you file a separate action for the Lower Valley users.

Kind personal regards.

Very truly yours,

HOLDEN, HOLDEN & KIDWELL

By

Lon F. Davis

LFD:kh

Encl.

MARCH 24, 1964
IDAHO FALLS, IDAHO

DEAR

DURING THE TIME OF NEGOTIATIONS TO OBTAIN THE PALISADES PROJECT, IT BECAME APPARENT THAT THERE WAS A NEED FOR SUPPLEMENTAL DECREES ON THE SNAKE RIVER AND ITS TRIBUTARIES TO SEVERAL COMPANIES, DISTRICTS AND INDIVIDUALS IN ORDER TO PROTECT THEIR FLOOD WATER RIGHTS AS BEING PRIOR IN TIME TO THE PALISADES PROJECT STORAGE RIGHTS.

I HAVE ENCLOSED A LIST OF THE PROPOSED FLOOD WATER RIGHT DECREES WITH A PROPOSED PRIORITY DATE OF APRIL 1, 1939, WHICH WAS COMPILED BY LYNN CRANDALL, THE FORMER WATERMASTER OF DISTRICT 36, AND WILLIAM S. HOLDN, ATTORNEY FOR THE UPPER SNAKE RIVER WATER USERS PROTECTIVE UNION AND THE COMMITTEE OF NINE. THE COMMITTEE OF NINE HAS APPROVED THIS LIST AT ONE OF THEIR ANNUAL MEETINGS.

MR. HOLDEN IS IN THE PROCESS OF FILING LEGAL ACTION ON BEHALF OF THE AFFECTED MEMBERS OF THE UPPER SNAKE RIVER WATER USERS PROTECTIVE UNION TO ADJUDICATE THESE SUPPLEMENTAL WATER RIGHTS. IT WOULD SEEM ADVISABLE TO ADJUDICATE ALL OF THE FLOOD RIGHTS OF ALL AFFECTED PARTIES IN ONE ACTION IF POSSIBLE. IF YOU DESIRE TO PARTICIPATE IN THIS LEGAL ACTION TO OBTAIN THE FLOOD WATER RIGHT LISTED OPPOSITE YOUR NAME ON THE ENCLOSED LIST, PLEASE FILL OUT AND RETURN THE ENCLOSED NOTICE TO WATERMASTER. I WILL THEN FORWARD THE NOTICE TO MR. HOLDEN WHO WILL BE IN CONTACT WITH YOU SOON TO GIVE YOU FURTHER DETAILS.

AS THESE FLOOD WATER RIGHTS WILL BE PRIOR IN TIME AND RIGHT TO THE PALISADES STORAGE RIGHTS AND WILL PROTECT YOUR PRIORITY AGAINST SUBSEQUENT DOWN STREAM DIVERSIONS, I THINK IT WOULD BE WISE TO TAKE ADVANTAGE OF THIS OPPORTUNITY OF OBTAINING THIS SUPPLEMENTAL DECREE OF AN ADDITIONAL RIGHT FOR YOUR LANDS.

SINCERELY YOURS,

HENRY EAGLE
WATERMASTER, DISTRICT 36

ENCLOSURES

Exhibit 16

PARRY, ROBERTSON & DALY

LAWYERS

R. P. PARRY
T. M. ROBERTSON
JOHN H. DALY
CLIFFORD E. FIX
BERT LARSON
C. G. MCINTYRE
JOHN R. COLEMAN
WM. P. PHILIPS, JR.

FIDELITY BANK BUILDING
TWIN FALLS, IDAHO
83301

April 3, 1964

TELEPHONE
AREA CODE 208
733-3722

Mr. Lon F. Davis
Holden, Holden & Kidwell
Attorneys at Law
Idaho First National Bank Building
Idaho Falls, Idaho

Re: Supplemental Flood Decrees on the Snake
River - Your File 608-R

Dear Lon:

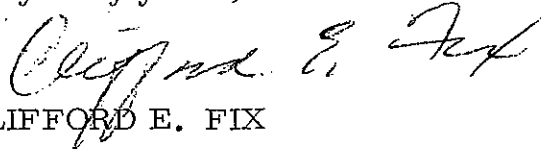
Thank you for your letter of March 24 regarding the above
entitled matter. We also heard from Henry Eagle on the same date.

I have examined the statute on summary supplemental adju-
dications, and I agree with you that the Lower Valley rights would
have to be adjudicated in a separate action. This would be at Twin
Falls. The Foster Decree was entered in 1913 in the Eleventh Judi-
cial District in and for the County of Twin Falls.

We propose to defer filing any action, however, until we have
made a further study of the water rights involved.

With best personal regards.

Very truly yours,


CLIFFORD E. FIX

CEF:mj
cc: Mr. H. C. Eagle
Watermaster
Box 697
Idaho Falls, Idaho

Exhibit 17

PARRY, ROBERTSON & DALY

LAWYERS

FIDELITY BANK BUILDING

TWIN FALLS, IDAHO

83301

R. P. PARRY
T. M. ROBERTSON
JOHN H. DALY
CLIFFORD E. FIX
BERT LARSON
C. G. MCINTYRE
JOHN R. COLEMAN
WM. P. PHILIPS, JR.

TELEPHONE
AREA CODE 208
733-3722

April 9, 1964.

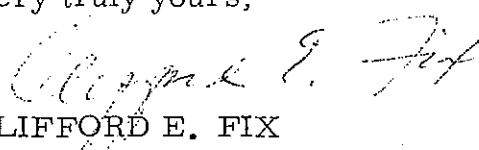
Mr. Lon F. Davis,
Holden, Holden & Kidwell,
Attorneys-at-Law,
Idaho First National Bank Building,
Idaho Falls, Idaho.

Re: Supplemental Flood Decrees on
the Snake River - Your File
No. 608-R.

Dear Lon:

For your information, I am enclosing a copy of
my letter of this date to Mr. Eagle, together with copies
of the letters to which reference is made.

Very truly yours,


CLIFFORD E. FIX

CEF:jb

Enclosures.

Exhibit 18

POOR QUALITY ORIGINAL

Idaho Falls, Idaho

May 6, 1964

Mr. Leonard Graham
Route 1
Rigby, Idaho

Dear Leonard:

A question has arisen as to when the proposed supplemental decrees were approved by the waterusers.

At the Annual Water Meeting of Water District 30 on March 3, 1958, the following resolution was adopted:

Resolution No. 9

WHEREAS, various waterusers in District No. 30 have established by use a right to divert water in excess of their presently established decrees;

THEREFORE, BE IT RESOLVED: That we approve of entering into a stipulated decree awarding such rights based on the watermaster's records of maximum diversions, as approved by the Committee of Nine, and including the use by Unit A of the North Side Minidoka pumping project and the Bureau of Reclamation Michaud project, all with priorities ahead of the Palisades Reservoir priority right.

