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DEPARTMENT OF
WATER RESOURCES

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Attorney General

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Chief, Natural Resources Division

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Counsel for the State of Idaho

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

In Re SRBA	Subcase Nos. 01-00217, 01-00218, 01-04024, and 01-04025 (Minidoka Power Rights)
Case No. 39576	Subcase Nos. 01-02068 and 01-04054 (Palisades Power Rights)
	AFFIDAVIT OF DAVID I. STANISH IN SUPPORT OF THE STATE OF IDAHO'S MOTION FOR PARTIAL SUMMARY JUDGMENT

State of Idaho)
)ss
County of Ada)

DAVID I. STANISH, being first duly sworn, deposes and states:

1. I am a competent adult over the age of eighteen years, and the statements made

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herein are based upon my own personal knowledge of the events described.

2. I am a deputy attorney general assigned to the Snake River Basin Adjudication.

3. Attached to this affidavit are true and correct copies of the following documents:

Exhibit A: Town Sites and Power Development Act of 1906, Pub. L. No. 59-103, 34 Stat. 116 (1906);

Exhibit B: *Burley Irr. Dist. v. Ickes*, 116 F.2d 529, 532 (D.C. Cir. 1940), *cert. denied*, 312 U.S. 687 (1941);

Exhibit C: Act Authorizing the Palisades Project, Pub. L. No. 81-864, 64 Stat. 1083 (1949);

Exhibit D: H.R. Doc. No. 81-720 (2d Sess. 1950);

Exhibit E: Supplemental Decree, *Burley Irr. Dist. v. Eagle* (Idaho 5th Dist. Ct. July 10, 1968);

Exhibit F: Supplemental Decree, *Aberdeen-Springfield Canal Co. v. Eagle* (Idaho 7th Dist. Ct. Mar. 12, 1969);

Exhibit G: *Upper Snake River Chapter of Trout Unlimited v. Hodel*, 706 F.Supp. 737 (D. Idaho 1989); and

Exhibit H: *Upper Snake River Chapter of Trout Unlimited v. Hodel*, 921 F.2d 232 (9th Cir. 1990).

4. Further your affiant sayeth naught.

DAVID I. STANISH
Deputy Attorney General
Natural Resources Division

Subscribed and sworn (or affirmed) to before me, a notary public in and for the State of Idaho this 14th day of August, 2009.

OLGA LEDIVIA NOTARY PUBLIC STATE OF IDAHO

Notary Public for Idaho
Residing at Boise, ID
My Commission expires: 2/08/2012

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CERTIFICATE OF SERVICE

I certify that on this 17th day of August 2009, I caused to be served the original and copies of the **AFFIDAVIT OF DAVID I. STANISH IN SUPPORT OF THE STATE OF IDAHO'S MOTION FOR PARTIAL SUMMARY JUDGMENT** on the following persons by the methods indicated:

1. Original to:

CLERK OF THE DISTRICT COURT SNAKE RIVER BASIN ADJUDICATION 253 THIRD AVENUE NORTH PO BOX 2707 TWIN FALLS, ID 83303-2707	☐ U.S. Mail, postage prepaid ☐ Hand Delivery ☒ Federal Express ☐ Facsimile: (208) 736-2121 ☐ Statehouse Mail

2. Copies to:

IDAHO POWER COMPANY Represented by: JAMES C TUCKER IDAHO POWER CO PO BOX 70 BOISE, ID 83707	☒ U.S. Mail, postage prepaid ☐ Hand Delivery ☐ Federal Express ☐ Facsimile: ☐ Statehouse Mail
IDAHO POWER COMPANY Represented by: JIM LOCHHEAD BROWNSTEIN HYATT ET AL 410 17TH STREET, SUITE 2200 DENVER, CO 80202	☒ U.S. Mail, postage prepaid ☐ Hand Delivery ☐ Federal Express ☐ Facsimile: ☐ Statehouse Mail
AMERICAN FALLS RESERVOIR Represented by: C THOMAS ARKOOSH 301 MAIN ST PO BOX 32 GOODING, ID 83330	☒ U.S. Mail, postage prepaid ☐ Hand Delivery ☐ Federal Express ☐ Facsimile: ☐ Statehouse Mail
ABERDEEN AMERICAN FALLS GWD BINGHAM GWD BONNEVILLE JEFFERSON GWD CAREY VALLEY GWD IGWA INC JEFFERSON CLARK GWD MADISON GWD MAGIC VALLEY GWD NORTH SNAKE GWD	☒ U.S. Mail, postage prepaid ☐ Hand Delivery ☐ Federal Express ☐ Facsimile: ☐ Statehouse Mail

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Represented by:
RANDALL C BUDGE
201 E CENTER, STE A2
PO BOX 1391
POCATELLO, ID 83204-1391

CITY OF POCATELLO
Represented by:
JOSEPHINE P BEEMAN
409 W JEFFERSON ST
BOISE, ID 83702

- ☒ U.S. Mail, postage prepaid
- ☐ Hand Delivery
- ☐ Federal Express
- ☐ Facsimile:
- ☐ Statehouse Mail

A&B IRRIGATION DISTRICT
BURLEY IRRIGATION DISTRICT
FALLS IRRIGATION DISTRICT
Represented by:
ROGER D LING
615 H ST
PO BOX 396
RUPERT, ID 83350-0396

- ☒ U.S. Mail, postage prepaid
- ☐ Hand Delivery
- ☐ Federal Express
- ☐ Facsimile:
- ☐ Statehouse Mail

MILNER IRRIGATION DIST
NORTH SIDE CANAL COMPANY
TWIN FALLS CANAL COMPANY
Represented by:
JOHN SIMPSON
113 MAIN AVE W, STE 303
PO BOX 485
TWIN FALLS, ID 83303-0485

- ☒ U.S. Mail, postage prepaid
- ☐ Hand Delivery
- ☐ Federal Express
- ☐ Facsimile: _____
- ☐ Statehouse Mail

MINIDOKA IRRIGATION DISTRICT
Represented by:
W KENT FLETCHER
1200 OVERLAND AVE
PO BOX 248
BURLEY, ID 83318

- ☒ U.S. Mail, postage prepaid
- ☐ Hand Delivery
- ☐ Federal Express
- ☐ Facsimile: _____
- ☐ Statehouse Mail

NEW SWEDEN IRRIGATION DISTICT
FREMONT-MADISON IRR DIST
Represented by:
JERRY R. RIGBY
25 N 2ND E
PO BOX 250
REXBURG, ID 83440-0250

- ☒ U.S. Mail, postage prepaid
- ☐ Hand Delivery
- ☐ Federal Express
- ☐ Facsimile: _____
- ☐ Statehouse Mail

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USDI BUREAU OF RECLAMATION Represented by: US DEPARTMENT OF JUSTICE ENVIRONMENT & NATL' RESOURCES 550 WEST FORT STREET, MSC 033 BOISE, ID 83724	☒ U.S. Mail, postage prepaid ☐ Hand Delivery ☐ Federal Express ☐ Facsimile: _____ ☐ Statehouse Mail
UNITED STATES OF AMERICA REGIONAL DIRECTOR PN REGION BUREAU OF RECLAMATION PN-3100 1150 N CURTIS RD STE 100 BOISE, ID 83706-1234	☒ U.S. Mail, postage prepaid ☐ Hand Delivery ☐ Federal Express ☐ Facsimile: _____ ☐ Statehouse Mail
IDWR DOCUMENT DEPOSITORY PO BOX 83720 BOISE, ID 83720-0098	☐ U.S. Mail, postage prepaid ☐ Hand Delivery ☐ Federal Express ☐ Facsimile: _____ ☒ Statehouse Mail

Clive Strong for
DAVID I. STANISH
Deputy Attorney General

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WATER RESOURCES

Exhibit A

Town Sites and Power Development Act of 1906, Pub. L. No. 59-103, 34 Stat. 116 (1906)

of irrigation projects, which shall have a water right from the same source as that of said project for the delivery of such water supply to some convenient point, and for the payment into the reclamation fund of charges for the same to be paid by such towns or cities, which charges shall not be less nor upon terms more favorable than those fixed by the Secretary of the Interior for the irrigation project from which the water is taken.

Payment of charges.

SEC. 5. That whenever a development of power is necessary for the irrigation of lands under any project undertaken under the said reclamation Act, or an opportunity is afforded for the development of power under any such project, the Secretary of the Interior is authorized to lease for a period not exceeding ten years, giving preference to municipal purposes, any surplus power or power privilege, and the moneys derived from such leases shall be covered into the reclamation fund and be placed to the credit of the project from which such power is derived: *Provided*, That no lease shall be made of such surplus power or power privilege as will impair the efficiency of the irrigation project.

Lease of surplus water power.

Terms.

Disposal of proceeds.

Proviso.
Impairment of irrigation projects prohibited.

Approved, April 16, 1906.

CHAP. 1632.—An Act To incorporate the Great Council of the United States of the Improved Order of Red Men.

April 16, 1906.
[S. 3292.]

[Public, No. 104.]

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That John W. Cherry, of Virginia; W. A. S. Bird, of Kansas; Joseph Farrar, of Pennsylvania; Thomas G. Harrison, of Indiana; Wilson Brooks, of Illinois; William Provin, of Massachusetts; George P. Johansen, of the District of Columbia; D. A. Dugan, of the District of Columbia; Robert T. Daniel, of Georgia; D. J. Marvin, of the District of Columbia; J. E. Shepherd, of the District of Columbia; Thomas K. Donnalley, of Pennsylvania; George B. Griggs, of Texas; William H. King, of the District of Columbia; Joseph J. Caylor, of the District of Columbia; William H. Boyce, of Delaware; F. W. Kahlert, of the District of Columbia; W. H. Hyronemus, of Tennessee; Benjamin F. Morey, of Pennsylvania; William C. White, of the District of Columbia; Andrew H. Paton, of Massachusetts; James A. Madison, junior, of the District of Columbia; Edwin D. Wiley, of Iowa; William B. Garner, of the District of Columbia, and all other persons who are now members, or shall hereafter be admitted as such, agreeable to the constitution and laws of the said Great Council, be, and they are hereby, incorporated and made a body politic and corporate in the District of Columbia, by the name of the "Great Council of the United States of the Improved Order of Red Men," and by that name may sue and be sued, plead and be impleaded, in any court of law or equity, and may have and use a common seal, and change the seal at pleasure, and be entitled hereunder to use and exercise all the powers, rights, and privileges incidental to fraternal and benevolent corporations.

District of Columbia.
Great Council of the United States Improved Order of Red Men incorporated.
Incorporators.

Name of corporation.

SEC. 2. That the said corporation may provide for the holding of sessions of its legislative or governing body wherever it may order or direct within the United States, and all business transacted in such session shall be of full force and effect, and valid in every respect, as if said session shall have been held or had within the District of Columbia.

Sessions.

SEC. 3. That the said corporation shall have the power to take and hold real and personal estate, not exceeding in value five hundred thousand dollars, which shall not be divided among the members of the corporation, but shall be used and transmitted to their successors for the promotion of the fraternal and benevolent purposes of the said corporation.

Property powers.

April 14, 1906.
[H. R. 12843.]
[Public, No. 102.]

CHAP. 1627.—An Act To amend the seventh section of the Act entitled "An Act to establish circuit courts of appeals and to define and regulate in certain cases the jurisdiction of the courts of the United States, and for other purposes," approved March third, eighteen hundred and ninety-one, and the several Acts amendatory thereto.

United States courts. Appeal in equity to circuit courts of appeal. Vol. 26, p. 828, amended.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That the seventh section of the Act of Congress entitled "An Act to establish circuit courts of appeals and to define and regulate in certain cases the jurisdiction of the courts of the United States, and for other purposes," approved March third, eighteen hundred and ninety-one, as amended by Act approved June sixth, nineteen hundred, be, and it is hereby, amended to read as follows:

Appeals allowed in all interlocutory orders.

"SEC. 7. That where, upon a hearing in equity in a district or in a circuit court, or by a judge thereof in vacation, an injunction shall be granted or continued, or a receiver appointed by an interlocutory order or decree, in any cause an appeal may be taken from such interlocutory order or decree granting or continuing such injunction, or appointing such receiver, to the circuit court of appeals: *Provided*, That the appeal must be taken within thirty days from entry of such order or decree, and it shall take precedence in the appellate court; and the proceedings in other respects in the court below shall not be stayed unless otherwise ordered by that court, or by the appellate court, or a judge thereof, during the pendency of such appeal: *Provided further*, That the court below may, in its discretion, require as a condition of the appeal an additional bond."

Provisos. Stay of proceedings, etc.

Additional bond.

Approved, April 14, 1906.

April 16, 1906.
[S. 87.]
[Public, No. 103.]

CHAP. 1631.—An Act Providing for the withdrawal from public entry of lands needed for town-site purposes in connection with irrigation projects under the reclamation Act of June seventeenth, nineteen hundred and two, and for other purposes.

Public lands. Town-site withdrawals under irrigation projects. Vol. 32, p. 388.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That the Secretary of the Interior may withdraw from public entry any lands needed for town-site purposes in connection with irrigation projects under the reclamation Act of June seventeenth, nineteen hundred and two, not exceeding one hundred and sixty acres in each case, and survey and subdivide the same into town lots, with appropriate reservations for public purposes.

Maximum acreage, survey, etc.

Appraisement and sale of lots, etc.

SEC. 2. That the lots so surveyed shall be appraised under the direction of the Secretary of the Interior and sold under his direction at not less than their appraised value at public auction to the highest bidders, from time to time, for cash, and the lots offered for sale and not disposed of may afterwards be sold at not less than the appraised value under such regulations as the Secretary of the Interior may prescribe. Reclamation funds may be used to defray the necessary expenses of appraisement and sale, and the proceeds of such sales shall be covered into the reclamation fund.

Expenses and proceeds.

Improvement of public reservations, etc.

SEC. 3. That the public reservations in such town sites shall be improved and maintained by the town authorities at the expense of the town; and upon the organization thereof as municipal corporations the said reservations shall be conveyed to such corporations by the Secretary of the Interior, subject to the condition that they shall be used forever for public purposes.

Water rights. Vol. 32, p. 389.

SEC. 4. That the Secretary of the Interior shall, in accordance with the provisions of the reclamation Act, provide for water rights in amount he may deem necessary for the towns established as herein provided, and may enter into contract with the proper authorities of such towns, and other towns or cities on or in the immediate vicinity

Exhibit B

Burley Irr. Dist. v. Ickes, 116 F.2d 529, 532 (D.C. Cir. 1940), cert. denied, 312 U.S. 687 (1941)

BURLEY IRR. DIST. v. ICKES, Secretary of Interior.

No. 7522.

United States Court of Appeals, for the District of Columbia.

Decided Sept. 30, 1940.

Writ of Certiorari Denied Feb. 3, 1941. See 61 S.Ct. 614, 85 L.Ed. —.

1. Waters and water courses ⇐222

The primary object of statute dealing with reclamation of land by federal government is the reclamation of arid lands through irrigation, and production of power for pumping in connection with irrigation is an important incident to the main object; but disposition of surplus power not required for pumping or other uses of irrigation for commercial uses is authorized only as an incidental phase of reclamation and not as a primary or independent act in itself. 43 U.S.C.A. § 371 et seq.

2. Waters and water courses ⇐140

Although the doctrine of prior appropriation fixes priorities among individual appropriators in the use of water according to maxim, qui prior in tempore, prior in jure est, it confers no right to waste water upon prior appropriator whose right is qualified by limitation, made in favor of subsequent appropriators and widest possible use of water on arid lands, that all of water he uses must be beneficially applied and with reasonable economy in view of conditions under which application must be made. 43 U.S.C.A. § 371 et seq.

3. Judgment ⇐715(3)

A case which involved only the question of power of Secretary of Interior after he had once determined the ratio in which irrigation districts should share net profits of power plant to reconsider the original determination and establish a new ratio, and which case had nothing to do with how profits should be determined or with what constituted net profits, was not "res judicata" of issues in subsequent case involving question whether certain funds constituted profits of the plant. 43 U.S.C.A. § 371 et seq.

See Words and Phrases, Permanent Edition, for all other definitions of "Res Judicata".

4. Judgment ⇐715(3)

A case which involved only the question of the power of Secretary of Interior after he had once determined the ratio in which irrigation districts should share net profits of power plant to reconsider the original determination and establish a new ratio, and which case had to do only with division of profits after they were earned, was not "res judicata" of issue whether certain funds received constituted profits of the plant on ground that prior case determined the "ownership" of the plant, where at most court determined "ownership" of the right to receive credit for the plant's net profits in specified percentages, and under statutes establishing reclamation projects neither the secretary nor the courts could transfer ownership to the districts. 43 U.S.C.A. § 371 et seq.

5. Waters and water courses ⇐222

The Secretary of Interior had power to execute a plan of conservation whereby he stopped winter flow of water through power plant in irrigation district, ceased producing power in nonirrigating season for purpose of conserving such water for irrigating season, contracted with private power company to supply commercial demand in district, and preserved the profitable commercial power business which would otherwise have been lost through lack of dependable source of power during irrigation season. 43 U.S.C.A. § 371 et seq.

6. Waters and water courses ⇐222

Where, under contract with Secretary of Interior, irrigation district was entitled to a proportion of net profits derived from operation of reclamation project power plant, and secretary, to conserve water for irrigation purposes, stopped winter flow of water through plant, and contracted with private power company, in consideration of power delivered to such company from another government plant, to supply power for the commercial power business which otherwise would have been lost by the stoppage, secretary's crediting of part of the proceeds of the total commercial power business to such other government plant, instead of considering such sum as "net profits" in which district was entitled to share, was not an abuse of discretion. 43 U.S.C.A. § 371 et seq.

See Words and Phrases, Permanent Edition, for all other definitions of "Net Profits".

7. Waters and water courses ⇐222

Where, under contract with Secretary of Interior, irrigation district was entitled to proportion of net profits derived from operation of reclamation project power

plant, and secretary, to conserve water for irrigation, stopped winter flow of water through plant, and contracted with private power company, in consideration of power delivered to such company from another government plant, to supply the commercial power business which otherwise would have been lost by the stoppage, that government was allegedly adequately compensated for power from such other plant under contract with the company did not preclude secretary from crediting part of the proceeds of the total commercial power business to such other government plant, as against contention that such sum constituted "net profits" in which district was entitled to share. 43 U.S.C.A. § 371 et seq.

Appeal from the District Court of the United States for the District of Columbia.

Suit by the Burley Irrigation District against Harold L. Ickes, Secretary of the Interior, to enjoin the defendant from crediting proceeds of sale of electric power in the Minidoka Irrigation District in any manner other than a certain percentage to the plaintiff. From a judgment dismissing the bill, plaintiff appeals.

Affirmed.

E. Barrett Prettyman, F. G. Awalt, and Raymond Sparks, all of Washington, D. C., and S. T. Lowe, of Burley, Idaho, for appellant.

Nathan R. Margold, Sol., Frederic L. Kirgis, and Phineas Indritz, all of the Solicitor's Office, Department of the Interior, all of Washington, D. C., and B. E. Stoutemeyer, of Portland, Or., for appellee.

Before GRONER, Chief Justice, and EDGERTON and RUTLEDGE, Associate Justices.

RUTLEDGE, Associate Justice.

The appeal is from a judgment dismissing Burley Irrigation District's suit to enjoin the Secretary of the Interior from crediting the proceeds of sales of electric power in the Minidoka Irrigation District and the town of Minidoka, Idaho, in any manner other than 95.6% to plaintiff and 4.4% to Minidoka Irrigation District. The dispute relates only to a portion of the proceeds of these sales, namely, $50,000, which plaintiff claims is part of the net profits for 1935 produced by the Minidoka power plant. The Secretary has determined that this $50,000 is not net profits attributable to that plant, but is rather in effect either an operating expense or proceeds from the sale of power not produced by the Minidoka plant. It is admitted that the plaintiff is entitled to be credited with 95.6% of the net profits produced by the sale of power generated at the Minidoka plant, under the decision of this court in Wilbur v. Burley Irrigation District, 1932, 61 App.D.C. 145, 58 F.2d 871. The basic issue here does not question the respective proportions fixed by that decision for the distribution, by credits, of such profits, but relates to whether the Secretary properly determined that the $50,000 in question was not part of the plant's net profits.

That issue has been obfuscated in the presentation of the cause by submergence in many collateral ones. Stated roughly, the foundation of the plaintiff's claim is that it is "the owner" of 95.6% of the power plant, that it was adjudicated such in Wilbur v. Burley Irrigation District, supra, and as such is entitled to have credit for 95.6% of the $50,000 in question. In order to state the issues and the respective contentions of the parties accurately, a detailed statement of the facts, and especially of the legislative history of the Minidoka Reclamation Project, is necessary. At the outset we may say that we find the plaintiff's contentions without merit, and therefore the judgment must be affirmed.

[1] Burley Irrigation District and Minidoka Irrigation District are two of seven major divisions of the Minidoka Reclamation Project, located in the Snake River Valley, Idaho, and established pursuant to the Act of June 17, 1902, 32 Stat. 388, 43 U.S.C. (1934) c. 12, 43 U.S.C.A. § 371 et seq., commonly known as the Reclamation Law. The primary object of the statute, and of the project, is the reclamation of arid lands through irrigation. The production of power for pumping in connection with irrigation is an important incident to this main object. Disposition of surplus power, not required for pumping or other uses of irrigation, for commercial uses is authorized by an amendatory act of April 16, 1906, set forth below.[1] But the develop-

[1] "Whenever a development of power *is necessary for the irrigation of lands*, under any project undertaken under the said reclamation law, or an opportunity is afforded for the development of power under any such project, the Secretary

ment and sale of such power is authorized only as an incidental phase of reclamation, not as a primary or independent end in itself. The statute and its amendments are *reclamation* acts, not commercial power development acts. The legislation is entirely inconsistent with the development and sale of commercial power whenever that may interfere with the development of irrigation or "impair the efficiency of the irrigation project." To assure that the secondary conservation of power will not impair the primary conservation of water for irrigation, the authority to dispose of surplus power is vested exclusively in the Secretary and is circumscribed by limitations upon the manner, term and purpose of the disposal wholly inconsistent with permanent appropriation of power to non-irrigating uses and with subordinating irrigation to commercial sale.

The Minidoka Project is dependent on three reservoirs: Jackson Lake Reservoir, located in Wyoming about 250 miles upstream from the project; American Falls Reservoir, located 40 miles upstream; and Lake Walcott Reservoir. The last named is created by Minidoka Dam, which lies immediately above the Burley and Minidoka Districts and serves both. Minidoka District, containing about 71,000 acres on the north side of Snake River, is irrigated primarily by gravity flow of water. Burley District, embracing about 46,000 acres on the south side of the river, consists largely of higher ground which must be irrigated by pumping water from the reservoir up to its level. Power for this pumping is derived chiefly from the Minidoka Power Plant, which is located at and forms a part of the Minidoka Dam.[2]

The Minidoka Project, the various divisions thereof, and all structures and facilities in connection therewith, including both irrigation and power works, were constructed by the United States, and the costs of construction were met with moneys from the Reclamation Fund. For many years the entire project was administered solely by the Bureau of Reclamation. The works therefore were originally the property of the United States, as to both legal and equitable titles, and they remain so today except to the extent that they have been transferred to others under legal authority.[3] Furthermore, by adjudication of the state court of Idaho in 1913, and later of the United States District Court for the District of Idaho, priorities in the appropriations and rights to receive the waters of the Snake River were determined, and those applicable to lands within the project, including that for power at Minidoka Dam, were decreed to the United States. Thus the Government originally owned without qualification not only the works of the project, but the water right from the use of which plaintiff asserts its claim here. That ownership continues unabated, except as it has been modified or transferred pursuant to authority given by Congress.

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of the Interior is authorized *to lease for a period not exceeding ten years*, giving preference to municipal purposes, *any surplus power or power privilege*, and the moneys derived from such leases shall be covered into the reclamation fund and be placed to the credit of the project from which such power is derived: *Provided, That no lease shall be made of such surplus power or power privileges as will impair the efficiency of the irrigation project.*" 34 Stat. 117, 43 U.S.C. § 522, 43 U.S.C.A. § 522. (Italics supplied.)

[2] The Idaho statutes provide for the organization of irrigation districts, which are quasi-municipal corporations composed of and serving individual water users, who own the lands located within and served by the district. Burley Irrigation District and Minidoka Irrigation District are corporations of this character organized under these statutes. In the terminology of the project, which is organized and administered under the Federal Reclamation Act and amendments, the water users of the Burley District are known as the South Side Pumping Division and those of the Minidoka District as the Gravity Division. There is of course a dovetailing of federal and state laws in the control of the complicated structure of rights and organization which characterizes the project as a whole.

[3] Section 6 of the Reclamation Law provides: "The title to and the management and operation of the reservoirs and the works necessary for their protection and operation shall remain in the Government until otherwise provided by Congress." 32 Stat. 389, 43 U.S.C. § 498, 43 U.S.C.A. § 498. Cf. Twin Falls Canal Co. v. American Falls Reservoir District No. 2, 9 Cir., 1932, 59 F.2d 10, certiorari denied, 1932, 287 U.S. 638, 53 S.Ct. 87, 77 L.Ed. 552; United States v. Power County, Idaho, D.C.Idaho, 1937, 21 F.Supp. 684, 687.

But the Reclamation Law contemplated entry by individuals upon the public lands improved by the project and application of the project waters for their benefit, and for that of private owners of land within the project. It provided for the assessment of construction charges against the land to be benefited, 32 Stat. 389, 43 U.S.C. § 419, 43 U.S.C.A. § 419; for payment of these charges by instalments over a long period of time, and for the recovery of such payments into the Reclamation Fund, 32 Stat. 389, 43 U.S.C. § 461, 43 U.S.C.A. § 461. By Act of August 13, 1914, provision was made for cancellation and forfeiture of water-right applications and entry on default in payment of construction charges, for assessment and collection of operation and maintenance charges, 38 Stat. 687, 43 U.S.C. §§ 480, 481, 492–497, 43 U.S.C.A. §§ 480, 481, 492–497, and the Secretary was authorized, in his discretion, to transfer the *"care, operation,* and *maintenance* of all or any part of the project works" to any legally organized water users' association or irrigation district.[4] By Act of December 5, 1924, herein referred to as Subsection I, Congress provided: "Whenever the water users take over the care, operation, and maintenance of a project, or a division of a project, the total accumulated net profits, as determined by the Secretary, derived from the operation of project power plants, leasing of project grazing and farm lands, and the sale or use of town sites shall be credited to the construction charge of the project, or a division thereof, and thereafter the net profits from such sources may be used by the water users to be credited annually, first, on account of project construction charge, second, on account of project operation and maintenance charge, and third, as the water users may direct. No distribution to individual water users shall be made out of any such profits before all obligations to the Government shall have been fully paid." 43 Stat. 703, 43 U.S.C. § 501, 43 U.S.C.A. § 501. Reference has been made previously to the provision concerning the development of power and the limited authorization of disposal of surplus power for commercial use.

The Minidoka Project was approved by the Secretary in 1904, and the Minidoka Dam, built primarily as a diversion dam, was completed in 1906. From the beginning, however, it was recognized that power would be necessary for the pumping of water to the lands lying above the level of the point of diversion, chiefly in the South Side Pumping Division, now organized as Burley District. Accordingly, the dam was constructed originally with penstocks or openings for use in supplying water for the generation of power. Construction of the power plant was begun in 1908, the first of six generating units was completed in 1909 and the last in 1926. The power plant therefore is physically an integral part of the structure of the dam, which performs the multiple functions of storage, diversion and generation of power. Early in the life of the project, power generated in excess of that required for irrigation pumping was sold to residents on the project and in adjacent towns for commercial purposes. With the steady expansion of generating units, this sale of power has become extremely profitable, and since 1915 it has resulted in a profit over and above all operating expenses and costs of new construction or improvements in the power system.

In 1915, pursuant to authority conferred by the Act of August 13, 1914, 38 Stat. 690, 43 U.S.C. 373, 43 U.S.C.A. § 373, the Secretary of the Interior set in motion the machinery for determining costs of construction on the Minidoka Project and making assessments against the lands benefited to

4 "Whenever any legally organized water-users' association or irrigation district shall so request, the Secretary of the Interior is authorized, in his discretion, to transfer to such water-users' association or irrigation district the care, operation, and maintenance of all or any part of the project works, subject to such rules and regulations as he may prescribe." 38 Stat. 687, 43 U.S.C. § 499, 43 U.S.C.A. § 499. An apparently mandatory provision for the transfer of the "management and operation" of irrigation works to "the owners of the lands irrigated thereby" is made in the Act of June 17, 1902, 32 Stat. 389, 43 U.S.C. § 498, 43 U.S.C.A. § 498. But it is not involved in this suit as the basis of any transfer and applies only "when the payments required by this chapter are made for the major portion of the lands irrigated from the waters of any of the works herein provided for," and it is explicitly provided: "That the title to and the management and operation of the reservoirs and the works necessary for their protection and operation shall remain in the Government until otherwise provided by Congress."

repay them. Local boards of review and a central board of review were created and instructed to investigate the costs and report to the Secretary in order to aid him, as required by statute, to determine the just and equitable charges or amounts to be collected from the various units.

Upon the recommendation of the appropriate boards, in 1915 the Secretary allocated the original cost of the Minidoka Dam ($676,575.37) between the Minidoka District and the Burley District in accordance with the proportion of project land within each, namely, 59.2% to the former and 40.8% to the latter. However, since the development of power for pumping was necessary chiefly for the irrigation of the South Side Division (Burley District), the cost of constructing the power plant ($455,317.40) was allocated between the two divisions in the proportions of 95.6% to the pumping unit (Burley) and 4.4% to the gravity flow unit (Minidoka), this apportionment being based on the respective peak demands for power during the irrigation season, which in average length includes 170.5 days in spring and summer.

The Minidoka Project includes a separate commercial power division, created for operation of the commercial power business. The great surplus of power, available from the beginning for disposition to commercial use outside the irrigation season, required constant expansion in transmission lines, new substations, and enlargement of the old ones. The necessity for making this expansion as well as for handling operation of the business resulted in establishing the commercial power division. Charges were made to it for costs of power generating units, transmission lines, transformers, substations and other electrical works used in generating and distributing surplus electric power for commercial purposes, including heating, lighting and general power purposes, and have been paid for from earnings of the plant. No part of the cost of the dam or of the power plant (apart from this equipment) was charged to the commercial power division. The cost of transmission lines not used primarily for commercial power purposes apparently was charged to Minidoka and Burley in a ratio different from that adopted for cost of the plant.

On the basis of these cost determinations, assessments were made against the lands benefited.[5] The total amount charged to lands in Burley was $2,785,307. This was assessed at $56.50 per acre for public lands (subject to entry) and $57.50 for private lands. All entrymen and landowners in the unit executed water-right contracts, on forms prescribed by the Secretary, by which they agreed to pay these acreage charges and also annual charges for operation and maintenance.

As stated above, the entire project was managed and operated for many years by the Bureau of Reclamation. But on March 15, 1926, pursuant to the Act of December 5, 1924,[6] a contract was made between the United States and Burley District, whereby the latter took over the *care, operation* and *maintenance* of certain minor works, including specified irrigation canals, telephone lines, and three pumping plants (located several miles from the dam site and power plant), which were designated as "transferred works." It was provided that the United States "will continue to operate and maintain the works used in common by the Burley and Minidoka Irrigation Districts," which were called "reserved works" and included the reservoirs; the Minidoka Dam and the canal headgates at the dam; "the power plant at the Minidoka dam, the transmission lines leading therefrom and used in connection therewith, and the transformer stations appurtenant to said power system." The reserved works have remained under the operation and maintenance of the United States, acting through the Secretary, and no other transfer has been made to Burley District than that involving the minor "transferred works" under the contract.

The contract also contained provisions for the determination, announcement and distribution by credit between the two districts of net profits accumulated and to be earned annually, purporting to be made "pursuant to the provisions of subsections I and J of Sec. 4 of said Act of December 5, 1924," 43 U.S.C.A. §§ 501, 526 (Subsection I, set forth above). By the express terms of Subsection I, it is applicable "whenever the water users take over the care, operation, and maintenance of a project, or a division of a project." At the

[5] Earlier assessments, not involving power costs, had been made against the lands in the gravity division.

[6] See note 4 supra.

date of contract, neither the water users nor the districts had taken over "the care, operation, and maintenance" of the power plant or the commercial power business. Nor have they done so since that time. Although the contract transferred to the water users the management of only the minor works described above, the Secretary undertook to "determine and announce the total accumulated net profits to be credited under said subsections to the Minidoka project, and what portions thereof to the said completed divisions, included in the Burley and Minidoka Irrigation Districts," as well as the proportionate shares to be credited to the lands in each district. Credits so allowed to the district were to apply to the construction charge against the district, to be divided among its irrigable lands according to acreage, with no distribution of profits to individual water users prior to full payment of all obligations to the United States. There was similar provision for annual determination and announcement by the Secretary of net profits as earned, and for crediting them substantially in the same manner as that provided in Subsection I, namely, first, on the annual instalment of project construction charges against the district; second, upon operation and maintenance charges; third, as the district might direct, but in no event to individual water users before full payment of all obligations to the United States. Provision was made for reservation of $300,000 from the accumulated net profits to "make some provision for supplying the growing demand for commercial power on the Minidoka project and also the additional power which will be required for pumping additional water for the lands in the Burley District," and for deducting $50,000 from net profits to enlarge and improve its canals. The district assumed and agreed to pay the remaining unpaid balance of construction indebtedness and charges against its water users.

Pursuant to the contract, on March 14, 1927, the Secretary determined that the profits which had accumulated from leasing excess power from the Minidoka plant should be distributed 95.6% to Burley District and 4.4% to Minidoka District, basing these proportions upon those adopted previously for allocating construction costs of the plant between them. This apportionment was adhered to by successors in office until 1929 when Secretary Wilbur attempted to reapportion the profits by allocating a larger share to Minidoka. This action resulted in the litigation in Wilbur v. Burley Irrigation District, supra, in which on appeal we held that Burley District had a "vested" property right to have the accumulated and annual net profits of the plant credited in accordance with the percentages fixed in the Secretary's original apportionment, that he exhausted his authority to fix such percentages when he exercised it for the first time, and that he had no power thereafter to change them.

The establishment of this ratio of profit division made it to the interest of the Burley District and its constituent landowners to have the largest possible net profits made, determined and distributed by credit, by the Secretary in operating the power plant. From their point of view, it became desirable to have the maximum flow of water through the plant for generating surplus commercial power. This interest of the district coincided with a constantly growing demand for commercial power due to increase in population incident to development of the entire project. The demand comes from consumers in both districts, but more largely from Minidoka, because it is larger in area and because urban growth has been greater there. Simultaneously the Burley District has required more and more power for irrigation pumping, due to expansion of its irrigating system, widening of canals and laterals, etc.

In one highly important respect these two demands for power have clashed, presenting the possibility that satisfaction of one would make impossible fulfilling the other. The peak of the irrigating season comes in the summer and especially in the late summer. Notwithstanding the constant expansion of the plant's generating capacity, for many years the entire output of power has been required to operate the pumping machinery at the peak period. During the nonirrigating season, roughly from October to April, little or no power is required for pumping. The result is that almost the entire output of the plant is available during the winter months for commercial sale. But during the summer at the peak of the irrigating season none of the energy generated at the plant is available for this purpose. Use of water and power for irrigation is the prior use, and there is at that time no surplus power for commercial sale. Some of the commercial demand is seasonal, as with electrical heating of houses and buildings during the winter. Such sale of course is entirely consistent with prior

satisfaction of the demand for power for pumping. But this use alone is not profitable, the trial court finding that proceeds from sales for heating are sufficient hardly to pay more than the cost of operating the plant.[7] Sales for nonseasonal uses, such as electric lighting, cooking, etc., are necessary to make the commercial power business profitable, and it is from these sales that the large profits of the plant have been derived.

[2] To supply the nonseasonal demand, "firm" power is required, that is, power which is available, constantly and uninterruptedly, throughout the year. Since substantially the entire output of the Minidoka plant is required for pumping at the peak of the irrigating season and much of it during the remainder of the season, obviously no power, or little, is available from the plant as surplus power for commercial sale at that time. Consequently, if the commercial business were dependent exclusively upon the power generated at the plant, it could not be carried on. The interruption of service required by application of the plant's output at the peak and, to a somewhat less extent, during the remainder of the irrigating season would destroy the business. Furthermore, the entire project has been handicapped at times by serious shortage of water. When this occurs, not only the secondary and surplus uses, but the primary ones, are jeopardized. Every reasonable measure of conservation is required to protect both and to secure the rights of individual water users. Although the doctrine of prior appropriation fixes priorities among individual appropriators in the use of water according to the maxim, qui prior in tempore, prior in jure est, it confers no right upon the prior appropriator to waste water. His right is qualified by the limitation, made in favor of subsequent appropriators and the widest possible use of water on arid lands, that all of the water he uses must be beneficially applied and with reasonable economy in view of the conditions under which the application must be made.[8] Hence a use which is wasteful may be restricted in the interest of subsequent appropriators and thus of the conservation of water. Shortage makes the elimination of waste imperative.

During the years from 1931 to 1935, particularly, there was a serious shortage of water in the Snake River Valley. Because of this, the American Falls Reservoir (by far the largest of the three in the project) failed to fill and the consequent want of sufficient water for irrigation resulted in severe crop losses, particularly in 1934. Of the three reservoirs, the Minidoka Dam lies farthest downstream. There is no other below it. Water passing the dam therefore exhausts its usefulness in passing, for the entire project and for beneficial application except domestic, stock watering and municipal uses below the dam. Water passing in winter serves only to generate power at the plant for commercial sale, is useless for irrigation and pumping, and is lost therefore to the project, including Burley District, for its primary purposes. Winter flow is therefore highly wasteful. Unsupplemented, it produces only a seasonal source of power for the unprofitable heating business; only when supplemented by power from the outside to prevent interruption of service can it be used for profitable commercial sale, and even that use consumes a vast volume of water needed for irrigation.

During the nonirrigating season in the shortage from 1931 to 1935, the Minidoka power plant used over 225,000 acre-feet of water to produce power, an amount which if stored for summer use was approximately sufficient, as the trial court found, to irrigate all of the Burley District. But as actually used by winter flow, this water was lost entirely to the primary use of irrigation in the project, including Burley District, at the very time when the district was expanding its irrigation system and securing additional storage facilities in the American Falls Reservoir.

[7] The finding (No. 27) states: "That without the power which was brought to the Minidoka Project by the Idaho Power Company in exchange for the power from the Government's Black Canyon power plant, the amount which could have been secured from the sale of such surplus power as might be available from the Minidoka plant during the nonirrigation season for heating purposes would have produced no net profit at all, because the low price applicable to such power for heating purposes would scarcely pay the cost of operating the power plant."

[8] Griffiths v. Cole, D.C.Idaho 1919, 264 F. 369; Glavin v. Salmon River Canal Co., 1927, 44 Idaho 583, 258 P. 532; cf. Vineyard Land & Stock Co. v. Twin Falls Oakley Land & Water Co., 9 Cir., 1917, 245 F. 30; Niday v. Barker, 1909, 16 Idaho 73, 101 P. 254.

Prior to the shortage of 1931-1935, the Secretary had supplemented the power generated at the Minidoka plant by bringing in power from outside sources, thereby preserving the commercial business and its profits. But with the shortage, further measures of conservation became necessary both to fulfill irrigation requirements in the project, including the district, and to preserve the commercial business. The Secretary therefore instituted a plan to accomplish these ends. In broad outline it involved cessation of winter operation of the Minidoka plant and storage of the winter flow thereby conserved in the project reservoirs, principally at American Falls, for summer use. But to avoid destruction of the commercial business, the Secretary arranged to bring in "firm" power from an outside source to supplement what the plant would generate. He accomplished this by an agreement, effective October 1, 1934, with the Idaho Power Company, a private utility, which provided, in effect, for an exchange of power between that company and the Government's Black Canyon power plant on the Payette River in western Idaho. The Idaho Company generated power for commercial sale at its plant located at American Falls. It agreed to deliver power from this plant for distribution to the consumers of commercial power within the Minidoka project, replacing that formerly generated at Minidoka during the winter and supplementing that produced there in the summer, so that there would be no interruption either of commercial sale or of irrigation pumping. In exchange for this power, the company receives power from the Government's Black Canyon plant, not part of the Minidoka project, which it distributes to customers in the region of that plant.

The contract recited the recent shortage of water, the necessity for greater conservation both to provide for irrigation requirements and to supplement the power requirements of the Minidoka project, and provided for specified winter and summer deliveries at the Minidoka plant in three separate paragraphs, one of which extended for the term of the contract an agreement made in 1930 for delivery of surplus power from the Black Canyon plant to the Idaho Company. In addition to the exchange of power, the trial court found that other considerations inducing the company to enter into the contract of 1934 were: (1) its interest in conservation of water; (2) the Government's agreement to forbear installing a previously planned power plant at American Falls, which would compete with the company's plant there; and (3) permission for the company to use in its plant whatever water would be released from the American Falls Reservoir.

The contract reserved to the Secretary the right to terminate it in the event of final judicial decision (A) that he could not lawfully secure "an annual net income of $50,000 to reimburse the United States for the use of the Black Canyon plant" (1) by charging that sum as operating expense to those "benefited by the water saved hereunder" and (2) by sale of the power received from the company or (B) that he might not discontinue or reduce the nonirrigating use of the Minidoka plant to conserve the river flow for irrigation uses.

The Secretary also entered into a contract with the Minidoka Irrigation District by which it guaranteed a $50,000 return on power furnished to its consumers through or by virtue of the Idaho Power Company contract, on the understanding that collections in the past from power sales in the district had been approximately $50,000 a year.

Beginning in 1935, the Secretary ceased operating the Minidoka plant during the nonirrigating season, but continued to supply the commercial customers with energy received from the Idaho Power Company. During the irrigating season power generated at Minidoka has been supplemented with power supplied by the Idaho Company, so that all demands for power, both for irrigation in Burley District and for commercial sale, have been met, even at the peak of the season.

On March 12, 1936, the Secretary found that the net profits from total sales of power within the Minidoka project during 1935 amounted to $119,128.78. Of this total, he determined that $66,744.26 was derived from the sale of power generated at the Minidoka plant and therefore was attributable to it. The remainder, $52,384.52, he determined was derived from the sale of power received under the Idaho Power Company contract and not generated at the Minidoka plant. He therefore held that this sum was not attributable to that plant as net profits produced by its operation. He allocated 95.6% ($63,807.51) of the $66,744.26 to Burley District as its proportionate share of the net profits produced by the plant's operation, and 4.4% ($2,936.75) to Minidoka District. Of the

$52,384.52 found to be profits derived from the Idaho Power Company contract, he apportioned $2,384.52 to the Minidoka District, as compensation under his contract with it for performing services including collections, and $50,000, the amount which Minidoka District had guaranteed, to the Black Canyon plant to compensate the Government for the power supplied from that plant to the Idaho Company under the contract.

It is this apportionment of profits which is in dispute in this action. Burley District claims that it is entitled to receive 95.6% of the entire $119,128.78, but since the Minidoka District is not a party to this suit it makes no effort here to deprive it of the credit for $2,384.52 allocated as compensation for services in the sale of the power derived under the Idaho Company contract. The challenge is specifically to the award of the $50,000 to Black Canyon.

Plaintiff's basic contention is that it "owns" 95.6% of the Minidoka power plant. It rests this conclusion primarily upon language used in the opinion in Wilbur v. Burley Irrigation District, supra. It asserts that this decision is res judicata upon the question of its "ownership" of 95.6% of the plant. As a corollary, plaintiff says that by adjudication of the state and federal courts in Idaho 2700 second-feet of water have become "appurtenant" to the plant for power purposes, and by reason of its ownership of 95.6% of the plant it "owns" also 95.6% of this water right. It asserts that these rights are "vested property interests" under the decision in Wilbur v. Burley Irrigation District, supra; that under that decision it is entitled to receive 95.6% of the plant's net profits, presently by credit to construction charges against lands in the district which it has assumed; that the total net profits of $119,128.78 derived from sales of power to consumers for commercial use within the project are net profits of the Minidoka plant; and that the Secretary's refusal to apportion 95.6% of this sum, including the $50,000 allocated by him to Black Canyon, is a deprivation of these allegedly vested rights. Plaintiff, in effect, asserts that the entire matter was adjudicated in Wilbur v. Burley Irrigation District, supra, and therefore the court below had no further duty or power than to give effect to that decision by granting the relief prayed. Evidence and findings made by the court with reference to matters taking place since the date of the decision are said to be irrelevant and therefore erroneously received and made.

On the other hand, the Secretary denies: that the case presents any issue of interference by his action with any vested right of the plaintiff or its constituent members; that Wilbur v. Burley Irrigation District, supra, in any way involved or concluded any issue presented here; that plaintiff "owns" 95.6% or other portion of the Minidoka plant, or of the water-right adjudicated for production of power there; or that his action in allocating the $52,384.52 as net profits derived from the Idaho Power Company contract, or any part thereof, violated any right of plaintiff or of anyone represented by it in this litigation. On the contrary, he asserts that the allocation was made entirely in accordance with the law and the rights of all parties, as established by statute, contract and the decision in Wilbur v. Burley Irrigation District, supra; that plaintiff's suit is an effort to interfere with his authority and discretion, lawfully vested, and exercised by him as an administrative official of the Government in the performance of an exclusively administrative function; that the courts have no power to examine into or control his actions in the performance of this function; and that there is no evidence that his action was arbitrary, capricious or in bad faith. He asserts also that the court was without jurisdiction to entertain the suit: (1) because of the absence of indispensable parties, namely, the Minidoka Irrigation District and the Idaho Power Company, whose rights either under contract or otherwise will be adversely affected by the granting of any relief which the plaintiff seeks; and (2) because the suit in effect seeks to compel the United States specifically to perform its contract of March 15, 1926, with the plaintiff.

Other contentions are made by each of the parties, which we find it unnecessary to mention since they are involved, implicitly if not explicitly, in those we have stated.

The trial court, after extended hearing, made findings of fact and conclusions of law, which in general sustained the defendant's contentions. The findings included the facts substantially as we have stated them, with others, and were clearly supported by the evidence. The court disposed of the case upon the merits, declining to pass upon the jurisdictional questions, and entered its final judgment dismissing plain-

tiff's bill. We likewise find it unnecessary to consider or decide the jurisdictional issues and, as we have said, find no error in the action of the trial court.

I.

[3, 4] The court was clearly correct in holding that Wilbur v. Burley Irrigation District, supra, is not res judicata of the issues in this case. It involved only the question of the power of the Secretary, after he had once determined the ratio in which the Burley and the Minidoka districts should share the net profits of the Minidoka plant, to reconsider the original determination and establish a new ratio. It had to do only with the division of profits after they were earned, determined and announced by the Secretary, nothing to do with how they should be determined or with what constitutes net profits. This suit goes directly and solely to the latter questions. The Secretary in no way questions, in fact he concedes, the ratio established by the Wilbur decision, but says it has no application to the funds now contested. That involves the question whether these funds are profits of the plant, and no such issue was present in the Wilbur case. Nor did it determine ownership of the plant. At most it determined "ownership" of the right to receive credit for the plant's net profits in the specified percentages. These are entirely distinct matters, as distinct in fact as the well-established distinction between ownership of a business and a right to share in its profits.[9] The question here involves what should be included in the profits and whether the Secretary properly determined that the $50,000 should not be included. These are questions antecedent to and therefore distinct from any issue concerning how the profits shall be divided.

Plaintiff, however, rests its contrary argument on the view that the issue decided in the Wilbur case [61 App.D.C., 145, 58 F.2d 873], was "the ownership" of the Minidoka plant. It attempts to show this by referring to language used in the opinion stating that the Secretary's redetermination of the ratio "would amount to a readjustment of the ratio *of ownership* of the two districts *in the power plants*" and that the injuncton extended "only to the redetermination by the Secretary of the *proportionate ownership in the Minidoka power project.*" (Italics supplied) These statements followed forms of expression used by Secretaries Work and West made when they respectively determined, and denied a petition to redetermine, the ratio of profit credit.[10]

Plaintiff's emphasis on these statements ignores the fact that the court stated the issue more accurately in other portions of the opinion, particularly when it said that the injunction was to restrain the Secretary from redetermining "the ratio of *ownership and participation* * * * *in the power profits past or future* from what is known as the Minidoka irrigation project" and "the *respective property interests* that the districts have in the entire project *under their respective contracts* with the government." (Italics supplied) The two forms of statement bring into sharp contrast, in the setting of the present case though not in that of the Wilbur case, the vast difference between ownership *of the plant* and ownership of the right to receive credit for a share in the net profits produced by operation of the plant. For some purposes and in regard to some issues, it is true, as Lord Coke's celebrated inquiry indicates, that land may be identified with its rents; and a business with the right to a share in its profits. But for others, the identification can produce only confusion and confounding of rights. For the purpose before the court in the Wilbur

[9] The distinction arises frequently in partnership cases, e. g.: Cox v. Hickman, 1860, 8 H.L.Cases 268; Kilshaw v. Jukes, 1863, 3 Best & Sm. 847; Burnett v. Snyder, 1879, 76 N.Y. 344; Kaufmann v. Kaufmann, 1908, 222 Pa. 58, 70 A. 956; Uniform Partnership Act §§ 6, 7(4).

[10] Secretary Work said: "As the matter now stands, *to state it simply*, the Burley District owns 95.6 per cent. of the power plant, and the Minidoka District the remainder, or 4.4 per cent.," (italics supplied) and Secretary West: "The decision of Secretary Work became, in effect, a rule of property and is entitled to all the recognition which such a consequence necessarily gives it." Both went on to say that contracts had been made by the districts on the faith of the originally determined ratios, in the one case of costs, in the other of profits. Extensive improvements had been made in reliance on these ratios, and each Secretary showed that these considerations weighed heavily in the formation of his conclusion. It does not follow that they are pertinent only on the assumption that each district "owned" the stated percentage "of the plant."

case, namely, determining whether the Secretary exhausted his power over the ratio of distribution of profits when he made the original allocation,[11] there was no fundamental error in referring to the ratio as one of "ownership of the plant" although this was inaccurate as description of the right at issue. But for the present purpose, stripping that simplified description from its context and attempting to make it conclusive here in its literal form would convert what was in those circumstances merely an immaterial inaccuracy of statement into a glaring and vital misstatement of the rights acquired and the issues presented. The legislation establishing and expanding these projects has created a highly complex system of rights and interests, some in the Government, some in the districts, some in the individual water users, which if combined in a single individual would add up to the simplified conception of "ownership" for which plaintiff appears to contend, with itself as "owner." The statutes[12] and the contract of March 15, 1926, have carefully reserved to the Government title and also the right to manage, control and operate all works not transferred pursuant to the statutory conditions, as has not been done with the Minidoka power plant. Furthermore, the conditions upon which such a transfer could be made have not been fulfilled. Neither the Secretary nor the court therefore had power legally to transfer "ownership" of the plant from the Government to the plaintiff. That the former contracted to give it credit for a share in the profits and that the latter adjudicated this limited, and contingent,[13] right to be beyond the jurisdiction of the Secretary to modify, did not and was not intended to transfer "ownership" of the plant to the plaintiff. In view of these facts, we cannot construe the court's decision as confirming or accomplishing what neither the Secretary nor we had power to do.

Nor is it necessary so to construe it in order to give it full effect. We may recognize fully its assertion that the right acquired by plaintiff under the contract was "a property right," "a vested interest," "a vested right," even that it was a "vested interest in the plant." We need not recognize that right as "ownership of the plant" or regard the decision as establishing such ownership in the plaintiff. The right which was "vested," which plaintiff "owned," was the right to receive credit, in accordance with the contract, for 95.6% of the net profits of the plant as determined and announced by the Secretary. Plaintiff's fallacy is in the failure to differentiate that right, which it owned, from "ownership of the plant." Wilbur v. Burley Irrigation District, supra, did not adjudicate ownership of the Minidoka plant and is not res judicata of that issue here.

II.

From what has been said concerning the issue of res judicata, it is unnecessary to discuss further plaintiff's contention that it has become the "owner" of 95.6% of the Minidoka power plant and of the 2700 second-feet of water adjudicated to the United States for production of power at that plant. The United States remains the owner of the plant, the water right and the business, as it has been from the beginning, because these properties have not been transferred to the districts, and the conditions upon which transfer might be made have either not been prescribed by Congress or not been fulfilled. Inasmuch as plaintiff rests its case primarily upon the contention of ownership, rejection of that contention perhaps makes consideration of other issues unnecessary.

But we think the claim of "ownership" of the plant and the water right contains implicitly, if not indeed explicitly, the assertion that the Secretary had no authority or power to stop the winter flow of water through the Minidoka plant, to cease pro-

[11] "The acts of 1924 and 1926 (44 Stat. 481), under which Secretary Work proceeded, specifically prescribed that his decision should be conclusive and final. It is clear, therefore, that any attempt on the part of the present Secretary to revise, modify, or change *these contracts* is an interference with property rights already vested; a matter over which the jurisdiction of the Secretary no longer exists." 61 App.D.C. 147, 148, 58 F.2d 873 (loc. cit.). (Italics supplied)

[12] Cf. notes 1, 3, 4 supra and Subdivision I quoted above.

[13] Plaintiff's right and those of its constituent water users are subject to termination in case of default in payment of construction charges and assessments against the lands in the district. That the profits have been more than sufficient to pay these as they accrue does not remove either the legal or the factual possibility that they may not be so in the future and that forfeiture may occur.

ducing power there in the nonirrigating season, or perhaps to enter into the contract for supplemental power with the Idaho Power Company. Certainly it includes the assertion that the Secretary had no authority to credit the $50,000 to the Black Canyon plant. It is true that plaintiff disclaims intention to question or interfere with defendant's operation of the plant or to ask for specific performance of its contract with the United States of March 15, 1926. It does not assert, in so many words, that the Secretary has no discretionary power to stop the winter flow and cease generating power in that season in order to conserve the water for irrigating uses, or that he could not enter lawfully into the contract with the Idaho Power Company. But it does claim that, having done so, he must give it credit for 95.6% of the $50,000 which has been credited to the Black Canyon plant. It says this sum is part of the profits produced by the Minidoka plant, that it is entitled to receive 95.6% of it, and that the Secretary has no lawful right or authority to credit it or any part of it to the Black Canyon plant. While not denying defendant's power to conserve water by the cessation of winter flow, when in his judgment that is necessary for the benefit of the plaintiff and its constituent water users, it asserts he cannot do so in order to conserve water for use outside the district or by persons whose adjudicated appropriations are subsequent to that made for power at the Minidoka plant, except by condemnation proceedings and with full compensation, payable to the plaintiff, for the water of which it says it is thereby, in effect, deprived. This assumes, of course, that the water conserved is to be used only for the benefit of others than the plaintiff; that it is the owner of a right to have the winter flow continued in order that power may be generated for commercial sale; that continuance of winter flow would create a profit; and that defendant by his action has deprived it of that right, or of its equivalent, namely, the proceeds from sales of power brought in from the outside and sold "to replace" that which would have been generated had the plant been operated. Plaintiff also attacks the allocation by a lengthy and involved attempt to show that the Government was "fully compensated" for its Black Canyon power delivered to the Idaho Company, by the considerations received by it from the company under their contract, and that therefore the Government or the Black Canyon plant is not entitled to receive credit for this $50,000.

Cutting through the mass of indirection, we think these contentions actually raise the question whether the Secretary has exceeded his authority in operating the plant and determining its net profits for 1935. They amount to a charge that his action has been arbitrary. The trial court rightly determined that it was not so and that he had full power lawfully to execute the so-called plan of conservation.

[5] The crux of the matter is in the findings that execution of the plan was essential for the plaintiff's benefit, both to supply the necessary power for pumping and to preserve and maintain the commercial power business. These findings were supported amply by the evidence. They show that "no successful commercial power business could have been carried on during the year 1935 or any of the succeeding years without the power brought in from outside sources and delivered to the Minidoka Project by the Idaho Power Company"; that the demand for power for irrigation, mainly in the Burley District, "absorbed the entire power output and entire power capacity of the Minidoka power plant during the summer and left no surplus power whatever available from that source during the peak of the irrigation season to carry on the growing commercial, domestic and industrial power business of the Minidoka Project"; that "firm" power was required to operate that business, could not be produced by the Minidoka plant whether or not the winter flow was allowed to continue, and was available only from sources outside the project; and that the plan adopted by the Secretary resulted not only in saving about 250,000 acre-feet of water for irrigation, including expanding requirements of the Burley District, but also "in saving and preserving the profitable commercial power business on the Minidoka Project, which would otherwise have been lost through lack of a dependable source of power during the irrigation season." [14]

In the face of these findings, there can be no question that the Secretary's action in placing the plan into effect was essential (1) to fulfill plaintiff's requirements for power for irrigation and (2) to preserve the commercial business, without which

[14] Numerous other findings supported these, which it is not necessary to include or summarize here.

there would have been no profits to share. In these circumstances he had lawful authority to stop the flow of winter water and cease generating winter power at the plant. In view of the necessity of this action for the protection and preservation of plaintiff's interests, it is immaterial that some of the water thereby saved might become available also for irrigating uses by persons holding rights in appropriations subsequent to that decreed for power purposes at the Minidoka plant. The Secretary, in common parlance, simply "killed two birds with one stone." That others also may have been benefited does not nullify the benefit to plaintiff and in fact was entirely consistent with the economical use of water which the prior appropriator always must make for the benefit of subsequent ones.[15] Clearly action which was essential to the preservation of both plaintiff's primary and its secondary interests in the use of water could not be arbitrary.

[6] It remains to consider whether, conceding that the Secretary had lawful authority to conserve the winter flow and enter into the Idaho Company contract, it was arbitrary or in abuse of his discretion to credit the $50,000 to the Black Canyon plant. We agree with the trial court not only that this was entirely within his discretion, but that it was exercised properly, if not in fact as required by law.

Plaintiff contends that the power received from Black Canyon through the exchange with the Idaho Company was merely "replacement" power to take the place of that not generated at Minidoka in the winter. Therefore, it says, since it would have been entitled to credit for 95.6% of the profits which would have been earned if the plant had been operated, it should receive the same proportion of the profits which were made by the sale of the "replacing" power.

The argument almost amounts to asserting that plaintiff has an unqualified right to have the winter flow used to generate power for commercial sale, a view we have shown to be fallacious. But, further, it ignores the fact that the power brought in was not merely to replace that not generated at Minidoka. The latter was only seasonal and, as shown by the findings, when not supplemented by outside power, incapable of producing a profit. The power brought in was "firm" power. It replaced that not generated at Minidoka in the winter, but, more importantly, it supplied all of the power required to maintain the commercial business when the entire Minidoka output was required for irrigation pumping or failed during emergencies. Had the power brought in been merely "replacement" of that which might have been generated in winter at Minidoka, it could not have preserved the commercial business (other than the unprofitable sale for heating) and there would have been no commercial profits for plaintiff to share. The power brought in augmented the plant's summer capacity and it was this which preserved the commercial business. To this fact, therefore, the commercial profits must be attributed. The Secretary no doubt had authority to bring in power from outside the project to augment its inadequate capacity, but nothing in the statutes or the contract with plaintiff required him to do so, or to give the benefit of such action to those interested in the project without cost to them.

[7] Plaintiff's contention that the Government was adequately compensated for the Black Canyon power under its contract with the Idaho Company, even if true, would be no basis for holding that plaintiff is entitled to have the benefit of that power, or its sale, without charge. That might be true only if the power were brought in and sold as a substitute for power which plaintiff was entitled to have generated at Minidoka and sold. As has already been shown, plaintiff had no such right and the power brought from the outside was not such power.

We need not decide whether the Secretary, in his management of the Black

[15] Whether the Secretary, by virtue of his discretionary powers of management and the statute's specific direction against disposition of surplus power for commercial use so as to impair the efficiency of the irrigation project, could have stopped the winter flow and generation of power, without providing supplemental power from outside, we need not decide. It would seem that the statute's clear mandate would subordinate the commercial uses of power to those of irrigation in any case where the two uses might be in conflict, and therefore, whatever might be the case with an appropriation of water for power purposes unqualified by conditions attached by federal law, the Secretary, quite apart from considerations regarding preservation of the power business, was following out the statutory command.

Canyon plant, was required by law to allocate to it, from the proceeds of sale of the power brought in to the Minidoka project, the cost of the power delivered by Black Canyon to the Idaho Company. The contract with the company, and that with the Minidoka District, show that from the beginning it was contemplated that at least $50,000 should be applied from proceeds of sale of the power delivered by the Idaho Company under the contract to reimburse the Black Canyon plant for the power delivered by it to the company. The contract with the company contained provisions for its termination by the Secretary in case judicial decision should make this impossible. The contract was merely one phase or incident in the entire plan of conservation and the Secretary evidently considered the right to allocate the $50,000 to Black Canyon of sufficient importance to justify making not only the contract but the plan as a whole contingent for their execution upon his ability to make that credit. Plaintiff is not a party to that contract, though it has been benefited greatly by it. It therefore has no right to challenge it, or to require that it be segregated for present purposes from its setting in the plan as a whole. Nor is it a matter of any concern to the plaintiff whether the Government's bargain with the Idaho Company was a good or a bad one. The only question which concerns it is whether the Secretary, in his discretionary functions as manager of the Black Canyon and Minidoka plants, had lawful authority to credit the $50,000 to Black Canyon, and not to plaintiff to the extent of 95.6%. Plaintiff has shown no sufficient reason to support the view that it, or the Minidoka District, or the consumers of commercial power, should receive the benefit of this power without charge. We think it was clearly within the Secretary's discretion, if not also perhaps required by law, that he allocate the $50,000 to Black Canyon.

In so ruling we need not determine whether that sum should be considered as an operating expense of the business conducted in connection with the Minidoka power plant or as operating expense of an entirely separate and distinct business of distributing commercial power from Black Canyon in the Minidoka District.[16] In either event it would not be net profits "derived from the *operation* of project power *plants*" (here Minidoka) within the meaning of Subsection I or of the contract of March 15, 1926. The funds in question were not derived from the operation of the Minidoka *plant*. It is only net profits so derived which plaintiff is entitled to share.

We find it unnecessary to consider the jurisdictional or other arguments advanced.

The judgment is affirmed.

[16] The $50,000 may be regarded in either of two ways: (1) as created by operation of the contracts of the Government with the Idaho Company and the Minidoka District, and thus in effect of a system or business of distributing power separate and distinct from that of distributing power produced by operation of the Minidoka plant; (2) as an operating expense of the business conducted in connection with the Minidoka plant, not a profit produced by the operation of that plant. The situation may be regarded as involving the operation by the Secretary of two distinct businesses, one in the sale of power generated by operation of the Minidoka plant, and the other in the sale of power received from the Black Canyon plant, each producing its own profits; or as involving only a single business in the sale of all the power, whether generated at Minidoka or received under the Idaho Company contract.

Exhibit C

Act Authorizing the Palisades Project, Pub. L. No. 81-864, 64 Stat. 1083 (1949)

MAIL -71744

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SEC. 2. Section 402 of such Act, as amended (50 U.S. C., sec. 352), is hereby amended by striking out the following: "*Provided*, That in order to be entitled to free air-mail postage under this Act, a State balloting unit, composed of ballot, voting instructions, and envelope or envelopes, must not exceed in weight the total of one ounce".

60 Stat. 102

Approved September 29, 1950.

[CHAPTER 1114]

AN ACT

September 30, 1950
[S. 2105]
[Public Law 854]

To authorize the Palisades Dam and Reservoir project, to authorize the north side pumping division and related works, to provide for the disposition of reserved space in American Falls Reservoir, and for other purposes.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That the Palisades Dam and Reservoir project, Idaho, heretofore authorized under the provisions of the Federal reclamation laws by the presentation to the President and the Congress of the report of December 9, 1941 (House Document Numbered 457, Seventy-seventh Congress, first session), by the Secretary of the Interior (herein called the Secretary), is hereby reauthorized under the Federal reclamation laws for construction and operation and maintenance substantially in accordance with that report as supplemented and modified by the Commissioner's supplemental report and the recommendations incorporated by reference therein, as approved and adopted by the Secretary on July 1, 1949, and as including, upon approval by the President of a suitable plan therefor, facilities for the improvement of fish and wildlife along the headwaters of the Snake River, such facilities to be administered by the Fish and Wildlife Service: *Provided*, That, notwithstanding recommendations to the contrary contained in said report (a) the Secretary shall reserve not to exceed fifty-five thousand acre-feet of active capacity in Palisades Reservoir for a period ending December 31, 1952, for replacement of Grays Lake storage, but no facilities in connection with the proposed wildlife management area at Grays Lake shall be built and no allocation of construction costs of the Palisades Dam and Reservoir by reason of providing replacement storage to that area shall be made until the development and operation and maintenance of the wildlife management area has been authorized by Act of Congress, and (b) the nonreimbursable allocation on account of recreation shall be limited to the costs of specific recreation facilities in an amount not to exceed $148,000.

Palisades Dam and Reservoir project, Idaho.
Reauthorization

SEC. 2. There are hereby authorized for construction and operation and maintenance under the Federal reclamation laws: (a) the north side pumping division of the Minidoka project, this to be substantially in accordance with the Commissioner's report and the recommendations incorporated by reference therein, as approved and adopted by the Secretary on July 1, 1949: *Provided*, That, notwithstanding recommendations to the contrary contained in said report, (1) lease or sale of that portion of the power service system extending from the substations to the pumping plants may be made to any entity on terms and conditions that will permit the United States to continue to provide power and energy to the pumping facilities of the division, and, in the event of lease or sale to a body not entitled to preference in the purchase of power under the Federal reclamation laws, will preserve a reasonable opportunity for subsequent lease or sale to a body that is entitled to such privilege, (2) no allocation of construction costs of the division shall be made on a nonreimbursable basis by reason of wildlife benefits, and (3) there shall be, in lieu of a forty-year period, a basic repayment period of fifty years for repayment,

Construction and operation
North side pumping division, Minidoka project

American Falls Dam power facilities.

in the manner provided in the recommendations, of the irrigation costs assigned for repayment by the water users; and (b) for the furnishing of electric power for irrigation pumping to that division and for other purposes, power generating and related facilities at American Falls Dam. These generating and related facilities, to the extent the Secretary finds to be proper for pay-out and rate-making purposes, may be accounted for together with other power facilities operated by the Secretary that are interconnected with the American Falls Dam power facilities, excluding any power facilities the net profits of which are governed by subsection I of section 4 of the Act of December 5, 1924 (43 Stat. 703). The authorizations set forth in the preceding sections 1 and 2 shall not extend to the construction of transmission lines, substations, or distribution lines unless such facilities are for the purposes of interconnecting the power plants herein authorized, or for the delivery of power and energy for use in connection with the construction, operation, and maintenance of the projects herein authorized.

43 U. S. C. § 501

Contract authorizations.

SEC. 3. The Secretary is hereby authorized to contract, under the Federal reclamation laws, with water users and water users' organizations as to the use for their benefit of the heretofore reserved storage capacity in American Falls Reservoir. Not to exceed three hundred and fifteen thousand acre-feet of that capacity shall be made available to those who have heretofore had the use of reserved capacity under lease arrangements between the United States and the American Falls Reservoir district of Idaho, the distribution of this capacity among contractors to be determined by the Secretary after consultation with the interested water users' organizations or their representatives. Of the balance of the reserved capacity, forty-seven thousand five hundred and ninety-three acre-feet are hereby set aside for use under contract for the benefit of the lands comprising unit A of the north side pumping division of the Minidoka project, and seventy-one thousand acre-feet are hereby set aside for use under contract for the benefit of those lands in the Michaud area which may hereafter be found to be feasible of development under irrigation. Contracts for the repayment of construction charges in connection with reserved capacity shall be made without regard to the second proviso of the tenth paragraph (Minidoka project, Idaho) under the heading "Bureau of Reclamation" of the Act of June 5, 1924 (43 Stat. 390, 417). Such contracts shall require the repayment of all costs determined by the Secretary to be allocable to the reserved capacity, less, in the case of the three hundred and fifteen thousand acre-feet of capacity above described, three hundred and eighty-six four-hundred-and-thirty-fourths of the revenues realized, after deduction of what the Secretary determines to be an appropriate share for operation, maintenance, and replacements, from the leasing of that capacity for irrigation purposes up to the time water first becomes available in Palisades Reservoir and, in the case of the capacity set aside for the north side pumping division, all other revenues realized from or connected with the reserved capacity and which the Secretary determines to be available as a credit against the cost allocable to that division.

Repayment of construction charges.

43 U. S. C. § 600.

Continuation of construction.

SEC. 4. (a) The continuation of construction of Palisades Dam beyond December 31, 1951, or such later controlling date fixed by the Secretary as herein provided, is hereby made contingent on there being a finding by the Secretary by the controlling date that contracts have been entered with various water users' organizations of the Upper Snake River Valley in Idaho that, in his opinion, will provide for an average annual savings of one hundred and thirty-five thousand acre-feet of winter water. If in the Secretary's judgment the failure

of the requisite organizations so to contract by the controlling date at any time is for reasons beyond the control of those organizations, he may set a new controlling date but not beyond December 31, 1952.

Repayment contracts.

(b) Repayment contracts made in connection with the use of capacity in either American Falls or Palisades Reservoir may include, among other things, such provisions as the Secretary determines to be proper to give effect to recommendations referred to in section 1 of this Act, and particularly those concerning the continued effectiveness of the arrangements as to the minimum average annual water savings.

Appropriation authorized.

SEC. 5. There is hereby authorized to be appropriated, out of any funds in the Treasury not otherwise appropriated, the sums of not to exceed $76,601,000 for the Palisades Dam and Reservoir project, Idaho, $11,395,000 for the Minidoka project north side pumping division, Idaho, and $6,600,000 for the American Falls power plant.

Approved September 30, 1950.

[CHAPTER 1115]

AN ACT

September 30, 1950
[S. 2009]
[Public Law 865]

To provide a system for the treatment and rehabilitation of youth offenders, to improve the administration of criminal justice, and for other purposes.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That section 4201 of title 18 of the United States Code is amended to read as follows:

Title 18, U. S. Code, amendments.
62 Stat. 854.
18 U.S.C., Sup. III, § 4201.

"SEC. 4201. Board of Parole; members; salaries.

"There is hereby created in the Department of Justice a Board of Parole to consist of eight members to be appointed by the President, by and with the advice and consent of the Senate. The salary of each member of the Board shall be fixed in accordance with the Classification Act of 1923, as amended, and any Acts supplementary thereto or in substitution therefor. The members of the Board first appointed under this section shall be appointed for terms as follows: Two for two years, two for three years, two for four years, and two for six years, respectively, from the effective date of this section. The term of office of a successor to any member shall expire six years from the date of the expiration of the term for which his predecessor was appointed, except that any person appointed to fill a vacancy occurring prior to the expiration of the term for which his predecessor was appointed shall be appointed for the remainder of such term. Upon the expiration of his term of office, a member of the Board shall continue to act until his successor shall have been appointed and qualified. The Attorney General shall from time to time designate one of its members to serve as Chairman of said Board and delegate to him the necessary administrative duties and responsibilities."

63 Stat. 972, 934
5 U. S. C., Sup. III, §§ 1071-1153
Ante, pp. 232, 262.
Post, p. 1100.

Federal Youth Corrections Act.
62 Stat. 856
18 U. S. C., Sup. III, § 5001 *et seq.*

SEC. 2. Part IV of title 18 of the United States Code is hereby amended by inserting therein a new chapter immediately after chapter 401 thereof, as follows:

"CHAPTER 402—FEDERAL YOUTH CORRECTIONS ACT

"Sec.
"5005. Youth Correction Division.
"5006. Definitions.
"5007. Duties of members; meetings.
"5008. Officers and employees.
"5009. Rules of Division.
"5010. Sentence.
"5011. Treatment.
"5012. Certificate as to availability of facilities.

Exhibit D

H.R. Doc. No. 81-720 (2d Sess. 1950)

81st Congress, 2d Session - - - - - House Document No. 720

PALISADES DAM AND RESERVOIR PROJECT IN IDAHO

LETTER

FROM THE

SECRETARY OF THE INTERIOR

TRANSMITTING

A SUPPLEMENTAL REPORT ON THE ALLOCATION AND REPAYMENT OF COSTS OF THE PALISADES DAM AND RESERVOIR PROJECT IN IDAHO, PURSUANT TO PUBLIC LAW 864, 81ST CONGRESS

NOVEMBER 27, 1950.—Referred to the Committee on Public Lands and ordered to be printed, with illustrations

UNITED STATES
GOVERNMENT PRINTING OFFICE
73507 WASHINGTON : 1951

PALISADES DAM AND RESERVOIR PROJECT, IDAHO

LETTER OF TRANSMITTAL

DEPARTMENT OF THE INTERIOR,
OFFICE OF THE SECRETARY,
Washington 25, D. C., November 9, 1950.

Hon. SAM RAYBURN,
Speaker of the House of Representatives.

MY DEAR MR. SPEAKER: Transmitted herewith is a supplemental report on the allocation and repayment of costs of the Palisades Dam and Reservoir project in Idaho.

This project was authorized initially by a report and findings of the Secretary of the Interior, dated December 9, 1941 (H. Doc. 457, 77th Cong., 1st sess.), under the provisions of section 9 (a) of the Reclamation Project Act of 1939.

The dam and related works, as contemplated in the attached report, vary in certain respects from those originally authorized. The reservoir will have a total active storage capacity of 1,200,000 acre-feet. This capacity will be used jointly for irrigation and flood control under a plan of operation worked out by the Bureau of Reclamation and the Corps of Engineers, Department of the Army. The reservoir will supply supplemental irrigation water for about 650,000 acres of land in the Upper Snake River Valley. A power plant having an installed capacity of approximately 112,500 kilowatts will be installed at the dam. The estimated cost of construction of the project is $76,601,000.

Copies of the report were sent to officials of the States of Idaho and Wyoming and to the Secretary of the Army, Secretary of Agriculture, Chairman of the Federal Power Commission, and the Director of the Office of Domestic Commerce, Department of Commerce, for their information and such comments as they wish to make. Copies of all the comments received are enclosed, together with our response to the Chairman of the Federal Power Commission.

The report was submitted to the President, and the Director of the Bureau of the Budget, by letter dated July 17, 1950, advised that, while there would be no objection to the submission of the report to the Congress, authorization of the project would be without objection only if certain changes were made. A copy of this letter is enclosed.

Under the terms of Public Law 864, approved by the President on September 30, 1950, the Palisades project has now been reauthorized essentially in accordance with the enclosed report but with certain modifications suggested, in part, by the comments of the Director of the Bureau of the Budget. It would be appropriate for the enclosed report and the accompanying comments to be printed as a public document.

Sincerely yours,

OSCAR L. CHAPMAN,
Secretary of the Interior.

LETTER FROM THE BUREAU OF THE BUDGET TO THE SECRETARY OF THE INTERIOR

EXECUTIVE OFFICE OF THE PRESIDENT.
BUREAU OF THE BUDGET,
Washington 25, D. C., July 17, 1950.

The honorable the SECRETARY OF THE INTERIOR.

MY DEAR MR. SECRETARY: This will acknowledge receipt of your letter dated March 4, 1950, requesting advice as to the relationship to the President's program of the proposals contained in your Department's accompanying supplemental report entitled "Palisades Dam and Reservoir Project, Idaho, Allocation and Repayment of Costs," prepared by the regional director, region 1, and dated June 1949. Enclosed with your letter were copies of the comments on the report received from the State governments and interested Federal agencies to whom the report was submitted for review. It is understood that the report is to provide the basis for amendatory legislation which would authorize an increase in the scope of the project by enlarging and adding to the purposes which it would serve.

The Palisades project, as initially authorized by the Secretary of the Interior's report and findings dated December 9, 1941 (H. Doc. 457, 77th Cong., 1st sess.), would be a multiple-purpose development providing for a dam and reservoir on the main stem of the Snake river in eastern Idaho, for conservation of supplemental irrigation water supply, flood control, and for hydroelectric power generation and transmission. As revised, the present plan provides for expansion of the power installation from 30,000 kilowatts to 112,500 kilowatts, increase in the capacity of the outlet works of the dam and, in addition, the installation of fish and wildlife facilities at Grays Lake, Idaho, and of recreation facilities at the Palisades Reservoir. The estimated cost of the proposed project as authorized in 1941 was $24,002,000, while the total estimated cost of the development, as presently proposed, is $76,601,000 based on January 1, 1949, price levels. The increase is attributed to higher costs of construction, the expansion of facilities, and the addition of fish and wildlife and recreational facilities.

The report states that the only water which would be stored in the Palisades Reservoir is the above-average stream flow which could be carried over to years of below-average stream flow together with whatever water is saved by the proposed elimination of present wasteful winter diversions. Existing reservoirs in the Upper Snake River Valley are considered to have capacities sufficient to hold all the presently storable water in years of average or less than average stream flow. The operation plan proposed for Palisades Reservoir is expected to result in providing supplemental irrigation water for about 650,000 acres of land in the Upper Snake River Valley and thus eliminate all shortages on existing projects except during extremely dry years. In this connection, it is noted that an average of 216,000 acre-feet of additional water is proposed to be made available annually by the project which would amount to only approximately 4 inches per acre per year for the 650,000 acres assuming that 100 percent of the water would reach the land. Average annual irrigation benefits are estimated to be $1,981,000.

In his letter dated June 17, 1949, the Commissioner of Reclamation states that the success of the project is dependent on having continued

assurances that average annual water savings of 135,000 acre-feet will be realized, which is expected to be accomplished by means of contractual arrangements with the water users of the Snake River Valley above American Falls Reservoir, whereby they will agree to curtail certain wasteful winter water diversions. While tentative commitments on this matter have been given by resolutions of the governing bodies of interested water users' organizations, which the Commissioner regards as sufficient to justify initiation and continuation of construction he points out that it may be desirable to have some additional means of bringing about the translation of these commitments into contractual assurances before the project is completed. The Commissioner also states that of the reimbursable construction costs allocated to irrigation, a maximum of $10,305,000 can and should be repaid by the water users in a repayment period of 40 years and that a higher amount should be required to be repaid if that period is lengthened. He proposes that the balance of the costs allocated to irrigation amounting to $11,419,000, be repaid out of power revenues by application of the interest component on the commercial power investment and of such additional power revenues as may be required.

The report states that the production of power at the Palisades Dam will be entirely incidental to the operation of the reservoir for irrigation and flood control and that the production of firm power is possible only because a certain amount of water must be passed through the reservoir during the winter to fill the prior storage right of the American Falls Reservoir. During spring and summer months the releases for flood control and for irrigation will be utilized for production of secondary commercial power and irrigation pumping power to the extent of turbine capacities. Total annual power benefits are estimated to be $1,621,000.

The report states that additional detailed studies, made by the Bureau of Reclamation and the Corps of Engineers since the project was authorized, show that Palisades Reservoir can provide greater control of major floods than was originally contemplated without adversely affecting the value of the reservoir for irrigation purposes. These studies have resulted in agreement by both agencies on an operating plan on a forecast basis, whereby the entire active space in the reservoir (1,200,000 acre-feet) will be used jointly for flood control and irrigation purposes under regulations to be prescribed by the Secretary of the Army for use of storage space allocated to flood control, in accordance with section 7 of the Flood Control Act of 1944. It is estimated that average annual flood control benefits would amount to $899,330.

It is proposed that the yield of irrigation water from 55,000 acre-feet of storage space in Palisades Reservoir be substituted for the water supply now drawn from Grays Lake for the Fort Hall Indian Reservation, in order to restore Grays Lake to its natural state and to control its level to create optimum wildlife environment. It is also proposed to develop a wildlife management area at Grays Lake at a total estimated cost of $350,000, nonreimbursable, for construction of buildings and other facilities and the acquisition of approximately 9,300 acres of private land. An additional 3,500 acres of public land would also be set aside for this purpose. The annual cost of operation and maintenance of these and other proposed facilities is estimated to be $15,000. It is explained that studies by the Fish and

Wildlife Service have always that such a development in connection with the Palisades project would produce fish and wildlife benefits of substantial value which are estimated to be $125,000 annually.

The report proposes construction of public recreation facilities at the Palisades Dam and Reservoir at an estimated cost of $145,000. It is noted that the National Park Service considers that the total allocation of costs to recreational purposes would be equitable if it were the cost of the facilities constructed exclusively for recreation or $296,000 as a nonreimbursable expense. Although the basis for this consideration is not explained.

In addition to the recreational facilities at Palisades Reservoir, the report states that by coordinating the operation of Palisades Reservoir with that of Jackson Lake Reservoir in Jackson Hole, Wyo., it will be possible to stabilize the level of Jackson Lake at full level throughout the tourist season except for very dry years and thereby will create substantial recreation benefits at Jackson Lake Reservoir. The report estimated that this benefit would justify a nonreimbursable allocation to recreation purposes in the amount of $6,000,000 because of increased tourist use and because of the beauty of the foreground of the Grand Teton. While no other basis is given for this estimated benefit, information furnished informally to the Bureau of the Budget by representatives of the Bureau of Reclamation indicates that it represents the estimated cost of building the existing dam at Jackson Lake. As of July 1949 prices. In this connection, the report of the National Park Service stated that they had no means of making a considered estimate as to the value of present recreational use of Jackson Lake since no records are kept as to the number of visitors but that such use is known to be small compared to what it would be if conditions were more attractive. The annual benefit to recreation is estimated to be $240,915.

As set forth in the regional director's report, $31,884,300 of the total construction cost of the project would be nonreimbursable, with allocations of $22,739,300 to flood control, $6,204,000 to recreation and $2,940,000 to the preservation and propagation of fish and wildlife. The balance of the estimated construction cost, amounting to $44,766,700, is considered to be reimbursable, with allocations of $31,724,400 to irrigation, $9,938,300 to irrigation pumping power, and $1,065,800 to commercial power. Incidentally, it is noted that the allocation to irrigation as given in the Reclamation Commissioner's letter dated June 17, 1949, is $198,400 less than in the report of the regional director, and correspondingly greater to power. The report recommends that the portions of the annual costs of operation, maintenance, and replacement properly allocable to the nonreimbursable purposes, including costs related to the hydrologic network, also be on a nonreimbursable basis.

As outlined in the regional director's report, the proposed winter water-saving program involves elimination of a long-standing practice of supplying domestic and stock water to Minidoka by operating the irrigation canal system throughout the year. A substantial portion of the water diverted into the canals during the winter seeps into the underlying ground water reservoir which is tributary to the Snake River above Milner Dam. The report points out that elimination of these winter seepage losses from the canals will increase the amount of water available for storage. The report estimates

that an average of 135,000 acre-feet annually would be saved by eliminating winter diversions in the area above American Falls under the water-saving program and would provide sufficient water for storage in dry years to make the construction of Palisades Reservoir feasible from the standpoint of yield of the irrigation water. It is stated that the program which is tentative agreement provides that the water users in the area will eliminate the winter diversions by drilling wells at their own expense.

The regional director also makes reference to the results of the investigation of water supply requirements for the Upper Snake River Valley set forth in his project planning report No. 1-6.1-1 entitled "Water Supply for Palisades Reservoir Project," dated October 1946. In that report the regional director recommended that agreements be secured with water users to eliminate the winter diversion of water with the objectives of achieving ultimately an annual saving of 135,000 acre-feet and as a condition precedent to the commencement of construction of the Palisades project an annual saving of 283,000 acre-feet. A total of 135,000 acre-feet would be saved by shutting off winter diversions to certain canals in the area above the American Falls Reservoir where water tables are tributary to the Snake River above Milner Dam. It is noted in the report that 80 percent of the farmers in this area now obtain domestic water from wells which indicates the desirability of well water for domestic use and it would be necessary under the proposed program for the remaining 20 percent of the farmers to install wells with their own capital where the winter water saving agreements become effective. It is stated that an additional saving of 148,000 acre-feet would result from eliminating the operation of canals for domestic and stock water purposes in the Minidoka and North Side Twin Falls projects below American Falls Reservoir. All of the farms in the Minidoka project and 60 percent or more of the farms in the North Side Twin Falls project are now fully equipped with wells. Therefore the remaining farms in the latter project would have to be equipped with wells before the canals could be shut off during the winter. The combined seasonal saving of 152,000 acre-feet would be realized by eliminating the winter operation of canals to the South Side Twin Falls project when a satisfactory supply of water for domestic and stock use has been provided. Inasmuch as the water available from the wells in the South Side Twin Falls project is unsuitable for domestic use, a well program cannot be recommended for this project and adequate supply of water must be supplied by some other means before the Twin Falls canal can be shut off during the winter. The 1949 report recommended (as a supplement to the Palisades report of 1941) the construction of a domestic water distribution system and central treating plant to serve this project, providing for repayment of construction cost without interest within a period of 40 years. The report stated that because the operation of such a domestic water system would result in the saving of a large quantity of water for irrigation use, the Government would be justified in financing the construction cost without interest, and the estimated cost was $1,000,000. Such works which are required to effect the ultimate water savings are not a part of the plan of improvement recommended for immediate authorization.

The Acting Chief of Engineers, United States Army, concurs in the estimate of flood-control benefit which was arrived at in consultation between representatives of the Bureau of Reclamation and the Corps of Engineers. He states, however, that this concurrence should not be construed as concurrence in the allocation of construction costs proposed in your Department's report. He questions the practice of allocating to flood control and certain other purposes, amounts equal to the capitalized value of the benefits to those purposes as not consistent with the desirable objective of making allocations in which each purpose shares equitably in the economies effected by combining the several functions in a multiple-purpose project. He directs attention to the fact that current studies of the Federal Interagency River Basin Committee are expected to lead to adoption of mutually acceptable principles for benefit-cost determination and cost allocation.

In his comments on the report, the Chairman of the Federal Power Commission states that, upon the basis of the regional director's estimates of benefits and costs, the project is well justified. He makes the further comment that the estimated aggregate power revenues and the repayment to be made by the water users would be adequate to cover the total reimbursable costs of power and irrigation and operation, maintenance and replacements, provided the interest on investment allocated to commercial power is not returned as interest to the United States but is applied toward repayment of irrigation costs. As noted in your letter, however, the Commission expresses the view that the use of power revenues and the treatment of the interest in connection therewith for assistance to irrigation, as proposed in your report, is not in the long-range public interest. Noting that the report recommends allocation of not to exceed 85,000 acre-feet of active capacity of the reservoir to municipal and other miscellaneous purposes, in addition to that set aside for the Grays Lake replacement, the Commission points out that encroachment on the dead storage to provide any part of this water supply would impair the values assigned to power in the report. The Chairman of the Federal Power Commission suggests that, prior to the time the project reaches the construction stage, consideration be given to the possible construction of a re-regulating reservoir downstream from the site of the Palisades project. He states that such a reservoir would permit greater flexibility in operation of the Palisades power plant and larger releases from the Palisades Reservoir during winter months in the interest of power and further, that power might also be produced in connection therewith.

As on numerous other occasions in commenting on proposed reclamation projects, the Secretary of Agriculture questions the so-called national income approach in evaluating both direct and indirect irrigation benefits, which results in a material overstatement in the amount of these benefits because of the inclusion of certain labor and capital costs as benefits. With respect to the winter water savings, he directs attention to the fact that data on estimated cost to private water users for drilling wells at their own expense, are not given in the report or considered as part of the construction cost of the project and, therefore, do not enter into the calculations showing the economic justification of the project, although they are real costs which must be incurred if the proposed project is to be feasible. He states that it is not possible to determine from the information in the report what effect correction of procedural errors in computing benefits and costs

would have with respect to the conclusion as to the economic justification of the project as a whole or its irrigation component. The Secretary of Agriculture also expresses the view that further expenditure of Federal funds on this project should be made conditional upon execution of water-saving contracts satisfactory to the Secretary of the Interior and that the Federal Government should not be put in a position of having to negotiate such contracts after it has committed itself to major project expenditures. He further suggests that the proposed water-savings contracts might well go beyond the elimination of water diversions and, at least in some cases, include provisions for increasing farm irrigation efficiencies.

With respect to the proposed allocation of $2,805,000 of the project cost to fish and wildlife, the President in his veto message on the Vermejo project dated August 23, 1949, stated his policy on nonreimbursable allocations for the preservation and conservation of fish and wildlife in connection with water resources development projects. In that message he pointed out that, where such nonreimbursable allocations are permitted by law, the practice has been to restrict them in scope to the prevention of loss of and damage to wildlife. He further stated that the creation of new wildlife areas is normally a part of the regular program of the Fish and Wildlife Service.

As you know, the President fully endorses the principle that each such Federal improvement should provide, wherever possible, for the coordinated development of all aspects of our natural resources. Certainly the preservation and propagation of fish and wildlife is an important aspect of such developments.

It is recognized that the proposed construction of Palisades Reservoir affords an opportunity to permit the stabilization of Grays Lake through provision of substitute storage for irrigation water for the Fort Hall Indian irrigation project thereby promoting the development of the wildlife potentialities of the Grays Lake area. While such a facility might be a desirable improvement, the project report shows that the construction of the Palisades Reservoir would not result in any net loss or damage to fish and wildlife at Grays Lake, but would actually constitute the establishment of a new wildlife area. The allocation proposed for fish and wildlife in the Palisades project would, therefore, represent a departure from the President's policy as expressed in the Vermejo veto message. The need for such a development should be presented, justified, authorized and financed as a separate feature and not treated as a nonreimbursable allocation at the expense of the Palisades project. You are advised, therefore that the allocation to fish and wildlife of any part of the cost of the Palisades project beyond that required for the prevention of loss or damage to fish and wildlife on the Snake River due to this project would not be in accord with the program of the President at this time. This statement is not intended to indicate in any way the relationship to the President's program of the provision of a fish and wildlife management area if authorized and financed as part of the activities and programs of the Fish and Wildlife Service. It is intended only to point out that until the issue regarding the relationship of such a purpose to water resources development projects is settled nonreimbursable allocations to fish and wildlife should not be used as a method to reduce the financial responsibilities of the beneficiaries of a reclamation project.