Very truly yours,

H. C. Eagle
Watermaster

cc: H. E. Gray
Len Davis
E. Willie Miller
Harold Martin

Exhibit 19

MAY 1964

Idaho Falls, Idaho

May 6, 1964

Mr. Coral Alfred, President
Island Irrigation Co.
Lorenzo, Idaho

Dear Mr. Alfred:

Leonard asked me to look into the records to determine why the Island Irrigation Company is not on the list to receive a supplementary decree. Mr. Grandall computed the list of canals to apply for such decrees on the basis of their past diversions. This list was prepared in February 1958. To determine the amount of water to be applied for Mr. Grandall went through the diversion records and picked the highest average (3 or 5 day) diversion that each canal had ever recorded. If this was greater than the canal decrees he took the difference and that is the amount of supplementary decree suggested.

I have looked through your past diversions. Tabulated below are the highest 3-day averages for several years:

<u>Year</u>	<u>Highest average diversion for three days</u>
1952	198
1953	194
1954	199
1955	215
1957	219 (3 day ave. 217)

Your decree is for 217 second-feet. You received no 1916 Floodwater Decree indicating that at that time you had never diverted more than the 217 second-feet of earlier decrees.

Apparently the 217 second-feet was also as high as you had ever gone (5 day average) so Mr. Grandall concluded you were not entitled to file an additional amount.

Very truly yours,

C. C. Knight
Superintendent

cc: Leonard C. Knight
/100-10000

Exhibit 20

May 19, 1964

Shattuck Irrigation Company
c/o Frank Yamasaki, Secretary
Route No. 5
Idaho Falls, Idaho

Dear Frank:

Re: Supplemental Water Rights

During the negotiations on the Palisades Project, the question arose as to how the existing flood water rights of companies, districts and individuals could be protected as being prior to the Palisades Storage Rights. It was then agreed that a supplemental flood decree should be obtained with a date of priority of April 1, 1939, which is before the Palisades rights.

Bill Holden and Lynn Crandall, the former watermaster of District 36, compiled a list of all parties who were entitled to a supplemental decree and the amount of each such proposed decree. This list, a copy of which is enclosed was approved by the Committee of Nine at one of their annual meetings. As you can see from the list, your company is entitled to a supplemental right of 16 second feet or 800 inches.

We are now in the process of filing legal action on behalf of the affected members of the Upper Snake River Water Users Protective Union and other interested parties. If you desire to participate in this action, please fill out the enclosed Notice to Watermaster and return it to us. In filling out the land description it is only necessary to give us the numbers of all sections in which the land serviced by the company is located. In other words, do not bother to give us a description of a part section but merely refer to the section number, township and range. If you have any problem with this legal description, we will be glad to help you with it.

Best wishes.

Very truly yours,
HOLDEN, HOLDEN & KIDWELL

By _____
Lon F. Davis

LFD:kh
Encl.

Exhibit 21

May 13, 1964

Utah-Idaho Sugar Company
Box 1855
Idaho Falls, Idaho

Gentlemen:

Re: Supplemental Water Rights on the Snake River

During the negotiations on the Palisades Project, the question arose as to how the existing flood water rights of companies, districts and individuals could be protected as being prior to the Palisades Storage Rights. It was then agreed that a supplemental flood decree should be obtained with a date of priority of April 1, 1939, which is before the Palisades rights.

Bill Holden and Lynn Crandall, the former watermaster of District 36, compiled a list of all parties who were entitled to a supplemental decree and the amount of each such proposed decree. This list, a copy of which is enclosed, was approved by the Committee of Nine at one of their annual meetings. As you can see from the list, the Osgood Canal is entitled to a supplemental water right of 21 second feet or 1050 inches.

In order to file an action for this supplemental decree, it is necessary to know the land on which the water is to be used and the point of diversion. For convenience of the various water users, we have made a form entitled Notice to Watermaster for listing this information. We are enclosing two of such notices, one of which we have filled in except for the point of diversion on the basis of information furnished to us by a letter May 6, 1955 by the then Manager of your Company. Please double check this description to determine if it is accurate, and if it is not, make the necessary corrections by completing the blank copy of the Notice to Watermaster. For our purposes, it is necessary that you list only the sections, township and range in which your land is located. It is not necessary to break it down into part sections.

Utah-Idaho Sugar Company

Page Two

May 19, 1964

We understand from the past correspondence that you pump from the Great Western Canal into your canal. For the point of diversion you should then list each pumping point as your point of diversion. Please call us if you have any questions concerning this matter.

Very truly yours,

HOLDEN, HOLDEN & KIDWELL

By _____

Lon F. Davis

LFD:kh

Encl.

Exhibit 22

POOR QUALITY ORIGINAL

August 16, 1964

R. P. Parry, Esq.
Parry, Robertson & Daly
Fidelity Bank Building
Twin Falls, Idaho

Re: Supplemental Flood Decrees on the Snake River
Our File 608-R

Dear Pat:

We are working on the drafts of the pleadings for the supplemental flood decrees for the Upper Snake River Valley and will have a draft for your consideration and comments in the very near future.

In the course of doing this drafting a question has arisen as to what companies, districts and individuals should be made parties plaintiff to this action. In the Upper Snake River Valley there are quite a number of Palisades contractors who are not entitled to a supplemental water decree and normally would not be joined as parties. However, if we are going to seek Court confirmation of certain key paragraphs of the Palisades Contract, it would appear that it would be desirable to have all Palisades contractors, in both the Upper and Lower valley, joined as parties plaintiff in both our supplemental action and the supplemental action which you will bring for your area. In this way, a Stipulation could be drawn in each case involving all interested parties. Is this in line with your thinking.

An additional question arose as to the flood right of the North Side Canal Company mentioned in Cliff's letter to Henry Eagle dated April 9, 1964, a copy of which was forwarded to us on that date, together with copies of the correspondence between Henry Eagle and Carl Tappan. In reviewing this correspondence, it is our understanding that no license has been issued under Permit No. 15001 for 1960 a.f.y. Do you intend to have the

POOR QUALITY ORIGINAL

R. P. Parry, Esq.
Page Two
August 10, 1964

License issued by the Department of Reclamation in advance of the filing of the supplemental proceedings. Is there any possibility of the license having been issued and Mr. Thompson having overlooked it. If the license has not been issued and you do not intend to apply for issuance now, do you think that we could properly ask in our supplemental proceeding for an adjudication of this right as of the date of completion of the diversion.

We will be pleased to have your views on these matters.