In his veto message on the Verracjo project, the President also made the observation that recreation is not currently authorized as a purpose of water resources development against which nonreimbursable allocations of cost may be made. This subject was also discussed in Director Pace's letters dated January 27 and February 1, 1950, regarding H. R. 1770 and the Columbia River Basin report, respectively, in which it was pointed out that many broad and controversial issues are involved in developing a uniform policy respecting recreation and that the matter is to be fully studied by the Water Resources Policy Commission. The former letter also outlined an interim policy on recreation. On the basis of the information available to the Bureau of the Budget, the proposal to charge off as a nonreimbursable expense $6,000,000 of the cost of the Palisades Reservoir as the recreational benefit to the Jackson Lake Reservoir does not seem to be justified or to conform with the interim policy. While it would appear that the recreation value of Jackson Lake Reservoir would be enhanced by the stabilization of its level made possible by construction and operation of the proposed Palisades Reservoir, it seems to me that this result is entirely aside from the need and justification for the construction of the Palisades project as a reclamation project. This view is supported by information furnished informally to the Bureau of the Budget by representatives of the Department of Interior indicating that Palisades Dam will be built to the same capacity regardless of its effect upon the recreational value of Jackson Lake. Accordingly, the provision of recreational facilities and the allocation of construction costs thereto would be considered without objection only if limited to the scope and repayment provisions set forth in the interim recreation policy contained in Director Pace's letter to you dated January 27, 1950, regarding H. R. 1770.

The repayment plan proposed in the report contemplates the use of the entire amount of the interest component of the commercial power revenues for aiding repayment of irrigation costs. The President has neither approved nor disapproved such action from the standpoint of national policy. Furthermore, while it is recognized that the Solicitor of the Department of the Interior had issued an opinion that the interest component on the power investment could be so applied, the President has not indicated agreement that the present lawshould beso interpreted. He is reserving judgment on the issue pending the report of the Water Resources Policy Commission. We cannot, therefore, at this time state whether such procedure would be in accord with the President's program.

It is noted in your reply to the comments of the Federal Power Commission on the Palisades report that you include a memorandum entitled "The Interest Component Feature of the Comprehensive Plan for the Columbia River Basin," which was presented in justification of the Columbia Basin account. This statement conveys the impression that the President's approval of the establishment of the Columbia Basin account as an accounting tool to record repayments of the capital investment includes approval of the basin-wide use of the interest component to assist in repaying irrigation construction costs of any project covered by the plan. This, of course, would be an erroneous interpretation of the President's position as outlined above. Regardless of the question of the use of the interest component, however, any proposal to include the Palisades project in a Columbia Basin account would be premature since such an account has not been authorized.

In his letter of December 9, 1941, submitting to the Congress his authorizing report on the Palisades Dam project, Idaho (H. Doc. 457, 77th Cong., 1st sess.), the Secretary of the Interior referred to the advice received from the Director of the Bureau of the Budget that it would be contrary to the program of the President to submit any estimate of appropriation for construction of the project until local interests have given satisfactory assurances to the Secretary of the Interior that they will eliminate the wasteful use of water in the area to be affected by the project. It is evident from the reports before us that elimination of wasteful use of water in the area is still a critical matter upon which depends the effectiveness of the Palisades Reservoir in making available a reliable water supply for the Snake River Valley. It would appear, however, that the annual water saving of 135,000 acre-feet can be realized only if the remaining 20 percent of the water users on the farmsteads above American Falls, can be persuaded to install wells at their own expense and if the water users organizations enter into appropriate water savings contracts with the Government. There is a serious question whether accomplishment of the revised project, as contemplated in the report should not be made conditional upon execution of contracts satisfactory to the Secretary of the Interior. Unless such agreements are obtained prior to beginning of construction of the dam, there is little doubt but that it will prove difficult, if not impossible, to realize the amount of water savings upon which the success of the project depends.

I note that combinations of three different methods are used in determining cost allocations. For the nonreimbursable functions such as flood control, joint costs are assigned equal to the capitalized value of the estimated annual benefits. The balance of the joint costs for other functions—irrigation and power—is allocated on the basis of the average of the "priority of use" and "alternate justifiable expenditure" methods of allocation. On the basis of the information available to us, we are unable to determine what the effects of other methods of computation of cost allocations would be on the economic feasibility of the project. It is understood that the Federal Interagency River Basin Subcommittee on Benefits and Costs has recently developed a proposed manual for use by all agencies for economic analysis of river basin projects and that this manual is now being circulated for comment. The subcommittee recommendations contemplate distribution of joint costs in a manner which will provide for proportionate sharing of the savings resulting from multiple-purpose development.

In the absence of accepted methods of allocating costs, we can only question the justification for the procedure adopted in connection with the proposed Palisades project. It would appear, however, that by the very nature of multiple-purpose projects, all purposes should participate in the savings resulting from the combination of several plans. It would therefore, seem highly important that an agreement be reached at an early date on mutually acceptable methods for determination of benefits and cost allocations if confusion and misunderstandings are to be avoided.

Accordingly, you are advised that, while there would be no objection to the submission of the proposed report to the Congress authorization of the project would be without objection only if, in accordance with above comments:

(*a*) The allocation to fish and wildlife is limited to that part of the cost of the Palisades project required for the prevention of loss or damage to fish and wildlife on the Snake River due to the construction of this project;

(*b*) The provision of recreational facilities and the allocation of costs thereto are limited to the scope and repayment requirements set forth in the interim recreation policy contained in Director Pace's letter to you of January 27, 1950;

(*c*) It is understood that the use of the interest component for aiding the return of irrigation costs in the eventual repayment plan for the Palisades project will be dependent on the policy established after the President's Water Resources Policy Commission has reported; and

(*d*) Accomplishment of the expanded project is made conditional upon execution of the necessary water-savings contracts to the satisfaction of the Secretary of the Interior.

Sincerely yours,

F. J. LAWTON, *Director.*

LETTER FROM THE SECRETARY OF THE INTERIOR TO THE PRESIDENT OF THE UNITED STATES

DEPARTMENT OF THE INTERIOR,
OFFICE OF THE SECRETARY,
Washington 25, D. C., March 4, 1950.

The PRESIDENT,
The White House.

(Through the Bureau of the Budget.)

MY DEAR MR. PRESIDENT: On July 19, 1949, former Secretary Krug submitted this Department's supplemental report on the Palisades Dam and Reservoir project to you for advice as to the relationship of the proposals contained therein to your program.

Copies of the report were sent also to officials of the States of Idaho, Wyoming, and to the Secretary of the Army, Secretary of Agriculture, the Chairman of the Federal Power Commission, and the Director, [illegible]e of Domestic Commerce, Department of Commerce for their information and such comments as they wished to make, although it was our view that clearance was not required as a matter of law in the circumstances of this case. Copies of most of these comments have heretofore been made available informally to the Bureau of the Budget, but this presentation will complete the formal presentation of all of them. The Governor of the State of Idaho did not submit comments on the report. However, at the hearings before congressional committees on H. R. 5506 and S. 2195, companion bills which among other things would reauthorize the Palisades Dam and Reservoir, a representative of the Governor testified in favor of the project.

After consideration of all the comments received, I find no need for revising this Department's report. In his comments, the Chairman of the Federal Power Commission questioned the use of the interest component of the power revenues for the purpose of assisting in the repayment of irrigation costs. There is enclosed, also, a copy of our reply giving the justification for the position taken in the report, this being but a continuation of present practice of this Department on the basis of the present Federal reclamation laws.

H. R. 5506 and S. 2195, companion bills which would reauthorize the Palisades project in accordance with our supplemental report have been considered at hearings before subcommittees of the House Public Lands Committee and the Senate Committee on Interior and Insular Affairs and both committees have made favorable reports on the bills. The chairmen of these committees have requested this Department to submit its further views on these bills. The draft of our proposed report on those bills is now also before the Bureau of the Budget for determination of its relationship to the program of the President.

I would appreciate having your views as to the relationship of the supplemental report on the Palisades project to your program so that I can advise the Congress accordingly.

Sincerely yours,

OSCAR L. CHAPMAN,
Secretary of the Interior.

LETTER FROM THE STATE OF WYOMING

STATE OF WYOMING,
STATE ENGINEER'S OFFICE,
Cheyenne, August 6, 1949.

Mr. WESLEY R. NELSON,
Acting Commissioner, United States Department of the Interior, Bureau of Reclamation, Washington 25, D. C.

DEAR MR. NELSON: This will acknowledge receipt of your letter of July 8, 1949, including two copies of your supplemental report on the Palisades Dam and Reservoir project in Idaho. One of these copies is being mailed to Mr. Clifford Hansen at Jackson, Wyo.

Wyoming water rights, and in particular its right to the use of an equitable portion of the water of Snake River unappropriated at this time, would be seriously jeopardized by construction of this project in the absence of a compact or agreement with Idaho on division of the water.

Representatives of the two States have recently met and entered into an agreement that must be drafted into the form of a compact and approved by the representatives of the States, the legislatures and governors of the States, and consented to by the Congress of the United States before it becomes effective.

With the assistance of Mr. R. J. Newell, Federal representative on the Snake River Compact Commission, and the legal and engineering staff of the Bureau of Reclamation, I feel sure that a satisfactory compact will finally be approved.

My only further comment is to the effect that your report appears to be complete and comprehensive, and seems to be ample evidence of the necessity for construction of Palisades Reservoir in the overall development plan for the Columbia River Basin.

Yours very truly,

L. C. BISHOP, *State Engineer.*

LETTER FROM THE OFFICE OF THE CHIEF OF ENGINEERS, UNITED STATES ARMY

DEPARTMENT OF THE ARMY,
OFFICE OF THE CHIEF OF ENGINEERS,
Washington, November 23, 1949.

The Honorable the SECRETARY OF THE INTERIOR.

DEAR MR. SECRETARY: Reference is made to your letter of recent date from the Acting Commissioner, Bureau of Reclamation, inclosing for my information and comment, copies of your supplemental report, Palisades Dam and Reservoir project, allocation and repayment of costs.

The Palisades project, as initially authorized in 1941, provides for a multiple-purpose reservoir on Snake River in eastern Idaho and western Wyoming for conservation of supplemental irrigation water supply, hydroelectric power generation and distribution, and flood control. An earth-fill dam 260 feet high would create a total storage capacity of 1,400,000 acre-feet of which 1,200,000 acre-feet would be used jointly for flood control and irrigation purposes in coordination with other reservoirs on this stream and 200,000 acre-feet would be dead storage. Power would be dependent upon water releases for irrigation and downstream rights. Provisions are also included for installation of recreational facilities and improvements for fish and wildlife. The cost of the project as now planned is estimated at $76,601,000 of which $54,537,400 is for the dam and reservoir, $21,565,600 is for power generation and transmission, $350,000 is for fish and wildlife, and $148,000 is for recreation. The corresponding annual cost is estimated at $3,548,355 and annual benefits at $4,871,215 which results in a ratio of benefits to cost of 1:37.

Among the benefits estimated to accrue as a result of the project are $899,330 in the interests of flood control. The amount of $899,330 was arrived at in consultation between representatives of the Bureau of Reclamation and the Corps of Engineers, and I am pleased to advise you that I concur in that estimate as the amount of flood-control benefit to be expected if the project is operated in accordance with the plan outlined in appendix A of your report. I am also able to advise that the Palisades project as planned fits in with the comprehensive plan for the Columbia River Basin recently reported on by the Department of the Army.

My concurrence in the estimate of flood-control benefits and in the suitability and desirability of the project should not be construed, however, as concurrence in the allocation of costs proposed in your report. The practice of allocating to flood control and certain other purposes amounts equal to the capitalized value of the benefits to those purposes is not consistent with the desirable objective of making allocations in which each purpose shares equitably in the economies effected by combining the several functions in a multiple-purpose project. The Corps of Engineers and your Department are now participating, through the Federal Inter-Agency River Basin Committee, in studies which are expected to lead to adoption of mutually acceptable principle for benefit cost determination and cost allocation.

Opportunity to review this report is appreciated.

Sincerely yours,

R. C. CRAWFORD,
Major General, Acting Chief of Engineers.

LETTER FROM THE DEPARTMENT OF AGRICULTURE

DEPARTMENT OF AGRICULTURE,
OFFICE OF THE SECRETARY,
Washington, November 21, 1949.

The honorable the SECRETARY OF THE INTERIOR.

Dear MR. SECRETARY: This is in reply to your request of July 8, 1949, for the views of this Department on the Bureau of Reclamation's supplemental report on Palisades Dam and Reservoir project, Idaho.

This supplemental report for the most part contains a revision of the estimates of costs and benefits for the Palisades project originally authorized in December 1941. The present proposal calls for enlarging and adding to the purposes which the project will serve. Apparently the benefits to irrigation water users under the revised plan are about the same as under the original proposal. Due largely to increased construction costs the allocation of costs to irrigation is now $21,724,000 as compared with $10,216,000 in the 1941 proposal. However, the plan calls for only $10,305,000 of the present irrigation cost allocation to be repaid by water users. The remainder is to be repaid out of power revenues. This results in proposed repayments by water users that do not appear excessive in relation to their prospective financial ability.

The use of the so-called national income approach in evaluating both direct and indirect irrigation benefits results on a material overstatement in the amount of these benefits because of the inclusion of certain labor and capital costs as benefits. Although the amount of these costs is not given, it is noted that an acre-foot of water was valued at $9.17 in estimating irrigation benefits (p. 18) and at only $2 in determining project financial feasibility (p. 30).

We note that in order to make the Palisades project feasible from the standpoint of yield of irrigation water, it is necessary to eliminate winter diversions in the upper part of the valley. The present practice is for water users to divert water in the winter for domestic and livestock use. If farm operators are to stop this practice they must drill deep wells at considerable expense to obtain needed water. The Bureau of Reclamation plan requires that the water users will eliminate winter diversions at their own expense. No data are given on the cost to private water users except that it will be considerable. Such costs are not considered as a part of the construction cost of the project and therefore do not enter into the calculations showing economic justification of the project. Yet these are real costs which must be incurred if the proposed project is to be feasible.

It is not possible to determine from the information in the report what effect correction of these procedural errors in computing benefits and costs would have with respect to the conclusion as to the economic justification of the project as a whole or its irrigation component.

The water conservation aspect of the Palisades proposal is highly complex. Cyclic storage and integrated operation of Palisades, Jackson Lake, and American Falls are involved. The conservation of water through the elimination of winter diversions for stock water seems to be a step in the right direction. Our experience in soil conservation districts in the upper Snake River Basin indicates that further very significant water savings could be accomplished through

increasing the farm water application efficiencies. It seems that the proposed water-saving contracts with irrigation enterprises in the upper basin might well go beyond the elimination of winter diversions, and, at least in some cases, include provision for increasing farm irrigation efficiencies.

Further expenditure of Federal funds on this project should be made conditional upon the execution of contracts satisfactory to the Secretary of the Interior to assure the saving of 135,000 acre-feet of water which is essential to the success of the project. The Federal Government should not be put into the position of having to negotiate such contracts after it has committed itself to major project expenditures.

The reservoir to be created by a dam some 260 feet high will be about 20 miles long, average 1½ miles in width, and submerge about 16,000 acres at full capacity. The land in the reservoir site consists of a narrow valley used for agricultural purposes together with fairly steep adjacent slopes which are wooded. The slopes on both sides of the bottomlands are largely within national forests. The Caribou National Forest lies west of the Snake River, the river being the national forest boundary for nearly the entire length of the reservoir site. The reservoir site would include a small strip of hilly national forest land varying in width, but perhaps averaging about three-eighths of a mile along the west side of the reservoir. An existing Forest Service road would be submerged for almost the entire length of the reservoir site. Hoffman recreation area, a small development in the reservoir site, will be dismantled when the reservoir is developed.

The western boundary of the Targhee National Forest follows roughly the eastern boundary of the reservoir, usually just above the reservoir line but occasionally below it to include a few acres of the reservoir site.

The Forest Service has been in touch regularly with the regional office of the Bureau of Reclamation concerning Forest Service interests connected with development of the reservoir. Plans of the Bureau include relocation of the Forest Service road on the west side of the reservoir. The tentative location and standards of construction are satisfactory to the Forest Service. Accessibility to land on the east side of the reservoir in the Targhee National Forest will be adequately provided by the proposed reestablishment of State Highway No. 29 presently in the valley to a new location above high water line.

The reports by the Fish and Wildlife Service and National Park Service are considered adequate. The National Park Service recommends one major recreational development and several possible minor developments along the reservoir site. The major development near the west end of the dam would be within the Caribou National Forest. The minor areas would be within or adjacent to the national forest. The estimated cost of recreational facilities is $148,000. The Forest Service and Bureau of Reclamation have entered into a general memorandum of understanding which provides a policy guide pertaining to the development and administration of recreational facilities at Bureau of Reclamation reservoirs that are wholly or substantially within the boundaries of national forests. Recreational developments at Palisades Reservoir will be within this category.

The relationships between the regional offices of the Forest Service and Bureau of Reclamation have been close and are believed to be mutually satisfactory in the development of plans for the Palisades Reservoir.

We have a few comments on the report of the Fish and Wildlife Service, which is appended to the report of the Bureau of Reclamation.

Recommendation No. 9 of this report states, "Management of the fish and wildlife resources on the Palisades Reservoir area be vested in the States of Idaho and Wyoming." Since some national forest lands will be included in the reservoir "area," with respect to these lands, we believe the policy should be modified to indicate that the Forest Service should still have primary responsibility for production the respective States for protection, and the States and Forest Service joint responsibility for harvesting the resources.

Because of the close association of recreational values which will exist between the reservoir and the adjoining national forest lands and the general responsibility of the Forest Service for management of habitat for production of fish and game in the national forests, we also suggest the inclusion in recommendation No. 7 of the Forest Service in the list of represented agencies.

We appreciate the opportunity afforded us of reviewing this report.

Sincerely,

K. T. HUTCHINSON, *Assistant Secretary.*

LETTER FROM THE DEPARTMENT OF COMMERCE

DEPARTMENT OF COMMERCE,
OFFICE OF DOMESTIC COMMERCE,
Washington, D. C., December 16, 1949.

Hon. WESLEY R. NELSON,
Acting Commissioner, United States Department of Interior,
Bureau of Reclamation, Washington, D. C.

DEAR MR. NELSON: I must apologize for our tardiness in submitting our comments on the supplemental report entitled "Palisades Dam and Reservoir Project, Idaho—Allocation and Repayment of Costs."

Our field offices have received this report and to our knowledge have no objections.

The United States Coast and Geodetic Survey have noted the statement on pages 483–487 concerning the need of quadrangle topographic surveys, river, dam site, and reservoir surveys. They comment further:

> The maps submitted with the report on the Palisades Dam do not indicate that geographic positions (that is latitude and longitude) or elevations above sea level on which to base contours, were used. The coordination of this project with others proposed for the Columbia Basin is not evident because of lack of these fundamental data.
>
> The United States Coast and Geodetic Survey is prepared to extend control surveys to unmapped areas within the limits of appropriations available to us. Such needs should be made known to us so that the necessary field surveys and processing of field notes can be accomplished. When the data resulting from these accurate control surveys are available their use for topographic mapping,

and the unavoidable delays, details, and uncertainties involved in coordination which [illegible] in the case of all large-scale engineering projects, many as there are interested in the Columbia Basin.

Sincerely yours,

H. B. McCoy, *Director.*

LETTER FROM THE SECRETARY OF THE INTERIOR TO THE FEDERAL POWER COMMISSION

DEPARTMENT OF THE INTERIOR,
OFFICE OF THE SECRETARY,
Washington, D. C., March 3, 1950.

Hon. Nelson Lee Smith,
Chairman, Federal Power Commission,
Washington, D. C.

My Dear Mr. Smith: Thank you for your letter of January 16, 1950, to Commissioner Straus, in which you comment on our report on the Palisades Dam and Reservoir project in Idaho.

I note that in your letter you express your view that the use of power revenues and the treatment of the interest in connection therewith for assistance to irrigation, as proposed in the report, is not in the long-range public interest.

In this connection, I have attached for your consideration a statement recently prepared on the subject of the application of the interest component of costs allocated to irrigation. My thought in doing so is that, perhaps, in your consideration of the matter, you may not have taken fully into account some of the aspects of the practice as they pertain specifically to this Department of the Interior, or the fact that the administration on more than one occasion, as shown in the statement, has sanctioned this procedure which, as you know, is provided for in reclamation law.

Mr. Smith, in his letter dated February 1, 1950, the Director of the Bureau of the Budget stated that the President approves the establishment of the Columbia Basin account, including provisions for the application of the interest component to irrigation subject to the same extent that it can be applied under reclamation law. There is no question that the use of the interest component thus applied is not provided under existing law. Director Bass points out that the underlying policy is one of the matters on which recommendations are expected from the President's Water Resources Policy Commission. Director Bass recommended enactment of authorization of the basin account by the Congress as an amendment to H. R. 5427. The draft of the proposed amendment, approved by the Bureau of the Budget, which provides for authorization of the Columbia Basin account, includes the following language:

"* * * [illegible] rates for the sale of power and energy, the Secretary of the Interior may take into consideration [illegible] all properties covered by this Columbia Basin account [illegible] properties [illegible] but less than [illegible] power revenues, to the same extent that application of interest on power investment [illegible] may be taken into consideration under the Federal reclamation laws."

It will be noted that, under the language approved by the Executive Office, any future change in reclamation law on this point would be applicable automatically to the Pacific Northwest projects.

Sincerely yours,

Oscar L. Chapman,
Secretary of the Interior.

THE INTEREST COMPONENT FEATURE OF THE COMPREHENSIVE PLAN FOR THE COLUMBIA RIVER BASIN

The comprehensive plan for the Columbia River Basin provides for the pooling of power revenues and charges in a Columbia Basin account. One purpose of this account is to make possible the establishment of uniform power rates on a basin-wide basis. Another purpose is to make possible the uniform application of the interest component feature of the Federal reclamation laws on a basin-wide basis. The account would be credited with all power revenues from the projects covered by the plan and charged with all costs of the project covered by the plan that are repayable from power revenues. The costs, actual or estimated, charged to the account would be used to determine the rates payable by the power users. The power revenues, actual or estimated, credited to the account would, after deducting the cost of the power facilities, be used in determining the extent to which financial aid could be extended to irrigation developments from power revenues.

Under the comprehensive plan the costs chargeable to the Columbia Basin account would comprise (1) the cost of the power facilities of the projects covered by the plans, and (2) so much of the cost of the irrigation facilities of the projects covered by the plans as exceeds the repayment ability of the water users. Interest on the cost of the power facilities would also be computed at prescribed rates and would be applied to the extent necessary against the excess irrigation costs referred to in item (2) above. Stated briefly, the plan contemplates that these excess costs will be substantially less than the interest component of the latter would be the controlling figure in practice. The power users would be required to pay the cost of all power facilities, plus interest and O. & M.

Application of the interest component on a basin-wide basis would mean that interest revenues from the power developments covered by the plan could be used to offset reasonable deficiencies in the repayment ability of the water users on any irrigation development covered by the plan. That would make it possible to undertake a number of economically justifiable projects which otherwise could not be initiated because the cost of the needed irrigation facilities is beyond the capacity of the water users to repay within a reasonable period of time. Since power is called upon to help out in this way, limited or entirely absent the interest component from other projects within the basin must be looked to for the purpose of making good the difference between repayment capacity and irrigation costs.

The principle of applying the interest component on power costs to offset irrigation costs that cannot be repaid by the water users is well established under the Federal reclamation laws. Its legal basis

LETTER FROM THE FEDERAL POWER COMMISSION
TO THE BUREAU OF RECLAMATION

Federal Power Commission,
Washington 25, D. C., June 19, 1950.

Mr. Michael W. Straus,
Commissioner, Bureau of Reclamation,
Department of the Interior, Washington 25, D. C.

Subject: Palisades Dam and Reservoir Project, Idaho

Dear Mr. Straus: The comments herein with respect to your supplemental report entitled "Palisades Dam and Reservoir Project, Idaho—Allocation and Repayment of Costs," dated June 15, 1950, and approved by the Secretary of the Interior on July 1, 1950, are furnished in response to the letter from Mr. Wesley R. Nelson, Acting Commissioner, dated July 5, 1950, in which the Commission's comments were requested. In connection with Mr. Nelson's letter we are sending you herewith one copy of the report of the regional director, dated June 1950. The Federal Power Commission's comments are in accordance with the established procedures of the Federal Power Act and Rivers and Harbors Act.

The Bureau's report proposes the construction primarily for supplemental irrigation, water supply, and flood control on the Snake River Valley in Idaho and the generation of hydroelectric power incidental thereto and for public recreation and wildlife purposes. The plan of development recommended in the report would consist of the construction of the Palisades Dam and Reservoir on the Snake River, the diversion and transmission facilities, the provision of fish and wildlife facilities, and the acquisition of lands for fish and wildlife and public recreation purposes.

The Palisades Reservoir would have available for storage from April 1 to July 31 of each year 1,400,000 acre-feet of water, which would be released through the power plant and flow together with other waters that may be saved by proposed diversion or storage works, or otherwise, to the upper Snake River valley. The operation of the Palisades Reservoir would result in providing supplemental irrigation water for about 650,000 acres of land in the Upper Snake River Valley in Idaho, and it is estimated that the reservoir would be completely filled in all but about 1 year in 10. With Palisades Reservoir in operation it would become possible and desirable to maintain Jackson Lake Reservoir, in the Jackson Hole area, full until July 1 of each year instead of drawing it down during the early summer months. Approximately 1,000,000 acre-feet of storage in the Palisades Reservoir would be made available for the Fall Creek Reservation replacement storage for the power reservoir at Grays Lake, which would thereby be established as a wildlife management area.

The Palisades Dam would be constructed on the Snake River about 5 miles east of Idaho Falls, Idaho. The dam would be an earth and rock fill structure with a maximum height above stream bed of 282 feet and crest length of 2,200 feet and would create a reservoir with a gross capacity of 1,400,000 acre-feet, of which 1,200,000 acre-feet would be active capacity used

jointly for irrigation and flood control on the basis of runoff forecasts, and 200,000 acre-feet would be reserved as dead storage for power head. Tunnels in the left abutment of the dam would provide flood control outlet capacity and serve for penstock purposes for a power plant to be constructed at the site with an ultimate installed generating capacity of 112,500 kilowatts, operating under heads varying between 245 and 122 feet.

The production of hydroelectric power at Palisades Dam would be entirely incidental to the operation of the reservoir for irrigation and flood control. However, the production of firm power would be possible because a certain amount of water would have to be passed through the reservoir during the winter to satisfy the prior storage right at American Falls Reservoir downstream. The regional director's report indicates that, when operated in conjunction with the proposed power plant at the American Falls Dam, the Palisades power plant would have an average annual output of 521,400,000 kilowatt-hours, of which 411,800,000 kilowatt-hours would be salable, including 164,400,000 kilowatt-hours of firm energy. The annual revenue from the sale of firm and secondary energy is estimated in the report to be $1,175,400. The rates assumed in the report as a basis for this estimate are: 4 mills per kilowatt-hour for firm energy; 3 mills for irrigation pumping energy; and 2 mills for nonfirm energy. The corresponding over-all average revenue would be 2.85 mills per kilowatt-hour.

The above estimates of power, and of revenue from its sale, have been based upon the maintenance of 200,000 acre-feet of dead storage to assure the assumed minimum power head. The reports make reference to a possible future demand for water for miscellaneous purposes, including municipal, and in this connection consider a maximum utilization of 85,000 acre-feet of storage space. The reports do not attempt to give the answer at this time to that possible future problem. The Commission staff points out that encroachment on the dead storage to provide any part of this water supply would impair the values assigned to power in the report.

The Commission staff has not undertaken to comment on the methods used for the allocation of costs to the several purposes of the project. It has, however, necessarily considered costs in relation to power which is the principal revenue-producing project function. The estimated total cost of construction of the project given in your report and in the report of the regional director is $76,601,000. The allocations to flood control, recreation, and fish and wildlife are the same in the two reports. The allocation in your report to irrigation is $198,400 less than in the report of the regional director, and correspondingly greater to power. This amount is relatively inconsequential and since his report is in greater detail, the figures of the regional director are used in the discussion which follows.

The costs as shown in the regional director's report may be segregated as follows:

Function	Direct costs	Cost allocated to function
Considered as nonreimbursable:		
Flood control		$22,732,300
Recreation	$148,000	6,290,000
Fish and wildlife	350,000	2,809,000
Subtotal	498,000	31,831,300
Reimbursable:		
Irrigation:		
From water users		10,305,000
From power		11,419,400
Power:		
Irrigation pumping power		8,986,500
Commercial power	21,565,000	14,055,800
Subtotal	21,565,000	44,766,700
Total	22,063,000	76,601,000

The importance of power to the project is evidenced by the fact that it carries the largest allocation of the three principal functions and would be responsible for 77 percent of the reimbursable costs.

Upon the basis of the regional director's estimates of benefits and costs, summarized as follows in table 9, page 28, of his report, the Palisades project is well justified.

Function	Annual costs	Annual benefits	Ratio of benefits to costs
Irrigation	$344,425	$1,081,000	2.35-1.00
Power	1,431,650	1,021,000	1.13-1.00
Flood control	895,330	895,300	1.00-1.00
Fish and wildlife	125,015	125,015	1.00-1.00
Recreation	244,015	244,015	1.00-1.00
Total	3,548,335	4,871,218	1.37-1.00

The annual costs in this table are computed upon the basis of amortization of the construction cost in 50 years at 3 percent interest, and include operation, maintenance, and replacements. The Commission staff advises that, for purposes of benefit-cost analysis of the power function, it has utilized as a basis the power value, for the Pacific Northwest, arrived at cooperatively in the field by representatives of the Bonneville Power Administration, the Corps of Engineers, and the Commission. On this basis the staff computes the value of the power benefits at Palisades, with 112,500 kilowatts installed as proposed, to be $1,564,500 or $129,850 in excess of the annual costs shown. The actual revenues, however, which are shown as $1,175,400 in the reports, are substantially less than these estimates of benefits.

The report shows that the estimated power revenues are sufficient to meet the costs to be paid out of power revenues, on the basis of payout proposed. The Commission staff understands that this basis includes as costs, operation, maintenance, and replacements of power facilities; the payment of $8,986,500 allocated to irrigation pumping power in equal installments over a 56-year period, without interest; and interest on and amortization of the $14,055,800 allocated to commercial power over a 56-year period, with the interest element being utilized in the repayment of the $11,419,400 irrigation costs allocated to be paid from power revenues.

The tabulations and discussion on pages 31 and 32 of the report indicate that the estimated aggregate power revenues over the assumed 56-year repayment period and the repayment to be made by the water users would be adequate to cover the total reimbursable costs of power and irrigation, amounting to $44,766,700, and operation, maintenance, and replacements, provided that the interest on investment allocated to power is not returned as interest to the United States.

The Commission, in letter dated May 29, 1947, to the Bureau of the Budget in response to request for its views relative to H. R. 1886 and H. R. 1977, Eightieth Congress, bills to amend the Reclamation Act of 1939, said:

> The Commission is of the opinion that the public interest will best be served if the rates are fixed so as to produce revenues sufficient to cover the costs contemplated by H. R. 1977, except that the interest element in the power rate should not be used to amortize irrigation features until after the allocated cost and interest applicable to power have been recovered.

The Commission understands that there is a demand in the area for the beneficial services that the Palisades project would provide. The Commission doubts, however, that the use of power revenues and the treatment of interest in connection therewith, as proposed in your report, is in the long-range public interest.

With regard to the power features of the project the Commission staff reports that it is in substantial agreement with the regional director's estimate of the amount of energy available at the Palisades power plant on the basis of the proposed schedule of reservoir operation for the primary purposes of irrigation and flood control. The staff also advises that its studies show the initial installation should be of the order of 112,500 kilowatts proposed. The staff believes that there would be several advantages in an installation consisting of three 37,500-kilowatt units as compared with five 22,500-kilowatt units. It suggests that consideration be given to the larger capacity units and to the desirability of making provisions for the subsequent addition of a fourth power unit.

The staff also suggests that, prior to the time that the project reaches the construction stage, consideration be given to the possible construction of a reregulating reservoir downstream from the site of the Palisades project. Such a development downstream would permit greater flexibility in the operation of the Palisades power plant and larger releases from the Palisades reservoir during winter months in the interest of power. Power might also be produced in connection with the reregulating reservoir. The Commission would be glad to have its staff confer with representatives of the Bureau of Reclamation in order to consider these suggestions in greater detail.

The opportunity to review the report of your Department on the Palisades Dam and Reservoir project is appreciated.

Sincerely yours,

NELSON LEE SMITH,
Chairman.

LETTER FROM THE SECRETARY OF THE INTERIOR TO THE PRESIDENT OF THE UNITED STATES

DEPARTMENT OF THE INTERIOR,
OFFICE OF THE SECRETARY,
Washington 25, D. C., July 19, 1949.

The PRESIDENT,
The White House
(Through the Bureau of the Budget).

MY DEAR MR. PRESIDENT: Enclosed is a supplemental report prepared by the Bureau of Reclamation on the Palisades Dam and Reservoir project, which I approved and adopted as my report on July 1, 1949.

The report deals with the allocation and repayment of costs of the authorized multiple-purpose Palisades Reservoir which is to be built on the Snake River in southeastern Idaho. The estimated cost of the project at price levels prevalent in January of this year is $76,601,000. Having regard for the benefits accruing to the various purposes, I find that, of the total cost of the project, $22,733,500 should be allocated to flood control, $6,296,000 should be allocated to recreation, and $2,805,000 should be allocated to the preservation and propagation of fish and wildlife, all of which should be nonreimbursable. The balance of the construction costs can be repaid by the water and power users and should properly be allocated as follows: to irrigation $21,526,000; to irrigation pumping power, $9,063,000; and to commercial power, $14,176,800. I find that the irrigation water users can and should repay a maximum of $10,350,000, over a 40-year repayment period, and that the balance of the reimbursable costs can be repaid, under the reclamation laws, out of power revenues.

The allocation to flood control has been made following consultation with the Chief of Engineers, Department of the Army, and the operation of the reservoir for flood control will be in accordance with regulations prescribed by the Secretary of the Army.

Unless you have objection, the enclosed report on the Palisades Dam and Reservoir will be transmitted to the Congress for appropriate action.

Sincerely yours,

J. A. KRUG,
Secretary of the Interior.

LETTER FROM THE BUREAU OF RECLAMATION TO THE SECRETARY OF THE INTERIOR

DEPARTMENT OF THE INTERIOR,
BUREAU OF RECLAMATION,
Washington 25, D. C., June 17, 1949.

The SECRETARY OF THE INTERIOR.

SIR: This is my supplemental report, findings, and recommendations under the Federal reclamation laws with respect to the Palisades Dam and Reservoir project, Idaho. My report is based on the accompanying report of the regional director, dated June 1949.

The project was authorized initially in 1941 by the Secretary's report and findings dated December 9, 1941 (H. Doc. 457, 77th Cong.,

1st sess.), under the provisions of section 9 of the Reclamation Project Act of 1939 (53 Stat. 1187).

The dam and related works as now proposed are essentially the same as those initially authorized. The reservoir will have a total active capacity of 1,200,000 acre-feet. The active capacity will be used jointly for irrigation and flood control under a plan of operation worked out by the Bureau with the Corps of Engineers. Its use for irrigation purposes will result in providing supplemental irrigation water for about 650,000 acres of land in the upper Snake River Valley. Having regard for the present plan with respect to flood-control operations, it is proposed to increase the capacity of the outlet works of the dam to permit greater flexibility in operations. It is proposed, also, to increase the minimum power head and, also, the maximum power installation, the latter to be approximately 112,500 kilowatts. In addition, it is proposed, by using Palisades capacity, to replace Grays Lake irrigation storage to permit the restoration of Grays Lake to its natural state, thereby increasing its usefulness as a wildlife management area. Through coordination of the irrigation operation of Palisades Reservoir with that of the existing Jackson Lake Reservoir in Jackson Hole, Wyo., it will be possible to stabilize the level of Jackson Lake and thereby greatly to enhance the recreational value of that famous scenic area in the foreground of the Grand Tetons. The total cost of construction of the project estimated as of January 1949 is $76,601,000.

Of these estimated costs, it is proposed that, having regard for the benefits to accrue to these various purposes, there be allocated on a nonreimbursable basis the following amounts:

To flood control	$22,733,300
To recreation	6,296,000
To fish and wildlife	2,805,000

The balance of the estimated construction costs will be reimbursable and is proposed to be allocated as follows:

To irrigation	$21,526,000
To irrigation pumping power	9,063,000
To commercial power	14,176,800

There is expected to be some demand for water for miscellaneous purposes but no present space allocation is proposed for such purposes, though it is proposed there be recognition that a maximum of 85,000 acre-feet of space may be used. There is recognition, also, of the fact that an increased allocation to flood control may be found later to be justified, and of the need for adjusting the allocations to reimbursable costs when the actual reimbursable costs are determined.

It is now estimated that of the reimbursable construction costs allocated to irrigation a maximum of $10,305,000 can and should be repaid by the water users if the repayment period remains at 40 years. A higher amount should be required to be repaid if that period is lengthened. The balance of the costs allocated to irrigation is expected to be repaid out of power revenues. Power revenues will be sufficient to return all costs properly allocated to commercial power with interest and to meet the irrigation costs assigned for repayment through power revenues, the latter to be met by the application of the interest component and of such additional power revenues as may be required.

The success of the project is dependent on having continued assurances that an average annual water savings of 135,000 acre-feet will be realized. This is expected to be accomplished by means of contractual arrangements with the water users of the upper Snake River Valley whereby they will agree to curtail certain wasteful winter water diversions. Tentative commitments on this matter have been given by resolutions of the governing bodies of the interested water users' organizations. These are regarded as sufficient to justify initiation and continuation of construction, but it may be desirable to have some additional means of bringing about the translation of these commitments into contractual assurances before the project is completed.

I concur in and adopt the recommendations of the regional director, and in particular, the recommendations set out in part V of his report.

I recommend that you approve and adopt this as your proposed supplemental report for presentation to the President and the Congress for appropriate action. Since the report is supplemental to the report of December 9, 1941, by which the project was initially authorized and since the irrigation aspects of the major structure will not be changed by this supplemental report, it is concluded that the procedure of section 1 of the 1944 Flood Control Act (58 Stat. 887) is inapplicable.

Respectfully,

MICHAEL W. STRAUS,
Commissioner.

Approved and adopted July 1, 1949.

J. A. KRUG,
Secretary of the Interior.

UNITED STATES DEPARTMENT OF THE INTERIOR
JULIUS A. KRUG, *Secretary*

SUPPLEMENTAL REPORT
PALISADES DAM AND RESERVOIR PROJECT
IDAHO

BUREAU OF RECLAMATION
MICHAEL W. STRAUS, *Commissioner*

REGION 1
R. J. NEWELL, *Regional Director*

Boise, Idaho, June 1949

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PALISADES DAM AND RESERVOIR PROJECTS, IDAHO

I. Description

The Palisades Dam and Reservoir project is a multiple-purpose development, involving irrigation, power, flood control, recreation, and fish and wildlife. Palisades Dam will be located on the main stem of the Snake River at Calamity Point in eastern Idaho, about 8 miles west of the Idaho-Wyoming boundary, and about 50 miles east of Idaho Falls, Idaho. The General Map, following this page, shows the location of the Palisades Dam and Reservoir.

The project will provide supplementary irrigation water for about 650,000 acres in the upper Snake River Valley, defined herein as the watershed of the Snake River above Milner Dam, together with the irrigated area served by canals diverting at that dam. Flood protection for several thousand acres of irrigated land on the Snake River Plain above Idaho Falls also will be provided by the project, as will hydroelectric power badly needed in the upper valley to serve irrigation pumping loads, municipalities, rural cooperatives, and others.

Construction and operation of Palisades Reservoir will greatly enhance the recreational value of Jackson Lake Reservoir and surrounding area, in Wyoming, because the proposed operating plan for Palisades Reservoir will greatly decrease the fluctuations now necessary in the level of Jackson Lake.

The Palisades project will also produce fish and wildlife benefits of substantial value. Water from the reservoir can be used on irrigated lands of the Fort Hall Indian Reservation in lieu of water from the Grays Lake area. Retention of water in that area, one of the leading waterfowl refuges of the Nation, will greatly enhance the area's value for that purpose.

The Palisades project will include the dam, reservoir, powerhouse, transmission facilities, improvement of the Grays Lake area for wildlife purposes, and the construction of necessary recreation facilities on the banks of the reservoir. Related to the project is the construction of downstream flood-control facilities which will supplement the primary flood control afforded by storage in the Palisades Reservoir.

The Palisades Reservoir will store only water available for carry-over from years of above-average stream flow to years of below-average stream flow together with whatever water is saved by proposed elimination of present wasteful winter diversions. Existing reservoirs in the upper Snake River Valley have capacity sufficient to hold all of the presently storable water in years of average or less than average stream flow.

LEGISLATIVE HISTORY

The project was initially authorized in 1941 as the Palisades Dam project by the presentation to the President and the Congress of a report and findings by the Secretary of the Interior on December 9, 1941 (H. Doc. No. 457, 77th Cong., 1st sess.), under the provisions of section 9 of the Reclamation Project Act of 1939 (53 Stat. 1187). That finding incorporated the report of the Commissioner of Reclamation to the Secretary of the Interior, dated November 1, 1941. The supporting engineering and economic report of the Bureau of Reclamation was the product of investigations begun by the Bureau in 1932 to study means of providing urgently needed supplemental storage in the upper Snake River Valley.

A system of levees for flood-control purposes, which will serve in conjunction with Palisades Reservoir, was authorized by the act of December 22, 1944 (58 Stat. 902), on the basis of recommendations of the Chief of Engineers set forth in House Document No. 452, Seventy-seventh Congress, first session.

The report of the Commissioner of Reclamation to the Secretary of the Interior, noted above, stated that the success of the Palisades Reservoir would depend on the conservation of 135,000 acre-feet of water annually then and now being wastefully used, and also on the willingness of the water users to pay for stored water that would be available from the project. The Bureau of the Budget, speaking for the President, approved the project with the reservation that submission of estimates of appropriations needed for construction be withheld until—

> local interests have given satisfactory assurance to the Secretary of the Interior that they will eliminate the wasteful use of water in the area to be affected by the project.

Although appropriations for the project were made for the fiscal years 1945 through 1948, and a contracting authority was granted for the fiscal year 1949, no construction contracts were awarded until late in fiscal year 1949 because of the conditions specified in the original authorization.

Final assurances as to adoption of water-saving methods will be covered by contracts yet to be made with the interested organizations of water users. Until this report has been approved and until legislation covering the sale of reserved space in American Falls Reservoir and related matters has been enacted, however, such contracts cannot be prepared. Nevertheless, resolutions giving assurance that the water users will agree to water-saving provisions which will satisfy that condition of the authorizing document have been obtained from the governing bodies of the interested water users groups. On the basis of these resolutions, some preliminary construction contracts were executed late in fiscal year 1949. Continuation of construction activities, however, will depend on the present water-saving assurances given by resolution being implemented within a reasonable time by contracts satisfactory to the Secretary. Such contractual assurances are essential to success of the project, as indicated in the report on the project by the Commissioner of Reclamation, noted earlier.

ORIGINAL PLAN OF PROJECT AND ESTIMATED COST

At the time of the original authorization of the project in December 1941, the report recognized benefits only to irrigation, flood control, and power. The plan included as its principal features an earth-fill dam 260 feet high and 2,200 feet long at the crest, a concrete spillway with a capacity of 51,000 cubic feet per second, a reservoir with an estimated total storage capacity of 1,420,000 acre-feet, and a power installation of 30,000 kilowatts with a minimum power head of 104 feet. Of the active storage space (1,300,000 acre-feet), 500,000 acre-feet were to have been used primarily for flood control, and 800,000 acre-feet for irrigation. When needed, a total of 900,000 acre-feet of space, however, would have been available, through joint operation, for flood control.

The estimated cost of construction at the time of authorization (1941) was $24,092,000. This cost included the following items:

Palisades Dam and Reservoir	$18, 125, 000
Powerhouse and machinery	2, 200, 000
Transmission lines, etc	611, 000
Water-conservation program	[1] 2, 422, 000
Channel improvements	[2] 734, 000
Total	24, 092, 000

[1] While the cost of this program was included in the estimate of the cost of the project, the plan was that the individual water users were to finance their own wells necessary to the accomplishment of the water-saving program.
[2] The Corps of Engineers has undertaken this work.

It was proposed that these costs be allocated in the following manner:

Irrigation	$10, 216, 000
Flood control	8, 165, 000
Power	5, 711, 000

The total annual benefits were estimated at $1,327,000. They included $510,000 for irrigation, $410,000 for power, and $407,000 for flood control.

The total annual costs were estimated at $969,000. They included the annual component of the construction costs ($850,000) and operation, maintenance, and replacement costs of $119,000 annually.

The ratio of benefits ($1,327,000) to costs ($969,000) was given as 1.37 to 1.00.

PRESENT PLAN AND ESTIMATED COST

During the 7 years since the project was authorized, intensive investigations and studies conducted by the Bureau of Reclamation and several other Federal agencies have resulted in enlarging and adding to the purposes which the project will serve.

Recent estimates of present and prospective power requirements in eastern Idaho show that there will be an increasingly critical shortage of commercial and irrigation pumping power in that area. Operation studies of Palisades Reservoir and design studies of the power plant show that the efficiency of the power plant can be increased appreciably by raising the dead storage pool and that the originally planned capacity of the power plant (30,000 kilowatts) should be increased to avoid waste of potential energy in irrigation-

season water releases. Such increased capacity is needed for generation of irrigation pumping power and for other purposes. Provisions for this expanded capacity involve (1) increase of the dead storage pool from 120,000 to 200,000 acre-feet (providing a minimum power head of 122 feet), and (2) enlargement of the power installation from 30,000 to approximately 112,500 kilowatts. In order to deliver the power to load centers, it is planned to construct initially two transmission lines from the Palisades Dam to substations near the cities of Idaho Falls and Pocatello and a single line from Pocatello to terminal facilities in the vicinity of the proposed power plant at the American Falls Dam. These transmission facilities, planned tentatively to be of 115-kilovolt capacity, together with transmission facilities associated with that plant and the proposed north side pumping division of the Minidoka project, would complete the high-voltage facilities necessary for service to the irrigation pumps on that division and other irrigation pumping loads.

Studies by the Fish and Wildlife Service and by the National Park Service have shown that substantial fish and wildlife and recreational benefits will result from the project when operated under an integrated plan with existing reservoirs. In order to realize the maximum wildlife and recreational benefits from the reservoir, it will be necessary to construct certain facilities for those purposes in connection with the project. The justification for such facilities is explained in the appended reports by those agencies.

The basic plan for Palisades Dam has not been changed, except that the outlet capacity would be increased from 20,000 to about 30,000 cubic feet per second in order to provide more flexibility in the operation of the reservoir for flood control. A more detailed topographic survey of the reservoir area in 1942 showed that the total storage capacity below the originally fixed flow-line elevation of 5,620 feet above sea level is 1,400,000 acre-feet instead of 1,420,000 acre-feet as computed from the earlier survey. With 200,000 acre-feet of the capacity reserved in a dead-storage pool to maintain a minimum powerhead, there would remain 1,200,000 acre-feet of active storage space in the reservoir.

The current estimated cost based on January 1, 1949, price levels is $76,601,000. The increase over the estimated cost of the project initially proposed is attributable to increases in the costs of construction, which have more than doubled, the expansion of the power facilities, the increase in outlet capacity, and the addition of fish and wildlife and recreational facilities.

Detailed cost estimates for the Palisades Dam and Reservoir project are presented in table 1 on the following page.

TABLE 1.—*Construction cost estimate, Palisades Dam and Reservoir project, Idaho*

Joint facilities:		
Storage system:		
Rights-of-way	$1,108,000	
Clearing reservoir	1,502,000	
Dam, spillway, and outlet works	43,945,000	
Relocated highways and utilities	5,783,000	
Permanent improvements	1,310,000	
Examinations and surveys	111,900	
Temporary construction property	767,000	
Operation and maintenance during construction	10,500	
Subtotal		$54,537,400
Power facilities:		
Hydraulic production plant	$14,382,000	
Communications	143,000	
Examinations and surveys	40,600	
	14,565,600	
Transmission facilities:		
Power plant switchyard	1,078,000	
Lines and substations	5,022,000	
	7,000,000	
Subtotal		21,565,600
Fish and wildlife facilities:		
Rights-of-way	$300,000	
Improvements	50,000	
Subtotal		350,000
Recreation facilities: Buildings, roads, and sanitation		148,000
Grand total		[1] 76,601,000

[1] Flood control measures, downstream from Palisades Dam, under construction as supplemental facilities of the project will have a cost estimated at $1,300,000, in addition to the total shown above.

LAND AREAS REQUIRED FOR VARIOUS PROJECT FEATURES

On the two maps following are shown the locations and extent of areas which, under present plans, are expected to be acquired for the principal project features, excluding the transmission lines.

The first map, entitled "Area Required for Construction and Administration of Dam and Reservoir and Related Features," shows the dam site (Palisades Dam), the area intended to be acquired for use in construction and the administration of the dam and power plant (shown on the map as enclosed by the hatched "acquisition line" and the flow line in the vicinity of the dam), the reservoir area, and, in part, the tentative locations of the relocated State Highway No. 29 and the Forest Service road.

The reservoir area is that considered to be needed for reservoir construction and operation and maintenance, according to good engineering, administration, and management practices, including the incidental use for public recreational purposes. The intended land acquisitions for the reservoir area are as follows:

1. In Idaho, to acquire all north of the center line of the river and east of the "acquisition line" to the southerly line of the relocated highway, excepting areas where the reservoir flow line extends north of the relocated highway.

2. In Idaho, between the "acquisition line" near the dam and the point at which the relocated Forest Service road will cross Bear Creek and between the State line and the point at which that road will cross McCoy Creek, to acquire all south of the center line of the river to the northerly line of the relocated Forest Service road.

3. In all other situations, including that covered by the exception in 1, to acquire from the center of the river to a line not less than 300 feet, measured horizontally, above the flow line.

4. In all situations described above, if the area to be acquired according to the foregoing standards would result in the taking of but part of a tract in one common ownership and it would be financially advantageous to take the whole tract to avoid excessive severance damage payments, the whole tract will be acquired.

The area to be acquired for the reservoir is predicated on the building of a dam with a maximum spillway elevation of 5,620 feet above sea level, and, of course, would need to be revised if that elevation is changed.

The acquisitions for the State highway and Forest Service road to be relocated will be governed by the areas and rights required for construction, operation, and maintenance of these roads, the location indicated on the map being tentative only.

The acquisitions for transmission lines and appurtenant facilities will also be governed by the areas and rights required for the construction, operation, and maintenance of these facilities.

The second map entitled "Grays Lake Wildlife Management Area" shows the lands expected to be acquired for the establishment and administration of the Grays Lake wildlife management area, the establishment of which will be made possible through the providing of substitute irrigation storage in Palisades Reservoir.

II. Operation Plan and Benefits

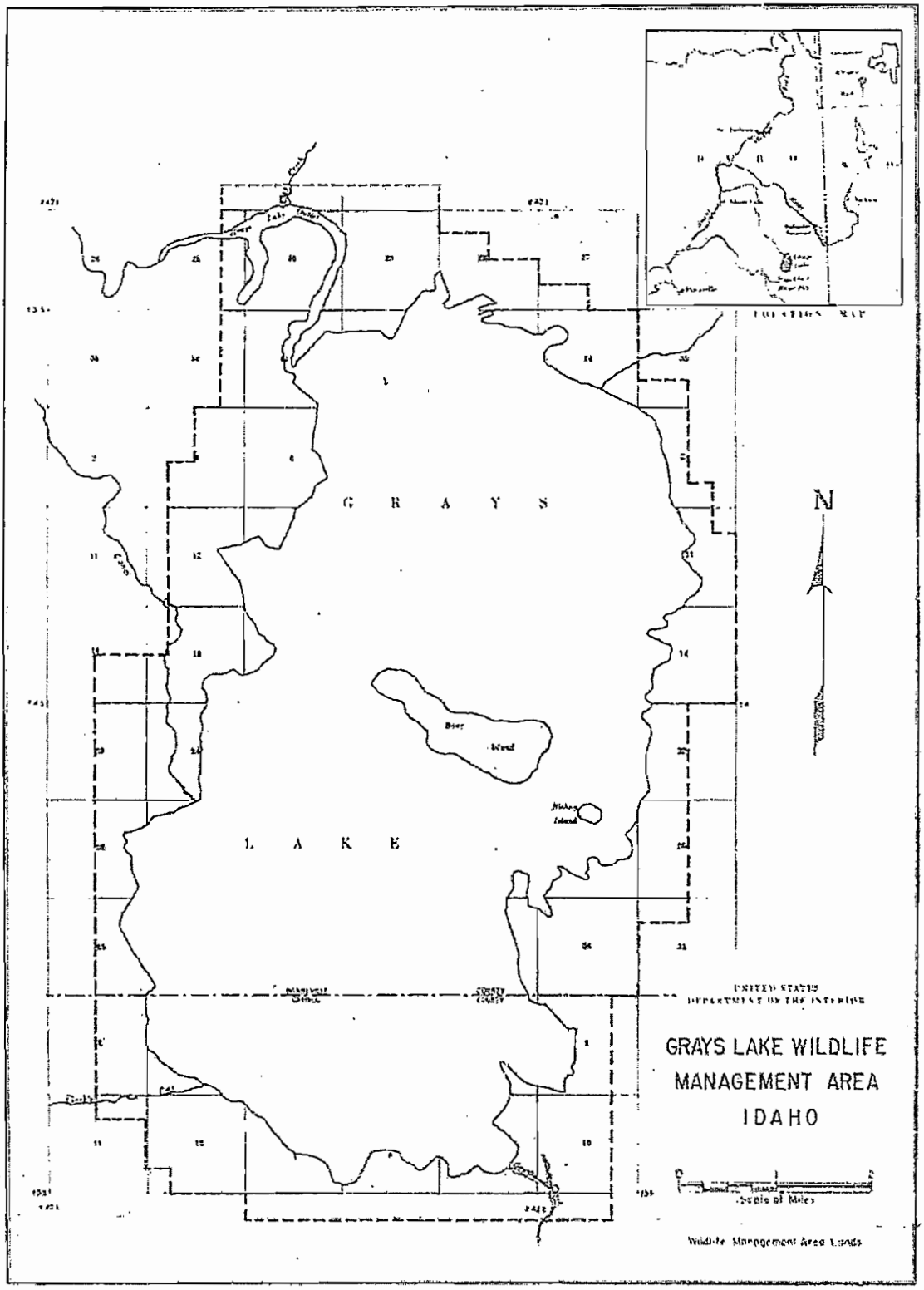
The objective of obtaining the maximum multipurpose use of and benefits from the Palisades Dam and Reservoir project has been paramount throughout the restudy of the project by all agencies concerned with its development. All plans considered for the operation of the reservoir have been scrutinized carefully to see if each purpose might be increased without detriment to the others. The operating plans and resulting benefits, presented in this section of the report, are, on the basis of the restudies, the optimum that can be obtained from the project in the foreseeable future.

IRRIGATION

A thorough investigation of present water uses and requirements in the upper Snake River Valley has been made by the Bureau of Reclamation since the project was first authorized. The primary purpose of that investigation has been to provide factual information to serve as a basis for the negotiation of agreements with water users of the valley covering the elimination of water wastage caused principally by winter operation of canals. An associated objective was to gather factual material from which to determine a proper disposition of the 433,593 acre-feet of reserved space in American Falls Reservoir. When

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the American Falls Reservoir, 120 miles downstream from Palisades, on the main stem of the Snake, was completed in 1927, the use of that space then in contemplation was for new land developments. For a number of years shortly following completion of American Falls Dam, that reservoir failed to fill because of an unprecedented drought. The reserved space was, therefore, leased to present water users, an arrangement which in various forms has been in effect ever since.

A report covering the results of that investigation, entitled "Water Supply for Palisades Reservoir Project, Idaho" (project planning report No. 1–5.17–1), was issued by the Bureau of Reclamation in October 1946. The report presented the results of extensive water supply studies of the upper Snake River Valley together with a proposed winter water-saving program and a plan for development of new land. Since the issuance of the report, the Bureau of Reclamation has carried on lengthy negotiations with the water users in an effort to obtain the maximum possible saving of water during the winter from a conservation program and also to obtain agreement as to an equitable disposition of the reserved space in American Falls Reservoir. Various proposals were made by the United States, out of which a compromise evolved. The compromise, to which there has been tentative, general agreement, involves these principal points: (1) the elimination by the water users in the upper half of the valley, at their own expense, of the present winter diversions in order to conserve water for storage in Palisades Reservoir; and (2) the disposition of American Falls Reservoir space as follows: 315,000 acre-feet to present lessees, 47,593 acre-feet to be set aside for the North Side pumping division of the Minidoka project, and 71,000 acre-feet to be set aside for the Michaud area. It is estimated that an average of 135,000 acre-feet annually will be saved by the proposed elimination of winter diversions in that area. This winter water-saving program will provide sufficient water for storage in dry years to make the construction of the Palisades Reservoir feasible from the standpoint of yield of irrigation water.

The winter water-saving program involves the elimination of the long-standing practice of supplying domestic and stock water to farmsteads by operating the irrigation canal system throughout the year. A substantial portion of the water diverted into the canals during the winter percolates to the underlying ground-water reservoir which is not tributary to the Snake River above Milner Dam. Hence, the elimination of winter seepage losses from the canals in such nontributary areas will increase the amount of water available for storage. Reliance on the canals for domestic and stock water has continued through the years because of the high cost of drilling deep wells and pumping water from them and because it is more convenient to water livestock from canals than from wells. Furthermore, there has been no real incentive to save water until another reservoir is constructed on the Snake River. Since the water users involved in the winter water-saving program will incur considerable expense in equipping their farmsteads with wells and will have to forego the convenience of watering livestock from canals, it has been understood among all prospective participants in Palisades Reservoir that those water users who make possible the saving of 135,000 acre-feet of water annually would be given a special right to store that amount of water annually in Palisades Reservoir. This is in effect a bottom storage right in

the reservoir which would be filled every year regardless of stream flow conditions.

By coordinating the operation of Palisades Reservoir with the existing American Falls and Jackson Lake Reservoirs, the maximum volume of stored water can be carried over in all three reservoirs from wet cycles to dry cycles. The amount of that carry-over would be substantially greater than would be the case if Palisades were operated independently from the existing system. Through this coordination Jackson Lake could be operated primarily as a hold-over reservoir and no irrigation water would be drawn from it until Palisades Reservoir had been emptied. The additional usable return flow made available from application of this hold-over storage will augment further the supply of irrigation water during drought periods. An operation study of the three reservoirs system, taking account of these factors, shows that storage in Palisades Reservoir and the elimination of winter diversions in the upper half of the valley would have made enough additional water available to eliminate all shortages during the driest 6-year period of record, 1931 to 1936, inclusive. Even in those years, however, an appreciable reduction would have been made in the shortages. Table 2 shows a summary of the shortages with and without Palisades Reservoir during the 27-year period from 1916 to 1942, this taking into account the disposition of the reserved space in American Falls Reservoir on the basis indicated in the preceding paragraph. Of the average of 216,000 acre-feet of additional water made available annually by the project, 147,000 acre-feet would be delivered directly from Palisades Reservoir. It should be recognized, however, that the average delivery of 147,000 acre-feet annually is fixed by the demand for supplemental water and is not a measure of the full capability of the reservoir. If there were a demand for 1,200,000 acre-feet of supplemental water every year, the yield, in all but extremely dry years, the reservoir storage right would yield an average of approximately one half million acre-feet annually. Such a demand does not exist, however, because the existing reservoirs meet all storage water needs in years of above-average stream flow.

The near elimination of shortages by the Palisades Reservoir will result in substantial irrigation benefits in the upper Snake River Valley. Such irrigation benefits, however, are difficult to evaluate in monetary terms because the additional water made available by the project will fulfill widely varying irrigation needs in the lands served. Although most of the water will be used to supplement supplies presently available for irrigated lands, the degree of supplementation will vary widely. Lands served by some canals will need the additional water only in extremely dry years, such as 1931 and 1934, while others will need it every year. The run-off drops below average. Also, the value of the return from application of a given amount of supplemental water will vary from one area to another because of different diversion requirements and quality of land. Some of the additional water, moreover, will be used to supplement the yield of the reserved American Falls space in the development of new land in the valley.

To determine the benefits of increased water supplies under varying conditions and to permit, as subsequently discussed, farm budgets showing costs and returns for typical farms under present and prospective water supply conditions were prepared for five areas in the upper Snake River Valley. Inasmuch as information on yields and cropping systems prevailing during years of water shortage is extremely scant, the availability of such data became the major criterion in the selection of the sample areas. After finding areas where the required basic data were available, determination of that part of the adjustments made in farm organization and yields that could properly be ascribed to insufficient water supplies remained largely a matter of judgment. Besides showing the effect of water conditions, adjustments made in these years also reflect the effects of the depression of the 1930's, generally unseasonal weather, and the long-run adjustments to changing physical and economic conditions in the area.

TABLE 2.—*Irrigation shortages in the Snake River Valley with and without Palisades Dam and Reservoir, project, 1916–42*

Water year	Shortage without Palisades Reservoir	Shortage with Palisades Reservoir	Reduction in shortage	
	Acre-feet	Acre-feet	Acre-feet	Percent
1916	0	0	0	
1917	0	0	0	
1918	0	0	0	
1919	0	0	0	
1920	0	0	0	
1921	0	0	0	
1922	0	0	0	
1923	0	0	0	
1924	0	0	0	
1925	0	0	0	
1926	0	0	0	
1927	0	0	0	
1928	0	0	0	
1929	0	0	0	
1930	0	0	0	
1931	0	0	0	
1932	0	0	0	
1933	0	0	0	
1934	0	0	0	
1935	0	0	0	
1936	0	0	0	
1937	0	0	0	
1938	0	0	0	
1939	0	0	0	
1940	0	0	0	
1941	0	0	0	
1942	0	0	0	
Total	0	0	0	
Average	0	0	0	

[1] Includes additional water accumulated in hold-over from Jackson Lake Reservoir.
[2] Limited to maximum of 1,000,000 acre-feet.

Under current Bureau procedure, irrigation benefits are considered to be synonymous with increased national income accruing to persons dependent upon the project. For purposes of derivation such benefits are divided into direct and indirect. The direct irrigation benefits are the potential increases in national income accruing to persons directly associated with farming the area. Direct benefits consist of (1) increases in net farm income, (2) increases in wages paid to farm labor, and (3) increases in interest paid to farm capital. The indirect benefits are the appropriate shares of the increased national income resulting from the production of additional farm products on the project. Indirect benefits arise from the processing, distribution, and handling of farm products and increased purchases made by individuals directly or indirectly dependent upon the project for their income.

After determining the average benefits per acre-foot of additional water for the five sample areas, similar values were assigned to all other areas in the Upper Snake River Valley for which requests for storage space in Palisades Reservoir have been made. These benefits were weighted by the acre-feet of space applied for by the various areas in order to secure a weighted average benefit per acre-foot of water; the weighted average benefit amounted to $0.17 based on farm prices of the period 1939–44. The average benefit per acre-foot multiplied by the average annual additional supply from the project (216,000 acre-feet) results in total average annual irrigation benefit of $1,081,000. This is the monetary evaluation of the total annual irrigation benefit from the project. It includes the benefit from the yield of Palisades Reservoir as well as that from the additional water made available through the integrated operation of existing reservoirs in the valley, winter water-saving measures, and increased return flows.

The studies relating to irrigation benefits presented above and repayment ability presented in part IV were directed toward the determination of benefits and repayment ability associated with storage space. All related expenses, including estimated reservoir operation, maintenance, and costs associated with the delivery of water to the farms, were considered as costs in the farm budget analysis. Therefore, further account need not be taken of such costs in the present allocation report, except to show that such costs will exist.

POWER

The production of power at Palisades Dam will be entirely incidental to the operation of the reservoir for irrigation and flood control. The production of firm power is possible only because a certain amount of water must be passed through the reservoir during the winter to fill the prior storage right of American Falls Reservoir. During the spring and summer months, the releases for flood control and for irrigation will be utilized for production of secondary commercial power and irrigation pumping power to the extent of the turbine capacities. Operation studies of the reservoir show that a continuous or firm output of 15,300 kilowatts could have been maintained through the most critical drought in the 60-year period of stream-flow records, except for a 4-month period in 1935 when firm output would have averaged 8 percent less than the above figure. During the peak of the irrigation season and at times when storage is being evacuated for flood control, the plant normally could be operated at its full capacity (112,500 kilowatts).

The average annual production of power during a representative 20-year period (1928–47) would amount to 521,395,000 kilowatt-hours. The distribution in terms of average kilowatts is shown in table 3.

TABLE 3.—*Palisades power plant production, Palisades Dam and Reservoir project*

Month	Critical stream flow (average of 3 lowest years)	20-year average	Month	Critical stream flow (average of 3 lowest years)	20-year average
	Thousands of kilowatts	*Thousands of kilowatts*		*Thousands of kilowatts*	*Thousands of kilowatts*
October	17.05	23.08	April	24.10	36.37
November	18.33	33.95	May	45.59	82.07
December	15.69	28.01	June	79.24	105.16
January	15.69	27.93	July	65.25	105.56
February	15.33	35.83	August	45.04	95.71
March	15.65	47.40	September	38.09	74.16

Power demands in eastern Idaho have shown a steady increase, particularly during the postwar period, and have now reached the point where Diesel-driven generators are being installed by some distributors to relieve power shortages. The city of Idaho Falls (a municipal system) has indicated its desire to purchase all the firm power available from Palisades, and REA cooperatives in this area have also requested power from this project. As further indication of prospective power demands, the recently announced proposal of the Atomic Energy Commission to build an atomic reactor plant west of Idaho Falls still further adds to the general demand for power, not only for the reactor plant, but also for neighboring communities where population and business will be increased by establishment of that plant. Thus, it is evident that the present demand for Palisades firm power exceeds the firm capability of the plant.

In addition to the above demands, prospective irrigation pumping will require a large amount of seasonal energy. The recommended North Side pumping division of the Minidoka project will require approximately 34,000 kilowatts of reliable seasonal pumping power, and the contemplated Michaud Flats development would require about 7,000 additional kilowatts. Other potential pumping loads in the area may require an additional 15,000 kilowatts of summer power. This large pumping load exceeds the supply that would be available from Palisades alone. However, studies of potential power production indicate that the combination of the proposed 30,000-kilowatt American Falls power plant and the Palisades power plant would furnish a reliable power supply well suited in seasonal pattern for irrigation pumping loads.

As is characteristic of hydroelectric power plants, energy in excess of firm power production can be generated in off-peak periods and in periods of high runoff. By appropriate transmission interconnections and interchange agreements, this energy can be utilized to replace energy generated at fuel plants and to reduce storage drafts in hydroelectric power reservoirs. The proximity of Palisades to the high energy-consuming phosphate developments near Pocatello creates an ideal opportunity to utilize Palisades surplus energy in the above manner. The replacement would also reduce transmission losses.

Summarizing the above, it is estimated that Palisades energy will fall into the following classes after full development of the project:

Class of energy	Million kilowatt-hours per year	Annual revenue
Firm	164.4	$157,600
Secondary	23.0	60,000
Voltage regulation	27C.4	418,000
Losses and unaccounted	109.6	0
Total	1,567.4	1,175,400

The above $1,175,400 is taken as a measure of the direct power benefits to be derived from the Palisades project.

The total power benefits attributable to Palisades include, in addition to the above direct benefit, those indirect benefits that would result from the portion of Palisades energy sold to municipalities, cooperatives, and others for resale to ultimate consumers. These indirect benefits (totaling $246,600) would result from three sources. First, through savings made in the purchase of Palisades power, public municipal and other utilities, in reselling power, would be able to pass on to the ultimate consumers savings estimated at $182,000 annually. Second, indirect benefits represented by income derived by distribution agencies from the retail distribution of Palisades power purchased at wholesale amount to $25,600 annually. Third, the estimated indirect benefits arising from the use of Palisades power resold by retailing agencies for the production of goods and services would amount to $12,000. Total annual power benefits thus equal $1,422,000.

FLOOD CONTROL

The additional detailed studies made by the Bureau of Reclamation and the Corps of Engineers since the project was authorized show that Palisades Reservoir can provide fuller control of major floods than was originally contemplated without adversely affecting the value of the reservoir for irrigation purposes. These studies have resulted in agreement by both agencies on an operating plan whereby the entire active space in the reservoir (1,200,000 acre-feet) will be used jointly for flood control and irrigation purposes. This operating plan, which, with the confirming correspondence, is appended hereto, will provide a basis for regulations to be prescribed by the Secretary of the Army for the use of storage space allocated to flood control in accordance with section 7 of the Flood Control Act of 1944 (58 Stat. 887).

Studies by the Corps of Engineers have shown that the damages caused by flows up to 20,000 cubic feet per second can be eliminated more economically by levees, revetments, and other channel improvements than by storage in Palisades Reservoir. This fact was recognized in the original project plan, and construction of the works necessary to provide a permanent safe channel with a capacity of 20,000 cubic feet per second through the Heise-Roberts area was authorized in conjunction with the Palisades Dam project. The Corps of Engineers has proceeded with the construction of those

channel improvement works. The levees are being constructed with sufficient free board to allow safe passage of 30,000 cubic feet per second during major floods, when the entire active capacity of Palisades Reservoir will not be sufficient to control the peak discharge to a lower flow.

The operating plan adopted is predicated on periodic forecasts during the period from February 1 to July 31 of each year of the volume of run-off expected from the drainage basin of the Snake River above Heise, Idaho. Experience in this and other watersheds where floods result from melting snow shows that the volume of such flood run-off can be forecast with an average error of less than 10 percent by correlating data on precipitation, temperatures, and snow surveys with run-off data. All of such hydrologic data have been obtained in the Snake River watershed during the past 20 years and steps are now being taken to expand the coverage of the watershed with snow survey courses and precipitation gages.

The storage space in Palisades Reservoir to be allocated to flood control each year, under the plan is [illegible] as that space required to control the forecasted flood volume when releases not exceeding 20,000 cubic feet per second from the same, that the reservoir inflow will not exceed 20,000 cubic feet per second until July 31, insofar as that control can be effected by a reservoir capacity not exceeding 1,200,000 acre-feet. Releases between 20,000 and 30,000 cubic feet per second would be permitted when the storage capacity required to limit the flow to 20,000 cubic feet per second exceeds the active capacity of the reservoir. Seasonal evacuation and filling of the required flood-control space will be controlled by a parametric chart which has been prepared empirically from hydrographs of recorded floods. Provision is made in the plan for adjusting the position of the parameters on this chart whenever further study of operating experience shows the need for such adjustment.

Studies by the Bureau of Reclamation and by the Corps of Engineers indicate that Palisades Reservoir, operated on a forecast basis as described in the appended plan, could have limited all of the known floods in the Snake River to flows of 30,000 cubic feet per second or less at Heise, Idaho. Assuming that the floods which occurred prior to the establishment of snow surveys could have been forecast as accurately as were the floods which have occurred since such surveys were established, all except two or three of the floods occurring since 1890 could have been reduced to 20,000 cubic feet per second at Heise.

The Corps of Engineers, in a revaluation of flood damages on the flood plain of the Snake River below Heise, Idaho, under conditions of development in 1946, found that, on the basis of 1943 price levels, the flood-control benefits creditable to Palisades Reservoir for the reductions in flood flows indicated in the preceding paragraphs would average $899,330 annually. The 1943 price levels were used because they correspond closely with the price levels for the period 1938–44 which, as noted, were used in determining irrigation benefits. Either is considered indicative of long-range future price levels. Because the channel improvement works in the Heise-Roberts area are now being constructed by the Corps of Engineers as a separate project, data concerning those features are not presented in this report.

FISH AND WILDLIFE

The benefits of Palisades Reservoir to fish and wildlife in the Upper Snake River Valley will depend largely upon how the Reservoir is operated and also upon how its operation affects the operation of other storage reservoirs in the area. The Fish and Wildlife Service of the United States Department of the Interior has conducted a field investigation to determine, first, the net effect of the impoundment upon fish and wildlife values, and, second, whether or not the Reservoir could be used to improve fish and wildlife environments in the surrounding area. The findings of that investigation, covered in the appended report on the project by the Fish and Wildlife Service, are outlined briefly in the following paragraphs.

Flooding of 20 miles of the main stream and 18.4 miles of tributaries, which will occur with construction of Palisades Reservoir, will eliminate stream fishing now practiced in those reaches. There will be substituted, however, the fishing opportunities in the reservoir. Moreover, there will be an increase in the fishery value of the river below the dam brought about through reduction of flood flows. It is estimated that the net effect of these changed conditions on the fishery resource will be a gain of $11,200 annually.

The wildlife resource in the reservoir basin will be adversely affected to some extent by construction of the reservoir. Some habitat for big game, upland game, and fur animals would be eliminated. Waterfowl would lose good nesting areas, but the value of the reservoir pool for resting purposes would more than compensate for this nesting loss. The net effect of reservoir construction on wildlife would be an estimated loss of $3,260 annually.

There is, however, an opportunity to increase substantially the wildlife values in the surrounding areas through operation of Palisades Reservoir. This opportunity involves the use of irrigation storage water developed in Palisades Reservoir to replace the water now drawn for irrigation from Grays Lake, and so to permit the exclusive use of that lake as a wildlife refuge. Grays Lake, 25 miles southwest of Palisades Reservoir, in the headwaters of Willow Creek, is an area of excellent wildlife potentialities. In its natural state, the lake was one of the best marsh habitats in the western United States for waterfowl and muskrat. The wildlife value of the lake has been drastically reduced, however, since 1924, when the Indian Service, United States Department of the Interior, constructed control works at the outlet of the lake so that it could be utilized as a reservoir to supply water for irrigation of land in the Fort Hall Indian Reservation.

In order to restore Grays Lake to its natural state and to control its level to create optimum wildlife environment, it is proposed that water from Palisades Reservoir be substituted for that now supplied to the Fort Hall Indian Reservation from Grays Lake. The Bureau of Reclamation and the Bureau of Indian Affairs have agreed that the yield of irrigation water from 55,000 acre-feet of space in Palisades Reservoir would replace adequately the irrigation water supply now drawn from Grays Lake. Realization of the benefit by reason of the Grays Lake restoration is dependent on providing such replacement storage; and therefore, to assure the benefit and justify the nonreimbursable allocation based on that benefit, the indicated amount of space will be allotted to the Fort Hall Indian Reservation, and the water will be delivered to the reservation lands through existing canals. The Fish and Wildlife Service estimates that the habitat improvement made possible by this exchange of water would increase the annual wildlife value of Grays Lake from a present appraisal of $35,600 to $152,400. This represents a gross annual gain of $116,800. In order to develop a wildlife management area on Grays Lake, required in order to realize benefits of this magnitude, however, it would be necessary for the United States to acquire approximately 9,300 acres of private land and to set aside 3,500 acres of public land, and to construct buildings, outlet structures, fencing, and roads at a total estimated cost of $350,000. The annual cost of operation and maintenance of these and other necessary facilities is estimated to be $15,000.

In recapitulation, estimated annual fish and wildlife benefits of Palisades Reservoir derive from the increased value of the fishing resource ($11,200) and the increased wildlife value of Grays Lake ($116,800), minus the decreased wildlife value of the Palisades Reservoir ($3,260). The total benefit, thus, is $124,740.

RECREATION

It was recognized at the time of authorization that the construction of Palisades Reservoir would provide some recreational benefits, but no attempt was then made to assign them monetary values. Since that time, the National Park Service has made a field investigation to evaluate those benefits. Another objective of the investigation was to obtain data on which to base a preliminary estimate of the extent and cost of facilities which should be constructed along the shore of the reservoir to permit the fullest possible enjoyment by the public of the recreational opportunities. The findings of that investigation, presented in full in the appended report by the National Park Service, are summarized below.

The investigation disclosed that the recreational value of the reservoir area will be enhanced by the construction of Palisades Dam. By coordinating its operation with that of other existing reservoirs in the Snake River watershed, especially Jackson Lake Reservoir, other, more substantial benefits will be realized.

The reservoir basin receives little recreational use at present because there are superior attractions in the general vicinity, and the rough topography of the Palisades Reservoir basin and the fluctuation in water levels during the summer caused by withdrawals for irrigation will not promote greatly increased recreational use. A structure like Palisades Dam, together with the large body of water in the reservoir, however, will attract people to the area. The National Park Service estimates that the reservoir will have an annual attendance of about 6,250 people. In order that the recreational potentialities of the new body of water to be created by construction of Palisades Dam may be enjoyed fully by the public, it will be necessary to develop areas for parking, camping, and picknicking at three locations along the shore and to construct access roads to those areas. In addition, it will be necessary to provide potable water and to construct such facilities as shelters, toilets, boat piers, and buildings at each area. The capital cost of recreational facilities was estimated by the National Park Service at $98,789 in 1946. Under present construction costs, however, it is estimated that these facilities would cost $148,000.

The National Park Service considers that the total allocation of costs to recreational purposes would be equivalent to twice the cost of the facilities constructed exclusively for recreation, or $296,000.

As stated above, operation of Palisades will create much more substantial recreational benefits at Jackson Lake Reservoir, adjacent to Grand Teton National Park. During the past 33 years, Jackson Lake Reservoir has supplied the entire irrigation storage water requirements of the irrigated land in the Upper Snake River Valley served from the South Fork of Snake River above American Falls. This has necessitated heavy drafts on Jackson Lake and wide fluctuation in its level during the height of the tourist travel season from June 15 to September 1. Lowering of the lake level exposes wide stretches of unsightly reservoir bottom and; of course, detracts greatly from the scenic beauty and use of the area.

The unsightly shore line resulting from the wide fluctuation in lake level, which has caused many complaints by thousands of tourists visiting this famous area every summer, will be largely eliminated by construction of Palisades Reservoir. The storage requirements of the lands above American Falls would be met first from Palisades Reservoir. Jackson Lake would be operated as a hold-over reservoir. The latter, therefore, could be held full, with little if any fluctuation during the summer, except during extremely dry years such as 1931, 1934, and 1935. In such years, Palisades storage would have been exhausted, and it would have been necessary then to draw irrigation storage from Jackson Lake. Such a condition would have occurred in only 3 years during the past 60 years of stream-flow records. This plan of operation would greatly increase the recreational value of Jackson Lake. The National Park Service believe that an allocation to recreation purposes in the amount of $6,000,000 would be justified because of increased tourist use and because of enhancement to the beauty of the foreground of the Grand Tetons. This figure has been adopted as the maximum amount of capital cost allocable on a nonreimbursable basis by reason of these benefits. The $296,000 recreation benefit for Palisades Reservoir combined with the $6,000,000 recreation benefit from Jackson Lake Reservoir results in a total benefit of $6,296,000. When reduced to a yearly equivalent, this amount results in an annual benefit of $244,915.

SUMMARY OF BENEFITS

The total annual benefits for the various functions served by the project are summarized as follows:

Functions:	Annual benefits
Irrigation	$1,981,000
Power	1,621,000
Flood control	899,330
Fish and wildlife	125,000
Recreation	244,915
Total	4,871,245

III. Allocation of Costs

Several approaches to the allocation of costs were attempted before selection of the procedure adopted herein, which combines several methods. The allocations of joint costs to recreation, to flood control, and to fish and wildlife are based on benefits, and, as nonreimbursable allocations, are deducted from the total joint costs, to establish the reimbursable obligation. Allocation of that residual, reimbursable amount to irrigation and power is based upon an average of the priority of use and the alternative justifiable expenditure methods.

NONREIMBURSABLE ALLOCATION

The total annual benefits for the various functions served by the project, as described in part II, above, amount to $4,871,245. These benefits were reduced to a net basis by subtracting the associated annual costs including operation, maintenance, replacements, runoff forecasting, and the annual equivalent of the direct construction costs. The annual operation, maintenance, and replacement cost, and runoff forecasting associated with the storage system is estimated at $38,700. Of this amount, $14,000 has been assigned to operation and maintenance, $20,700 to replacements, and $4,000 to runoff forecasting. The assignments to operation and maintenance and to replacements were based upon the operating history of the American Falls Reservoir. The annual cost of runoff forecasting was based upon the expected program and historical costs for carrying on such work. Subsequent assignment of appropriate parts of the annual cost of operation and maintenance and replacement to irrigation, power, and flood control was based upon the relative use of facilities for the various purposes. Subdivision of the annual cost of runoff forecasting among irrigation, power, and flood control was based upon the estimated relative use of the data collected for each of the three functions involved.

In addition to the operation and maintenance costs for the joint facilities, there are also direct annual operation and maintenance and replacement costs associated with specific functions. These are estimated at $528,000 for the power facilities; $15,000 for the Grays Lake wildlife area, plus $1,000 for replacements of improvements; and $7,600 for the recreational facilities on Palisades Reservoir. It is estimated that the income in the form of rentals and concessionaires' fees will be adequate to meet the annual costs on recreational facilities, which are not otherwise provided for in the project costs. The total annual operation and maintenance and replacement costs are presented in table 4.

TABLE 4.—*Estimated total annual operation and maintenance and replacement costs, Palisades Dam and Reservoir project, Idaho*

Function	Joint facilities			Direct operation and maintenance and replacements	Total
	Operation and maintenance	Replacements	Runoff forecasting		
Irrigation	$1,000	$6,000	$1,000	0	[1] $11,000
Power	7,000	2,000	1,000	$528,000	[2] 538,000
Flood control	3,000	11,300	1,500	0	15,800
Fish and wildlife	0	0	0	[3] 15,000	16,000
Recreation	0	0	0	[4] 7,600	7,600

[1] Will be paid by irrigators in addition to cost of storage space.
[2] Includes $1,000 replacements.
[3] Income from rentals will provide for operation and maintenance and replacements.

The direct construction costs associated with each function were reduced to their annual equivalents by the application of a capital-recovery factor based upon a 50-year period and 3 percent interest. The total direct annual costs, including operation and maintenance, replacements, and direct construction, were then subtracted from the total benefits to secure the net benefits associated with joint costs, as presented in table 5.

TABLE 5.—*Estimated net annual benefits, Palisades Dam and Reservoir project, Idaho*

Function	Gross benefits	Operation and maintenance and replacements	Direct annual construction costs	Net annual benefits
Irrigation	$1,991,000	0	0	$1,991,000
Power	1,021,000	$539,000	$528,150	243,850
Flood control	899,330	15,600	0	883,730
Fish and wildlife	125,000	10,000	13,694	95,306
Recreation	244,915	0	5,757	239,158

The annual net benefits for the various functions normally considered as nonreimbursable were then converted to their present worth by the application of the annuity factor for 50 years at 3 percent interest to determine the allocation of joint costs to each function that would be justified on the basis of such benefits. The amounts thus secured (adjusted) amounted to $22,733,300 for flood control; $6,148,000 for recreation; and $2,455,000 for fish and wildlife. The full capitalized values of the net benefits to flood control, fish and wildlife, and recreation were allocated to those functions as their share of the joint costs. Combined, the allocation of joint costs to flood control, recreation, and fish and wildlife amounted to $31,336,300.

REIMBURSABLE ALLOCATION

The balance of the joint costs of $23,201,100 for other functions—irrigation and power—was allocated on the basis of the average of the priority of use and alternative justifiable expenditure methods of allocation. Under the priority-of-use approach, all of the remaining joint costs are assigned to irrigation, since it has prior use of the active space over power. Under the alternative justifiable-expenditure approach, single-purpose developments were considered which would result in the same benefits to irrigation and to power derived from the proposed project. It was found that the cost of the alternative, hydro-power project would be greater than the capitalized value of the net power benefit. Therefore, the capitalized value of the net benefit has been taken as the alternative justifiable expenditure. In the case of irrigation, however, the cost of a single-purpose irrigation reservoir was used because it was less than the capitalized value of the irrigation benefits. These figures are as follows:

Irrigation	$43,000,000
Power	6,274,000
Total	49,274,000

Irrigation accounted for 87.27 percent of the total and power for the remainder, or 12.73 percent. These percents applied to the remaining joint cost of $23,201,100 resulted in the assignment of $20,247,600 to irrigation and $2,953,500 to power. By averaging the results of the two approaches, the allocation of $21,724,400 was made to irrigation and $1,476,700 to power (table 6).

TABLE 6.—*Allocation of estimated remaining joint costs to irrigation and power, Palisades Dam and Reservoir project, Idaho*

Function	Priority of use	Alternative justifiable expenditure	Average	
			Amount	Percent
Irrigation	$23,201,100	$20,247,600	$21,724,400	93.64
Power	0	2,953,500	1,476,700	6.36
Total			23,201,100	100.0

The allocation of joint costs to the various functions was then added to the direct construction costs to secure the total allocation to each function (table 7). These allocations are in terms of estimated costs.

TABLE 7.—*Allocation of total costs, Palisades Dam and Reservoir project, Idaho*

Function	Joint costs	Direct costs	Total allocation
Irrigation	$21,724,400	0	$21,724,400
Power	1,476,700	$21,565,500	23,042,200
Flood control	22,733,300	0	22,733,300
Fish and wildlife	2,455,000	300,000	2,755,000
Recreation	6,148,000	148,000	6,296,000
Totals	54,537,400	22,053,500	76,591,000

With respect to the allocation to power, a further suballocation to irrigation pumping power is justified in keeping with Reclamation policy and is requisite to the pay-out analysis presented in part IV of this report. Only the portion of the power investment allocated to commercial power is treated as interest-bearing in the pay-out analysis.

As described in part II, the power facilities of the Palisades project are designed to supply a large block of seasonal irrigation pumping power through operation in coordination with the proposed American Falls power plant and other Federal plants in the area. Studies of this operation indicate that, under critical water conditions, and at full load development, the Palisades power plant will supply 21,000 kilowatts of power for pumping projects, and at the same time produce 33,000 kilowatts for commercial loads. Under these critical water supply conditions, the Palisades Reservoir would have been drawn down to the dead-storage level by drafts for irrigation purposes, and with the power-plant capability thus limited by reason of operation at minimum head, there would be no generating capacity for production of surplus power. Hence, the above loads are taken as a measure of the dependable capacity of the power plant, and provide a basis

for the suballocation of power facilities, 39 percent to irrigation pumping and 61 percent to commercial power. The suballocation thus obtained is as follows:

Commercial power	$14,055,800
Irrigation pumping power	8,986,500
Total	23,042,300

The irrigation pumping power produced by the Palisades power plant will be delivered, in the main, to Federal irrigation projects, such as the North Side pumping division of the Minidoka project, which are not a part of the Palisades project. Since those projects will pay for the power at the prevailing rate, that revenue is credited to the Palisades project in the pay-out analysis. Only that revenue, however, has been used as a measure of the irrigation pumping power benefits creditable to the Palisades project. The total irrigation benefits arising from use of the irrigation pumping power should rightfully be credited to the projects using the energy.

IV. Economic Justification and Feasibility

The Palisades Dam and Reservoir project, in terms of both economic justification and financial feasibility, appears to be a desirable development. Economic justification is shown by the favorable benefit-cost ratio of 1.37 to 1.00. Financial feasibility is indicated by the prospect of full recovery of all reimbursable costs from water users and power users.

ECONOMIC JUSTIFICATION

Upon completing the allocation, benefit-cost ratios were prepared for each function and for the over-all project to determine the project justification. To accomplish this, the total annual construction costs and the annual operation and maintenance and replacement costs were added for each function to secure the total annual costs (table 8).

TABLE 8.—*Annual costs for benefit-cost comparison, Palisades Dam and Reservoir project, Idaho*

Function	Construction [1]	Operation and maintenance and replacement	Total
Irrigation	$811,425	0	$811,425
Power	493,650	$940,950	1,434,600
Flood control	861,330	38,010	899,340
Fish and wildlife	107,015	17,985	125,015
Recreation	214,915	0	214,915
Total	2,977,335	970,900	3,948,335

[1] Direct and joint costs amortized in 50 years at 3 percent interest

For the purpose of allocating actual costs, when determined, the principles above discussed would be applied as follows: Net benefits to fish and wildlife and recreation purposes in the amounts shown in table 5 will continue to be the measure of the allocation of joint facility costs to these purposes. Net flood-control benefits in the amount shown in table 5, based on the 1946 evaluation, will continue to be the measure of the allocation of joint facility cost to flood control, until such time as, under authority of law, there may be a revision upward by reason of a reevaluation of the benefits taken into account in the 1946 study or by reason of the benefits attributable to the project in connection with the authorization of a general system of flood-control reservoirs for the control of floods in the main stem of the Columbia River. Allocation of the remainder of the joint facility costs between irrigation and power will be determined by the use of the percentages shown in table 6. Direct, actual irrigation and power costs will, of course, have to be added to the apportioned remaining joint costs to arrive at the actual costs allocable to each. The suballocation of the power allocation between commercial power and power for irrigation pumping will be made on the basis of the relative demand for power for these purposes, as established from time to time by the Secretary.

Total annual costs were compared with the annual benefits (as developed in pt. II) to show the project justification for each component part and for the over-all project (table 9).

TABLE 9.—*Benefit-cost ratios, Palisades Dam and Reservoir project, Idaho*

Function	Annual costs	Annual benefits	Ratio of benefits to costs
Irrigation	$844,425	$1,983,000	2.35-1.00
Power	1,434,600	1,621,000	1.13-1.00
Flood control	899,340	899,340	1.00-1.00
Fish and wildlife	125,015	125,015	1.00-1.00
Recreation	214,915	214,915	1.00-1.00
Total	3,518,335	4,871,215	1.37-1.00

These ratios indicate that the project is justified from the national point of view even under the present high construction costs.

The "308" Review Report on the Columbia River and Tributaries prepared by the division engineer, Corps of Engineers, Portland, Oreg., recommends the authorization of a system of reservoirs to provide flood control for the Columbia River. The report indicates that the Palisades project, in conjunction with that system of reservoirs, would contribute to the control of floods on the lower Snake and Columbia Rivers, and that the benefits resulting therefrom would warrant a substantial additional allocation to the Palisades project for flood control. This has been tentatively estimated at $7,500,000. The additional allocation based upon the additional lower river flood-control benefits finally determined to result from the operation of Palisades Reservoir will not be available until the recommended system of reservoirs is authorized. Consequently, such additional benefits were not taken into account in the allocation presented above. Final determination of the flood-control benefits resulting from Palisades may also involve an increase in those used for establishing the allocation presented in table 7, inasmuch as the benefits used for that purpose are predicated on 1946 conditions. In the event that additional allocations to flood control in Palisades Reservoir are found justifiable by reason of the authorization by the Congress of a system of reservoirs for flood control on the Columbia

River, or for other reasons it is proposed that additional allocations in such amounts as may be finally agreed upon between the Secretary of the Army and the Secretary of the Interior be made to flood control when authorized on the basis of the procedures followed above.