Very truly yours,

HOLDEN, HOLDEN & KIDWELL

By

Lon F. Davis

LED:kh

Exhibit 23

September 16, 1964

R. P. Parry, Esq.
Parry, Robertson & Daly
Fidelity Bank Building
Twin Falls, Idaho

Re: Action for Supplemental Flood Decrees
on the Snake River
Our File 608-R

Dear Pat:

As you were out of town today when I called, I thought it might be best to forward to you our rough draft of a Complaint for the supplemental rights on the Snake River with the accompanying prayer for an adjudication of key paragraphs of the Palisades Contract. When you have had a chance to review this, you might give us a call so that we can discuss the matter further.

In the event we include in the Complaint the allegations asking for approval of certain paragraphs of the Palisades Contract, it is our thinking that it would be wise to join all Palisade contractors in this action, although they might not be entitled to supplemental water decrees. This is particularly important in our area where a great number of Palisade contractors are not entitled to any supplemental water decrees. If the matter is handled in this way, it would appear that it would necessitate your joining in the Complaint with us on behalf of the Palisade contractors in your area. We see no objection to joining all interested parties as parties plaintiff and having us appear as counsel for parties in the upper valley and your appearing for parties in the lower valley.

Of course, this would also require that all of the upper valley Palisade contractors be joined as party plaintiffs in your action as well. We have not yet met with our people up here to obtain their approval for this procedure, but Bill feels that he will have no problem in getting them to go along with this plan.

E. F. Parry, Esq.
Page Two
September 16, 1964

Bill Burpee states that he can furnish the necessary sample copies of the four different types of contracts to be attached to the Complaint, if we wish. As the paragraph numbers vary from Contract to Contract, we felt that it might be best to designate the paragraphs by title in the Complaint so as to have equal application to each type of contract. By attaching sample copies of the contracts, it was felt that this would eliminate the necessity of going into great detail in the allegation of each paragraph and that a short summary of each paragraph would be sufficient.

I am enclosing two copies of the draft of the Complaint with the thought in mind that you could make any suggested changes on one copy and return it to us.

We will be pleased to hear from you at your convenience.

Very truly yours,

HOLDEN, HOLDEN & KIDWELL

By Lon F. Davis

LFD:kh
Encl.

Exhibit 24

PARRY, ROBERTSON & DALY

LAWYERS

FIDELITY BANK BUILDING

P. O. BOX 525

TWIN FALLS, IDAHO 83301

R. P. PARRY
T. M. ROBERTSON
JOHN H. DALY
BERT LARSON
C. G. MCINTYRE
JOHN R. COLEMAN
THOMAS G. NELSON
JOHN A. ROSHOLT
W. ALLEN WILLIS

MAR 31 1966

TELEPHONE
(208) 733-3722

March 30, 1966

Mr. Bob Holden
Holden, Holden & Kidwell
Idaho First National Bank Building
Idaho Falls, Idaho

Re: Action for Supplemental Floodwater
Decrees on Snake River

Dear Bob:

Since the Committee of Nine meeting, I have been diligently attempting to obtain descriptions of project lands, points of diversion, and consent forms from all persons involved. It appears at this time, that although consent has not yet been obtained from all necessary parties, that all of the canal company and irrigation district board of directors will approve such action. As soon as these consents are obtained, I will mail you a complete list of companies, districts, and individuals who should be joined as party plaintiffs in your action. If you have the same already assembled, you might mail it to me so that I will have it available so that the Upper Valley water users might be included as party plaintiffs in the Lower Valley action.

One problem which we had not discussed is the actual formal signing of the Complaints. In the interest of time and lack of undue complication, it would appear that perhaps two verifications might suffice. That is, both your firm and ours could prepare attorneys' verifications indicating the companies whom they represent for the purposes of this lawsuit. Then, of course, we would execute the verification on behalf of the Lower Valley folks in your action and vice versa. This to me would seem much simpler than attempting to obtain the signature of the president and secretary of every board of directors of every canal company or irrigation district, and the signature of an attorney or every individual entitled to participate herein.

As soon as I receive the consent forms from the last three holdouts, I will be able to compile a final list of party plaintiffs to be included in your action. At that time I will be able to send you a rough draft copy of our proposed Complaint. If this Complaint meets with your approval, then I will have the same typed in final, including descriptions,

Mr. Bob Holden

-2-

March 30, 1966

and submit it to you for signature on behalf of the plaintiffs which your firm represents.

We have found no complications which appear insurmountable but only seem to be having trouble obtaining approval of the board of directors of some of the companies which are involved. Some of the boards have not held their monthly meeting since the Committee of Nine meeting in Idaho Falls. I am sure that after those meetings are held, I will be able to proceed without hesitation.

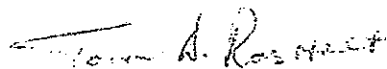
Although I was not present at the meeting between Mr. Burpee, Mr. Bill Holden, and Mr. Parry, following the Committee of Nine meeting in Idaho Falls, it is my understanding that these gentlemen agreed to eliminate paragraph XI C., entitled "Winter Power Operation: Minidoka Power Plant" from the Complaint. Apparently the reasoning here is that the agreement as finally provided in the Palisades contracts, will soon be renegotiated. Consequently, it would be of no value to have this paragraph confirmed at this time.

Pursuant to Mr. Burpee's request, it has apparently been decided that the Bureau of Reclamation should not be joined as a party plaintiff for various reasons. The most serious of these reasons appears to be that he does not want to get Fish and Game, Bureau of Indian Affairs, Department of Interior, and all other federal agencies involved so that our suit becomes so cumbersome that we cannot diligently pursue the result which we seek.

I hope to be able to send you the names of the Lower Valley plaintiffs for inclusion in your suit within the next week. As above requested, I would appreciate having a list of those parties whom you represent so that I might include them in the drafts of my Complaint.

I will anticipate hearing from you and hope to keep you better informed as to our progress in the future.

Sincerely,



JOHN A. ROSHOLT

JAR:dl

Exhibit 25

PARRY, ROBERTSON & DALY

LAWYERS

FIDELITY BANK BUILDING

P. O. BOX 525

TWIN FALLS, IDAHO 83301

TELEPHONE
(208) 733-3722

R. P. PARRY
T. M. ROBERTSON
JOHN H. DALY
BERT LARSON
C. G. MCINTYRE
JOHN R. COLEMAN
THOMAS G. NELSON
JOHN A. ROSHOLT
W. ALLEN WILLIS

August 2, 1966

AUG 3 1966

Mr. Bob Holden
Holden, Holden & Kidwell
Idaho First National Bank Building
Idaho Falls, Idaho

Re: Action for Supplemental Floodwater Decree on Snake
River and Affirmation of Certain Palisades Contract
Provisions

Dear Bob:

Please find enclosed a list which I have compiled, indicating the names of all corporations, irrigation districts, and private individuals who should probably be party plaintiffs to our proposed lawsuit. I have indicated on this list those entitled to floodwater as per Henry Eagle's original list. I have also indicated those Palisades contractors as per a list supplied by Bill Burpee's office. I have also indicated those companies, districts, and individuals that this office will represent in both the upper and lower valley actions.