ALLOCATION TO PURPOSES

It is proposed that the allocations noted in part III (a) to flood control, (b) to navigation, and (c) to fish and wildlife be made nonreimbursable. Allocations to flood control are nonamortizable, as provided in the Reclamation Project Act of 1939, and allocations to fish and wildlife are proposed to be made nonamortizable consistent with the policy established for projects authorized after August 14, 1946, by Public Law No. 732 (79th Cong., 2d sess.). Allocations to recreation also are proposed on a nonreimbursable basis, in recognition of recreational values and the desire to maximize the values obtainable through public development in the public interest.

The allocations to irrigation and power will be reimbursable under terms specified in the Federal reclamation laws. The allocation to irrigation and the anticipated use of power facilities to be utilized for irrigation pumping on Federal reclamation projects will be repayable without interest. The allocation to commercial power will be returned to the United States Treasury out of power revenues derived under rates computed in accordance with provisions of subsection 9 (c) of the Reclamation Project Act of 1939.

The farm budget studies used in part II of this report for benefit determination were also used as the basis of determining farmers' repayment ability, or Palisades storage space. As the ability to pay is assumed that farmers would pay no more for water than it was worth to them in use. This amount is technically called the economic value of water, and it is measured by the increase in the family labor earnings less the value of the increased amount of unpaid family labor. It does not purport to measure the total repayment ability but only that resulting from the increased supplies of irrigation water.

The economic value of supplemental water delivered at the canal headgate varies according to the productivity of the irrigated land and the amount of water required for proper irrigation. In the portion of the valley north of Idaho Falls (fig. 3) here the soils are predominately gravelly and large canal diversions are required (8 to 12 acre-feet per acre), the estimated value ranges from $1.85 to $2.25 per acre-foot and averages about $2 per acre-foot. In the remainder of the valley, where the soils are relatively productive and diversions range from 5 to 8 acre-feet per acre, the estimated value ranges from $2.25 to $3.75 per acre-foot and averages $3 per acre-foot. Since it is impractical to vary the charges for storage space, however, it will not be possible to realize these values in the form of repayment of the project costs. In addition to this practical consideration a portion of the value assignable to the Palisades water is attributable to an insurance factor—a value dependent on the frequency of occurrence of an extremely dry cycle. It was assumed that such a cycle might recur once during the repayment period. Though the overall available stream flow and precipitation records indicate that generally localities tend

to show that a less frequent recurrence may be expected. If this proves to be the case, a lesser need and consequently a lesser value would be realized. Taking account of both this uncertainty, which has a bearing on the value, and the fact that approximately 20 percent of the project water will be used on the area (about 116,000 acres) north of Idaho Falls where it would have a value at the low end of the range, it is estimated that a reasonable charge for storage space would be the equivalent of about 25 percent cost of water delivered to the canal headgates. Any higher charge would still not be an excessive burden on that large area which is finally in need of supplemental water and would not take adequate account of the uncertainty of the value predicated on the use of an insurance supply.

The average annual delivery of water from Palisades Reservoir to allocation part II is expected to be 147,000 acre-feet. Records of river operation indicate that approximately 2½ percent of this amount will be lost in transit to the canals. The amount thus diverted for canals is expected to be about 150,000 acre-feet annually. At 25 per acre-foot (an amount about one-third of $75,000 would be secured for a total of $10,320,000 in 40 years. On this basis the storage space (615,000 acre-feet) would be valued at $5.01 per acre-foot. It is proposed that this value be annuitized at the rate of 3½ percent on the basis of the presently controlling 40-year repayment period. A rate of this amount will result in a return of $10,305,000 by irrigation and will leave $14,400 of the total irrigation allocation of $21,724,400 to be repaid by other means. It is proposed to repay this amount by application of the interest component of the commercial power revenues supplemented, as necessary, by additional power revenues.

Costs which are properly assignable for repayment out of power revenues include (1) the costs of purchase and installation of power generating, transforming, and transmission equipment, including the necessary buildings and incidental expenditures, (2) power operation and maintenance expenses, (3) power-facility replacement costs, and (4) that part of the construction costs properly allocable to irrigation which, in the case of the water users' ability to repay within the period provided by law.

For the purposes of this report, though not required by law, it has been assumed that repayment of these costs will be effected within 50 years from the time that the last unit of the power plant is placed in service. Furthermore, it has been assumed that there will be a development period of 6 years intervening between placing the first and last Palisades power units in service. It is evident that revenues may continue to be derived over the entire 56-year repayment period all necessary replacements of power and transmission equipment must be made. The annual provision for replacements is estimated at $250,750 with all units installed and the total for the repayment period, including the development period, would amount to $16,794,100. Likewise, annual operation and maintenance expenses for the power plant and transmission facilities, together with the share of the reservoir operation and maintenance costs allocated to power, are estimated to be $238,250 annually, or $16,833,300 during the repayment period. The total construction costs and annual expenses to be returned from power revenues during the 50-year repayment period are summarized as follows:

Construction costs:	
Commercial power facilities	$14, 055, 800
Irrigation power facilities	8, 986, 500
Irrigation facilities	11, 419, 400
Annual expenses:	
Power facility replacements	13, 794, 100
Operation and maintenance	15, 833, 300
Total	64, 089, 100

For the purpose of determining the financial feasibility of the project, the gross annual power revenue was obtained by applying to the estimated salable energy the following average power rates which meet the rate standards of subsection 9 (c) of the Reclamation Project Act of 1939:

Class of energy:	Mills per kilowatt-hour
Firm	4. 0
Irrigation pumping	3. 0
Nonfirm	2. 0

The revenues thus estimated are expected to amount to $1,175,400 annually after the project is fully developed. The total power revenues during the repayment period would be $64,526,000, leaving a surplus of $436,900.

Since the operation of the Palisades power plant will be coordinated with that of the American Falls power plant, the two plants were treated as a system in the financial analysis. The repayment period for the two-plant system was taken as 57 years because the American Falls power plant will be scheduled for operation 1 year earlier than the Palisades plant. The results of the combined pay-out study show that the estimated system revenues would be sufficient to cover all Palisades and American Falls costs assignable for payment out of power revenues during the assumed repayment period. The interest on the Palisades commercial power investment, as computed in the combined pay-out study, would amount to approximately $[illegible]. This amount, together with $5,047,400 of additional payment out of power revenues, would be sufficient to cover the $11,419,400 irrigation allocation which is in excess of the prospective repayment by water users.

The repayment of reimbursable construction costs is summarized as follows:

Irrigation allocation:	
Payment by water users	$10, 305, 000
Interest earned on power investment	6, 372, 000
Additional payment out of power revenues	5, 047, 400
Power allocation paid from net power revenues	23, 042, 300
Total	44, 766, 700

If the Palisades power plant were operated independently, the return would be the same as shown above and the financial feasibility of the project would not be affected. The interest component would be somewhat greater, however, and the amount of additional power revenues required for retirement of the irrigation costs would be correspondingly less.

In order to demonstrate the feasibility of the entire project, the cost allocations and the repayment of the reimbursable costs, based on the combined pay-out study, are summarized in table 10.

TABLE 10.—*Summary of cost allocation and repayment of reimbursable costs, Palisades Dam and Reservoir project, Idaho*

Allocation of costs:		
Reimbursable:		
Irrigation		$21, 724, 400
Power:		
Commercial power	$14, 055, 800	
Irrigation pumping power	8, 986, 500	
		23, 042, 300
Total reimbursable		44, 766, 700
Nonreimbursable:		
Flood control		22, 733, 300
Fish and wildlife		2, 805, 000
Recreation		6, 296, 000
Total nonreimbursable		31, 834, 300
Total		76, 601, 000
Repayment of reimbursable costs:		
Irrigation:		
Payments by water users	$10, 305, 000	
Application of interest component earned on power investment	6, 372, 000	
Additional payment out of power revenues	5, 047, 400	
		21, 724, 400
Power: Payments from net power revenues		23, 042, 300
Total reimbursable		44, 766, 700

In addition to the purposes considered in the allocation and pay-out analysis, there is a possibility that other miscellaneous purposes, including particularly municipal and industrial water, will be served by the project. The extent of such use that can reasonably be justified is a matter to be worked out with the irrigation interests and no attempt has been made to allocate costs to these purposes. It is proposed, however, to set up a maximum amount of space that might be made available for these purposes. Then if requests for water for such purposes are found to be justified, allocations of space within this maximum will be made and rates therefor would be set in accordance with Federal reclamation laws and departmental policy. In no event would the price, exclusive of interest which may be required to be paid, be less than the amount charged for irrigation storage space.

The allocations and the terms for repayment of reimbursable costs shown above, it has been indicated, are based on estimated costs. The procedure to be followed in the event that increased flood-control benefits may be found and an increased allocation to that purpose may prove warranted has been presented in part III. Should actual costs incurred differ from those estimated herein, the allocation of final cost would be in accordance with the principles presented in part III.

There remain to be considered, however, procedures with respect to the repayment of the reimbursable joint-facility costs in the event those costs differ for any reason from the estimate appearing herein. Should those reimbursable joint-facility costs be greater, it would be necessary that the increase be paid out of power revenues, inasmuch

(a) The charge of $9 per acre-foot of space in Palisades Reservoir allocated substantially the maximum amount that water users could reasonably be expected to repay within a 40-year repayment period. Should the reimbursable joint facility costs be less than those presented above, it is proposed that half of the amount of the reduction in the irrigation allocation be subtracted from the amounts payable by water users, provided, however, that the cost of storage space in no event be reduced below $7.75 per acre-foot.

V. RECOMMENDATIONS

It is recommended that—

1. The following principal works and facilities incidental thereto, constituting the Palisades Dam and Reservoir project, Idaho:

Palisades Dam and Reservoir and facilities incidental thereto;

Palisades Power Plant, transmission lines and facilities incidental thereto;

Fish and wildlife facilities, including the installations at Grays Lake; and

Recreational facilities at Palisades Reservoir,

be authorized and reauthorized for construction, operation, and maintenance under the Federal reclamation laws (Act of June 17, 1902, 32 Stat. 388, and acts amendatory thereof or supplementary thereto) substantially in accordance with the plans set forth in this report, with such modifications, omissions, or additions to the works as the Secretary of the Interior may find proper for the carrying out of the project to the end of providing active storage capacity in Palisades reservoir of approximately 1,200,000 acre-feet, of producing hydroelectric energy with a plant of approximately 167,600-kilowatt capacity, and providing transmission facilities in the Upper Snake River Valley for connection of this plant with other Federal power plants and pumping projects and for service to preference customers under the Federal reclamation laws, and of accomplishing the other purposes of the project.

2. The use of the active capacity in Palisades reservoir be jointly for irrigation storage and flood control, the allocation of space to flood control to be determined from time to time as provided in the operating plan set out in appendix A of this report, as that plan may be modified as therein indicated.

3. Of the total cost of construction of the Project there be allocated on a nonreimbursable basis the following amounts:

(a) On account of flood-control benefits, $22,733,800, subject to revision upward if, under authority of law, there is a revaluation of the flood-control benefits attributable to Palisades Reservoir by reason of the authorization of any system for the control of floods in the main stem of the Columbia River or for any other reason.

(b) On account of benefits to fish and wildlife, $2,805,600, on the condition that the Bureau of Reclamation make 55,000 acre-feet of Palisades capacity available as replacement storage for that now provided by Grays Lake substantially in accordance with the recommendations of the report of the Fish and Wildlife Service set out in appendix B, and that the other recommendations of that report be carried out by the Bureau of Reclamation to the extent practicable having regard for the primary purposes of the project.

(c) On account of recreational benefits, $2,200,000, appropriations required to construct facilities required for realization of items (b) and (c) of this recommendation shall be made available to the Bureau of Reclamation for direct expenditure or for transfer to such Federal agency as may be the Congress.

4. To conform, with the nonreimbursable allocation of construction costs on account of fish and wildlife, flood control and recreational benefits, portions of the annual costs of operation, maintenance, and replacement properly allocable to those benefits, including those related to the hydrologic network, be made on a nonreimbursable basis, the necessary appropriations for those purposes to be made to the Bureau of Reclamation for direct expenditure or for expenditure through the operating agencies.

5. There be adopted the formula stated in part III of this report for allocating the nonreimbursable construction costs of the joint use facilities between irrigation and power and for allocating the power costs between commercial power and power for irrigation pumping, and the plan for repayment by irrigation water users of construction costs totaling $10,306,000 for 1,136,000 acre-feet of active capacity (the area of the 55,000 acre-feet allocated as replacement for Grays Lake capacity will be the subject of a separate report) as determined by the Secretary of the Interior, and of reimbursable joint use facility costs finally determined to be less than the estimate used in this report, the amount to be repaid by water users to be increased proportionately, but not to exceed $9 per acre-foot of capacity (to be less than $7.75 per acre-foot of capacity).

6. The Secretary allocate not to exceed 26,000 acre-feet of active capacity of the reservoir, in addition to that set aside for the Grays Lake replacement, for municipal and other miscellaneous purposes, the water users contracting for the use of such capacity to be required to pay a minimum a proportionate share of operation and maintenance costs, plus whatever additional sum is required to be repaid by an amount not less than $7.50 per acre-foot of capacity equivalent to that required to be repaid by irrigation water users, but with authority in the Secretary to establish such higher charges as he finds to be proper.

R. J. Newell, *Regional Director.*

APPENDIXES

FLOOD CONTROL

DEPARTMENT OF THE INTERIOR,
BUREAU OF RECLAMATION,
Washington 25, D. C., December 31, 1947.

Lt. Gen. RAYMOND A. WHEELER,
Chief of Engineers, Department of the Army,
Washington 25, D. C.

MY DEAR GENERAL WHEELER: On September 4–5, 1947, representatives of the Portland, Oreg., district and North Pacific division offices, Department of the Army and members of your staff met with representatives of our region 1 office and my staff in Washington to discuss an operating plan for Palisades Reservoir satisfying the requirements of regulations to be prescribed for the use of storage allocated to flood control as provided by section 7 of the Flood Control Act of December 22, 1944. A working group designated from our two agencies at that meeting developed an operating plan which was later modified in minor degree and submitted by the regional director in draft, dated November 3, 1947, to the district engineer. The district engineer advised the regional director that with a one-word addition the operating plan would be satisfactory. That change has been made.

I am enclosing a copy of the final draft of the plan found satisfactory by the district engineer, for your consideration. This plan provides for periodic forecasts, during the period February 1 to July 31 of each year, on the basis of precipitation, temperatures, snow surveys and runoff data, of the volume of runoff expected in the drainage basin of the Snake River above Heise, Idaho. The storage space in Palisades Reservoir allocated to flood control is defined as that space in the reservoir, using the governing forecast of flood runoff for the year according to prescribed operating parameters, required to control the forecasted flood volume from the time in that year reservoir inflow first exceeds 20,000 second-feet through the succeeding July 31, by releases not exceeding 20,000 second-feet at the Heise gage insofar as that control can be effected by a reservoir capacity not exceeding 1,200,000 acre-feet. Tentative allocations would be made on the basis of forecasts made before the governing forecast (as of the time inflow exceeds 20,000 second-feet), to control evacuation of space prior to that time. Releases between 20,000 and 30,000 second-feet would be permitted in case the indicated capacity to control the flood exceeds the total active capacity, but would not exceed 30,000 second-feet except under the extraordinary circumstances of a full reservoir when release would equal inflow.

Studies by our Regional office indicate that Palisades Reservoir, operated on a forecast basis as described in the plan, could adequately

control all of the known floods of Snake River to releases of 30,000 second-feet or less at Heise, Idaho. Under the assumption that the floods which occurred prior to the establishment of snow surveys could have been forecasted within the same limits as developed for the later floods, all except two or three of the floods occurring since 1890 could have been reduced to 20,000 second-feet or less.

It will be appreciated if you will indicate by letter to me your approval of this plan developed by our representatives and agreed upon at field level, and your intention to recommend to the Secretary of the Army that he prescribe regulations for operation of the reservoir, in accordance with this plan.

It is my understanding that on the basis of this plan, the district engineer made a reevaluation of flood control benefits. According to flood-damage data included in his letter of November 7, 1947, to Mr. Newell annual flood-control benefits at 1943 price levels creditable to Palisades Reservoir are as follows:

Annual damages with uncontrolled natural flows		$1,208,810
Incidental control by Jackson Lake	$136,470	
Controlled by levee system	94,820	
Remaining damages with levees and reservoirs	78,190	
		309,480
Annual benefits creditable to Palisades Reservoir		899,330

The 1943 price level was used as corresponding more closely with the price levels for the period 1939–44 used in determining irrigation benefits than the 1947 price level also used by the district engineer. It will be appreciated if you will in your reply, indicate whether or not you concur with the damages and benefits presented by the district engineer.

I am making these two requests at this time in order that Mr. Newell may complete those negotiations with prospective water users which must be concluded before construction of the dam is actually undertaken.

Sincerely yours,

MICHAEL W. STRAUS, *Commissioner.*

WAR DEPARTMENT,
OFFICE OF THE CHIEF OF ENGINEERS,
Washington 25, D. C., January 28, 1948.

Mr. MICHAEL W. STRAUS,
Commissioner, Bureau of Reclamation,
Department of the Interior, Washington 25, D. C.

DEAR MR. STRAUS: Reference is made to your letter dated December 31, 1947, with which you enclosed a copy of the final draft of the plan of operation for the Palisades Reservoir prepared by a working group designated from our two agencies and requesting my approval of the plan and intention to recommend to the Secretary of the Army regulations for operation of the reservoir in accordance with the approved plan, and evaluation of benefits.

Based on the plan of operations submitted with your letter of December 31, 1947, I concur in the estimate of flood-control benefits expected to accrue from the operation of the reservoir in accordance

with that plan. As you know, our responsibility under section 7 of the 1944 Flood Control Act is for the prescription of regulations for the use of storage allocated for flood control or navigation. The Department of the Army does not propose to issue regulations under section 7 of that act until the structure is placed in operation. I can assure you, however, that my recommendations to the Secretary of the Army for regulations under section 7 will be in accordance with the allocations for flood control as contained in the adopted plan of operation.

Sincerely yours,

R. A. WHEELER,
Lieutenant General, Chief of Engineers.

OPERATING PLAN FOR PALISADES RESERVOIR, PALISADES PROJECT

The Bureau of Reclamation plans to construct and operate Palisades Reservoir for the optimum multiple-purpose use of the entire storage of 1,400,000 acre-feet. To attain this objective, the storage below elevation, 5,497 feet mean sea level, approximating 200,000 acre-feet, will be reserved for dead storage and allocated exclusively to the production of hydroelectric power and the maintenance of a permanent pool for the preservation and propagation of fish and wildlife. The remainder of the storage capacity in the amount of 1,200,000 acre-feet will be operated in the joint interests of irrigation and flood control governed by the best available runoff forecasts.

The Bureau of Reclamation will forecast from time to time during the period from February 1 to July 31 of each year, on the basis of precipitation, temperature, snow survey, and runoff data, the volume of runoff that may be expected in the drainage area tributary to the Snake River above Heise, Idaho. To the extent that such services can be arranged for by cooperative agreements, the Bureau of Reclamation will make the forecasts hereunder after consultation with the reclamation engineer of the State of Idaho or his authorized representative, and the Chief of Engineers or his authorized representative. To facilitate the forecasting of runoff the Bureau of Reclamation will expand the existing hydrologic network and will establish and operate continuously a system for the efficient assembling and analyzing of the basic data. Until such time as a better method of forecasting be devised, the forecasts will be based upon estimates of area-elevation weighted snow water content as determined from periodic snow surveys on or about February 1, March 1, April 1, and May 1, and upon precipitation for September of the preceding year. A sample curve of the correlation between weighted snow water content on April 1 of a given year plus precipitation of the preceding September and the resultant runoff from April 1 to July 31, inclusive, of the year in question, is shown on plate II.

To the end of accomplishing the optimum multiple use of the reservoir, the Bureau of Reclamation, beginning with the first year the reservoir is put into operation, will operate the reservoir on the basis of the forecasted runoff as nearly as practicable in accordance with the following plan:

1. For the purpose of rules and regulations to be prescribed by the Secretary of the Army under section 7 of the Flood Control Act of 1944 (58 Stat. 887, 890) the storage space allocated to flood control is defined as follows:

> It is the reservoir space which, using the governing forecast of flood runoff for the year, according to the curves shown on plate I is required to the end of controlling the forecasted flood volume from the time in that year that reservoir inflow first exceeds 20,000 second-feet through the succeeding July 31 by releases from the reservoir during that period such that the flow at the Heise gage will not exceed 20,000 second-feet, insofar as this control can be accomplished with a reservoir capacity not exceeding 1,200,000 acre-feet. The governing forecast of flood volume for each year is the forecast made as of the day when reservoir inflow in that year first exceeds 20,000 second-feet.

The parameters shown on plate I, empirically derived from floods of record, are enveloping curves of the storage requirements for various volumes of total forecast runoff from any given date to July 31. The reservoir capacity required to control the flood to a discharge of 20,000 second-feet (or less) below the dam is indicated by the ordinate of the parameter corresponding to the forecasted runoff on the date when the inflow to the reservoir exceeds 20,000 second-feet.

2. During the period of each year from the date of the first forecast about February 1 to the date of making the governing forecast for that year (approximately the middle of May) herein designated as the evacuation period, the reservoir will be operated in such a manner that the required reservoir level as determined by the parameters on plate I at the time inflow to the reservoir exceeds 20,000 second-feet can be attained with minimum practicable rates and fluctuations of discharge. The rate of discharge during the evacuation period would be determined as follows: The reservoir level required on or about May 15 (the date on which inflows normally may be expected to exceed 20,000 second-feet) would be estimated by use of the parameters on plate I and a May 15 forecast would be derived by deducting probable minimum inflows for the intervening period from the date of periodic forecasts beginning on February 1. The reservoir levels thus estimated would comprise tentative allocations of flood control space at which to aim the evacuation procedure. The rate of discharge then would be selected as that required to release the probable maximum inflow for the period between date of forecast and May 15 plus the evacuation necessary to attain the required reservoir level indicated by the latest tentative allocation.

3. From the date of the governing forecast each year through July 31 of that year herein designated the filling period, the reservoir shall be operated in such a manner that the reservoir content shown on the chart (pl. I) will be maintained but not be exceeded except when storage above those levels is required to limit the flows to 20,000 second-feet at Heise. When the forecasted runoff indicates a required storage capacity in excess of the total active storage capacity of the reservoir, releases in excess of 20,000 second-feet will be made as required but at rates not to exceed 30,000 second-feet, except as indicated in paragraph 4 below.

4. Whenever the pool shall have risen above elevation 5,620, the full reservoir level, due to an extraordinary excess of inflow over the maximum releases permitted under paragraph 1 or is expected to rise above that level within the next 48 hours, releases may be increased temporarily above those previously specified, so as to minimize the peak rate of release and to draw the reservoir down to the full reservoir level as rapidly as possible. However, the maximum rate of such

extraordinary release shall not exceed the estimated maximum mean daily rate of inflow to the reservoir during the period when the reservoir level is above elevation 5,620.

5. All reservoir releases made as herein provided are subject to the condition that no releases shall be made at rates or in a manner that would be inconsistent with whatever operating rules and regulations are laid down by the chief engineer of the Bureau of Reclamation for the purpose of protecting the dam and reservoir from damage.

If operating experience indicates the desirability therefor, the Secretary of the Interior may, after consultation with the Secretary of the Army, modify from time to time the operating plan herein described with respect to the amount of space allocated to flood control each year on the basis of advance forecasts as to runoff, but no modification which would result in a substantial change in the control of floods herein stated to be the objective of the original operating plan shall be made without the concurrence of the Secretary of the Army. Revisions of the rules and regulations prescribed under the Flood Control Act of 1944 will be made by the Secretary of the Army if, in his judgment, these are requisite because of such modifications in flood control space allocations. Modifications in the operating plan not requiring the concurrence of the Secretary of the Army shall not be the occasion for a revision of the conclusions originally reached as to the flood-control benefits to be realized from the original operating plan or of the formula adopted for the allocation of construction costs to flood-control purposes.

A Report on Fish and Wildlife Resources in Relation to the Proposed Palisades Reservoir Project, Snake River, Idaho and Wyoming [1]

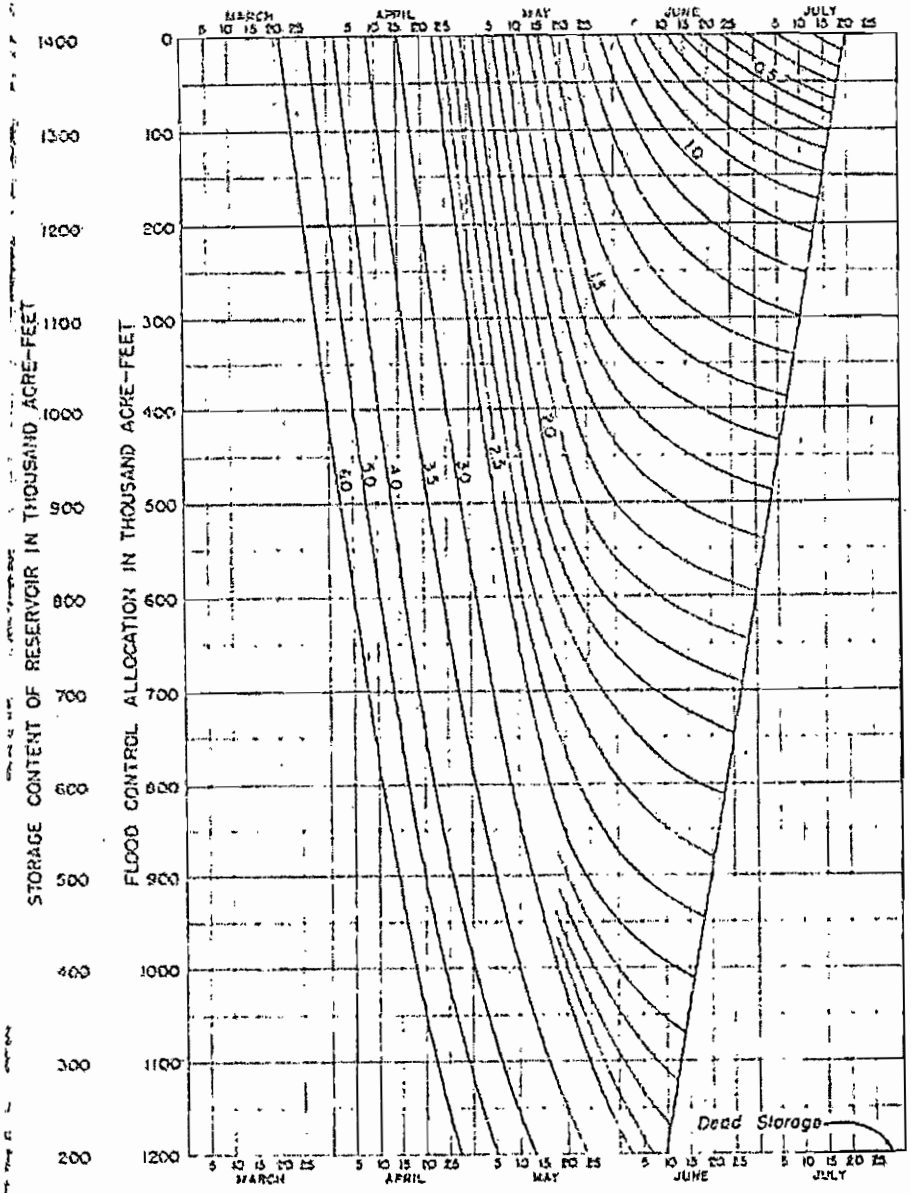
Basin and location: Pacific Northwest Basin, Snake River subbasin; Bonneville County, Idaho, and Lincoln County, Wyo.
Sponsor: Bureau of Reclamation, region 1, Boise, Idaho.
Sponsor's status of project: This project has been authorized under Reclamation Project Act of 1939 (53 Stat. 1187) and construction has started.
Source of engineering data: Bureau of Reclamation, Region 1, Boise, Idaho.
Field investigation: August and September 1946 and May 1947.
Report prepared: December 1947.

SUMMARY

The project proposes the construction of Palisades Dam at Calamity Point, Idaho, as a means of supplementing the water supply for 650,000 acres of irrigated lands, which now receive their water supply from the Snake River and its tributaries above Milner, Idaho. The reservoir would furnish flood protection for 100,000 acres of highly developed agricultural land in the vicinity of the towns of Heise and Roberts, Idaho. Plans for the project also include power development at the dam.

The dam would be 262 feet high and would create a reservoir approximately 20 miles long and about 1.5 miles wide. The normal high pool at elevation 5,620 feet would have a capacity of 1,400,000 acre-feet, with 16,150 surface acres.

[1] Field work and report by river basin studies staff, Fish and Wildlife Service, region 1, Portland, Oreg.



NOTES:

1. *Parameters are anticipated flood run-off of Snake River at Heise in millions of acre-feet for the remainder of the season from any given date to July 31. The anticipated run-off is the forecasted flow at Heise less the storage capacity available in Jackson Lake. A minimum of two hundred thousand acre-feet of storage space in Jackson Lake will be held vacant until May 1 of every year unless the forecast indicates that storage should begin earlier to insure filling that space.*

2. *Storage reservation based upon a release which would give a maximum regulated flow at Heise of twenty thousand second-feet.*

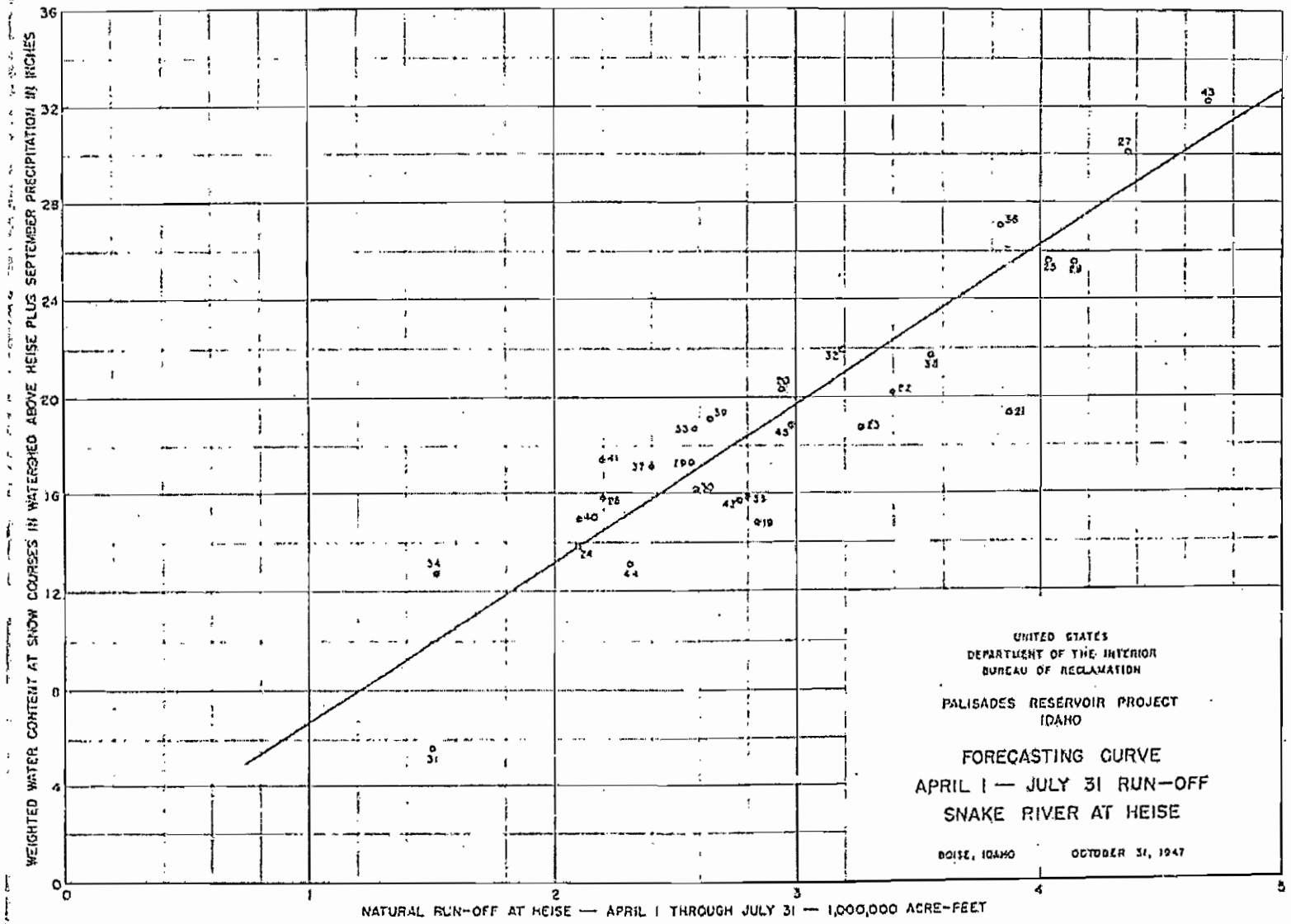
UNITED STATES
DEPARTMENT OF THE INTERIOR
BUREAU OF RECLAMATION

PALISADES RESERVOIR PROJECT
IDAHO

ALLOCATION OF FLOOD CONTROL SPACE

BOISE, IDAHO OCTOBER 31, 1947

75597 O - 51 (Face p. 32) No. 1



75597 O - 51 (Face p. 33) No. 2

Present plans for the development of the Palisades project would result in the flooding of 20 miles of the main Snake River and 18.4 miles of tributaries. There would be substituted for this lost habitat a reservoir that may be expected to produce fair fishing and an increase in fishery value of the river below the dam by the control of flood flows. The net effect on the fishery resource based on the sponsor's plans would be a gain of $11,200 annually.

The reservoir would eliminate some habitat for big game, upland game, and fur animals. Waterfowl would lose good nesting areas, but the resting value of the impoundment would more than compensate for the loss. The project would show a net annual wildlife loss of $3,260. If the proposals of this Service for the development of the extensive wildlife potentialities of Grays Lake, Idaho, are integrated with the Palisades project, there would be an over-all annual wildlife gain of $113,500.

CONCLUSIONS

Based on plans of the sponsor, it is concluded that the effect of the Palisades project on the fish and wildlife resources of the area would be a net benefit of approximately $7,900 annually. If recommendation No. 8 of the Fish and Wildlife Service is followed, this annual gain would be increased to $125,000. Additional values would undoubtedly result to the project if recommendation No. 7 were followed.

It is recognized that certain exigencies may arise which would necessitate changes in the sponsor's plans. In order that this Service may properly determine the ultimate effects of the project on the fish and wildlife resources, it is requested that the Bureau of Reclamation notify the Fish and Wildlife Service of any changes in constructional and operational plans.

RECOMMENDATIONS

It is recommended that:

(1) The minimum releases of water from the reservoir be adequate to maintain the existing fishery in the stream below the dam.

(2) Large changes in volume of release be made gradually, to avoid excessive velocity and turbulence in the stream below Jackson Lake and Palisades Dams.

(3) Subject to the requirements in connection with operations of the Palisades Reservoir for irrigation, flood control, and power purposes, fluctuations of the Palisades Reservoir be held to a minimum.

(4) All timber and heavy vegetation be removed from the reservoir area from the maximum pool down to 5 feet below the minimum pool in order to minimize the hazards to boating.

(5) The entire project area be opened to free use by the public except such portions as may be reserved by the sponsor in the interest of safety, efficient operation, or protection of public property.

(6) Leases of land within the reservoir area stipulate the right of public access for the purpose of hunting, fishing, and other uncommercialized recreational uses.

(7) Representatives of the Bureau of Reclamation, Fish and Wildlife Service, and conservation departments of Idaho and Wyoming

reefer with regard to drawing up a coordinated schedule of operation for Jackson Lake Reservoir and Palisades Reservoir.

(8) The Bureau of Reclamation set up funds, as specified in paragraph 33, for acquisition, development, operation and maintenance of a wildlife management area at Grays Lake, Idaho, to be administered in accordance with the provisions of the act of August 14, 1946, by the Fish and Wildlife Service in cooperation with the Idaho Fish and Game Department. A gross annual gain to wildlife values in the amount of $116,800 would result from consummation of this development, provided an adequate water supply supported by water rights authorizing use for wildlife conservation and management purposes is assured.

(9) Management of the fish and wildlife resources on the Palisades Reservoir area be vested in the States of Idaho and Wyoming.

ACKNOWLEDGMENT

1. The Idaho Fish and Game Department cooperated in supplying data and in the review of this report.

GENERAL DESCRIPTION

2. The Palisades Dam, as proposed by the Bureau of Reclamation, would be located at Calamity Point on the Snake River 4 miles above Irwin, Idaho. The project would furnish supplemental water for 650,000 acres of existing irrigated lands, flood-control protection for approximately 100,000 acres, and possible future power development. Operation plans call for Palisades to act as a carry-over reservoir in conjunction with the American Falls Reservoir. Water would be stored during high-water years to be used during low years. A study of the runoff from 1910 to 1942 shows that this reservoir, operating in conjunction with American Falls Reservoir, would have had a 20-foot or less drawdown for 5 years out of 24; would have used 420,000 acre-feet or less of water for 10 years out of 24; would have been lowered to the dead-storage pool 3 years under one proposed plan of operation and 6 under another plan; and would have failed to fill in 2 or 3 years out of the 24. Considering the years 1919 to 1942, the average annual fluctuation of the reservoir would be 89 feet. Pertinent engineering features of the dam and reservoir are given in table 1.

TABLE 1.—*Engineering features of Palisades Dam and Reservoir*

	Elevation	Surface area	Capacity	Storage line
	Feet	*Acres*	*Acre-feet*	*Miles*
1. Dam crest	5,550			
2. Maximum pool (reservoir full pool)	5,542	18,130	1,400,000	65
3. Average annual maximum pool	5,535	15,850	1,200,000	61
4. Spillway crest	5,500	10,200	710,000	53
5. Average annual minimum pool	5,455	6,240	295,000	34
6. Top of dead storage	5,400	1,440	50,000	21
7. Flow line of power outlet	5,290	32	135	1
8. Flow line of irrigation outlet	5,280	32	130	1
9. Flow line of lowest sluice gates	5,240	32	130	1
10. Stream bed	5,200	0	0	0

3. The reservoir at maximum water level would be approximately 20 miles long and about 1.5 miles wide. The rolled earth-fill dam would be 262 feet high and 2,200 feet long at the crest, with power plant facilities installed at the downstream toe of the dam. The drainage area above the site of the proposed dam is approximately 5,110 square miles. The reservoir site, while in the foothills, has numerous surrounding peaks over 8,000 feet in elevation. The river upstream from the reservoir to Jackson Hole, Wyo., is in a fairly steep-sided canyon, while downstream it flows into a broad and comparatively flat lava plain.

4. The typical semiarid flora of sagebrush, greasewood, bitterbrush, and downy chess is found below the reservoir and on the benchlands within the impoundment area. Vegetation on the wet bottom lands consists of cottonwood, willows, alder, smooth maple, red dogwood, bog birch, and lowland spruce. Conifers, principally lodgepole pine and Douglas fir, are dominant over the higher, more humid areas. Aspen is also plentiful, while snowberry and serviceberry dominate the undergrowths.

5. The proposed reservoir at maximum pool would inundate about 2,760 acres of irrigated land, 4,100 acres of dry farm land, 4,950 acres of sagebrush, 3,300 acres of timber, and 1,100 acres of river bed.

6. Records covering a 31-year period at Heise, Idaho, show an average annual flow of 6,745 second-feet in the Snake River. During the period 1930 to 1944 the average for the 4 months of lowest flows, which occurred during the growing months of June to September, was 3,830 second-feet. The river is regulated to some extent at Jackson Lake (reservoir) in Wyoming. Spring runoff would be reduced by storing in the Palisades Reservoir, and water would be released during the irrigation season in quantities about equal to those now released from Jackson Lake during average years.

7. Existing information indicates that Jackson Lake Reservoir in Wyoming would be operated in conjunction with Palisades and American Falls Reservoirs. Under existing operation schedules very small releases of around 15–20 second-feet are permitted at Jackson Lake from October until June. With the approach of spring snow melting, and early rain, the releases increase from about 15 second-feet around June 20 to about 5,000 second-feet by June 25. These greatly increased releases prevail through the irrigation season of July, August, and September. At the end of the irrigation season in September releases again are dropped to about 15 second-feet.

8. It is proposed by the sponsor that an average daily flow of 1,000 second-feet would be maintained in the river below the dam during the winter months. Because of necessary peaking operations during this period the flow would vary from a minimum of approximately 500 second-feet to a possible maximum of 1,400 second-feet.

9. In 32 years of record at Irwin, Idaho, located about 8 miles downstream from the site of the proposed dam, average January and July temperatures were 19° F. and 64.8° F., respectively. The records also indicate a maximum temperature of 102° F. and a minimum of −45° F. During the same period of record, the average dates of the last killing frost in the spring was June 15 and the first in the fall was September 4. An average growing season of 81 days, and an average annual precipitation of 13.51 inches prevail in the area.

FISHERY

Preproject

10. *Streams within the proposed impoundment area.*—Snake River above Calamity Point, the site of the Palisades Dam, has a well established reputation for producing some fine catches of trout. However, due to the heavy spring runoff which usually occurs in May and June, and the fluctuating releases of water for irrigation from Jackson Lake, fishing in the river is of little consequence until about the first part of September. From then until the end of the trout season in October fishing is very good. Because of the close proximity of this area to the Grand Teton National Park and the famous Jackson Hole country of Wyoming, considerable camping and fishing are enjoyed on the Upper Snake River by visitors to these areas.

11. Of the many tributaries which enter the proposed impoundment area, the only ones having significant fishery values are Grays River, Salt River, and Bear Creek. These streams provide fair fishing at the start of the season and again in the fall.

12. There are no anadromous fish in the Snake River above American Falls. At present cutthroat trout is the primary species of the region. Rocky Mountain whitefish provide a limited amount of local fishing in the spring before the period of heavy runoff. In recent years, the Idaho Fish and Game Department has planted only cutthroat trout in the main Snake River.

13. Table 2 shows the sections of streams affected by the Palisades Reservoir at maximum pool elevation and the values per mile assigned. The value of the sport fishery within the impoundment area is estimated to be $11,530 annually.

Table 2.—*Allocation of stream values between the areas affected by the Palisades Reservoir*

Stream	Miles affected by reservoir at maximum pool elevation	Preproject value per mile	Postproject value per mile	Total value
Snake River	[illegible]	[illegible]	[illegible]	[illegible]
Salt River	[illegible]	[illegible]	[illegible]	[illegible]
Grays River	[illegible]	[illegible]	[illegible]	[illegible]
Bear Creek	[illegible]	[illegible]	[illegible]	[illegible]
Lower Stream Channels	[illegible]	[illegible]	[illegible]	[illegible]
Total	[illegible]	[illegible]	[illegible]	$11,530

[1] Not applicable to [illegible].

14. *Streams below the proposed impoundment site.*—Fishing in the river from Calamity Point downstream to American Falls Reservoir also is seriously impaired by the spring floods and the heavy releases of irrigation water from Jackson Lake. An annual preproject value of $5,720 at the rate of $250 per mile is assigned to the 33 miles of stream between the site of the proposed dam and the town of Heise, Idaho. From Heise 130 miles downstream to the American Falls Reservoir, an annual preproject value of $13,000 is assigned, at the rate of $100 per mile. In this lower section of the river, there are 60 irrigation diversions and 3 power diversions. All of these are unscreened, and the loss of fish in the ditches is believed to be considerable.

15. *Jackson Lake Reservoir.*—The meager information available indicates that Jackson Lake and the river directly below provide fair fishing in spite of the considerable fluctuation of water level. Principal species are the mackinaw trout in the lake and cutthroat trout in the river below. In the absence of creel-census data or field observations it is considered inadvisable to place a preproject value on the fishing resources of these two areas.

Postproject

16. *Palisades Reservoir.*—Water use for irrigation would stop in September, and the Palisades Reservoir would be at the lowest stage from this time until the spring floods in May and June, which would bring the reservoir up to capacity. A total drawdown of 123 feet is possible. There is little doubt that Palisades Reservoir would produce some trout fishing, but it is believed that the considerable fluctuation of water level and the unfavorable type of shore line would be inimical to the maximum production of fish. It is considered further that the interest of fishing in the reservoir probably would not be great, because excellent stream and lake fishing already exists in nearby areas more readily accessible to the public. An annual sport fishery value of $20,000 is assigned to the reservoir.

17. *Streams within the proposed impoundment area.*—At the average annual minimum pool, 15 miles of the main Snake River and 1.8 miles of Bear Creek would be flooded permanently. No values are assigned to these sections of stream. Between the average annual minimum pool and the maximum pool elevations, 7 miles of the main river, 3.5 miles of Salt River, 1.7 miles of Grays River, and 1.4 miles of Bear Creek would be flooded temporarily. Since this temporary flooding would occur during the spawning season of the trout and throughout most of the fishing season, only 10 percent of the preproject value, or $185, is assigned.

18. *Stream below the proposed impoundment site.*—It is anticipated that water would be released from Palisades Reservoir during the irrigation season in quantities about equal to those now released from Jackson Lake during the average years. As proposed by the sponsor, an average daily flow of 1,900 second-feet and a minimum of approximately 500 second-feet would be provided below the dam as compared with a present minimum flow of 1,700 second-feet. The storage of spring flood flows would improve early summer fishing somewhat, and it is believed that the postproject value would be $24,000, which is about 10 percent greater than the preproject value.

19. *Jackson Lake Reservoir.*—Tentative plans of the sponsor regarding the operation of Jackson Lake Reservoir indicate that with the completion of Palisades Dam joint operation schedules would be developed for these two impoundments. The exact schedules which may be followed have not as yet been developed, but discussions with the sponsor indicate that the present excessive fluctuations in Jackson Lake would be considerably reduced, and that an increased and more stabilized flow would be maintained in the river below. It is not possible, on the basis of available information, to determine the value of Jackson Lake under either preproject or postproject conditions.

20. *Summary of fishery values.*—The present fishery of the area affected by the Palisades project is worth approximately $33,300

annually. The postproject value is estimated at $44,500, giving a net annual gain of about $11,200 in sport fishery value.

TABLE 3.—*Summary of annual fishery values*

Area	Preproject	Postproject	Difference
Streams within [illegible]	$[illegible]	$[illegible]	−$[illegible]
[illegible]	[illegible]	[illegible]	[illegible]
Stream below the [illegible]	[illegible]	[illegible]	[illegible]
Total	[illegible]	[illegible]	[illegible]
Rounded to	[illegible]	[illegible]	[illegible]

WILDLIFE SECTION

Preproject

21. *Big game.*—Mule deer are common throughout the south portion of the reservoir area during the entire year, but the heaviest concentrations occur during fall and winter. The carrying capacity is estimated to be at least 20 deer per square mile. There is also a herd of about 100 elk in the nearby Bear Creek drainage, but only a few of these range into the impoundment site. Some of the Jackson Hole elk drift into Swan Valley north of the project. While the reservoir area provides some winter range for elk, the use by this species is not considered sufficient to merit evaluation. Browse conditions are good, and the carrying capacity of the range is far above the present big-game populations. A few black bear occasionally come into the area. The annual value of the big-game harvest on the impoundment site is estimated to be $800.

22. *Upland game.*—Ruffed grouse are found on the south side of the river, mainly along the bottom lands, and on the 2,760 acres of cutover land which also provides most of the deer habitat. Blue grouse occupy the upper edges of the entire reservoir site. Sage hens were formerly abundant in the sagebrush cover, but they are now scarce. All upland game birds are protected in the area, but their annual value, based on the possible harvest from the present population, is appraised at $70.

23. *Fur animals.*—Beavers are the most important fur-bearing species on the project. They are largely confined to the 24 miles of the main stream of the Snake, Salt, and Grays Rivers and 8 miles of creeks on the south side of the river. Muskrats are also found along all of the water courses, but their principal habitats are the three sloughs along the main river, and the flats of the Salt River in the upper end of the reservoir. Food conditions are good for minks, and they are especially plentiful along the side creeks. Weasels are more abundant than minks, and a few otters inhabit the south side of Snake River. The total annual fur harvest is valued at $4,620.

24. *Waterfowl.*—There are approximately 160 acres of marshland, including about 35 acres of bulrush, and 500 acres of wet land with brushy shrub cover which offer fair nesting habitat for ducks. Five islands on the main river within the reservoir site provide nesting habitat for Canada geese. These islands vary from 3 to 20 acres in size. Grays Lake and Blackfoot Reservoir are the only large water bodies within a 40-mile radius which offer a resting place for waterfowl. Feeding areas within the impoundment site are confined mainly to the slack water areas, where a narrow-leafed pondweed is found, and the marsh area near Sulphur Bar Creek. Waterfowl hunting is concentrated in the latter area and on the five islands in the main river. The preproject waterfowl resource is valued at $3,700.

Postproject

25. *Big game.*—The impoundment would result in a loss of the big-game habitat within the maximum pool.

26. *Upland game.*—The construction of the dam would result in a complete loss of upland game within the reservoir area.

27. *Fur animals.*—The average annual fluctuation of 89 feet is probably too great to permit beavers or muskrats to use the reservoir. It is believed that the impoundment site would be abandoned by fur animals to such an extent that no trapping would be done in the vicinity.

28. *Waterfowl.*—The impoundment will flood out the three sloughs near Sulphur Bar Creek which provide the principal duck nesting area. The fluctuating water levels would probably eliminate most of the nesting of ducks and geese, but the impoundment should attract migrating birds. These migrants would concentrate in the shallow water at the upper end of the reservoir. They might feed on the irrigated lands along the Salt River. The hunter kill on and near the impoundment during an average year would probably be equal to the former kill along the river, or 100 birds valued at $2,400. The average annual minimum pool of 5,000 acres is appraised at 50 cents an acre, or $2,500, as a resting area for waterfowl. An additional value of $230 is assigned to the protection afforded nesting waterfowl by the better regulated stream below the dam. The total postproject value all for waterfowl is $7,630.

TABLE 4.—*Summary of annual wildlife values*

Wildlife resource	Preproject	Postproject	Difference
Big game	$800	0	−$800
Upland game	70	0	−70
Fur animals	4,620	0	−4,620
Waterfowl	3,700	$5,930	2,230
Total	9,190	5,930	−3,260

MEANS OF MITIGATING LOSSES AND DERIVING MAXIMUM BENEFITS

29. Jackson Lake, approximately 110 miles upstream from the site of the proposed Palisades Dam, serves as a storage reservoir for irrigation water. Control of releases is maintained at the outlet of the lake and all water is carried in the existing river channel to irrigation interests below the town of Alpine, Idaho. The lake is ordinarily drawn down considerably in October and November as protection against ice conditions and again in the spring in anticipation of spring floods. The principal species present is the mackinaw trout, which spawns within the lake during autumn. Under present conditions, fishing in the lake is considered to be poor, and the average size of mackinaw trout has decreased markedly the past decade.

30. It is highly probable that marked reduction of drawdown in spring and autumn would improve conditions for fish, and increase

the value of the fishery. Particularly, a more stable water level during the spawning season of the mackinaw trout is desirable. Greater uniformity of flow in the river between Jackson Lake and Palisades reservoir would increase the value of the stream fishery.

31. In order to insure adequate consideration of all interests involved, it is recommended that representatives of the Bureau of Reclamation, Fish and Wildlife Service, and of the conservation departments of Idaho and Wyoming confer with regard to drawing up a coordinated schedule of operation for the two impoundments. When a schedule has been prepared, the Service will be in better position to determine the probable effects on fish and wildlife resources concerned.

32. Grays Lake, located 25 miles southwest of the Palisades Reservoir site at the headwaters of Willow Creek, is an area of excellent wildlife potentialities. This lake was one of the best natural marsh areas in the western United States, and it provided excellent nesting habitat for the Canada goose, redhead, ruddy duck, mallard, cinnamon teal, and other duck species, as well as for nongame birds such as the sandhill crane. In 1907, the Indian Service acquired a right to use the waters of the lake in excess of the demands of recognized rights along Willow Creek. That agency constructed a canal through the divide between the lake and the Blackfoot River watershed in order to divert surplus water to its Blackfoot River Reservoir. The diversion canal is known as Clark's Cut. Control works were constructed at the head of Clark's Cut and at the head of Willow Creek which is the natural outlet of the lake. Grays Lake water was first diverted into Blackfoot River Reservoir by this means in 1924. The raising and lowering of the lake level, as a result of storage and drainage for irrigation, has drastically reduced muskrat and nesting waterfowl populations on Grays Lake.

33. It is proposed that the Bureau of Reclamation provide for the substitution of water from the Palisades Reservoir for that now supplied to the Fort Hall Indian Reservation from Gays Lake and that Grays Lake and necessary water rights be acquired, and specified surrounding lands be purchased and developed for wild-life management. It is estimated that the habitat improvement made possible by this exchange would increase the annual wildlife values of Grays Lake from their present appraisal at $35,600 to a value of $152,400. This represents a gross annual gain of $116,800.

34. In order to develop a wildlife management area on Grays Lake which would produce the estimated benefits to wildlife, it would be necessary to acquire approximately 9,300 acres of private land and 3,500 acres of public surveyed land, which encompasses about 21,000 acres of public land in the bed of Grays Lake. The cost of this land is estimated at $300,000. An additional $50,000 would be needed for immediate development, which includes construction of buildings, outlet structures, fencing and roads. The annual cost of administration and maintenance of the wildlife project is estimated to be $15,000. It is proposed that the Bureau of Reclamation bear these costs. The $350,000 would be provided as a capital cost. Administration and maintenance costs of $15,000 would be included in the Bureau's annual appropriation for operation and maintenance of the Palisades project and made available to the Fish and Wildlife Service for its wildlife management functions on Grays Lake. Any additional costs over the above estimates should be borne by the wildlife agencies concerned in

the management of the area. The Bureau would also bear the costs of supplying irrigation water from the Palisades Reservoir to a diversion point for use on the Fort Hall Indian Reservation. In exchange for the above expenditures, the Bureau of Reclamation, under the authorization of Public Law 732 (79th Cong.) would allocate an appropriate part of the cost of the Palisades Reservoir to the preservation and propagation of fish and wildlife on a nonreimbursable basis. This nonreimbursable allocation would be based on net annual benefits to be determined by subtracting all costs chargeable to realization of these values from the gross annual wildlife benefit.

SUMMARY OF VALUES

35. The summary of values in table 5 gives an estimate of the benefits to fish and wildlife that are expected if the project is developed according to the sponsor's plans. Benefits that would result from plans recommended by the Service are also shown.

TABLE 5.—*Summary of values*

	Preproject	Postproject	Difference
Sponsor's plans:			
Fish	$33,200	$44,500	$11,300
Wildlife	9,190	6,930	−2,260
Total	42,490	80,430	7,940
			[1] 7,900
Recommended plans:			
Fish	33,300	44,500	11,200
Wildlife	44,820	158,340	113,520
Total	78,120	202,840	124,720
			[1] 125,000

[1] Rounded figure.

RUDOLPH DEFFENBACH,
Coordinator, River Basin Studies.

JANUARY 2, 1948.

RECREATION

PRELIMINARY REPORT ON RECREATIONAL POTENTIALITIES FOR THE BUREAU OF RECLAMATION, REGION I, BOISE, IDAHO

INTRODUCTION

By interbureau agreement and upon the request of the Bureau of Reclamation, the National Park Service submits the following report on the recreational potentialities of the Palisades Reservoir project on the Snake River in Idaho and Wyoming.

Field investigation of the project was made by Messrs. Olcott and Caywood March 3 to 8. Considerable time was spent with Mr. I. D. Jerman, project engineer for the Palisades project, collecting information and data, and visiting the Palisades Reservoir area. While in Idaho Falls they obtained helpful information from Lynn Crandall of the United States Geological Survey, who is water master for the upper Snake River Valley; District Ranger Goodwin of the Caribou National Forest whose district borders on the south side of the Palisades Reser-

voir site; and Jack Gehlke, secretary of the Chamber of Commerce. A day was spent at Jackson Lake Reservoir and a meeting held with John S. McLaughlin, Superintendent of Grand Teton National Park. Another day was spent in Pocatello, Idaho, with Mr. Varner, Supervisor of the Caribou National Forest.

The Bureau of Reclamation in its Project Planning Report 1–5.17–1 entitled "Water Supply for Palisades Reservoir Project" presents two plans designated as plan A and plan B for the regulation and use of Snake River water by means of a unified plan for operating the existing American Falls and Jackson Lake Reservoirs and the proposed Palisades Reservoir. Under plan A the reserved space in the existing American Falls Reservoir and the new storage provided by Palisades Reservoir would be used to reduce water shortages on presently irrigated lands in extremely dry years. This plan is favored by the present water users. Under plan B the reserved space in American Falls Reservoir would be used for development of new land and Palisades Reservoir would be used to provide a supplemental supply of stored water for the existing projects. Plan B is recommended by the Department of the Interior, but it is not known at the present time which plan will be finally adopted.

The Bureau report states:

The following criteria were utilized in [illegible] the reservoir operation under which plan A and plan B are based:

1. No [illegible] was released from Palisades Reservoir for irrigation use in the lower valley until American Falls Reservoir had been emptied.

2. No water was released from Jackson Lake until Palisades Reservoir had been emptied.

3. Water belonging to the American Falls storage right was temporarily stored in space which otherwise would be empty in Palisades, Henrys Park and Grassy Lake Reservoirs, and it was either moved to the American Falls reach or was spilled [illegible] the upstream reservoirs.

4. No [illegible] was stored in vacant space in Jackson Lake, Palisades, and the Henrys Park Reservoir [illegible] which was regulated [illegible] out of storage water was [illegible] released from either Palisades or American Falls Reservoir.

This "operating criteria provides a means of accumulating and holding storage in, or shifting storage to, the farthest upstream reservoirs which are less likely to spill."

SUMMARY

The Palisades project is a plan for the further control and regulation of the use of Snake River water in eastern Idaho. It includes the construction of the Palisades Dam and the coordinated operation of the American Falls, Palisades, and Jackson Lake Reservoirs. The project and plan of operation as proposed in the Bureau report "Water Supply for Palisades Reservoir" would result in greatly increasing the recreational value of Jackson Lake Reservoir by lessening its fluctuation and would create certain new recreational values at Palisades Reservoir.

Jackson Lake would be maintained at practically a constant level during the summer, except during extremely dry periods such as occurred in 1934–35. In the past there has been an annual draw-down averaging about 23 feet between the high-water level reached in June or July and the low stage reached in September. Under either plan A or plan B, it is estimated that the reduction of the amount of fluctuation would result in substantial recreational benefits.

The topography of the Palisades Reservoir area and the plan of operating the water storage are not particularly conducive to recreational use. The area receives little use at present due to there being superior recreational attractions in the general region. However, it is estimated that the reservoir will have an annual attendance of around 6,250 people.

An archeological investigation should be made of the reservoir area. When earth is moved to build the dam, it should be carefully watched for evidences of fossilized bones.

GENERAL DESCRIPTION

The proposed Palisades Reservoir will be on the Snake River, 57 miles by road, upstream from Idaho Falls in southeastern Idaho. The dam site is 7 miles southeast of Irwin, Idaho. The area is easily reached on State Highway 29 from Ririe, the nearest railroad town. This highway is paved and follows along the northeast side of the Snake River to Alpine, on the Idaho-Wyoming border 15 miles above the dam site, where it joins U. S. Highway 89.

The reservoir will inundate the larger part of Grand Valley and a small part of Salt River Valley. At a flow-line elevation of 5,620 feet, the dam will back water 21 miles up the Snake River, to a point 6 miles above Alpine. Grand Valley lies between Targhee National Forest to the north and Caribou National Forest to the south. The steep hillsides bordering the valley floor support a good growth of pine, spruce, fir, and aspen.

Bear Creek, a fine fishing stream, flows northeast and empties into the Snake River just above the dam site. Bear Creek and its tributaries drain the area around Big Elk Mountain which rises to an elevation of 9,478 feet. This primitive area is a favorite fishing and hunting spot.

To the north and east rise the southern foothill peaks of the Grand Tetons. Sheep Creek Peak, Elkhorn Peaks, Needle Peak, and Powder Peak form a scenic backdrop for the area.

The reservoir would have a maximum water-surface area of 16,400 acres, a storage capacity of approximately 1,401,000 acre-feet, and a maximum vertical fluctuation of 140 feet. The Bureau report states that—

The plan of operation of Palisades Reservoir for flood-control purposes depends on what arrangements are finally worked out between the Department of Interior and the War Department. * * *. The operating plan which the Bureau will seek to have adopted is as follows:

The top 900,000 acre-feet of storage space will be used jointly for flood control, irrigation, and power development. * * * Beginning on February 1 of each year when damaging floods are in prospect, storage capacity would be vacated as needed in accordance with runoff forecasts, until flood season has started. During the early part of the flood season, the only water impounded * * * would be the flows in excess of 20,000 cubic feet per second at Heise. As soon as * * * the danger of high floods has passed, the operations schedule would be aimed to capture the end of the flood flow in any remaining unfilled storage capacity of the reservoir.

The next 376,000 acre-feet between elevations 5,543 and 5,480 feet would be for irrigation use, and the bottom 120,000 acre-feet would be dead storage to provide for a minimum power head.

Under plan A, according to the Bureau studies, Palisades Reservoir would have filled every year for the 24-year period, 1919–42, except two, 1934 and 1935. Three times it would have been drawn down to dead storage, in 1931, 1934, and 1935.

Under plan B, the reservoir would have failed to fill 4 years, 1932, 1934, 1935, and 1941, and six times it would have been drawn down to dead storage level and it would have remained at dead storage level throughout the 1934 water year. Twelve times in the 24-year period the reservoir would have been drawn down below the irrigation pool level of 5,543 feet, including the times it would have been drawn down to dead storage.

Under plan A there will be an average annual vertical fluctuation of about 50 feet and under plan B an average fluctuation of about 70 feet. This will result in extensive horizontal fluctuation of the water line in the upper end of the reservoir where the slopes are very gradual.

In the lower half of the reservoir area where the horizontal fluctuation will be much less, the hills will rise precipitously from the water's edge except immediately to the east of Bear Creek on the south side of the reservoir.

The topography of the area and the proposed operation of the reservoir under both plan A and plan B combine to limit the recreational potentialities of the reservoir.

Climate

The nearest weather station to the area is at Irwin, 7 miles downstream. Records have been kept at this station since 1894. December, January, and February are the coldest months with average maximum temperatures ranging from 30° to 31° and average minimum temperatures from 7° to 9° above zero. The wind blows briskly from southeast down the valley. In the summer, July is the warmest month with an average maximum of 83.5° and an average minimum of 51.0°. The highest recorded temperature for July is 102°.

The average date of the last killing frost is June 21 and the first killing frost is September 1. However, frosts have been recorded in July for several years. The average length of the growing season is 72 days. Summer precipitation is greatest in May and June. The driest months are April, July, and August. Annual precipitation ranges from 9 to 21 inches with a mean average of 14 inches. Snow may fall during all months except July and August.

Geology

The reservoir basin is nearly everywhere covered with recent river gravels and soil. Occasionally along the river banks exposures of compacted clay, siltstone, and tuffaceous sandstone are found. The left side of the valley (southwest of the river) is very steep and probably is a fault scarp. On the right side a number of canyons have brought alluvial material in large quantities and deposited it at the mouths of the canyons in fairly level fans. These areas will appear as mud flats when the reservoir has been drawn down to 5,500 feet.

The mountains bordering Grand Valley are composed of folded and faulted beds of marine deposits. Unconformities occur between the beds of different ages, showing that the region was being deformed and eroded between the various periods of deposition. Andesite outcrops are in evidence which point either to a period when intrusive masses entered the silts or when two separate lava flows poured out during the deposition of the silts.

Historical and archeological aspects

To most of the fur trappers, the Snake River above the mouth of Henrys Fork was called the Lewis River or Lewis Fork, so originally named on the Clark map of 1810 for Capt. Meriwether Lewis, as Clarks Fork of the Columbia was named after Capt. William Clark. The present name was derived from the Snake or Shoshone Indians, and first appears on the Greenbow map of 1840.

In 1808 John Jacob Astor secured a charter from the State of New York for the American Fur Co. Part of Astor's ambitions was to establish a trading post at the mouth of the Columbia River and to exploit the northwestern wilderness. To do this he sent out two expeditions, one by way of Cape Horn and the other overland along the route of Lewis and Clark. Both did achieve their objective after many hardships, and Astoria became the first occupied post in Oregon Territory.

The overland Astorians in 1811 were the first transcontinental expedition after Lewis and Clark. Under the leadership of Wilson P. Hunt, they paused at the confluence of the Hoback and the Snake Rivers and debated as to whether they should abandon their horses and go down the unknown Snake River in canoes. They wisely decided to continue by land after exploring the Snake River canyon. Had they decided to go by river they would have passed through Grand Valley.

On June 29, 1812 a group of six Astorians led by Robert Stuart left Astoria to carry dispatches overland to Astor. Stuart had gone to Astoria by sea. They intended to go due east by way of Portneuf River. However, the Crow Indians followed them and threatened their destruction. In order to elude them, Stuart went north to the Snake River, but near the present Idaho-Wyoming boundary the Crows intercepted them and stampeded their horses. A bronze plaque has been erected by the Historical Landmark Commission to mark the approximate location. However, Supervisor Varner, of the Caribou National Forest believes that this event occurred near the mouth of Van Creek. This location will be inundated when the reservoir fills. The Astoria party built a raft and descended the Snake River for over a hundred miles.

Other trapping expeditions of which we have no record may have passed through Grand Valley in these early days. By 1815 the beaver were trapped out.

Grand Valley must have been the rendezvous of many Indian bands. The Crows, Bannocks, Shoshone, and Blackfeet are known to have frequented the area. Place names given by the early settlers such as two Indian Creeks, Papoose Creek, and Squaw Creek would verify this. There are several hot springs in the area. Salt, an essential Indian commodity, was gathered from springs to the southwest. At the time of our inspection, the ground was covered with snow so that a reconnaissance could not be made for camp sites, but from several local people information was gotten to the effect that arrowheads and evidence of camps are found at several places, including that around the hot springs.

In testing some of the earth near the dam site, deep trenches have been made by the Bureau of Reclamation. In one of these, 37 feet from the surface, two fossilized sections of animal bones were found. Many strata of fresh-water shells of probable Pleistocene times are also found in these same deposits. When this earth is moved to build the dam, it should be carefully watched for additional evidence.

An archeological survey should be made of the sites in Grand Valley before water begins to back up in the area.

PRESENT RECREATIONAL DEVELOPMENT AND USE

The Forest Service maintains one campground in the proposed reservoir area and two on the Snake River below the dam site. Heiman Camp in the reservoir area will accommodate about 100 people. Stoves and toilets are provided. Its only use is by occasional fishing parties. Spring Creek Camp, located about 12 miles below the dam site adjacent to the highway, receives the heaviest use of the three areas. The facilities provided in this small campground include stoves and one 8-unit toilet. Falls Campground, located about 10 miles below the dam site, was fully developed by the Civilian Conservation Corps to accommodate about 1,000 persons. It was used extensively for the first 2 or 3 years after completion, but has received very little use since. As far as is known, there are no other recreational facilities in the vicinity of the reservoir site and the little use that has been made of the Forest Service campgrounds would indicate that there is little interest in the use of this section of the Snake River Valley at present.

According to L. M. Varner, Supervisor of the Caribou National Forest, the average annual use of the forest was between 5,000 and 6,000 during the war years. Total use at the present time is estimated at about 8,000 per year. A major part of this use is in the southern end of the forest accessible from Pocatello.

The local residents and people living in the Salt Lake City area go to the Henrys Fork because it is more scenic and more dependable for fishing and hunting than the Snake River. Many already have summer-home sites around Island Park and Henrys Lake Reservoirs in the upper reaches of Henrys Fork.

Hunting around the proposed Palisades Reservoir is not too great, because the area is hard to hunt due to brush, timber, roughness of the topography, and inaccessibility. There are many areas more accessible offering better hunting, such as around the Jackson Hole, Lost River, and Salmon River areas.

Most of the use in the past has been day and week end. It is not probable that this will change considerably in the future. Undoubtedly if pleasant conditions and sites are available, there will be requests for summer-home sites around the area.

ESTIMATE OF RECREATIONAL USE

The reservoir will be located within 57 miles of Idaho Falls which had a population of 15,024 in 1940 and an estimated population of 20,000 in 1946. The valley of the Snake River from Idaho Falls north to

Ashton is rather densely populated with farming communities. The following table shows population within 25, 50, and 75 miles by road from the reservoir area:

25 miles by road from the dam site	1,790
50 miles by road from the dam site	20,267
75 miles by road from the dam site	65,540

The reservoir will lie between two major routes of north-south traffic. On the east, U. S. Highway 89 brings traffic from Utah to Grand Teton and Yellowstone National Parks. According to figures prepared by the State of Wyoming for the period of June 1, 1946, to September 30, 1946, the average daily travel which passed the intersection of U. S. Highway 89 and Idaho State Highway 29 at Alpine amounts to 313 cars of which 215 were foreign and 98 were commercial. On the west, U. S. Highways 191, 91, and 20 pass through Idaho Falls where travel from the south and west converges to go to the west entrance of Yellowstone National Park.

The average daily travel through Idaho Falls as computed by the Idaho Highway Planning Survey for the years 1941, 1945, and 1946 follows:

Comparison of annual average 24-hour vehicle-miles of travel

	All vehicles			Foreign passenger cars			Commercial vehicles		
Year	1941	1945	1946	1941	1945	1946	1941	1945	1946
Number	12,415	13,510	15,301	6,340	1,755	4,140	1,661	3,614	3,226

Travel density on State Highway 29 from Irwin to the Wyoming State line was computed by the Idaho Highway Planning Survey for the years 1941, 1945, and 1946 on an average 24-hour basis as follows:

	All vehicles			Foreign passenger cars			Commercial vehicles		
Year	1941	1945	1946	1941	1945	1946	1941	1945	1946
Number	183	169	169	27	11	8	48	68	49

On the basis of present population, travel on highways in the vicinity and comparison of the potential recreational attractions of the Palisades Reservoir area with other recreational areas in the region, it is estimated that the total annual visitor-days use will be around 6,250.

This is obtained as follows:

Zone A:	
Population within 50-mile radius plus estimated 1946 population of Idaho Falls	50,000
Percentage of use	10
Estimated visitor-days	5,000
Zone B:	
Use from beyond 50-mile radius and Idaho Falls estimated to be 20 percent of total use	1,250
Estimated total visitor-days use	6,250

RECREATIONAL DEVELOPMENT

Due to the limited recreational use expected to be made of the area and the ruggedness of the topography around most of the reservoir, development of the recreational facilities will be limited.

A plan for development of the area cannot be made until it is determined where State Highway 29, which now traverses the entire length of the reservoir area, will be relocated. The Bureau has surveyed a route paralleling the northeast shore of the reservoir. It is necessarily winding, would require large fills or bridges and big cuts, and would be expensive. The Chamber of Commerce of Idaho Falls and others are pressing for an entirely new location which would run southwest from a point on U. S. Highway 89 at the upper end of the reservoir to Grays Lake and then northwest to Idaho Falls. If this route is selected there would be no road access to most of the northeast shore of the reservoir.

Access will be provided to the southwest end of the reservoir between the dam and Bear Creek by the construction of a new Forest Service road to replace the one which now parallels the south bank of the Snake River. The new road will give access to a small usable area just south of the dam. However, it is questionable whether this location would be suitable for a public boat harbor due to the prevailing southeast winds in the summer.

There is an area suitable for extensive public recreational development on the south side of the reservoir immediately east of Bear Creek. However, about 2 miles of expensive sidehill construction would be required to provide an access road. Development of this area should be held until the need for it has been proven.

It is recommended that a road be constructed between the west end of the dam and the proposed Forest Service road. This would provide desirable circulation of traffic in the vicinity of the dam and recreation area. The initial development of the recreation area just south of the dam should provide for picnicking, camping, and boating. A boat dock and launching ramp should be provided even though boats kept in the lake may have to be moored some distance away.

LAND ACQUISITION

The Caribou National Forest boundary is the south bank of the Snake River from a point about 1½ miles downstream from the mouth of the Salt River to some distance below the dam site. The Targhee National Forest boundary follows section and quarter section lines through the hills bordering the northeast side of the reservoir area. The reclamation withdrawal for the project includes most of the land between the two forests for the full length of the reservoir. All of the private land within the withdrawn area and the few tracts between the withdrawal line and the boundary of the Targhee National Forest west of the Idaho-Wyoming State line should be acquired. Practically all of this land which will not be flooded by the reservoir is rough hill land of little value.

FURTHER STUDY AND PLANNING

Further recreational study and planning of this reservoir is recommended when it has been determined where the existing State highway will be relocated. The present investigation was made under adverse winter conditions. Further study should be made during the summer use season.

JACKSON LAKE RESERVOIR

General description

Jackson Lake Reservoir is located in the northern end of Jackson Hole in western Wyoming. United States Highway 89, the south entrance road to Yellowstone National Park, runs around the east side of the reservoir. United States Highway 287 joins it about a mile from the dam. Originally Jackson Lake had a water surface area of 17,000 acres. In 1907 a dam was constructed on the Snake River near the outlet of the lake, creating a reservoir with a storage capacity of 300,000 acre-feet. The dam was raised in 1916 to provide for a storage capacity of 847,000 acre-feet. At maximum storage elevation, 6,763 feet above sea level, the reservoir has a water surface area of 25,500 acres; at minimum or dead storage elevation, 6,730 feet, there is a water surface area of around 17,000 acres.

During the 24-year period, 1919–42, used in making the operation studies for the Palisades project, Jackson Lake Reservoir was filled 14 times and drawn down to dead storage 5 times. Every year it was drawn down from the peak reached in June or July to the low storage reached in September. The average draw-down was about 28 feet. The maximum was 35 feet and the minimum 10½ feet.

The river-operation studies of the Bureau show that under plan A Jackson Lake Reservoir would have remained full, except during the extremely dry years of 1931, 1934, and 1935. In 1931 it would have been drawn down less than 13 feet at the end of the water year. It would have been down to dead-storage level at the end of the 1934 and 1935 water years. Only in 1935 would it have failed to fill.

Under plan B the reservoir would have remained full except during 1931, 1932, 1933, 1934, 1935, and 1937. At the end of 1931 the reservoir would have been lowered about 28 feet; have filled during 1932 and then lowered less than 3 feet. It would have filled in 1933 and then lowered about 4 feet. In 1934 it would have lacked about 2 feet of filling and would have been at dead storage level at the end of this exceptionally dry year. In 1935 it would have filled to within about 6 feet of maximum and then lowered to dead storage level by the end of the year. In 1937 it would have been drawn down about 5 feet at the end of the water year.

The Bureau studies provided for the release of water from Jackson Lake Reservoir during the winter whenever it was needed to maintain the firm power output of the Palisades plant. But no releases exclusively for power would be made from Jackson Lake Reservoir during the irrigation season.

Although it was not taken into consideration in the operation studies, the Bureau report states that—

> provision should be made for lowering the level of Jackson Lake every fall in order to avoid possible damage to the dam during the winter. This evacuation of storage should be limited to that which can be safely refilled during the following spring.

With the proposed method of river operation under either plan A or B, there would be little if any fluctuation of water surface elevation of Jackson Lake Reservoir in the summer, except during extremely

dry years, such as 1931, 1934, and 1935. This would greatly increase the recreational value of the reservoir.

The reservoir lies in a gently sloping valley at the base of the majestic Teton Mountains in a region famous for its scenic, scientific, historic, and recreational features. The shore line and adjacent lands are ideally suited for recreational use, fishing, camping, boating, horseback riding, hiking and for overnight accommodations. The most impressive views of the Teton Mountains are obtained from the east shore of Jackson Lake. Because of the gradual slopes, however, wide stretches of unsightly reservoir bottom are exposed on the east and north sides when the water is withdrawn. The constantly varying water level prevents the natural growth of aquatic and marginal plants and discourages the natural reproduction of aquatic fauna. The vertical and horizontal fluctuation makes it difficult and expensive to construct and maintain boat docks with the result that there has been little development of recreational facilities. With practically all of the draw-down occurring during the height of the travel season, June 15 to September 1, it has a magnified effect on the recreational value of the reservoir, particularly since the majority of people traveling through the region see only the east and north shores where the effect of the draw-down is most objectionable.

Present use and development

According to the traffic flow maps prepared by the Wyoming Highway Department, highway planning survey, the average daily traffic June 1 to September 30, 1946, on United States Highway 89 in the vicinity of Jackson Lake Reservoir was as follows:

Jenny Lake to Moran, total—1,130 vehicles; 857 foreign; 7 percent commercial.
Moran to junction of U S 89 and U S 287, total—1,347; 1,145 foreign; 7 percent commercial.
Junction U S 89 and U S 287 to north end of Jackson Lake, total—1,369; 1,183 foreign; 6 percent commercial.
U S 89 and U S 287 at south entrance to Yellowstone Park, total—762; 615 foreign; 3 percent commercial.
U S 287 east of junction with U S 89, total—456; 337 foreign; 7 percent commercial.

These figures indicate that Jackson Lake was the objective of considerable travel due to its spectacular setting. Assuming that all of the foreign vehicles were counted twice while making a round trip to Jackson Lake Reservoir (which is not likely), there was an average of 591 foreign cars per day on the highway between the junction of United States Highway 89 and United States Highway 287 and the north end of Jackson Lake Reservoir between June 1 and September 30, 1946. At 3.5 persons per vehicle, this would mean that at least 248,210 people passed along the highway bordering Jackson Lake Reservoir during the travel season of 1946, most if not all of these people on vacations. During the same period 133,612 visitors were counted at Jenny Lake in Grand Teton National Park which is adjacent to the west shore of the reservoir. Jenny Lake is accessible only by a 9-mile-loop road off of United States Highway 89. The superintendent of Grand Teton National Park estimated that there were about 250,000 visitors in the Jackson Lake Reservoir area during the 1946 travel season. The highway traffic figures seem to substantiate this figure.

There are 12 dude ranches in the vicinity of Jackson Lake Reservoir and 4 lodges on or near the reservoir. Two are on the shore of the reservoir. Three of the lodges have permits to operate boat docks and boats on the reservoir. There are about 10 launches of various sizes used for sightseeing and fishing trips and about 12 outboard motorboats. The existing ranches and lodges are entirely inadequate to accommodate the present visitors. Additional overnight accommodations, campgrounds, and other recreational facilities are needed.

Estimate of recreational benefit

If Jackson Lake Reservoir were to be operated as proposed under either plan A or B, it is reasonable to assume that the many added attractions of the reservoir for general recreational use, including fishing and boating, would be sufficient to hold the visitors in the vicinity an average of at least 1 day longer than it does now.

We have no means of making a conclusive estimate as to the value of present recreational use, since no records are kept as to the numbers of persons who actually enjoy the recreational features of the reservoir. However, we know that such use is small compared to what it would be if conditions were more attractive. An increase in the number of visitors, as well as a longer duration of visits, would undoubtedly follow the maintenance of Jackson Lake Reservoir at a more constant high level during the tourist season.

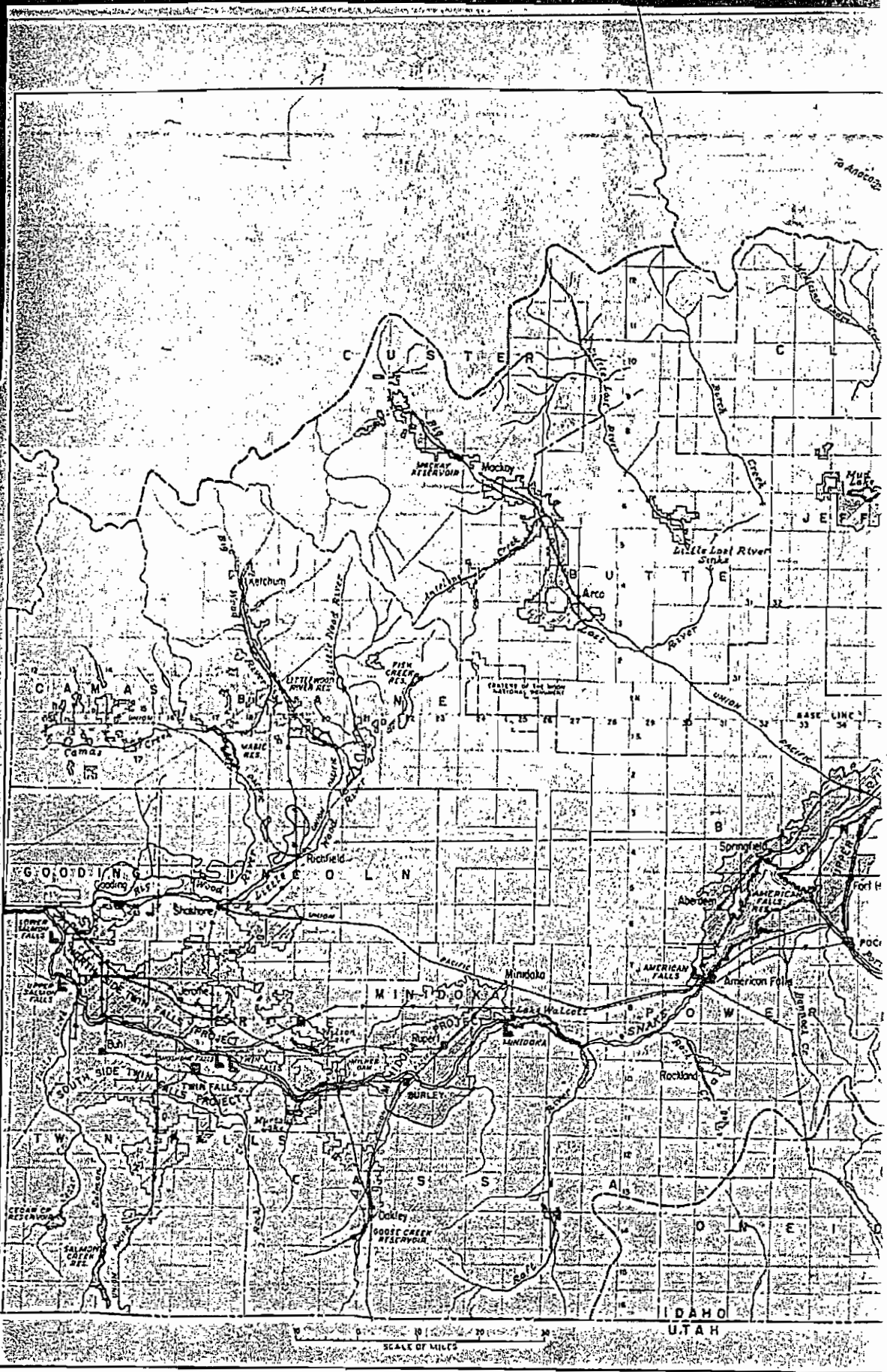
Supplement to Preliminary Report on Recreational Potentialities for the Bureau of Reclamation, Region I, Boise, Idaho, Dated April 1947

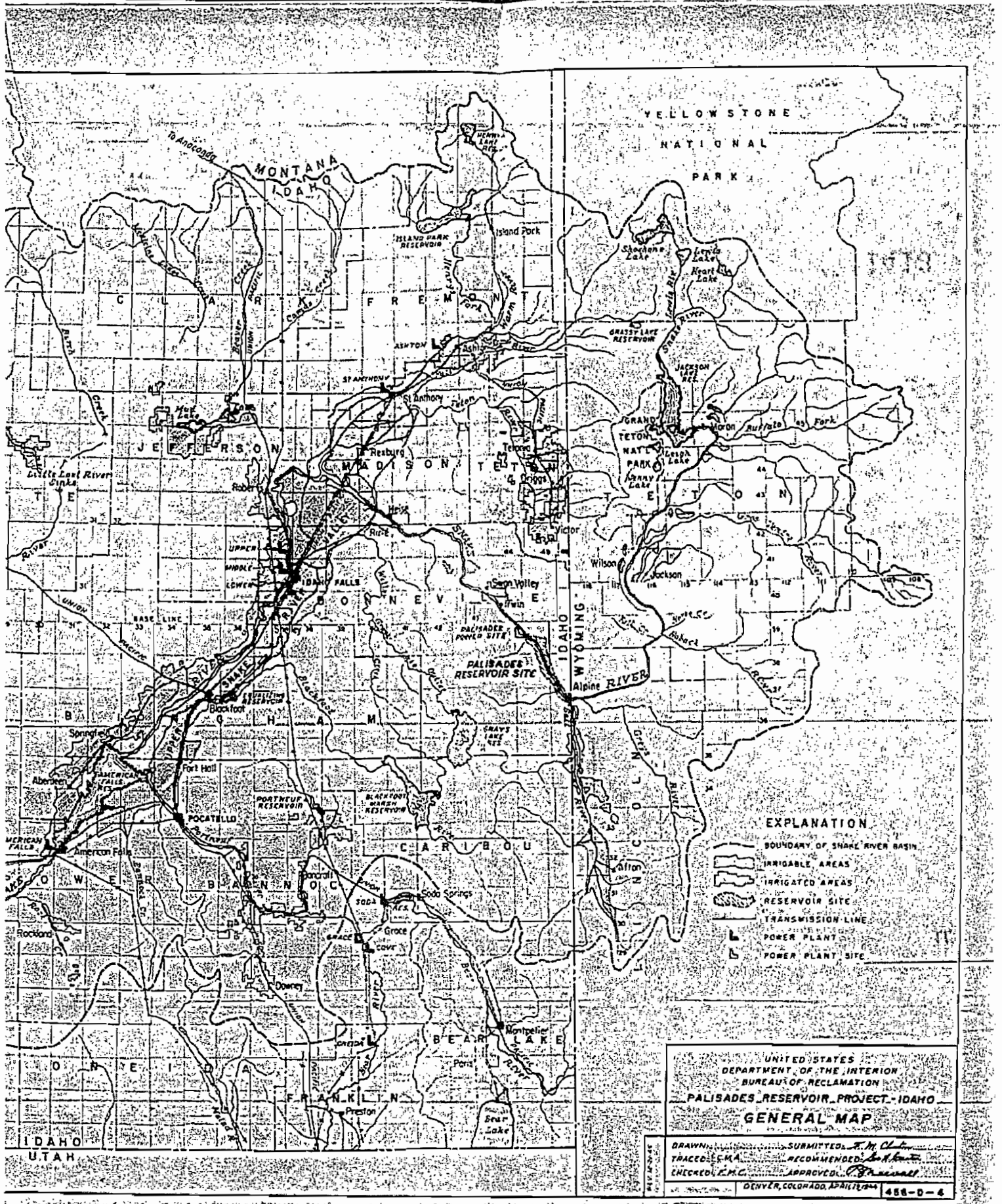
Recommended Recreational Development

The major recreational development at Palisades Reservoir would be centered in an area between the west end of the dam and Bear Creek. This is a beautifully wooded site which could easily be developed to meet the needs of all. Its slopes would afford interesting possibilities and expansion, even beyond the limits of present anticipated use, without involving difficult problems in construction. Access to this development would be by a road from the dam, circling the south side of Calamity Point, and connecting with the relocated Forest Service road on the ridge. Power for the major development should be obtained from the station plant at the dam.

Secondary recreational use areas should be developed at two points on the north shore along the relocated State Highway 29. These would be the bluff area on the north bank of Little Elk Creek, and either the north bank of Blowout Canyon or the point northwest of Indian Creek. From the bluff area on the north bank of Little Elk Creek there would be unusual views of the reservoir during all seasons. Due to the high cliffs at this point, the fluctuations of water level would be vertical, hence there would never be any mud flats in the immediate foreground. All development at this point should be such that the view would be recognized and accentuated. The other areas are not so outstanding, but would provide an interesting overlook and picnic spot along the highway. If and when the demand for motel and overnight trailer areas should develop, either the Blowout Canyon or Indian Creek sites would be suitable.