I have enclosed the list of Palisades contractors which I received from Bill Burpee for your information. It appears to me to be somewhat incomplete inasmuch as I have personal knowledge of at least two Palisades contracting districts which are not included on the list. I thought that you could probably use this list to at least track down those companies and individuals who should be party plaintiffs.

Those persons named on my list as Nos. 9, 10, and 11 will be different than as originally indicated on Henry Eagle's list since all three pieces of property have been sold.

So that we might at this point compile a tentative list of party plaintiffs, I would request that you examine the list which I have sent to you. Please indicate those companies, districts, and individuals whom

Mr. Bob Holden

Page 2

August 2, 1966

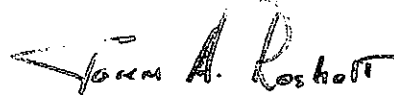
you will not represent and who will not be joined by striking their names from the list. If there are additional names which should be added to this list and whom you have authority to represent, please so indicate by adding them. If you would then return these lists to me, I think that we will have compiled the names of all the plaintiffs which we agreed would be party plaintiffs in both actions.

The two checks in the column marked "Other" are the rights which these companies have pursuant to the Woodville Decree which have never been decreed in the lower valley. I discussed this matter with you at our meeting last winter.

This date I received the last description necessary to proceed in completing the rough draft of the complaint. After I have received the list of plaintiffs from you, I will have a rough draft typed and will send you a copy.

Again, let me apologize for the delay in getting this information to you; but there were considerable complications in getting some of the companies to participate and in obtaining the various legal descriptions. Please let me hear your comments, and do not hesitate to telephone if you have any questions.

Sincerely,

A handwritten signature in dark ink, appearing to read "John A. Rosholt". The signature is stylized with a large, sweeping initial "J" and a prominent "R".

JOHN A. ROSHOLT

JAR:dp

Enclosures

Exhibit 26

PARRY, ROBERTSON & DALY

LAWYERS

FIDELITY BANK BUILDING

P. O. BOX 525

IDAHO FALLS, IDAHO 83301

R. P. PARRY
T. M. ROBERTSON
JOHN H. DALY
BERT LARSON
C. G. MCINTYRE
JOHN R. COLEMAN
THOMAS G. NELSON
JOHN A. ROSHOLT
W. ALLEN WILLIS

TELEPHONE
(208) 733-3722

August 25, 1966

AUG 29 1966

Mr. Bob Holden
Holden, Holden & Kidwell
Idaho First National Bank Building
Idaho Falls, Idaho

Re: Action for Supplemental Floodwater Decree on Snake
River and Affirmation of Certain Palisades Contract
Provisions

Dear Bob:

I am wondering if you have had time to scan the list of potential party plaintiffs which I mailed to you on August 2, 1966.

As fall comes on and things get busier here, it appears easier to keep putting this matter off. However, I would like to be careful enough that this decree gets entered prior to the Water Users meeting in March of 1967.

Some other time-consuming factors are involved. Bill Burpee has requested that he be able to review the Complaint when it is prepared before filing. It will be necessary to obtain other copies of the four groups of Palisades contracts to attach to the Complaints which are filed. We are confronted with a certain period of time in meeting the publication requirements. Also, we must schedule the court's time coincident with the date that we might appear for entry of default proof.

Upon receipt of the list of party plaintiffs from you, I will be able to have the rough draft of the Complaint typed and forwarded to you for your comments. Again, please do not hesitate to telephone if you have any questions.

Sincerely,

John A. Rosholt

JOHN A. ROSHOLT

JAR:dp

Exhibit 27

September 1, 1966

Mr. John A. Rosholt
Parry, Robertson & Daly
P. O. Box 525
Twin Falls, Idaho 83301

Dear John:

Re: Action for supplemental flood water decree on
Snake River and affirmation of certified Palisades
contract provisions

We have gone over the lists that you have sent us and are enclosing a list of proposed party plaintiffs as near as we can determine them. We have changed certain names as indicated. Also enclosed is a list of additional companies and districts having Palisades contracts as near as we could ascertain. We are also enclosing a list of existing and proposed holdings of American Falls, Jackson Lake and Palisades Reservoir space. As you will note, there is some discrepancy in this list from that furnished you by Bill Burpee.

We are enclosing copies of a few pages of our proposed Complaint showing how we intend to allege allegations for supplemental water for canal companies, irrigation districts and individuals.

Mr. Eagle has informed us that Keller Ditch, your No. 42, had abandoned their right to supplemental water and he also stated he wished our Complaint to allege that the Decree provide that supplemental water is not transferable to other lands.

We trust this information will be of assistance to you in preparing the proposed Complaint.

Kind personal regards.

Very truly yours,

HOLDEN, HOLDEN & KIDWELL

RSH:lm
Encl.

By _____
Robert L. Holden

Exhibit 28

PARRY, ROBERTSON & DALY

LAWYERS

FIDELITY BANK BUILDING

P. O. BOX 525

TWIN FALLS, IDAHO 83301

TELEPHONE
(208) 733-3722

R. P. PARRY
T. M. ROBERTSON
JOHN H. DALY
BERT LARSON
C. G. MCINTYRE
JOHN R. COLEMAN
THOMAS G. NELSON
JOHN A. ROSHOLT
W. ALLEN WILLIS
FRED D. DECKER

October 12, 1966

Mr. Bob Holden
Holden, Holden & Kidwell
P. O. Box 1059
Idaho Falls, Idaho

OCT 13 1966

Re: Supplemental Floodwater Decree
Confirmation of Palisades Contracts

Dear Bob:

Again, let me apologize for the delay in getting this letter to you. I have enclosed a proposed draft of the Complaint to be filed in the lower valley in our decree suit. I do believe that it encompasses only matters about which we have previously talked.

It will be necessary for you to sign this Complaint on behalf of the upper river people.

I have sent a copy of this draft to Bill Burpee for his comments. I am still optimistic about filing the suit before Christmas and being able to "put on" proof and obtain the decree some time before the Water Users' meeting in March.

I am now in the process of preparing the proper notices and a rough draft decree, assuming the same will be entered by default. As far as proof of the facts go, I believe that adequate proof could be "put on" with merely the appearance of Henry Eagle. I need to study the default procedure more thoroughly to be sure.

As soon as you have scanned this Complaint, I would appreciate any comments that you might have. I feel that if we co-ordinate both actions closely enough, both Complaints can be filed at approximately

Mr. Bob Holden

Page 2

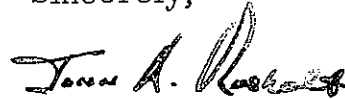
October 12, 1966

the same time and the decree obtained shortly thereafter. I think the publication requirement is only three weeks. In any event, I presume it will be necessary that we obtain a signature from a member of your firm on the original of our Complaint as well as our signature on the original of your Complaint. I can see where it might be necessary that you attend the hearing where our default proof is presented and vice-versa.

Notice that I have not attached the exhibits referred to in the Complaint since they are most bulky. They are the four general types of Palisades contracts, the supplements thereto, and the three prior decrees entered on the river. They will naturally be attached when the original is filed.

Thank you for your co-operation thus far. I feel that if we keep the ball rolling, we can appear at the 1967 Water Users' meeting without red faces.

Sincerely,

A handwritten signature in dark ink, appearing to read "John A. Rosholt". The signature is fluid and cursive, with a large, stylized initial "J".

JOHN A. ROSHOLT

JAR:dp

Enclosure

Exhibit 29

PARRY, ROBERTSON & DALY

LAWYERS

FIDELITY BANK BUILDING

P. O. BOX 525

TWIN FALLS, IDAHO 83301

TELEPHONE
(208) 733-3722

R. P. PARRY
T. M. ROBERTSON
JOHN H. DALY
BERT LARSON
C. G. MCINTYRE
JOHN R. COLEMAN
THOMAS G. NELSON
JOHN A. ROSHOLT
W. ALLEN WILLIS
FRED D. DECKER

November 29, 1966

Mr. Robert B. Holden
Holden, Holden & Kidwell
P. O. Box 1059
Idaho Falls, Idaho 83401

NOV 30 1966

Re: Supplemental Floodwater Decree - Confirmation
of Palisades Contracts

Dear Bob:

Thank you for the proposed draft of the Upper Valley Complaint. Presently, I am busy checking the changes in names which you inserted so that my list of party plaintiffs and persons entitled to floodwater on Henry's Fork and in the Upper Valley are properly conformed. Probably we will set forth our list of party plaintiffs in a manner similar to yours, indicating whether a corporation or district or whatever.

Enclosed is a copy of the proposed stipulation which I have drafted which I trust will eventually be signed and inserted as a portion of the decree to be entered in the Lower Valley. My reasons for this were several. First of all, I felt that if the attorneys representing all the plaintiffs and the defendant were to stipulate to the facts, the entry of the stipulation into the record would have the effect of a consent judgment as opposed to a default judgment. In other words, an appearance will be officially made on Henry Eagle's behalf, thus making the decree possibly more binding than it would have been if the matter were to proceed by default. It also occurs to me that if all the pertinent facts can be set forth in the stipulation, the necessity for proof is almost completely eliminated and possibly an appearance by Mr. Eagle in both court proceedings will be unnecessary.

I have assumed that the office of the attorney general of the State of Idaho, and Mr. Bill Collins in particular, will make the appearance on Mr. Eagle's behalf at both the hearings held in Twin Falls and in the Upper Valley. Consequently, I have attempted to keep him informed of our

Mr. Robert B. Holden

Page 2

November 29, 1966

progress and have made a copy of our complaint and stipulation available to him.

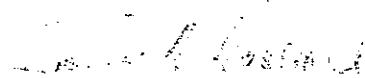
I would request that you scrutinize the stipulation, since we will request that you sign it as a representative of the Upper Valley plaintiffs. In regard to your procedure, if you do not elect to proceed by the stipulation route, I am certain that I could be available on your hearing date to enter an official appearance on behalf of the Lower Valley plaintiffs.

As to time schedule, several complications have arisen here. American Falls Reservoir District No. 2, who appears to gain most by confirmation of the particular paragraphs of the Palisades Contracts, are dragging their feet. I believe this is because of the lack of information generally, but we are attempting to put pressure on them to join as a plaintiff so that it is not necessary to hold a formal trial-type proceeding to obtain the decree. We are hopeful that that district will again elect to join at their meeting on December 6th. If they do so elect, I am hopeful of having the final draft of our complaint to you by possibly December 12th for your signature. If this date can be met, we could then meet the publication requirements required by the district court and obtain a hearing date of somewhere near January 15th. In the meantime, we could obtain the necessary signatures on the stipulation as well as draft the proposed final decree. It is my present intention that possibly the stipulation should be included in the decree in the same manner as was done in the Woodville case. Barring the fact that outsiders have the right to appear at the hearing and contest the rights as set forth in the complaint, we hope to proceed without additional complications.

If my time schedule starts running behind, as it always seems to, possibly we could arrange a "signature-signing day" whereby we could sign all the copies of each other's pleadings, stipulations, and so forth that will be necessary. This would probably save us a week or a week and a half mail time. Also, we could then co-ordinate filing dates, appearance dates, and so forth so that these actions become truly corresponding.

Let me hear your comments on formal procedure. Thank you for your cooperation to date, and I certainly hope that we can continue so as to obtain the respective decrees which appear to me to be so long overdue.

Sincerely,


JOHN A. ROSHOLT

JAR:dp

Enclosure

Exhibit 30



UNITED STATES
DEPARTMENT OF THE INTERIOR
OFFICE OF THE SOLICITOR

Portland Region
Boise Field Office
P. O. Box 8008
Boise, Idaho 83707

DEC 15 1966

December 14, 1966

Mr. Robert B. Holden
Holden, Holden & Kidwell
Idaho First National Bank Building
Idaho Falls, Idaho

Dear Bob:

I appreciate very much receiving your letter of November 18 forwarding me a copy of a proposed complaint to provide for a supplemental decree confirming flood waters and certain provisions of the Palisades contracts. You asked for my comments. I have had the document carefully reviewed by the Bureau of Reclamation people, and they have no suggestions to make with respect to the land description and water designations in the proposed complaint. It appears to follow the agreement among all the water users in Water District No. 36 as adopted by resolution of the Committee of Nine in 1958.

I have only one minor comment as to wording. On page 67 in paragraph D, new storage is referred to as "shall have a priority date equal to that of Palisades Reservoir." If this were changed to the words "shall be operated as if it had a priority date equal to that of Palisades Reservoir" the court would not be itself establishing a priority date for the new storage, and the language might be more acceptable to State officials.