17


CUSTER
BUTTE
JEFF
CAMAS
BLAINE
LINCOLN
GOODING
MINIDOKA
CASSIA
TWIN FALLS
ONEIDA
Mackay
Arco
Ketchum
Fairfield
Shoshone
Jerome
Twin Falls
Burley
Rupert
Minidoka
Rockland
American Falls
Springfield
Aberdeen
Oakley
Big Lost River
Little Lost River
Little Wood River
Camas Creek
Malad River
Snake River
Union Pacific
Sinks
Lake Walcott
Minidoka Dam
Goose Creek Reservoir
Cedar Draw Reservoir
Salmon Falls Creek Res.
Wabic Res.
Fish Creek Res.
Little Wood River Res.
Mackay Reservoir
American Falls Res.
Twin Falls Project
South Side Twin Falls Project
Vision Canal
Walcott Canal
Burley Canal
Rupert Canal
Portneuf Canal
Base Line
IDAHO
UTAH
SCALE OF MILES



UNITED STATES
DEPARTMENT OF THE INTERIOR
BUREAU OF RECLAMATION

PALISADES RESERVOIR PROJECT - IDAHO

GENERAL MAP

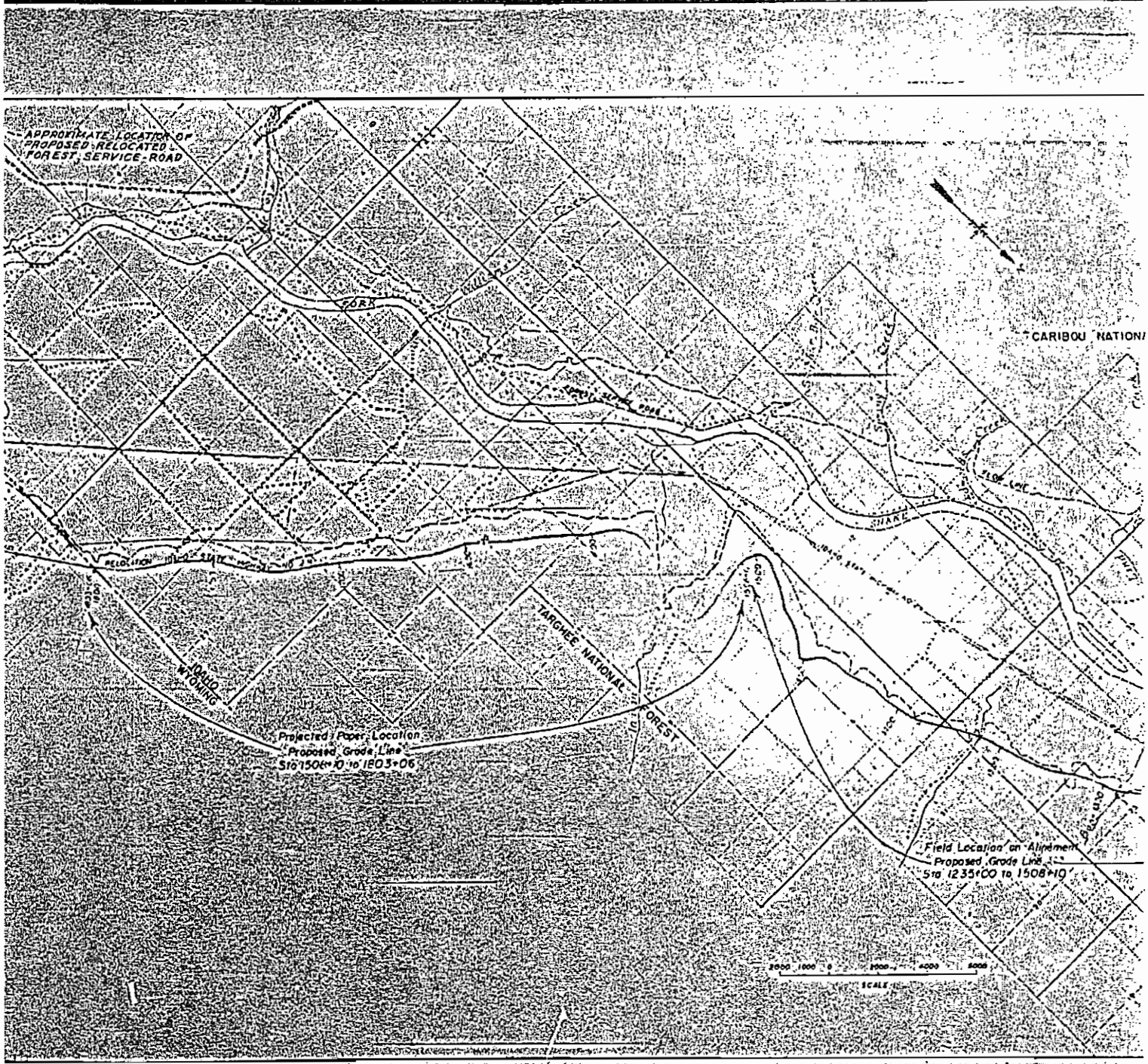
DRAWN	SUBMITTED	
TRACED E.F.M.A.	RECOMMENDED	
CHECKED E.M.C.	APPROVED	

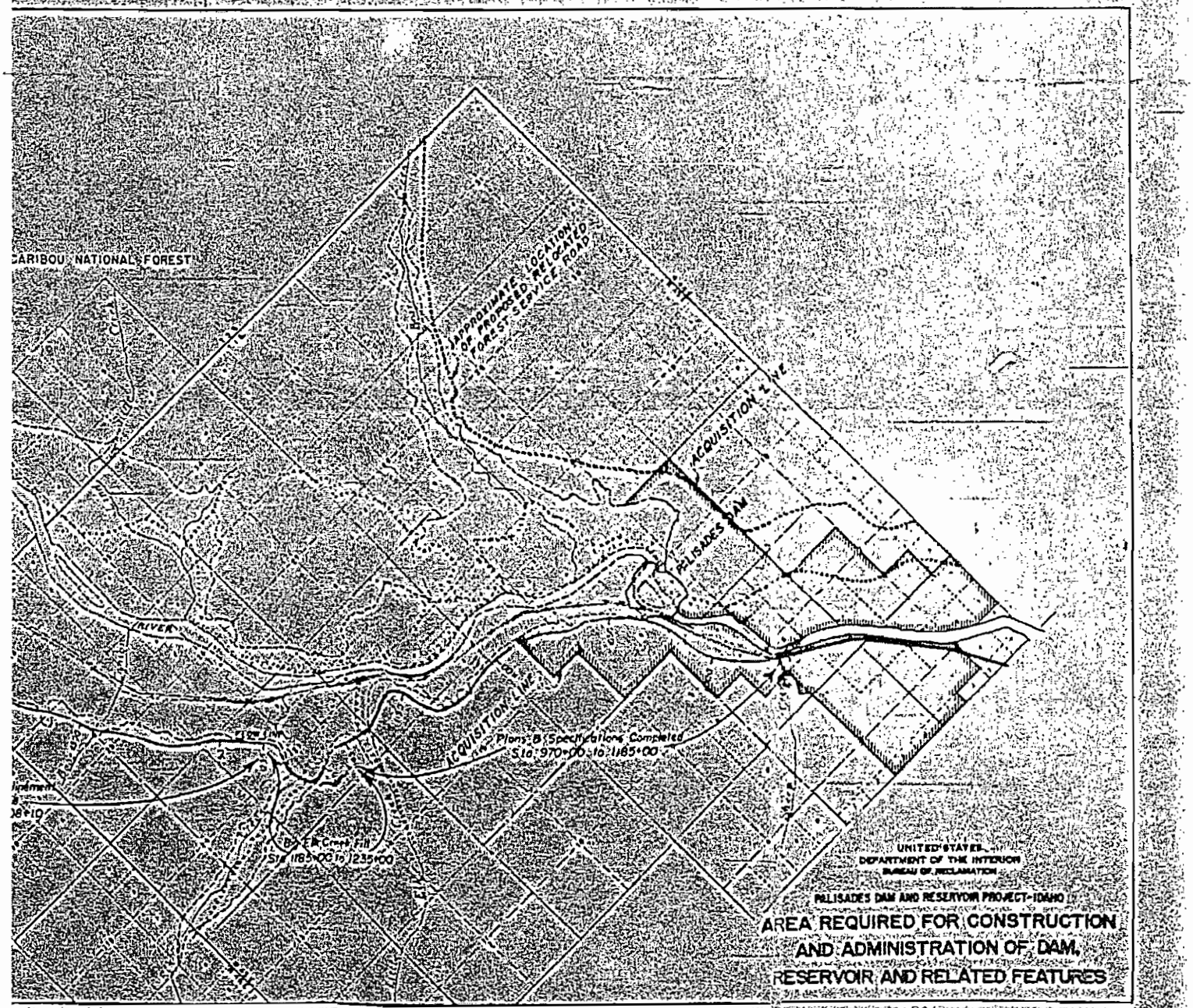
DENVER, COLORADO, APRIL 15, 1944

456-D-4

APPROXIMATE LOCATION OF
PROPOSED RELOCATED
FOREST SERVICE ROAD
SOUTH
IDAHO
WYOMING

8


APPROXIMATE LOCATION OF PROPOSED RELOCATED FOREST SERVICE ROAD
FORK
CARIBOU NATIONA
TARGHEE NATIONAL
FOREST
IDAHO
WYOMING
Projected Paper Location
Proposed Grade Line
Sta 1506+10 to 1803+06
Field Location or Alignment
Proposed Grade Line
Sta 1235+00 to 1508+10
SCALE


CARIBOU NATIONAL FOREST
APPROXIMATE LOCATION OF PROPOSED RELOCATED FOREST SERVICE ROAD
ACQUISITION LINE
PALISADES DAM
RIVER
ACQUISITION LINE
Plans & Specifications Complete
Sta 970+00 to 1185+00
Sta 1185+00 to 1235+00
UNITED STATES
DEPARTMENT OF THE INTERIOR
BUREAU OF RECLAMATION
PALISADES DAM AND RESERVOIR PROJECT - IDAHO
AREA REQUIRED FOR CONSTRUCTION AND ADMINISTRATION OF DAM, RESERVOIR AND RELATED FEATURES
75567 O - 61 (Face p. 6) No. 1

Estimated cost of developments for recreation

Item	Nonreimbursement of cost	Reimbursement of cost	Total cost
Bear Creek area:			
Roads:			
Trails of approach	$15,500		
Interior	5,000		
Parking areas (100 cars)	5,500		
Campground and picnic areas:	500		
Stoves (40)	320		
Tables (32)	750		
Shelters (2)	2,000		
Fireplaces (2)	400		
Potable water	3,000		
Toilets (2 pit, 2 flush type)	3,200		
Boat pier		41,500	
Launching ramp (1,500 feet by 10 feet)	2,500		
Boat service building (10 feet by 12 feet—portable)		500	
Beach	1,000		
Bathhouse		1,500	
Lodge	7,500	1,500	
Cabins (6)		18,000	
Power	1,000		
Sewage	2,500		
Total	10,700	20,500	174,150
Little Elk Creek:			
Road and parking area (50 cars)	2,000		
Toilets (2)	250		
Shelter (1)	1,000		
Total	3,250		3,250
Blowout Canyon or Indian Creek:			
Road and parking area (20 cars)	1,700		
Toilets (2)	250		
Tables (8)	400		
Stoves (8)	125		
Shelter (1)	1,000		
Total	3,425		3,425
Subtotal of cost	30,525	20,500	181,825
Contingencies, 10 percent	3,053	2,050	5,103
Plans, surveys, and supervision of construction, 10 percent	3,053	2,050	5,103
Total cost	37,631	24,600	96,739

Annual maintenance and operation	Nonreimbursement of cost
Salaries:	
Custodian	$3,600
Labor (16 man-months)	2,400
Truck, pickup ($1,500—amortized 5 years)	327
Patrol boat ($3,500—amortized 10 years)	400
Road maintenance	500
Materials and supplies	200
Miscellaneous	173
Total	7,600

81st Congress, 2d Session - - - - - - House Document No. 721

NORTH SIDE PUMPING DIVISION OF THE MINIDOKA PROJECT, IDAHO

LETTER

FROM THE

SECRETARY OF THE INTERIOR

TRANSMITTING

A REPORT ON THE NORTH SIDE PUMPING DIVISION OF THE MINIDOKA PROJECT, IDAHO, PURSUANT TO PUBLIC LAW 561, 81ST CONGRESS

NOVEMBER 27, 1950.—Referred to the Committee on Public Lands and ordered to be printed, with illustrations

UNITED STATES
GOVERNMENT PRINTING OFFICE
73256 WASHINGTON : 1951

721

Exhibit E

Supplemental Decree, Burley Irr. Dist. v. Eagle (Idaho 5th Dist. Ct. July 10, 1968)

01-H

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

BURLEY IRRIGATION DISTRICT, et al,

Plaintiffs,

vs.

SUPPLEMENTAL DECREE

HENRY EAGLE, Watermaster, Water District No. 36, State of Idaho,

Defendant.

DISTRICT COURT
Fifth Judicial District
County of Twin Falls, State of Idaho
FILED: JUL 10 1968
By T. A. LANCASTER, Clerk
Deputy Clerk

This matter having come on regularly before the Court and the Court having made and entered its Findings of Fact and Conclusions of Law herein directing that Decree be entered accordingly and good cause appearing therefor,

IT IS HEREBY ORDERED, ADJUDGED AND DECREED as follows:

1. That the rights hereinafter decreed shall be supplemental to the decrees entered in the cases of Woodville Canal Co. v. Clark & Edwards Canal & Irrigation Company, et al, in the District Court of the United States for the District of Idaho, Eastern Division, on June 25, 1928, Twin Falls Canal Company v. Charles N. Foster, et al, in the District Court of the Fourth Judicial District of the State of Idaho, in and for the County of Twin Falls, on June 20, 1913, Rexburg Irrigation Company, et al. v. Teton Irrigation Canal Company, et al, in the District Court of the Sixth Judicial District of the State of Idaho, in and for the County of Fremont, on December 18, 1910, and said Decrees and the Findings of Fact and Conclusions of Law upon which they are based are binding upon all plaintiffs herein.

2. That the parties hereinafter named have the right to divert and use, for irrigation and other purposes, the waters of the Snake River, in the amounts and with the priority dates listed, which water shall be diverted at the point and be appurtenant to the lands described herein:

01 0001 A. Twin Falls Canal Company.

~~37 1152~~ 600 cubic feet per second (being the right recognized in para[illegible]

MAIL
35573

of the Woodville Decree) with a priority date of December 22, 1915.

Point of Diversion

At Milner Dam on the South side of Snake River (in the Northeast Quarter of the Southeast Quarter (NE 1/4 SE 1/4) of Section 29, Township 10 South, Range 21, E. B. M.)

Lands to Which Appurtenant

The lands lying in Twin Falls County, Idaho, South of the Snake River and East of Little Salmon River, to-wit: Sections 29, 30, 31, 32, in Township Ten (10) South, Range Twenty-one (21) East of Boise Meridian; Sections 31, 34, 35, 36, 25, in Township Ten (10) South, Range Twenty (20) East of Boise Meridian; Sections 15, 16, 17, 18, 19, 20, 21, 22, 23, 24, 25, 26, 27, 28, 29, 30, 31, 32, 33, 34, 35, 36, in Township Ten (10) South, Range Nineteen (19) East of Boise Meridian; Sections 1, 12, 13 in Township Eleven (11) South, Range Nineteen (19) East of Boise Meridian; Sections 4, 5, 6, 7, 8, 9, 10, 11, 12, 13, 14, 15, 16, 17, 18, 19, 20, 21, 22, 23, 24, 25, 26, 27, 28, 29, 30, 31, 32, 33, 34, 35, 36 in Township Ten (10) South, Range Eighteen (18) East of Boise Meridian; Sections One (1) to Thirty-three (33) inclusive in Township Eleven (11) South, Range Eighteen (18) East of Boise Meridian; Sections Twenty-nine (29) to Thirty-six (36) inclusive, in Township Nine (9) South, Range Seventeen (17) East of Boise Meridian; All of said Township, in Township Ten (10) South, Range Seventeen (17) East of Boise Meridian; Section Nos. One (1) to Fifteen (15) inclusive and Section Twenty-four (24) in Township Eleven (11) South, Range Seventeen (17) East of Boise Meridian; Sections Sixteen (16) to Thirty-six (36) inclusive in Township Nine (9) South, Range Sixteen (16) East of Boise Meridian; Section Nos. One (1) to Thirty-six (36) inclusive in Twp. Ten (10) South, Range Sixteen (16) East of Boise Meridian; Sections 1, 2, 12 in Township Eleven (11) South, Range Sixteen (16) East of Boise Meridian; Section Nos. Five (5) to Thirty-six (36) inclusive in Township Nine (9) South, Range Fifteen (15) East of Boise Meridian; Section Nos. One (1) to Thirty-six (36) inclusive in Township Ten (10) South, Range Fifteen (15) East of Boise Meridian; Sections 5, 6, 7 in Township Eleven (11) South, Range

Fifteen (15) East of Boise Meridian; Sections Twenty-eight (28) to Thirty-three (33) inclusive, in Twp. Eight (8) South, Range Fourteen (14) East of Boise Meridian; Sections Four (4) to Thirty-six (36) inclusive, and Section One (1) in Twp. Nine (9) South, Range Fourteen (14) East of Boise Meridian; Section Nos. One (1) to Thirty-six (36) inclusive, in Twp. Ten (10) South, Range Fourteen (14) East of Boise Meridian; Sections One (1) to Twelve (12) inclusive, and Seventeen (17) to Twenty (20) inclusive in Township Eleven (11) South, Range Fourteen (14) East of Boise Meridian; Sections 1, 12, 13, 14, 23, 24, 25, 26, 36 in Township Nine (9) South, Range Thirteen (13) East of Boise Meridian; Sections 1, 2, 10, 11, 12, 13, 14, 15, 16, 21, 22, 23, 24, 25, 26, 27, 28, 33, 34, 35, 36 in Township Ten (10) South, Range Thirteen (13) East of Boise Meridian; Sections 1, 2, 3, 4, 9, 10, 11, 12, 13, 14, 15, 24 in Township Eleven (11) South, Range Thirteen (13) East of Boise Meridian; and all other lands lying North of the Main and Highline Canals of the plaintiff's canal system, South of said Snake River and East of said Little Salmon River.

0005
115

B. North Side Canal Company.

(1) 300 cubic feet per second (being the right recognized in paragraph 6 of the Woodville Decree) with a priority date of December 23, 1915.

(2) 1260 cubic feet per second (being the right recognized in paragraph 7 of the Woodville Decree) with a priority date of December 23, 1915.

01 016

Point of Diversion

At Milner Dam on the North side of Snake River (at the Southwest corner of the Northwest Quarter (on the section line) Section 28, Township 10 South, Range 21 E.B.M.)

Lands to Which Appurtenant

Township Ten (10) South, Range Twenty-one (21) East of Boise Meridian; Sections 4, 5, 6, 7, 8, 9, 16, 17, 18, 19, 20, 21, 22, 28, 29, 30; Township Nine (9) South, Range Twenty-one (21) East of Boise Meridian; Section 31; Township Nine (9) South, Range Twenty (20) East of Boise Meridian, Sections 19, 20, Twenty-six (26) through Thirty-six (36) inclusive; Township Ten (10) South, Range Twenty (20) East of Boise Meridian, Sections One (1) through Thirteen (13) inclusive, Sections 17, 18, 19, 25, 26, 30, 31, 32, 33, 34, 35; Township Eleven (11) South, Range Twenty (20) East of Boise Meridian, Sections 4, 5, 6; Township Nine (9) South, Range Nineteen (19) East of Boise Meridian; Sections Four (4) through Nine (9) inclusive, Sections 18, 21, 22, Sections Twenty-six (26) through

Thirty-six (36) inclusive; Township Ten (10) South, Range Nineteen (19) East of Boise Meridian, Sections One (1) through Seventeen (17) inclusive, Sections 23, 24, 25.

Township Ten (10) South, Range Eighteen (18) East of Boise Meridian, Sections 1, 2, 3, 4, 10, 11, 12; Township Nine (9) South, Range Eighteen (18) East of Boise Meridian, Sections One (1) through Twelve (12) inclusive, Sections 17, 34, 35, 36; Township Eight (8) South, Range Eighteen (18) East of Boise Meridian, Sections 5, 6, 8, 9, 16, 20, 21, 27, 28, 29, 30, 31, 32, 33; Township Seven (7) South, Range Eighteen (18) East of Boise Meridian; Sections 17, 18, 19, 30, 31; Township Nine (9) South, Range Seventeen (17) East of Boise Meridian, Sections One (1) through Twelve (12) inclusive, Sections 17, 18, 19; Township Eight (8) South, Range Seventeen (17) East of Boise Meridian, Sections One (1) through Ten (10) inclusive, Sections Sixteen (16) through Twenty-two (22) inclusive, Sections Twenty-five (25) through Thirty-six (36) inclusive; Township Seven (7) South, Range Seventeen (17) East of Boise Meridian, Sections Seven (7) through Thirty-six (36) inclusive. Township Nine (9) South, Range Sixteen (16) East of Boise Meridian, Sections One (1) through Seventeen (17) inclusive, 24; Township Eight (8) South, Range Sixteen (16) East of Boise Meridian, Sections One (1) through Thirty-six (36) inclusive (see Township).

Township Seven (7) South, Range Sixteen (16) East of Boise Meridian, Sections 11, 12, 13, 14, Twenty-one (21) through Thirty-six (36) inclusive; Township Nine (9) South, Range Fifteen (15) East of Boise Meridian, Sections One (1) through Six (6) inclusive, 11, 12; Township Eight (8) South, Range Fifteen (15) East of Boise Meridian; Sections One (1) through Thirty-six (36) inclusive. (whole township)

Township Seven (7) South, Range Fifteen (15) East of Boise Meridian, Sections Nineteen (19) through Twenty-two (22) inclusive, Sections Twenty-four (24) through Thirty-six (36) inclusive.

Township Nine (9) South, Range Fourteen (14) East of Boise Meridian, Sections One (1) through Four (4) inclusive; Township Eight (8) South, Range Fourteen (14) East of Boise Meridian, Sections One (1) through Six (6) inclusive, Sections Eight (8) through Seventeen (17) inclusive, Sections Twenty (20) through Twenty-eight (28), Sections Thirty-three (33) through Thirty-six (36).

Township Seven (7) South, Range Fourteen (14) East of Boise Meridian, Sections One (1) through Nine (9) inclusive, Sections Fourteen (14) through Thirty (30) inclusive, Sections Thirty-two (32) through Thirty-six (36) inclusive; Township Seven (7) South, Range Thirteen (13) East of Boise Meridian; Sections 1, 12.

Township Six (6) South, Range Fifteen (15) East of Boise Meridian, Sections 6, 7, 30, 31; Township Five (5) South, Range Fifteen (15) East of Boise Meridian, Section 31; Township Six (6) South, Range Fourteen (14) East of Boise Meridian, Sections 18, 19, 20, Twenty-five (25) through Twenty-eight (28) inclusive, Sections Thirty (30) through Thirty-six (36) inclusive; Township Six (6) South, Range

Thirteen (13) East of Boise Meridian, Sections 2, 4, Five (5) through Eleven (11), Thirteen (13) through Eighteen (18) inclusive, Sections Twenty (20) through Twenty-five (25), 36; Township Five (5) South, Range Thirteen (13) East of Boise Meridian, Sections 20, 21, 28, 29, 30, 31, 32;

Township Six (6) South, Range Twelve (12) East of Boise Meridian, Sections 1, 2, Seven (7) through Twelve (12) inclusive; Township Five (5) South, Range Twelve (12) East of Boise Meridian, Sections 15, 21, 22, 25, 26, 27, 28, 33, 34, 35, 36.

Township Six (6) South, Range Eleven (11) East of Boise Meridian, Sections 2, 3, 4, 9, 11, 12, 15, 16; Township Five (5) South, Range Eleven (11) East of Boise Meridian, Sections 8, 9, 10, 15, 16, 17, 20, 21, 22, 25, 26, 27, 28, 29, 33, 34, 35, 36.

01 0008 ✓

C. American Falls Reservoir District No. 2.

The right to divert as natural flow during each irrigation season under water license No. 15134, having a March 30, 1921, priority, as follows: From May 1 of each irrigation season continuing during that season so long as there is natural flow available for that priority, the first 1,700 cubic feet per second of flow to be available one-half (1/2) to American Falls Reservoir District No. 2 and one-half (1/2) to American Falls Reservoir, except that in any year in which American Falls Reservoir is full to capacity on April 30 or fills after that date, taking into account any water that may be temporarily stored to its credit in upstream reservoirs, all water diverted by American Falls Reservoir District No. 2 within the maximum of 1,700 cubic feet per second during the year prior to the initial storage draft on American Falls Reservoir after the reservoir finally fills in that year shall be considered as natural flow under water license No. 15134. Nothing herein shall prevent American Falls Reservoir District No. 2 from diverting water under said license prior to May 1 of a given irrigation season but all such diversions shall be charged as storage in the event the reservoir is not full on April 30 of that season or does not fill after April 30 of that season.

Water available at American Falls Reservoir for the March 30, 1921, priority, under water license No. 15134, other than that to be available to American Falls Reservoir District No. 2 as above provided, to be available for storage in American Falls Reservoir.

Point of Diversion

At Milner Dam on the North side of Snake River (at the Southwest corner of the Northwest Quarter (on the section line), Section 25, Township 10 South, Range 21, E. B. M.)

Lands to Which Appurtenant

Township 2 South, Range 18 East, Boise Meridian:
Sections 28 through 33.

Township 3 South, Range 18 East, Boise Meridian:
Sections 14, 15, 22, 23, 25, and 36.

Township 3 South, Range 19 East, Boise Meridian:
Sections 14 through 27, 30, 31, 35, and 36.

Township 3 South, Range 20 East, Boise Meridian:
Sections 30 and 31.

Township 4 South, Range 14 East, Boise Meridian:
Sections 35 and 36.

Township 4 South, Range 15 East, Boise Meridian:
Sections 31 and 36.

Township 4 South, Range 16 East, Boise Meridian:
Sections 19 and 20; Sections 25 through 36.

Township 4 South, Range 17 East, Boise Meridian:
Sections 27 through 36.

Township 4 South, Range 18 East, Boise Meridian:
Sections 28 through 33.

Township 4 South, Range 19 East, Boise Meridian:
Sections 1 and 2; Sections 5 through 35.

Township 4 South, Range 20 East, Boise Meridian:
Sections 30 and 31.

Township 5 South, Range 14 East, Boise Meridian:
Sections 1, 2, 3; 10 through 15; 22 through 27; 34,
35, and 36.

Township 5 South, Range 15 East, Boise Meridian:
Sections 1 through 21; Sections 26 through 36.

Township 5 South, Range 16 East, Boise Meridian:
Sections 1 through 12; Sections 25 through 32.

Township 5 South, Range 17 East, Boise Meridian:
Sections 1 through 17; Sections 26 through 36.

Township 5 South, Range 18 East, Boise Meridian:
Sections 4 through 8; 17, 18, 27, 28, 31 through 33.

Township 5 South, Range 19 East, Boise Meridian:
Sections 4, 5, and 6.

Township 6 South, Range 14 East, Boise Meridian:
Sections 1, 2, 3; 9 through 15; 21 through 24; 26, and 27.

Township 6 South, Range 15 East, Boise Meridian:
Sections 1 through 12; 16 through 21.

Township 6 South, Range 17 East, Boise Meridian:
Sections 1 and 2.

Township 6 South, Range 18 East, Boise Meridian:
Sections 3 through 17; 21 through 28; 34 through 36.

Township 6 South, Range 19 East, Boise Meridian:
Sections 2 and 3; 6 through 23; 26 through 34.

Township 7 South, Range 18 East, Boise Meridian:
Sections 1, 2, 11, and 12.

Township 7 South, Range 19 East, Boise Meridian:
Sections 2 and 3.

Township 8 South, Range 19 East, Boise Meridian:
Sections 13, 14, 23; 32 through 36.

Township 8 South, Range 20 East, Boise Meridian:
Sections 18, 30, and 31.

Township 9 South, Range 19 East, Boise Meridian:
Sections 1, 2, 3, 11, and 12.

Township 9 South, Range 20 East, Boise Meridian:
Sections 4 through 11; 13 through 16.

Township 9 South, Range 21 East, Boise Meridian:
Sections 29 through 32.

3. The following parties are entitled to divert and use, pro rata, for irrigation and other purposes, the waters of the Snake River in the amounts listed, with the same priority date of April 1, 1939, which water shall be diverted at the point and be appurtenant to the lands described herein.

~~57 1160~~ A. Burley Irrigation District.
01 000 163.4 cubic feet per second. TRANS.#3246

Point of Diversion

At Minidoka Dam on the South side of Snake River (in the South Half (S 1/2) of Section One (1), Township Nine (9) South, Range Twenty-five (25) E.B.M.

Lands to Which Appurtenant

Lands located in Township 10 S., Range 25 E.B.M.:
Sec. 19, 30 (Except E 1/2 of NE 1/4 and NE 1/4 of SE 1/4) and 31 (Except E 1/2, E 1/2 of SW 1/4 and SW 1/4 of SW 1/4).

Lands located in Township 10 S., Range 24 E.B.M. lying East of Main South Side Gravity Canal:
Sec. 1 (Except E 1/2 of SE 1/4), 12 (Except E 1/2 of E 1/2), 13 (Except E 1/2 of E 1/2 and SW 1/4 of SE 1/4), and 14.

Lands located in Township 10 S., Range 24 E.B.M., lying South of U. S. Government Lateral 315 and South and East of Snake River:
Sec. 21, 22, 23, 24, 25, 26, 27, 28, 29, 30, 31, 32, 33, 34, 35 and 36 (Except S 1/2 of SE 1/4).

Lands located in Township 10 S., Range 23 E.B.M., lying South of Snake River:
Sec. 16, 17, 18, 19, 20, 21, 22, 25, 26, 27, 28, 29, 30, 31, 32, 33, 34, 35 and 36.

Lands located in Township 10 S., Range 22 E. B. M., lying South of Snake River:
Sec. 19, 20 (Except E 1/2 of NE 1/4 and NW 1/4 of NE 1/4), 21 (Except N 1/2), 22 (Except NW 1/4), 23, 24, 25, 26, 27, 28, 29, (Except S 1/2 of SE 1/4, SW 1/4 of NW 1/4 and SE 1/4), 30 (Except S 1/2), 33 (Except S 1/2, NW 1/4 of NW 1/4 and S 1/2 of NW 1/4) 34 (Except SW 1/4 of SW 1/4), 35 and 36.

Lands located in Township 10 S., Range 21 E.B.M., lying South of Snake River:
Sec. 25 (Except S 1/2, NW 1/4 and NW 1/4 of NE 1/4).

Lands located in Township 11 S., Range 24 E.B.M.:
Sec. 1 (Except S 1/2, NE 1/4 and E 1/2 of NW 1/4), 2 (Except SE 1/4 of SE 1/4), 3, 4, 5, 6, 7, 8, 9, 10 (Except SE 1/4 and SE 1/4 of NE 1/4), 15 (Except S 1/2, NE 1/4, S 1/2 of NW 1/4 and NE 1/4 of NW 1/4), 16 (Except SE 1/4 of SE 1/4), 17, 18, 19, 20, 21, (Except NE 1/4 of NE 1/4, S 1/2 of NE 1/4, SE 1/4 and S 1/2 of SW 1/4), 29 (Except SE 1/4 and S 1/2 of SW 1/4) and 30 (Except NE 1/4 of SE 1/4 and S 1/2 of SE 1/4).

Lands located in Township 11 S., Range 23 E.B.M.:
Sec. 1, 2, 3, 4, 5, 6, 7, 8, 9, 10, 11, 12, 13, 14, 15, 16, 17, 18, 19 (Except SW 1/4 of SW 1/4), 20 (Except NW 1/4 of SW 1/4 , S 1/2 of SW 1/4, and SW 1/4 of SE 1/4), 21, 22, 23, 24, 25, 26, 27 (Except S 1/2 of SE 1/4 and SW 1/4) and 28 (Except S 1/2 of NE 1/4, NW 1/4 of NW 1/4, S 1/2 of NW 1/4 and S 1/2).

Lands located in Township 11 S., Range 22 E.B.M.:
Sec. 1, 2, 3, (Except W 1/2, W 1/2 of NE 1/4, SE 1/4 of NE 1/4 and NW 1/4 of SE 1/4), 10 (Except W 1/2 and S 1/2 of SE 1/4), 11, 12, 13, 14, (Except S 1/2 of SW 1/4 and SW 1/4 of SE 1/4), 15, (Except W 1/2 of NE 1/4, NW 1/4 and S 1/2) and 24 (Except NW 1/4 of NW 1/4, S 1/2 of NW 1/4, SW 1/4 of NE 1/4 and S 1/2).

B. Minidoka Irrigation District.

01 0008

266.60 cubic feet per second.

Point of Diversion

The point of diversion of said water for use on those lands lying South of the Snake River in Cassia County is in the Southwest Quarter of the Southwest Quarter (SW 1/4 SW 1/4) of Section One (1), Township Nine (9) South, Range Twenty-five (25) East, Boise Meridian. The points of diversion of said water for use on that land lying North of the Snake River in the County of Minidoka is in the Southeast Quarter of the Northwest Quarter (SE 1/4 NW 1/4) of Section One (1), Township Nine (9) South, Range Twenty-five (25) East, Boise Meridian.

Lands to Which Appurtenant

That land lying South of the Snake River, County of Cassia, State of Idaho, in Sections Two (2), Three (3), Eight (8), Nine (9), Ten (10), Eleven (11), Sixteen (16), Seventeen (17), Eighteen (18), Nineteen (19), Twenty (20), Twenty-one (21), Twenty-nine (29), Thirty (30), and Thirty-one (31), Township Nine (9) South, Range Twenty-five (25), East Boise Meridian; Sections Twenty-five (25), and Thirty-six (36), Township Nine (9) South, Range Twenty-four (24) East, Boise Meridian; Sections One (1), Two (2), Eleven (11), Twelve (12), Fourteen (14), Fifteen (15), Twenty-two (22) and Twenty-three (23), Township Ten (10) South, Range Twenty-four (24) East, Boise Meridian.

That land lying North and West of the Snake River, County of Minidoka, State of Idaho, in Sections Twenty-eight (28), Twenty-nine (29), Thirty (30), Thirty-one (31), Thirty-two (32), Thirty-three (33), Thirty-four (34) and Thirty-five (35), Township Eight (8) South, Range Twenty-five (25) East, Boise Meridian; Sections Two (2), Three (3), Four (4), Five (5), Six (6), Seven (7), Eight (8), Nine (9), Eighteen (18), and Nineteen (19), Township Nine (9) South, Range Twenty-five (25) East, Boise Meridian; Sections Twenty-five (25), Thirty-two (32), Thirty-three (33), Thirty-four (34), Thirty-five (35) and Thirty-six (36), Township Eight (8) South, Range Twenty-four (24) East, Boise Meridian; all Sections lying North and West of the Snake River in Township Nine (9) South, Range Twenty-four (24) East, Boise Meridian; all Sections lying North and West of Snake River in Township Ten (10) South, Range Twenty-four (24) East, Boise Meridian; all Sections except Three (3), Five (5) and Six (6), Township Nine (9) South, Range Twenty-three (23) East, Boise Meridian; all Sections lying North of the Snake River in Township Ten (10) South, Range Twenty-three (23) East, Boise Meridian; Sections Twelve (12), Thirteen (13), Fourteen (14), Twenty-three (23), Twenty-four (24), Twenty-five (25), Twenty- six (26), Twenty-seven (27), Twenty-eight (28), Thirty-four (34), Thirty-five (35), and Thirty-six (36), Township Nine (9) South, Range Twenty-two (22) East, Boise Meridian; and Sections One (1), Two (2), Three (3), Ten (10), Eleven (11), Twelve (12), Thirteen (13), Fourteen (14), Fifteen (15), Twenty-three (23), and Twenty-four (24), Township Ten (10) South, Range Twenty-two (22) East, Boise Meridian, lying North of the Snake River.

01 0009 ✓
37 116

C. Milner Low-Lift Irrigation District.

121.00 cubic feet of water per second.

Point of Diversion:

The Southeast Quarter of the Southeast Quarter (SE 1/4 SE 1/4) of Section Twenty-nine (29), Township Ten (10) South, Range Twenty-one (21) East Boise Meridian.

Lands to Which Appurtenant

Township 10 South, Range 21, E.B.M.:
Section 29: That part of the S 1/2 lying south of the Milner Lake and Twin Falls canal.

Township 10 South, Range 21, E.B.M:
Section 30: That part of the S 1/2 of Section 30 lying south and east of the Twin Falls canal.

Township 10 South, Range 20, E.B.M.:
Section 35: That part of the S 1/2 of Section 35 lying south and east of the Twin Falls canal.

Township 10 South, Range 20, E.B.M.:
Section 36: All of Section 36 lying south and east of Twin Falls canal, except the U. P. Railroad right-of-way.

Township 10 South, Range 21, E.B.M.:
Section 31: All of Section 31, except U. P. Railroad right-of-way.

Township 10 South, Range 21, E.B.M.:
Section 32: All of Section 32, except U. P. Railroad right-of-way and Bean Growers Whse. Association property.

Township 10 South, Range 21, E.B.M.:
Section 33: The NW 1/4, W 1/2 of the NE 1/4, SW 1/4, NW 1/4 of the SE 1/4.

Township 11 South, Range 20, E.B.M.:
Section 5: That part of the SE 1/4 SE 1/4 lying southeast of Twin Falls canal.

Township 11 South, Range 20, E.B.M.:
Section 4: That part of the S 1/2 lying south and east of Twin Falls canal.

Township 11 South, Range 20, E.B.M.:
Section 3: That part lying south and east of Twin Falls canal.

Township 11 South, Range 20, E.B.M.:
Section 2: That part lying south and east of Twin Falls canal.

Township 11 South, Range 20, E.B.M.:
Section 1: All of Section 1 except the N 1/2 of the SW 1/4 and the SE 1/4 of the SW 1/4.

Township 11 South, Range 21, E.B.M.:
Section 6: All of Section 6.

Township 11 South, Range 21, E.B.M.:
Section 5: All of Section 5.

Township 11 South, Range 21, E.B.M.:
Section 4: All of Section 4, except the N 1/2 of the NE 1/4.

Township 11 South, Range 21, E.B.M.:
Section 3: S 1/2 of the SW 1/4, NW 1/4 of the SW 1/4, SW 19 A. of the SW 1/4 of the NW 1/4.

Township 11 South, Range 20, E.B.M.:
Section 8: That part south and east of Twin Falls canal.

Township 11 South, Range 20, E.B.M.:
Section 9: All of Section 9.

Township 11 South, Range 20, E.B.M.:
Section 10: All of Section 10.

Township 11 South, Range 20, E.B.M.:
Section 11: All of Section 11.

Township 11 South, Range 20, E.B.M.:
Section 12: All of Section 12.

Township 11 South, Range 21, E.B.M.:
Section 7: That part of Section 7 lying north of U. S. Highway 30.

Township 11 South, Range 21, E.B.M.:
Section 8: That part of Section 8 lying northwest of U. S. Highway 30.

Township 11 South, Range 19, E.B.M.:
Section 13: 10 Acres southeast of Murtaugh Lake and 6 Acres north and west of Murtaugh Lake of the SE 1/4 of the SE 1/4, W 1/2 of the SE 1/4, W 1/2 of the NE 1/4.

Township 11 South, Range 20, E.B.M.:
Section 17: That part of the SE 1/4 lying south and east of Murtaugh Lake.

Township 11 South, Range 20, E.B.M.:
Section 16: That part of Section 16 lying north and east of Murtaugh Lake.

Township 11 South, Range 20, E.B.M.:
Section 15: All of Section 15.

Township 11 South, Range 20, E.B.M.:
Section 14: NW 1/4, that part of the NE 1/4 lying north and west of Milner Low Lift No. 3 canal, that part of the SW 1/4 lying west and below Milner Low Lift No. 3 canal.

Township 11 South, Range 20, E.B.M.:
Section 13: That part of the NW 1/4 lying north and west and below Milner Low Lift No. 3 canal.

Township 11 South, Range 19, E.B.M.:
Section 24: That part lying north and east and below Milner Low Lift main canal, excepting that part of the Murtaugh Lake in the E 1/2 of the NE 1/4.

Township 11 South, Range 20, E.B.M.:
Section 19: That part lying north and below Milner Low Lift main canal, and that part lying south of Murtaugh Lake.

Township 11 South, Range 20, E.B.M.:
Section 20: That part lying south of Murtaugh Lake.

Township 11 South, Range 20, E.B.M.:
Section 21: That part lying north and west and below Milner Low Lift main canal, and that part of the NW 1/4 of the NW 1/4 lying south and east of Murtaugh Lake.

Township 11 South, Range 20, E.B.M.:
Section 22: N 1/2 of the NW 1/4, N 1/2 of the NE 1/4.

Township 11 South, Range 20, E.B.M.:
Section 30: That part of the N 1/2 of the NE 1/4 lying north and below Milner Low Lift main canal.

Township 11 South, Range 20, E.B.M.:
Section 29: That part of the N 1/2 of the NW 1/4, and that part of the N 1/2 of the NE 1/4 lying north and below Milner Low Lift main canal.

Township 11 South, Range 20, E.B.M.:
Section 28: That part of the N 1/2 of the NW 1/4, and that part of the NE 1/4 lying north and below Milner Low Lift main canal.

01 0010
~~37 116~~ D. Twin Falls Canal Company.

180.0 cubic feet of water per second.

Point of Diversion

At Milner Dam on the South side of Snake River (in the Northeast Quarter of the Southeast Quarter (NE 1/4 SE 1/4) of Section Twenty-nine (29), Township Ten (10) South, Range Twenty-one (21) E.B.M.

Lands to Which Appurtenant

The lands described in detail in Paragraph XIII (a) foregoing.

01 0011
~~37 116~~ E. Clarence Tilley.

7.00 cubic feet of water per second.

Point of Diversion

Southeast corner of the Southwest Quarter of the Northwest Quarter (SW 1/4 NW 1/4), Section Twelve (12), Township Eight (8) South, Range Thirty (30) E.B.M.

Lands to Which Appurtenant

Tax No. 18, described as commencing at a point 83 rods and 1.5 feet West of the Northeast Corner of the Northeast Quarter of Section Fourteen, Township Eight South, Range Thirty East of the Boise Meridian, thence running West along the North line of said Section Fourteen 22 rods and 12 feet, thence South 20 rods; thence East 22 rods and 12 feet, thence North 20 rods, more or less, to the North line of said Section Fourteen, and place of beginning.

Tax No. 6, described as beginning at a point 20 feet North of the Southeast Corner of Lot 4, Section Eleven, Township Eight South, Range Thirty East of the Boise Meridian, thence running West parrallel to the South line 440 feet, thence North 1074 feet, to the South line of Snake River, thence North 71° 37' East along South line of River 464 feet to the East line of Lot 4, thence North 75° 54' East 657 feet, thence South 1400 feet to the South line of Lot 3, thence West 637 feet, thence North 20 feet to the place of beginning.

Tax No. 36, described as beginning at the Southwest Corner of Lot 4, Section Eleven, Township Eight South, Range Thirty East of the Boise Meridian, thence running East along the South line of said Lot Four 884 feet, thence North 1094 feet, more or less, to the South bank of Snake River, thence South 71° 37' West along the South Bank of Snake River 932 feet to intersection with the West line of said Lot 4, thence South along the West line of said Lot Four 880 feet, more or less, to the point of beginning.

Tax No. 1, described as beginning at a point 75 feet South of the Southwest Corner of said Lot 4, running West 1484 feet, more or less, to intersection with East bank of Snake River in Section Ten, Township Eight South, Range Thirty East of the Boise Meridian, thence North 59° 28' East along the East Bank of said Snake River 1722 feet, more or less, to intersection with the East line of said Lot 1, thence South along the East line of said Lot One 875 feet, more or less, to point of beginning.

Tax No. 2, described as beginning at a point 15 feet South of the Southwest Corner of Lot 4, Section Eleven, Township Eight South, Range Thirty East of the Boise Meridian, running thence West 1484 feet, more or less, to the East bank of Snake River in Lot 1, of Section Ten, Township Eight South, Range Thirty East of the Boise Meridian, thence South 37° 04' West along the East bank of Snake River 383 feet, thence East 1715 feet, more or less, to intersection with the East line of said Lot 1, thence North 306 feet, more or less, to point of beginning.

Tax No. 35, described as beginning at a point 20 feet West of the Northeast Corner of the Southwest Quarter of the Southwest Quarter of Section Eleven, Township Eight South, Range Thirty East of the Boise Meridian, running thence South parallel to the East line of said Southwest Quarter of said Section Eleven aforesaid 646 feet, thence West 1304 feet, more or less, to the intersection with the West line of said Section Eleven, thence North along said Section line 646 feet, thence East 1304 feet, more or less, to point of beginning.

Tax No. 17, described as commencing at a point 103 rods 10 feet West of the Northeast Corner of Section Fourteen, Township Eight South, Range Thirty East of the Boise Meridian, thence running South 20 rods 8 1/2 feet, thence West 18 rods 12 1/2 feet, thence North 20 rods 8 1/2 feet, thence East 18 rods, 12 1/2 feet to the point of beginning.

Tax No. 3, described as follows, to-wit: Beginning at a point on the East line of Lot 1 of Section Ten, Township Eight South, Range Thirty East of the Boise Meridian, which point is 653 feet South of the Southwest Corner of Lot 4 of Section Eleven, Township and Range aforesaid, running thence West 1917 feet, more or less, to the East bank of Snake River, thence North 36° 38' East along said East Bank 339 feet, more or less, thence East 1715 feet, more or less, to the East line of Lot 1, Section Ten, Township and Range aforesaid, thence South 272 feet, more or less, to the point of beginning.

Tax No. 4, more particularly described as follows, to-wit: Beginning at the Southeast Corner of Section Ten, in Township Eight South, Range Thirty East of the Boise Meridian, running thence North 660 feet, thence West 1900 feet, more or less, to the East line of Snake River, thence South 5° 74' East 622 feet along said East line of Snake River, to the South line of Section Ten, aforesaid, thence East 1865 feet, more or less, to the point of beginning.

Tax No. 7, more particularly described as follows, to-wit: Beginning at a point 748 feet West of the Southeast Corner of Lot 3, in Section Eleven, Township Eight South, Range Thirty East of the Boise Meridian, running thence North 1° 41' West 1500 feet, more or less, to the South bank of Snake River, thence North 73° 50' East 787 feet to intersect with the East line of said Lot 3, thence South 1100 feet, thence South 46°15' East 888 feet to the South line of Lot Two, thence West 1340 feet to the point of beginning.

Tax No. 11, more particularly described as follows, to-wit: Beginning at the Northeast Corner of the Southwest Quarter of the Southeast Quarter of Section Eleven, Township Eight South, Range Thirty East of the Boise Meridian, running thence South 80 rods, thence West 43 rods 6 1/2 feet, thence North 26 rods, thence West 15 rods 8 feet, thence South 4 rods 13 feet, thence West 20 rods 3 feet, thence South 21 rods 3 feet, thence West 56 rods, thence North 77 rods, thence East 16 rods, thence North 3 rods, thence East 118 rods to the point of beginning.

Tax No. 12, more particularly described as follows, to-wit: Beginning at the Northwest Corner of the Southeast Quarter of the Southwest Quarter of Section Eleven, in Township Eight South, Range Thirty East of the Boise Meridian, running thence East 42 rods, thence South 3 rods, thence West 18 rods, thence South 77 rods, thence West 24 rods, thence North 80 rods to the point of beginning.

Tax No. 14, more particularly described as follows, to-wit: Beginning at the Northeast Corner of Section Fifteen, in Township Eight South, Range Thirty East of the Boise Meridian, running thence South 660 feet, thence West 1830 feet, more or less, to intersect the left bank of Snake River, thence North 5° 37' West along said Left Bank 662 feet to the North line of said Section Fifteen, thence East along said North line 1865 feet, more or less, to the point of beginning.