It is noted that the Fremont-Madison Irrigation District has not been made a party to the proceeding. As you know, that district had a contract interest in Island Park Reservoir, and the Palisades contracts provide for joint storage operations to the advantage of the district. Unless there is some real difficulty, it appears to me that it would be highly desirable to have that district join in the proceeding.

As I have indicated to you previously, the formalization of the rights as proposed in the supplemental decree has been a long-standing matter that should be accomplished. I believe that the complaint as drafted will carry out the purpose of protecting the rights of the water users and should be pushed to completion as rapidly as possible.

Sincerely yours,

William Burpee

William Burpee
Field Solicitor

Exhibit 31



SEP 28 1967

STATE OF IDAHO

DEPARTMENT OF RECLAMATION
107 STATE HOUSE
BOISE, IDAHO 83701

September 27, 1967

Mr. Henry Eagle, Watermaster
District #36
P. O. Box 697
Idaho Falls, Idaho 83401

Dear Mr. Eagle:

I appreciated your sending me a copy of a recent press release you made concerning high ground water in the Rigby area.

Your fourth paragraph is particularly interesting in that you infer that present users of water greatly exceed the amount actually required for beneficial use. I suspect you can appreciate my concern over the proposed supplemental flood water adjudication which is currently pending the district courts in Twin Falls and St. Anthony. A check of your Watermaster's reports indicate that almost every year there are canals within District 36 which divert upwards of 15 acre feet per acre for the land irrigated. This is probably two or three times the amount of water actually required to meet the requirements of the crops grown in the area if considering a normal efficiency of application.

I hope, therefore, to have an opportunity at an early date to discuss this matter with you in more detail.

Very truly yours,

R. KEITH HIGGINSON
State Reclamation Engineer

RKH:cw

cc: Holden, Holden & Kidwell
Attorneys at Law
Idaho Falls, Idaho

Parry, Robertson & Daly
Attorneys at Law
Twin Falls, Idaho

Rigby Area Threatened by High Groundwater

Groundwater in the Rigby area is reported to be at an all-time high this fall. Potato cellars, domestic wells and basements are being flooded. As a temporary remedy, the Great Feeder Canal discharge was cut down on September 19. The Parks and Lewisville canal and probably others will be shut off on Friday, September 22, for several days.

The high groundwater condition is one that has been noticed and has become progressively more troublesome since the construction of Palisades Reservoir. Since that time, all the canals have been diverting more water than was previously available to them. This extra water builds up the water table to even greater heights as it drains westward to Henrys Fork and Snake River.

Use of water in the Ririe-Rigby area has remained at a high level this fall. Stubble fields have been observed that were entirely flooded. This excess water returns to the groundwater table and thence to the river. Excess water as far east as Ririe appears to drain past Rigby and contribute to the high water levels.

The present situation could be helped if all users east of Rigby would limit their diversions to minimum amounts of water. If this is not done now on a voluntary basis it may be necessary in future years to have the State Reclamation Engineer make a determination of what constitutes beneficial use. Such determination for fall use would likely be only a fraction of decreed rights.

Future conditions may warrant the formation of a drainage district and the construction of drains to speed the delivery of groundwater to the river. Such procedure would require substantial expenditures of money by all the waterusers involved. It should be looked upon as a solution only if limitation of diversions fails to control the situation.

Henry C. Eagle,
Watermaster

Sept. 19, 1967

SEP 21 1967
DEPT. OF AGRICULTURE
SALT LAKE CITY, UTAH

Exhibit 32



UNITED STATES
DEPARTMENT OF THE INTERIOR

OFFICE OF THE SOLICITOR

Portland Region
Boise Field Office
P. O. Box 8008
Boise, Idaho 83707

IN REPLY REFER TO:

DEC 26 1967

December 21, 1967

✓ Mr. William S. Holden
Holden, Holden & Kidwell
Idaho First National Bank Building
Idaho Falls, Idaho

Mr. R. P. Parry
Parry, Robertson & Daly
Fidelity Bank Building
Twin Falls, Idaho

Dear Bill and Pat:

To be sure that it will not escape your attention, I am enclosing a news item which appeared in The Idaho Daily Statesman Wednesday, December 20, concerning our water adjudication suit. I can assure you that the "reliable source" who declined to be quoted by name was not me, and the news item appears as a complete surprise to me. The final two paragraphs give particular concern for they seem to indicate that someone has the idea that Palisades Reservoir water is up for redistribution and is not being put to beneficial use. It occurs to me that steps should be taken to spike this unfounded rumor in a firm and positive way before it attains any widespread credence. The water filing for Palisades has been completed, and final proof of beneficial use of the water has been made after the publication of notice. The proof, taken on November 16, 1965, was submitted to Carl Tappan and he acknowledged receipt thereof by means of the enclosed letter of November 18, 1965. We had assumed this was a routine matter and that no problem was involved.

Best personal regards and appropriate wishes for the Christmas season.

Sincerely yours,

William Burpee
Field Solicitor

Enclosures - 2

Suits Filed To Clarify Water Right

Idaho Intervenes In Up-River Cases Of Stream Diversion

By Associated Press

Two lawsuits pending in district courts could have a major impact on Idaho water rights, it was learned Tuesday.

The lawsuits were filed some time ago in district courts in Twin Falls and Fremont counties, ostensibly to clarify existing rights. They were brought by water users against the watermaster of Snake River Water District 36.

But because there was an indication they might affect the state government in its authority over water rights, state Reclamation Engineer Keith Higginson has intervened.

Declines Discussion

Higginson declines to discuss the lawsuits, except to acknowledge that he is now a party to them, on grounds they are matters for the courts to decide.

It was learned from reliable sources who declined to be quoted by name, however, that some of the top legal authorities on water and reclamation law are concerned.

Involved specifically in the legal actions is the ownership of water that flows down the Snake River during flood periods.

Water Diverted

Some Eastern Idaho irrigation districts have made it a practice to divert from the river during flood periods more water than they were entitled to on the basis of their original water rights.

Some of this water was used for irrigation but some simply flowed through the districts' canals and back into the river.

But it was measured and the districts, in the lawsuits, are asking the courts to declare that this water now belongs to them.

It is the position of some state officials that this water is not needed by the districts.

May Furnish Supply

If this water is not assigned to these districts but remains as part of the unappropriated streamflow of the Snake River, it then could be allocated for irrigation purposes downstream, particularly in south-central areas, some of which lack an adequate supply in normal runoff years.

May Furnish Supply

If this water is not assigned to these districts but remains as part of the unappropriated streamflow of the Snake River, it then could be allocated for irrigation purposes downstream, particularly in south-central areas, some of which lack an adequate supply in normal runoff years.

State law requires that a water right, to be maintained over the years, must involve the beneficial use of the water.

Some attorneys contend that the floodwater affected by the lawsuits is not being put to a beneficial use, because it is not normally needed in the areas which claim it.

Needed on Arid Land

They argue that it should be assigned to arid land which needs it to grow crops.

There also are contentions that much of the water stored in Palisades Reservoir and which is allocated to various water companies or districts in Eastern Idaho, is not needed for irrigation purposes and thus is not being put to a beneficial use.

They argue that the entire water situation, particularly in the upper Snake River Valley, should be surveyed and if there actually is a surplus it should be appropriated for beneficial use downstream.

Exhibit 33

DON SAMUELSON
GOVERNOR



R. KEITH HIGGINSON
State Reclamation Engineer

STATE OF IDAHO

DEPARTMENT OF RECLAMATION
STATEHOUSE - ANNEX 2
BOISE, IDAHO 83707

June 24, 1968

JUL 3 1968

Holden, Holden, Kidwell & Williams
Attorneys at Law
P. O. Box 1059
Idaho Falls, Idaho 83401

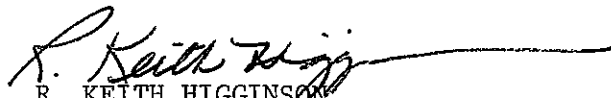
Gentlemen:

I am enclosing a copy of my statement concerning the proposed supplemental flood water adjudication suit on the Snake River for your information.

As you know, I filed a motion with the court to intervene in this action to allow the department the opportunity to study its possible effects upon other water rights. Even though I am now withdrawing that intervention I wish to make it perfectly clear that my position has not changed concerning the seemingly excessive quantities of water which are being diverted from the Snake River for irrigation purposes.

I also have serious reservations with regard to certain provisions of the Palisades contracts. However, since all of the known Snake River users have agreed to the entry of the decree I will not pursue this matter further at this time. I do not see the necessity of putting the water users and this office to the expense and time delay involved in processing this matter to a conclusion in court in the event I should continue my contest.

Very truly yours,


R. KEITH HIGGINSON
State Reclamation Engineer

RKH:ew

Enclosure

STATEMENT OF
R. KEITH HIGGINSON
IDAHO STATE RECLAMATION ENGINEER

About a year and a half ago, I intervened in two law suits filed to adjudicate rights to the use of certain waters of the Snake River above Milner Dam. My purpose in doing so was to allow time to evaluate the proposed decrees and the possible present and future effect upon the water resources of the State of Idaho.

Investigations which have been made since that time and other information of general knowledge throughout the area has convinced me that several aspects of the proposed adjudication are simply not supported by the facts. My major concern is with the so-called "flood water rights" which the plaintiffs are attempting to establish. It has long been recognized and our water law so states, that in order for a right to establish there must be a beneficial use. The Legislature has set the limit of such use for irrigation at one second foot for each 50 acres of land or one miners inch per acre. This Department attempted to liberalize this provision during the 1967 Legislative Session recognizing that there are instances where a greater rate of diversion is required, and there are also cases where the farmer can successfully operate with less than this statutory amount. Attorneys representing the plaintiffs in these suits objected to any liberalization and the committees of the legislature re-affirmed the statutory limitations.

An examination of the proposed decrees and a review of the existing rights on Snake River above Milner Dam will reveal that the parties are attempting to establish rights which will entitle them to a rate of diversion as high as 7.4 miners inches per acre. Records of the Watermaster's delivery of water to the canals in Water District #36 show that annually there is diverted onto lands in the Upper Snake River as high as 17 acre feet of water per acre of land irrigated with the majority of diversion from 7 to 15 acre feet per acre.

Determinations of reasonable diversion rates for beneficial use are not simple and there is no single formula or theory which will give a final answer. Much is dependent upon the availability of water to the irrigator and his willingness to do a good job in managing it. It is common practice to substitute extra water for labor. The result of this, however, is inefficient water application to crops. Information from many years of study by state and federal agricultural agencies and experiment stations reveal that the maximum amount of water actually consumed by any crop grown in Idaho will probably not exceed 3 acre feet of water per acre of land. This would mean that even under the most severe conditions of use (which would be uncommon) a canal diverting 15 acre feet of water per acre served is only 20% efficient in its operation.

The result is an extreme waste of water. At a recent meeting an official of the Soil Conservation Service described these excessive diversion practices in Idaho as "deplorable" and in his opinion "down right illegal". I heartily agree with him. Many have advanced the concept that the excessive rates are necessary due to the gravelly nature of the soil or to bring up the water table for sub-irrigation. Such ideas are as ancient as the horse and buggy, particularly in view of the ever-increasing demand for water.

I, therefore, am opposed to the entering of a decree which will confirm rights to perpetuate such wasteful and excessive diversion practices. However, I am faced with a situation in which all of the presently-affected water users have signed a stipulation agreeing to the decree.

It will firm up the present practices, even though it will determine priorities of 1939 for diversion which in some instances did not take place until the late 50's. It will also confirm certain contracts entered into with the U. S. Bureau of Reclamation in connection with construction of Palisades Reservoir. These contracts contain some provisions which appear to conflict with Idaho law, including reserving a 1939 priority for 300,000 acre feet of water for some unnamed future project. However, they are only applicable to the parties.

The Attorney General has advised that a decree entered in this matter will not be binding upon this office or any organization not a party to the suit who might at some future date wish to establish a right to use Snake River water. It will be forced to carry the burden of proof that there is unappropriated water available for storage or use. One wonders if perhaps the reason for the decree is to place the water users, through their representatives, in the position of being able to control the location and extent of any future development.

In any event, I am withdrawing from intervention in the lawsuits. This will allow the decrees to be entered as proposed, but will leave unsettled for a time the questions of reasonable beneficial use and irrigation efficiency. My decision is based upon my inability to show an injury to any water right holder not a party to the stipulation and proposed decree. I am certain that this will not always be the case, however, and this question will eventually have to be conclusively settled.

Exhibit 34

DN. SAMUELSON
GOVERNOR



R. KEITH HIGGINSON
State Reclamation Engineer

STATE OF IDAHO

DEPARTMENT OF RECLAMATION
STATEHOUSE - ANNEX 2
BOISE, IDAHO 83707

June 26, 1968.

DEPARTMENT OF RECLAMATION
OFFICIAL FILE COPY
Rec'd JUL 1 1968

TO	EXT.	DATE
44W	4	7/1
150		
700		
100		
FILES		

Bureau of Reclamation
Region 1
P. O. Box 8008
Boise, Idaho

Gentlemen:

I am enclosing a copy of my statement concerning the proposed supplemental flood water adjudication suit on the Snake River for your information.

As you know, I filed a motion with the court to intervene in this action to allow the department the opportunity to study its possible effects upon other water rights. Even though I am now withdrawing that intervention I wish to make it perfectly clear that my position has not changed concerning the seemingly excessive quantities of water which are being diverted from the Snake River for irrigation purposes.

I also have serious reservations with regard to certain provisions of the Palisades contracts. However, since all of the known Snake River users have agreed to the entry of the decree, I will not pursue this matter further at this time. I do not see the necessity of putting the water users and this office to the expense and time delay involved in processing this matter to a conclusion in court in the event I should continue my contest.

Sincerely yours,

R. KEITH HIGGINSON
State Reclamation Engineer

RKH:ew

Enclosure

STATEMENT OF

R. KEITH HIGGINSON

IDAHO STATE RECLAMATION ENGINEER

About a year and a half ago, I intervened in two law suits filed to adjudicate rights to the use of certain waters of the Snake River above Milner Dam. My purpose in doing so was to allow time to evaluate the proposed decrees and the possible present and future effect upon the water resources of the State of Idaho.

Investigations which have been made since that time and other information of general knowledge throughout the area has convinced me that several aspects of the proposed adjudication are simply not supported by the facts. My major concern is with the so-called "flood water rights" which the plaintiffs are attempting to establish. It has long been recognized and our water law so states, that in order for a right to establish there must be a beneficial use. The Legislature has set the limit of such use for irrigation at one second foot for each 50 acres of land or one miners inch per acre. This Department attempted to liberalize this provision during the 1967 Legislative Session recognizing that there are instances where a greater rate of diversion is required, and there are also cases where the farmer can successfully operate with less than this statutory amount. Attorneys representing the plaintiffs in these suits objected to any liberalization and the committees of the legislature re-affirmed the statutory limitations.

An examination of the proposed decrees and a review of the existing rights on Snake River above Milner Dam will reveal that the parties are attempting to establish rights which will entitle them to a rate of diversion as high as 7.4 miners inches per acre. Records of the Watermaster's delivery of water to the canals in Water District #36 show that annually there is diverted onto lands in the Upper Snake River as high as 17 acre feet of water per acre of land irrigated with the majority of diversion from 7 to 15 acre feet per acre.

Determinations of reasonable diversion rates for beneficial use are not simple and there is no single formula or theory which will give a final answer. Much is dependent upon the availability of water to the irrigator and his willingness to do a good job in managing it. It is common practice to substitute extra water for labor. The result of this, however, is inefficient water application to crops. Information from many years of study by state and federal agricultural agencies and experiment stations reveal that the maximum amount of water actually consumed by any crop grown in Idaho will probably not exceed 3 acre feet of water per acre of land. This would mean that even under the most severe conditions of use (which would be uncommon) a canal diverting 15 acre feet of water per acre served is only 20% efficient in its operation.

The result is an extreme waste of water. At a recent meeting an official of the Soil Conservation Service described these excessive diversion practices in Idaho as "deplorable" and in his opinion "down right illegal". I heartily agree with him. Many have advanced the concept that the excessive rates are necessary due to the gravelly nature of the soil or to bring up the water table for sub-irrigation. Such ideas are as ancient as the horse and buggy, particularly in view of the ever-increasing demand for water.

I, therefore, am opposed to the entering of a decree which will confirm rights to perpetuate such wasteful and excessive diversion practices. However, I am faced with a situation in which all of the presently-affected water users have signed a stipulation agreeing to the decree.

It will firm up the present practices, even though it will determine priorities of 1939 for diversion which in some instances did not take place until the late 50's. It will also confirm certain contracts entered into with the U. S. Bureau of Reclamation in connection with construction of Palisades Reservoir. These contracts contain some provisions which appear to conflict with Idaho law, including reserving a 1939 priority for 300,000 acre feet of water for some unnamed future project. However, they are only applicable to the parties.

The Attorney General has advised that a decree entered in this matter will not be binding upon this office or any organization not a party to the suit who might at some future date wish to establish a right to use Snake River water. It will be forced to carry the burden of proof that there is unappropriated water available for storage or use. One wonders if perhaps the reason for the decree is to place the water users, through their representatives, in the position of being able to control the location and extent of any future development.

In any event, I am withdrawing from intervention in the lawsuits. This will allow the decrees to be entered as proposed, but will leave unsettled for a time the questions of reasonable beneficial use and irrigation efficiency. My decision is based upon my inability to show an injury to any water right holder not a party to the stipulation and proposed decree. I am certain that this will not always be the case, however, and this question will eventually have to be conclusively settled.

Exhibit 35

July 9, 1968

Mr. William Burpee
Field Solicitor
United States Department of Interior
Office of the Solicitor
P. O. Box 8008
Boise, Idaho 83707

Dear Bill:

I was pleased to receive your letter concerning the public statement made by Keith Higginson, Idaho State Reclamation Engineer, concerning the wasteful use of water in Southeastern Idaho and stating that the Palisades contracts do not conform to Idaho State law. The statement has caused me a great deal of concern, and I was tempted to issue a statement in reply, but refrained from doing so because we are attorneys of record in the pending suit in which we are seeking to have the Court confirm and approve the Palisades contracts and to grant the supplemental flood water rights.

I have discussed the matter briefly with Leonard Graham and have suggested that he call a meeting of the Committee of Nine for the purpose of considering this whole subject. Just as soon as the time and place of the meeting is fixed, I will notify you as I am hopeful that you will be able to attend the meeting.

I am enclosing a reply to Higginson's statement that was issued by Chief Judge Henry S. Martin of the Seventh Judicial District.

Sincerely,

William S. Holden

WSH:zlm
Enclosure

Mr. William Burpee
July 9, 1968
Page 2

P.S. Since dictating the above, I have talked with Leonard Graham, and he is calling a meeting of the Committee of Nine for 11:00 a.m., Tuesday, July 23, at the Stardust in Idaho Falls.

W.S.H.

Exhibit 36

FEB 25 1969

February 24, 1969

John A. Rosholt
Parry, Robertson, Daly & Larsen
Attorneys at Law
P. O. Box 525
Twin Falls, Idaho 83301

Re: Supplemental Adjudication - Upper River

Dear John:

In view of the fact that you made the original appearance on behalf of the A & B Irrigation District in the flood water adjudication suits and your name appears of record as the attorney for said District, I can see no reason to change the record in any respect. A & B Irrigation District does consent to the terms of the Amended Complaint and I can see no need for a change of attorney to be filed in the action. In view of the extensive work done by your firm, John, on behalf of A & B Irrigation District, I believe you should be representing A & B for the purposes of this Stipulation.

If you have any questions please feel free to call on me.

Very truly yours,



Roger D. Ling

RDL:mr

cc. - Mr. Robert B. Holden