Tax No. 66, more particularly described as follows, to-wit: Beginning at a point 28 feet North and 364.6 feet West of the Southeast Corner of the Southwest Quarter of the Southwest Quarter of Section Eleven, Township Eight South, Range Thirty East of the Boise Meridian, running thence North 646 feet, thence West 955.4 feet, thence South 646 feet, thence East 955.4 feet to the point of beginning.

F. William Kendell.

4.00 cubic feet of water per second.

01 0012 ✓
~~37 116~~

Point of Diversion

South Half of the Northeast Quarter (S 1/2 NE 1/4), Section Eleven (11) East, Township Eight (8) South, Range Thirty (30) E. B. M.

Lands to Which Appurtenant

Tax No. 1, Township 8 South, Range 30 East of the Boise Meridian. Beginning at a point 75 feet South of the Southwest corner of Lot 4, Section 11, Township 8 South of Range 30 East of the Boise Meridian; thence running West 1484 feet to intersect with South bank of Snake River in Lot 1, Section 10; thence North 59° 28' East along South bank of Snake River 1722 feet to intersect East line of Lot 1; thence South along said line 875 feet to place of beginning.

Tax No. 2, Township 8 South, Range 30 East of the Boise Meridian. Beginning at a point 75 feet South of the Southwest corner of Lot 4, Section 11, Township 8 South of Range 30 East of the Boise Meridian; thence West 1484 feet to the East bank of Snake River in Lot 1, Section 10; thence South 37° 04' West along the East bank of Snake River 383 feet; thence East 1715 feet to East line of Lot 1; thence North 306 feet to the place of beginning.

Tax No. 3, Township 8 South, Range 30 East of the Boise Meridian. Beginning at a point on the East line of Lot 1, Section 10, Township 8 South of Range 30 East of the Boise Meridian; 653 feet South of the Southwest corner of Lot 4, Section 11; thence West 1917 feet to the East bank of the Snake River; thence North 36° 38' East along the East bank 339 feet; thence East 1715 feet to the East line of Lot 1, Section 10, thence South 272 feet to the place of beginning.

Tax No. 4, Township 8 South, Range 30 East of the Boise Meridian. Beginning at the Southeast corner of Section 10, Township 8 South of Range 30 East of the Boise Meridian; thence running North 660 feet; thence West 1900 feet to the East line of Snake River; thence South 5° 73' East 622 feet along East line of Snake River to the South line of Section 10; thence East 1865 feet to the place of beginning.

Tax No. 6, Township 8 South, Range 30 East of the Boise Meridian. Beginning at a point 20 feet North of the Southeast corner of Lot 4, Section 11, Township 8 South of Range 30 East of the Boise Meridian; thence running West parallel to the South line 440 feet; thence North 1074 feet to the South line of Snake River; thence North 71° 37' East along South line of river 464 feet to the East line of Lot 4, thence North 75° 54' East 657 feet; thence South 1400 feet to the South line of Lot 3; thence West 637 feet; thence North 20 feet to the place of beginning.

Tax No. 35, Township 8 South, Range 30 East of the Boise Meridian. Beginning at a point 20 feet West of the Southeast corner of Lot 4, Section 11, Township 8 South of Range 30 East of the Boise Meridian; thence South 646 feet; thence West 1304 feet to the West line of Section 11; thence North along said line 646 feet; thence East 1304 feet to the place of beginning.

Tax No. 7, Township 8 South, Range 30 East of the Boise Meridian. Beginning at a point 748 feet West of the Southeast corner of Lot 3, Section 11, Township 8 South of Range 30 East of the Boise Meridian; thence running North 1° 41' West 1500 feet to the South bank of Snake River; thence North 73° 50' East 787 feet to intersect with the East line of Lot 3; thence South 1100 feet; thence South 46° 15' East 888 feet to the South line of Lot 2; thence West 1340 feet to the place of beginning.

Tax No. 66, Township 8 South, Range 30 East of the Boise Meridian. Beginning at a point 28' North and 364.6' West of the Southeast corner of the Southwest Quarter of the Southwest Quarter of Section 11; thence North 646'; thence West 955.4'; thence South 646'; thence East 955.4 feet to the point of beginning.

Tax No. 11, Township 8 South, Range 30 East of the Boise Meridian. Beginning at the Northeast corner of the Southwest Quarter of the Southeast Quarter of Section 11, Township 8 South, of Range 30 East of the Boise Meridian; thence running South 80 rods; thence West 43 rods 6 1/2 feet; thence Northwest 26 rods; thence West 15 rods 8 feet; thence South 4 rods 13 feet; thence West 20 rods 3 feet; thence South 21 rods 3 feet; thence West 56 rods; thence North 77 rods; thence East 16 rods; thence North 3 rods; thence East 118 rods to the place of beginning.

Tax No. 12, Township 8 South, Range 30 East of the Boise Meridian. Beginning at the Northwest corner of the Southeast Quarter of the Southwest Quarter of Section 11, Township 8 South, Range 30 East of the Boise Meridian; thence running East 42 rods; thence South 3 rods; thence West 18 rods; thence South 77 rods; thence West 24 rods; thence North 80 rods to the place of beginning.

Tax No. 78, Township 8 South, Range 30 East of the Boise Meridian. Beginning at the Southwest corner of the Southeast Quarter of the Southeast Quarter of Section 11; thence North 12 rods; thence East 10 rods; thence South 12 rods; thence West 10 rods to the point of beginning.

Tax No. 17, Township 8 South, Range 30 East of the Boise Meridian. Beginning at a point 103 rods 10 feet West of the Northeast corner of Section 14, Township 8 South of Range 30 East of the Boise Meridian; thence running South 20 rods 8 1/2 feet; thence West 18 rods 12 1/2 feet; thence North 20 rods 8 1/2 feet; thence East 18 rods 12 1/2 feet to the place of beginning.

Tax No. 18, Township 8 South, Range 30 East of the Boise Meridian. Beginning at a point 83 rods 1 1/2 feet West of the Northeast corner of Section 14, Township 8 South, Range 30 East of the Boise Meridian; thence running West 22 rods 12 feet; thence South 20 rods; thence East 22 rods 12 feet; thence North 20 rods to the place of beginning.

Tax No. 14, Township 8 South, Range 30 East of the Boise Meridian. Beginning at the Northeast corner of Section 15, Township 8 South of Range 30 East of the Boise Meridian; thence running South 660 feet; thence West 1830 feet to intersect left bank of the Snake River; thence North 5° 37' West along left bank 662 feet to the North line of Section 15; thence East along said line 1865 feet to the place of beginning.

Tax No. 31, Township 8 South, Range 30 East of the Boise Meridian. All that portion of the Northwest Quarter of the Northwest Quarter, Section 14, Township 8 South, Range 30 East of the Boise Meridian, excepting from said tract the following described tract of land, to-wit: Beginning at the Southwest corner of the said Northwest Quarter of the Northwest Quarter of Section 14; running thence East 495.0 feet; thence North 440.0 feet; thence West 495.0 feet; thence South 440 feet to the point of beginning.

G. Falls Irrigation District.

125.00 cubic feet of water per second.

Point of Diversion

Lot Four (4) Southeast Quarter of the Southeast Quarter (SE 1/4 SE 1/4) of Section Thirty (30), Township Seven (7) South, Range Thirty (30) E.B.M.

Lands to Which Appurtenant

All irrigable lands within the district boundary in Secs. 5, 6, 7, 8, 17, 18 of Twp. 7 S., R. 32 E., B.M.

All irrigable lands within the district boundary in Secs. 12, 13, 14, 15, 20, 21, 22, 23, 24, 27, 31, 32 of Twp. 7 S., R. 31 E., B.M.

All irrigable lands within the district boundary in Secs. 5, 6, 7, 18 of Twp. 8 S., R. 31 E., B.M.

All irrigable lands within the district boundary in Secs. 1, 11, 12, 13, 14, 15, 21, 22, 23, 24, 26, 27, 28 of Twp. 8 S., R. 30 E., B.M.

H. A & B Irrigation District.

267.00 cubic feet of water per second.

Point of Diversion

Southeast Quarter of the Southwest Quarter (SE 1/4 SW 1/4), Section Twenty-four (24), Township Ten (10) South, Range Twenty-one (21) E.B.M.

Lands to Which Appurtenant

Township Eight (8) South, Range Twenty-five (25) East of Boise Meridian: Sections Two (2) through Twenty-four (24) inclusive, Sections Twenty-seven (27) through Thirty (30) inclusive;

Township Seven (7) South, Range Twenty-five (25) East of Boise Meridian; Sections Twenty-seven (27) through Thirty-four (34) inclusive;

Township Eight (8) South, Range Twenty-four (24) East of Boise Meridian: Sections One (1) through Fifteen (15), Seventeen (17) through Thirty-six (36) inclusive;

Township Seven (7) South, Range Twenty-four (24) East of Boise Meridian: Sections 15, 22, 23, Twenty-six (26) through Thirty-five (35) inclusive;

Township Nine (9) South, Range Twenty-three (23) East of Boise Meridian: Sections One (1) through Seven (7) inclusive;

Township Eight (8) South, Range Twenty-three (23) East of Boise Meridian: Sections One (1) through Fifteen (15) inclusive, Seventeen (17) through Thirty-five (35) inclusive;

Township Nine (9) South, Range Twenty-three (23) East of Boise Meridian: Section 34;

Township Ten (10) South, Range Twenty-two (22) East of Boise Meridian: Sections Three (3) through Eleven (11) inclusive, Sections Fifteen (15) through Nineteen (19) inclusive;

Township Nine (9) South, Range Twenty-two (22) East of Boise Meridian: Sections One (1) through Five (5) inclusive, Seven (7) through Fifteen (15) inclusive, Seventeen (17) through Twenty-three (23) inclusive, Twenty-seven (27) through Thirty-four (34) inclusive;

Township Eight (8) South, Range Twenty-two (22) East of Boise Meridian: Sections 24, 25, 30, 35;

Township Ten (10) South, Range Twenty-one (21) East of Boise Meridian: Sections One (1) through Four (4), Eight (8) through Sixteen (16), Twenty-one (21) through Twenty-four (24);

Township Nine (9) South, Range Twenty-one (21) East of Boise Meridian: Sections One (1) through Four (4), Seven (7) through Twelve (12), Fifteen (15) through Eighteen (18), 21, 22, 25, 26, Thirty-three (33) through Thirty-six (36) inclusive;

Township Eight (8) South, Range Twenty-one (21) East of Boise Meridian: Sections Twenty-two (22) through Twenty-seven (27), inclusive, Thirty-three (33) through Thirty-six (36) inclusive.

01 0015I. Otis Orton.

4.00 cubic feet of water per second.

Point of Diversion

Lots One (1) and Four (4), Section Twenty-one (21), ~~Township Ten (10) South, Range Twenty-two (22),~~ E.B.M.

Lands to Which Appurtenant

N 1/2 of Section 21 and Lots1 and 3,E 1/4 of NE 1/4 of Section 20, Township 10 South, Range 22 East, Boise Meridian.

4. That the contracts entered into between various of the parties Plaintiff and the United States of America, Bureau of Reclamation, as the same have been amended and modified, in connection with the Palisades project and other projects, were intended to be, and are, binding upon all persons claiming rights to the use of the waters of the Snake River and its tributaries, above Milner Dam, and constitute a common plan for the administration of the Snake River.

5. That the following provisions of the contracts as amended, which provisions are common to each amended contract entered into between each party thereto, and the United States of America, Bureau of Reclamation, are hereby ratified, confirmed and approved:

(a) The provisions relating to "Saving of Winter Water; Special Storage Right". A copy of a typical example of such a common paragraph is attached hereto as Exhibit A and by this reference made a part hereof as though set out in full herein;

(b) The provisions relating to "Permanent Exchange of the American Falls and Jackson Lake Storage Rights and Redifinition of Storage Rights". A copy of a typical example of such a common paragraph is attached hereto as Exhibit B and by this reference made a part hereof as though set out in full herein;

(c) The provisions relating to "Temporary Storage and Exchange of Water; Release of Jackson Lake and Palisades for Power Production". A copy of a typical example of such a common paragraph is attached hereto as Exhibit C and by this reference made a part hereof as though set out in full herein.

(d) The provisions relating to "Priority of Certain Existing and Future Water Rights". A copy of a typical example of such a common paragraph is attached hereto as Exhibit D and by this reference made a part hereof as though set out in full herein.

6. That the pertinent paragraphs of the contract entered into by the United States of America, Bureau of Reclamation, and the Minidoka Irrigation District, the contents of which paragraphs were confirmed by all other parties Plaintiff in amendatory and supplemental contracts, a copy of which pertinent paragraphs is attached hereto as Exhibit E and by this reference made a part hereof as though set out in full herein, is hereby ratified, confirmed and approved.

7. That the Memorandum of Agreement between the Bureau of Reclamation and the Bureau of Indian Affairs, a copy of the pertinent provisions of which is attached hereto as Exhibit F and by this reference made a part hereof as though set out in full herein, is hereby ratified, confirmed and Approved.

Done this 10th day of July, 1968.

S/ Theron L. Ward
District Judge

State of Idaho }
County of Twin Falls } ss.

I hereby certify the foregoing to be a full, true and correct copy of the original on file in the above entitled action.

H. A. LANCASTER
Clerk of the District Court

By [illegible] Deputy

EXHIBIT "A"

Excerpt from United States Department of the Interior, Bureau of Reclamation, Minidoka and Palisades Projects, Idaho, Contract No. 14-06-W-28 with the North Side Canal Company, Ltd.

Saving of Winter Water: Special Storage Right

17. (a) The Company is hereby recognized as having the right to divert at Milner Dam for domestic and livestock uses during the months of November through March of each storage season not to exceed 126,000 acre-feet, but within this limitation:

> If, taking account of all storable water, whether stored or not, Palisades and American Falls reservoirs fail to fill during the storage season in question, any water diverted by the Company during that storage season in excess of 126,000 acre-feet (but not to exceed the amount of deficiency in fill) will be charged as of the end of the storage season against the Company's allotment of American Falls storage,

and, beginning with the date announced by the Secretary as to the time when Palisades will be ready for operation, the Company shall confine its diversions from the Snake River during the months of November through March of each storage season to the rights here recognized.

(b) After Palisades Reservoir is in operation, the Company may, to the extent that it curtails its diversions during the months of November through March of any storage season below the rights defined in (a) of this article, store in that season an equivalent amount of saved water in either American Falls or Palisades Reservoir space available to it, the amount not to exceed 126,000 acre-feet in any storage season. This right to store water shall be prior in time

over the storage rights held by the United States for American Falls Reservoir (the latter having a priority dated March 30, 1921), or any storage rights held by the United States or the Company that are junior to the American Falls rights. The Company hereby consents to the granting of special storage rights with a like priority to other water users who, directly or indirectly, contract to curtail storage season diversions for not less than 150 consecutive days out of each storage season within these maxima as to total special storage rights:

(1) For water users organizations and water users diverting above American Falls Dam — 135,000 acre-feet.

(2) For water users organizations and water users diverting between American Falls and Milner Dam — 8,000 acre-feet, exclusive of the special storage rights described in (c) of this article.

(c) The Company also hereby consents to permitting the Twin Falls Canal Company to store, in either American Falls or Palisades Reservoir, during the months of November through March of each storage season under a priority like that provided in (b) above, water that would otherwise accrue to it within these rights:

The rights of the Twin Falls Canal Company to divert at Milner Dam for domestic and livestock uses during those months as follows:

150,000 acre-feet, but within this limitation:

If, taking account of all storable water, whether stored or not, Palisades and American Falls reservoirs fail to fill during any storage season, any water diverted by the Twin Falls Canal Company during that storage season in excess of 150,000 acre-feet (but not to exceed the amount of deficiency in fill) will be charged as of the end of that storage season against the Twin Falls Canal Company's allotment of American Falls storage.

This definition of rights of the Twin Falls Canal Company as a limitation on its rights, it is understood, need not be made operative until the first year in which that company exercises the special storage provision to which consent is here given.

Distribution of Rights to Share in Palisades Capacity Made Available to the Company

18. Under the provisions of articles 16 and 17, the Company will be entitled to stored water accruing to a certain active capacity in Palisades Reservoir, which rights are in addition to those now appurtenant to lands owned by its stockholders which are included within the American Falls Reservoir District or within the Hillsdale Irrigation District. Subject to the payment of all proper assessments and levies and compliance with other conditions validly imposed under law, the rights to share in stored water so to become available and the obligation related thereto shall be apportioned equally and ratably among

all the outstanding shares of the Company's stock, it being understood for clarity that thirteen and eight tenths per cent (13.8%) of such rights is appurtenant to shares of Company stock which, as of the date of this contract, are appurtenant to lands within the boundaries of the Hillsdale Irrigation District and eighty-six and two tenths per cent (86.2%) of such rights is appurtenant to shares of Company stock which, as of the date of this contract, are appurtenant to lands within the boundaries of American Falls Reservoir District.

Provisions Relating to Exchange and Redefinition of Existing American Falls and Jackson Lake Storage Rights; Winter Power Operations at the Minidoka Powerplant

(Articles 19 through 24)

Permanent Exchange of American Falls and Jackson Lake Storage Rights

19. The United States, as of the date of this contract, operates and maintains for the benefit of lands in the lower valley served by the South Side Pumping and Gravity divisions of the Minidoka Project and by the Company the following capacities, respectively, in Jackson Lake Reservoir below elevation 6752:

Minidoka Project	325,810 acre-feet
Company	10.000 acre-feet
Total	335,810 acre-feet

Beginning October 1, 1952, there will be operated and maintained in Jackson Lake Reservoir, in lieu of the latter rights, the upper valley exchanged space as defined in article 20, and there will be made

EXHIBIT "B".

Excerpt from United States Department of the Interior, Bureau of Reclamation, Minidoka and Palisades Projects, Idaho, Contract No. 14-06-W-28 with the North Side Canal Company, Ltd., prior to the execution of the amendatory and supplemental provisions which recognize the rights of the Minidoka Irrigation District as more particularly set out in Exhibit "E" hereto.

Provisions Relating to Exchange and Redefinition of Existing American Falls and Jackson Lake Storage Rights; Winter Power Operations at the Minidoka Powerplant

(Articles 19 through 24)

Permanent Exchange of American Falls and Jackson Lake Storage Rights

19. The United States, as of the date of this contract, operates and maintains for the benefit of lands in the lower valley served by the South Side Pumping and Gravity divisions of the Minidoka Project and by the Company the following capacities, respectively, in Jackson Lake Reservoir below elevation 6752:

Minidoka Project	325,810 acre-feet
Company	10,000 acre-feet
Total	335,810 acre-feet

Beginning October 1, 1952, there will be operated and maintained in Jackson Lake Reservoir, in lieu of the latter rights, the upper valley exchanged space as defined in article 20, and there will be made

available to the Company fifty-nine hundredths per cent (0.59%) of the active capacity of American Falls Reservoir (being 10,000 acre-feet in terms of a total active capacity of 1,700,000 acre-feet), this comprising part of the lower valley exchanged space as defined in article 20.

Definition of Upper Valley Exchanged Space; Guarantee in Event Lower Valley Exchanged Space Fails to Fill

20. It is anticipated that various upper valley holders of storage rights in American Falls Reservoir will have acquired in lieu of those rights seventy-six and seven tenths per cent (76.7%) of the total active capacity in Jackson Lake Reservoir as of October 1, 1952, these rights in Jackson Lake Reservoir being hereinafter called the upper valley exchanged space; and nineteen and seventy-five hundredths per cent (19.75%) of the active space in American Falls Reservoir will be held for the South Side Pumping and Gravity divisions of the Minidoka Project (nineteen and sixteen hundredths per cent (19.16%)) and the Company (fifty-nine hundredths per cent (0.59%)), these rights being hereinafter called the lower valley exchanged space. The seventy-six and seven tenths per cent (76.7%) in Jackson Lake and the nineteen and seventy-five hundredths per cent (19.75%) in American Falls shall, so long as the respective total active capacities are not less than 847,000 and 1,700,000 acre-feet, be treated as the equivalent of 335,810 acre-feet. The latter figure may, however, be adjusted from time to time by agreement between the Secretary and the Advisory Committee whenever there are determinations that the active capacities are other than

above stated. Beginning with the 1952-1953 storage season, there shall be a determination, at the end of each storage season in which the lower valley exchanged space fails to fill, taking carryover storage into account, (1) of the amount by which the American Falls storable inflow to which the lower valley exchanged space was entitled during that season failed to fill that space; and (2) of the amount, if any, by which the Jackson Lake storable inflow to which the upper valley exchanged space was entitled during that season failed to fill that exchanged space. If the amount under (1) exceeds that under (2), there shall be credited to the lower valley exchanged space and charged to the upper valley exchanged space an amount of stored water equal to the difference, but not in excess of the amount required to fill the lower valley exchanged space as of the end of that storage season. The determinations under this article shall be made by a committee of three comprising the state watermaster of District No. 36, a representative to be selected jointly by the Burley and Minidoka irrigation districts and the Company, and the officer of the United States in charge of the Minidoka Project.

Redefinition of Company's Jackson Lake Storage Rights

21. (a) The United States will operate and maintain Jackson Lake Reservoir and, beginning October 1, 1952, will make available to the Company stored water accruing to seventy-six and two thousand four hundred ninety-nine ten thousandths per cent (76.2499%) (312,007 acre-feet of present capacity) of the capacity in the reservoir above

elevation 6752 and will operate the entire reservoir in accordance with the following criteria:

> The entire reservoir will be operated so as to hold over, in any space available in the reservoir, from one irrigation season to the next for use in that next season, stored water to which any holder of space in the reservoir is entitled, but the total amount of stored water which will be held for the use of any holder of space during any irrigation season shall not exceed the space available to that holder. The United States shall, however, in its operation of the reservoir, have the right, after consultation with the Advisory Committee, to lower the water surface elevation in Jackson Lake in each storage season in order to avoid damage to the dam during winter weather and to provide incidental flood control, but, except in cases of operation and maintenance emergencies, such release of water shall not result in loss of storable water in that storage season. If losses do result, these shall be prorated equally over all space in the reservoir and shall be charged against stored water including that, if any, carried over from prior irrigation seasons. Determination of the relative rights of the various holders of space in the reservoir to reservoir inflow during each storage season shall, however, continue to be on the basis of the difference in priorities for the storage of water held by

EXHIBIT "C"

Excerpt from United States Department of the Interior, Bureau of Reclamation, Minidoka and Palisades Projects, Idaho, Contract No. 14-06-W-59 with the American Falls Reservoir District.

Provisions of General Application to All Rights Established or Defined by This Contract
(Articles 19 through 43)

Temporary Storage and Exchange of Water: Release of Jackson Lake and Palisades Water for Power Production

19. (a) It is the purpose of the United States and the water users having storage rights in the reservoir system (including the District) to have the reservoir system so operated as to effect the greatest practicable conservation of water. In keeping with this purpose, the endeavor will be to hold stored water in reservoir system space that is farthest upstream. Water in storage in any of the reservoirs of the system may, however, when the watermaster and the Advisory Committee determine this to be in the

the United States for the capacity below elevation 6752 and those held for the capacity above that elevation.

(b) Stored water available under the rights in Jackson Lake Reservoir as defined in this article shall be available for delivery to the Company during any irrigation season within these limitations:

(1) Except in cases of emergency, deliveries shall be limited to periods when the Company's natural flow rights and rights to water stored in reservoirs downstream from Jackson Lake Reservoir are not sufficient to meet the Company's irrigation water requirements.

(2) Deliveries shall be limited at any time to the amount which can be delivered by means of the Company's proportionate share of the outlet capacity, taking into account the requirement of passing prior natural flow rights through the reservoir and the physical limitations of the existing outlet works.

Operation and Maintenance Obligation - Jackson Lake

22. (a) The Company, during the period of operation and maintenance of Jackson Lake Dam and Reservoir by the United States, shall pay to the United States thirty-six and eighty-four hundredths per cent (36.84%) of the costs of operating and maintaining that dam and reservoir, including whatever costs may be incurred in the delivery of water therefrom.

interest of water conservation, be held temporarily in unoccupied space in any other reservoir of the system. And the District hereby consents to the making, with the approval of the watermaster, of annual exchanges of stored water among the various reservoirs of the system. No such temporary holding of water or such annual exchanges shall, however, deprive any entity of water accruing to space held for its benefit.

(b) During any storage season, the United States, after consultation with the Advisory Committee, may release stored water from Jackson Lake and Palisades reservoirs for the maintenance of power production at Palisades dam powerplant and may store such water, as Jackson Lake or Palisades water as the case may be, in American Falls Reservoir. The release of such water will be confined, however, in storage seasons when it appears that American Falls, Palisades, and Jackson Lake reservoirs will fail to fill, to water required for the maintenance of a minimum firm power production (estimated to be about 11,000,000 kilowatt-hours per month at an average production of 15,000 kilowatts) and which can be stored in American Falls Reservoir; and no such release shall be made that will preclude the later delivery of water, by exchange or otherwise, to the upper valley entities entitled thereto.

Rental of Water: Sale of Space

20. (a) The District may rent stored water which has accrued to its credit in any reservoir of the system, but such rentals shall be for only one year at a time and at rates to be approved in advance by the Secretary and the Advisory Committee. Rates shall not exceed the annual costs under

EXHIBIT "D"

Excerpt from United States Department of the Interior, Bureau of Reclamation, Minidoka and Palisades Projects, Idaho, Contract No. 14-06-W-59 with the American Falls Reservoir District.

Priority of Certain Existing and Future Water Rights

28. (a) In connection with Island Park Reservoir, located on the North Fork (Henrys Fork) of Snake River, the United States holds water license No. R-590, 21-2156 with a priority date of March 14, 1935, and license No. R-686, 21-2157 with a priority date of June 12, 1940. Notwithstanding the later priority of license No. R-686, 21-2157 the District hereby agrees that all storage rights held by the United States in connection with Island Park Reservoir may be treated as having the same priority as rights under license No. R-590.

(b) In connection with Idaho Permit No. 15134, 01-2040 a direct diversion permit with a priority date of March 30, 1921, held in connection with American Falls Reservoir, the United States may contract with American Falls Reservoir District No. 2 to recognize the right of that district to have water license No. 15134 exercised substantially as follows:

American Falls Reservoir District No. 2 to have the right to divert as natural flow during each irrigation season under water license No. 15134, having a March 30, 1921 priority, as follows: From May 1 of each irrigation season continuing during that season so long as there is natural flow available for that priority, the first 1,700 cubic feet per second of flow to be available one-half (1/2) to American Falls Reservoir District No. 2 and one-half (1/2) to American Falls Reservoir, except that in any year in which American Falls Reservoir is full to capacity on April 30 or fills after that date, taking

United States shall make application to the State of Idaho for amendment of water permit No. 15134 and the issuance thereunder with a priority date of March 30, 1921, requiring that the remainder of the right under the permit, 6,300 second-feet, to the extent such right remains outstanding, be used for storage in American Falls Reservoir, such right, however, if issued to the United States not to carry voting privileges in water users meetings under the laws of the State of Idaho. Such application shall, however, leave unaffected water license No. R-269 having a priority dated March 30, 1921.

(c) If the United States, under the Federal Reclamation Laws, hereafter constructs storage facilities on the Snake River or its tributaries above Milner Dam in addition to those now constructed or authorized to be constructed to provide water for irrigation purposes, the District hereby agrees that, notwithstanding the establishment of a storage right for such additional facilities with a priority subsequent to that assigned to Palisades Dam and Reservoir, the United States may hereafter contract with water users organizations which then have storage rights in Palisades Reservoir, to operate not to exceed 300,000 acre-feet of such capacity for the storage of water for irrigation for the benefit of such organizations as though that capacity had a storage right of identical priority with that held for Palisades Dam and Reservoir.

Protection of Water Rights

29. In case any dispute arises as to the character, extent, priority or validity of any of the storage rights held in the name of the United

EXHIBIT "E"

Excerpt from United States, Department of the Interior, Bureau of Reclamation, Contract with Minidoka Irrigation District Concerning Storage Capacity in American Falls, Jackson Lake and Palisades Reservoirs, and Related Matters; Contract No. 14-06-100-1833.

PROVISIONS RELATING TO REDEFINITION OF EXISTING JACKSON LAKE STORAGE RIGHTS AND ANNUAL EXCHANGES THEREOF; HOLDOVER RIGHTS AND RIGHTS TO RELEASE OF WATER AND RELATED MATTERS; OPERATION AND MAINTENANCE OBLIGATIONS—JACKSON LAKE; WINTER POWER OPERATION; MINIDOKA POWERPLANT
(Articles 21 through 24)

REDEFINITION OF JACKSON LAKE STORAGE RIGHTS OF DISTRICT AND WATER USERS COMING WITHIN ITS JURISDICTION; AND ANNUAL EXCHANGES THEREOF

21. (a) The United States will continue to operate and maintain the existing Jackson Lake Reservoir and, beginning October 1, 1958, will make available to the District stored water accruing to 42.49% of the active capacity of that reservoir below elevation 6752, within the limits and on the terms and conditions provided in this contract. This percentage shall, so long as the reservoir has a total active capacity of 847,000 acre-feet, be treated as the equivalent of one hundred eighty-six thousand thirty (186,030) acre-feet of active capacity below elevation 6752. The latter figure may, however, be adjusted from time to time by agreement between the Secretary and the Advisory Committee whenever there are determinations that the active capacity is other than above stated.

into account any water that may be temporarily stored to its credit in upstream reservoirs, all water diverted by American Falls Reservoir District No. 2 within the maximum of 1,700 cubic feet per second during the year prior to the initial storage draft on American Falls Reservoir after the reservoir finally fills in that year shall be considered as natural flow under water license No. 15134. Nothing herein shall prevent American Falls Reservoir District No. 2 from diverting water under said license prior to May 1 of a given irrigation season but all such diversions shall be charged as storage in the event the reservoir is not full on April 30 of that season or does not fill after April 30 of that season.

Water available at American Falls Reservoir for the March 30, 1921 priority under water license No. 15134, other than that to be available to American Falls Reservoir District No. 2 as above provided, to be available for storage in American Falls Reservoir.

And the District agrees that it will not oppose an adjudication of a natural flow right of the waters of the Snake River for the benefit of American Falls Reservoir District No. 2 consistent with the foregoing criteria. The contract by the United States with American Falls Reservoir District No. 2 shall be on the condition, however, that that district assume its proportionate share of the obligation for the cost of replacement power under the provisions of article 17. When such contract has become operative, the

(b) After the District's irrigation season commences in any calendar year, as determined by the Watermaster, the District shall have the right to effect annual exchanges of water out of stored water that is exchangeable, not to exceed the extent of the District's use of Jackson Lake stored water in that year, if requested by written notice within 60 days after the commencement of the District's irrigation season in that calendar year. Any such exchanges shall be made out of water stored to the credit of upper valley water users in American Falls Reservoir or out of any water in that reservoir that is available for exchange. To the extent that there is water to effect such exchanges, they shall be effected without charge for transmission losses between Jackson Lake and American Falls Reservoir. The request for such exchanges made by the District shall be directed in writing to the officer in charge of the Minidoka Project and the Watermaster and those officers shall forthwith initiate and carry through the exchanges within the limits herein stated.

HOLDOVER RIGHTS AND RIGHTS TO RELEASE OF WATER AND RELATED MATTERS

22. (a) Beginning with the 1958-1959 storage season, the United States will operate Jackson Lake Reservoir so as to hold over, in any space available in the reservoir, from one irrigation season to the next for use in that next season, stored water to which any holder of space in the reservoir is entitled, but the total amount of stored water which will be held for the use of any holder of space during any irrigation season shall not exceed the space available to that holder.

The United States shall, however, in its operation of the reservoir, have the right, after consultation with the Advisory Committee, to lower the water surface elevation in Jackson Lake in each storage season in order to avoid damage to the dam during winter weather and to provide incidental flood control, but, except in cases of operation and maintenance emergencies, such release of water shall not result in loss of storable water in that storage season. If losses do result these shall be prorated equally over all space in the reservoir and shall be charged against stored water including that, if any carried over from prior irrigation seasons. Determination of the relative rights of the various holders of space in the reservoir to reservoir inflow during each storage season shall, however, continue to be on the basis of the difference in priorities for the storage of water held by the United States for the capacity below elevation 6752 and those held for the capacity above that elevation. Reservoir permits issued by the state of Wyoming for the capacity below elevation 6752 are as follows:

Permit No.	Capacity in acre-feet 2/	Priority
R 894	299,000	August 23, 1906
R 1903	392,990	August 18, 1910
R 2185	438,000	July 24, 1911

The capacity below elevation 6752 shall continue to be operated, as it has been historically, on a pooled or vertical basis as to priorities with respect to storable inflow.

(b) Stored water accruing to the rights in Jackson Lake Reservoir as defined in this article shall be available for physical delivery to the District during any irrigation season within these limitations:

2/ Capacities are stated in cumulative totals.

(1) Except in cases of emergency, deliveries shall be limited to periods when the District's natural flow rights and rights to water stored in Palisades and American Falls Reservoirs downstream from Jackson Lake Reservoir are not sufficient to meet the District's irrigation water requirements, but this provision, except for limitations in the District's and in the landowners' reservoir capacity, does not preclude the District from designating for purposes of allocation, on paper, reservoirs from which the District and its water users are to receive the water, or from designating the reservoir in which the carry-over water will be stored at the end of a particular irrigation season.

(2) Deliveries shall be limited at any time to the amount which can be delivered by means of the District's proportionate share of the outlet capacity, taking into account the requirement of passing prior natural flow rights through the reservoir and the physical limitations of the existing outlet works.

(c) All carry-over of stored water in Jackson Lake Reservoir, whether held under individual water right applications coming within the jurisdiction of the District or in the name of the District itself, shall be restricted to the carry-over rights as defined in this article as being held for the District and to those held under water right applications

to lands within the jurisdiction of the District, and other carry-over or drop-down rights or claims of rights are hereby abandoned.

(d) Rights under the interim exchange arrangement which was consummated in 1955 and extended from year to year since that date are terminated as of October 1, 1958, but any stored water then carried over in the District's share of the lower valley exchanged space, as defined in that interim arrangement, will be carried as a credit to the District's Jackson Lake capacity as defined in this article as of the beginning of the 1958-1959 storage season.

OPERATION AND MAINTENANCE OBLIGATION—JACKSON LAKE

23. (a) The District, during the period of operation and maintenance of Jackson Lake Reservoir by the United States, shall pay to the United States twenty-one and nine thousand six hundred thirty-four ten thousandths percent (21.9634%) of the costs of operating and maintaining that reservoir, including whatever costs may be incurred in the delivery of water therefrom.

(b) Beginning with the 1959 irrigation season, payment of the District's obligation under (a) above shall be made for each calendar year on the basis of annual estimates by the Secretary. The notice of these annual estimates, hereinafter referred to as the operation and maintenance charge notice, shall contain a statement of the estimated cost of operation and maintenance under (a) above to be incurred in the calendar year involved, and the amount of the District's share of these estimated costs. The operation and maintenance charge notice shall be furnished to the District on or before February 1 of the calendar year

for which the notice is issued, but, when requested by the District, a preliminary estimate shall be given at such earlier date as is agreed upon in writing. The District shall pay the amount stated in the notice on or before April 1 of the year for which issued or such other date as may be agreed on.

(c) Whenever, in the opinion of the Secretary, funds so advanced will be inadequate to meet the costs under (a) above, he may give a supplemental operation and maintenance charge notice, stating therein the amount of the District's share of the additional funds required, and the District shall advance that additional amount on or before the date specified in the supplemental notice. If the funds advanced by the District under this article exceed the District's share of the actual cost under (a) above for the year for which advanced, the surplus shall be credited on the charges to become due for succeeding years.

WINTER POWER OPERATION; MINIDOKA POWERPLANT

24. (a) The United States, in its operation of American Falls and Minidoka dams during the storage season of each year is required to pass through enough water to satisfy existing diversion rights in the stretch of river down to and including Milner Dam and certain power rights below Milner Dam, and has the privilege under an existing decree to use at Minidoka Dam 2700 cubic feet per second of water for the development of power. While the United States must operate the American Falls and Minidoka dams so as not to interfere with these third-party rights, it will be the objective of the United States in the operation of both its

American Falls and Minidoka powerplants to curtail the release of additional water from American Falls Reservoir for power production at those powerplants during the storage season of any year whenever operation of those powerplants to the full extent of their respective water rights for power production would result in loss of irrigation water otherwise storable in the reservoir system. Accordingly, except as it is determined by the Secretary that additional water may be passed through American Falls and Minidoka dams without the loss of water that could be stored for irrigation in the reservoir system, the United States has, during each storage season beginning October 1, 1952, and ending in 1958, and will, commencing with the storage season of 1958-1959 and continuing so long as the provisions of (c) of this article remain operative, limit the release of water through those dams as follows:

> To the amount of water required to provide flows below Minidoka Dam sufficient to meet existing diversion rights in the reach of the river through Milner Dam and the power rights required to be recognized under the provisions of the contract of June 15, 1923, between the United States and the Idaho Power Company (Symbol and No. Ilr-733), as those diversion and power rights may be modified from time to time.

To the extent that it is practicable to do so, the Advisory Committee and the District will be informed in advance of any plans for the release of water in excess of the foregoing limitations; and that Committee will be furnished written reports as of the close of the storage season of each year showing, among other things, the releases actually made and the minimum releases required to be made.

(b) Curtailment of releases as provided in (a) of this article will result in there being, in some years, additional water available for storage for irrigation purposes in American Falls, Island Park, and Palisades reservoirs. In any storage season when these reservoirs fail to fill, the saved water attributable to such curtailment shall be credited, first, to Island Park Reservoir to the extent of 45,000 acre-feet without regard to the priority of the storage permits held for that reservoir, and thereafter to American Falls, Island Park, and Palisades reservoirs in the order of priority of their respective storage permits, the crediting to Island Park Reservoir and to any storage right in any other reservoir (except the lower valley exchanged space in American Falls Reservoir) being contingent on the owners of these rights obligating themselves for their share of the annual payments for power replacement in keeping with the provisions of (e) of this article.

(c) For the purposes of this contract and without relinquishment of any part of the power rights herein described, it is assumed that but for curtailment of operations as provided in (a) of this article, units 1 through 6 of the Minidoka powerplant would be operated to the maximum extent practicable within the limits of the power rights therefor (2,700 second-feet as decreed by the District Court of the Fourth Judicial District of Idaho on June 20, 1913, in the case of Twin Falls Canal Company v. Charles N. Foster et al.), and that in consequence of operations under this article there may be losses in the production of power and energy attributable to those

units. Payment for such power and energy losses shall be made, on the basis of an average annual replacement requirement, by all contractors having reservoir rights benefiting from the water savings resulting from operations under the provisions of (a) of this article in annual amounts determined as follows:

(1) Prior to the date when either the American Falls powerplant or Palisades dam powerplant is first in service, the payment for any year shall be the product, in dollars, of the then controlling average annual replacement requirement, in kilowatt-hours, times four mills ($0.004).

(2) Beginning with the date when either the American Falls powerplant or Palisades dam powerplant is first in service, the payment for any year shall be the product, in dollars, of the then controlling average annual replacement requirement, in kilowatt-hours, times the price per kilowatt-hour, figured at 100 percent load factor, under the then existing rate schedule for the sale of firm power and energy from the plant or plants involved.

In determining replacement requirements under this article, no account is intended to be taken, by way of offset or otherwise, of the effect of any reservoir system storage operations on the seventh unit of the Minidoka powerplant. The amount to be paid by the District annually shall be limited, however, to that apportionable under the provisions

of (e) of this article to the District's rights in American Falls Reservoir under the provisions of article 10 and the District's rights in Palisades Reservoir under the provisions of article 16.

(d) The replacement requirements for the year ending September 30, 1953, shall be 5,699,000 kilowatt-hours, being the average annual replacement requirement for the period beginning October 1, 1931, and ending September 30, 1951. The average annual replacement requirement under either (1) or (2) of (c) above for the year ending September 30, 1954, shall be the average of the annual replacement requirements for each year of the 20-year period ending September 30, 1953, and for each 12-month period after September 30, 1954, shall be the average of the annual replacement requirements of each year of the 20-year period ending on September 30 of the prior year. In deriving this average there shall be used, as annual net power production losses for each year, the annual figures for the years through September 30, 1951, as shown in Table 1 of the document entitled "Criteria and Method for Determination of Certain Minidoka Powerplant Production Losses from Restrictions on Use of Water Rights"[3/], and for each year thereafter, a net power production loss calculated on the basis of the comparison of (1) the total energy that could have been produced by units 1 through 6 of the Minidoka powerplant based on the

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3/ Duplicate originals of this document shall be filed with the Watermaster of District No. 36, the officer of the United States in charge of the Minidoka Project, and the Burley Irrigation District.

water flows actually recorded at the U.S.G.S. Minidoka gaging station (hereinafter called the Minidoka gage), corrected as hereinafter provided, and (2) the energy which theoretically could have been generated at those units with the flows at the Minidoka gage without a curtailment in winter power operation as provided in this article and exclusive or irrigation storage releases. Using calculations reached as to flows and heads, the power loss calculations will be made by utilizing the power production curves shown in drawing No. 17-100-139, as revised, incorporated by reference in the document identified above, but increases in energy in any year by reason of taking American Falls storage into account as provided in subparagraph (3) of this subarticle (d) shall be accounted for as compensating offset up to but not exceeding energy losses accruing in that year by reason of curtailment in power operations under this article.

To correct flows under (1) above, all storage releases except American Falls shall be excluded and the measure of American Falls storage passing the Minidoka gage shall be the increase in storage at that gage over that computed at the Blackfoot gaging station as shown in the annual report entitled "Water Distribution and Hydrometric Work, District 36, Snake River, Idaho", the latter further corrected for any American Falls storage that may have been present by reason of having been stored temporarily upstream and that portion of Palisades storage which was diverted above the Minidoka gage. In measuring American Falls storage, it shall be assumed that storage is released in the order provided in article 19. The flow at the Minidoka gage

without storage shall be taken to be the normal flow at that gage as shown by that same report. In determining water flows, with and without curtailment of power operations as provided in this article, these assumptions shall be used with respect to units 1 through 6 of the Minidoka powerplant:

(1) There is a right for power production to maintain a flow of 2,700 second-feet at Minidoka Dam during the storage season of each year in accordance with the decree entered June 20, 1913, supra, if that flow, disregarding the storage of saved water in the reservoir system under the provisions of this article, would be available at Minidoka Dam.

(2) There is a right to use, within the hydraulic capacity of these units, whatever natural flow passes Minidoka Dam during each irrigation season.

(3) Although there is no right to have water stored under American Falls Reservoir rights released for power production during the period that such storage is being released for irrigation there will be more energy produced by these units than is attributable to the natural-flow rights therefor, which shall be taken into account as a compensating offset as provided above in this subarticle (d).

To determine controlling power heads, the effective power head for any period shall be derived on the basis of recorded forebay and tailwater elevations for that period.

The foregoing criteria for determinations of annual net power production losses may be changed from time to time but only if the changes are made in writing with the approval of the Secretary, the Advisory Committee, and the boards of directors of both the Minidoka and Burley irrigation districts. Determinations as to net power production losses for each year and the average annual replacement requirement under this article shall be made by the committee of three comprising the State Watermaster of District No. 36, a representative to be selected jointly by the Burley and Minidoka irrigation districts and the North Side Canal Company, Ltd., and the officer of the United States in charge of the Minidoka Project, but, should the Committee fail to make a determination for any year by January 1 of the year for which the determination is required, it may be made by the Secretary and reported to the District.

(e) The annual payment determined as provided in this article shall be apportioned among the benefiting reservoirs as follows: (1) prior to the first full storage season during which Palisades Reservoir is in operation, eighty-eight percent (88%) to American Falls Reservoir and twelve percent (12%) to Island Park Reservoir; and (2) beginning with the first full storage season of Palisades operation, seventy-eight percent (78%) to American Falls, twelve percent (12%) to Island Park, and ten percent (10%) to Palisades. The amount apportioned to each reservoir shall be accounted for as part of the operation and maintenance costs for which provisions for payment for the District's share is made elsewhere in this contract. The

amount apportioned to American Falls Reservoir shall be distributed equally over all space available for irrigation storage, including the 33,563 acre-feet of space available to the District under the provisions of article 10 and the 50,000 acre-feet that were initially made available to the District under the contract of February 11, 1927, except that in lieu of the lower valley exchanged space there shall be included the upper valley exchanged space in Jackson Lake Reservoir.

(f) If the owners of any storage rights to benefit from the operation of this article fail to obligate themselves for their share of the annual payments for power replacement hereunder, the saved water creditable to such rights and the power replacement costs chargeable thereto shall be redistributed according to a formula to be agreed on in writing between the Secretary and the Advisory Committee. Such formula shall, however, be as nearly consistent as practicable with the formula that would control but for such redistribution.

(g) In order to permit the operation of the Minidoka power system with a power supply undiminished by water savings operations under this article, the United States, as the operator of the Minidoka powerplant and of other interconnected powerplants operated under the Federal Reclamation Laws, will, to the extent authorized by law, make available to the Minidoka powerplant at rates established under law an amount of power and energy equivalent to that lost by reason of such water savings operations. In determining the net profits attributable to the first six units of the Minidoka powerplant which are, under the provisions of subsection I of section 4 of the act of December 5, 1924

(43 Stat. 703), and under existing contracts with the District and others, to be credited to the lands of the Gravity and South Side Pumping divisions of the Minidoka Project, all payments made by the owners of storage rights in the reservoir system in pursuance of the apportionment of power replacement charges as provided in (e) of this article shall be accounted for as revenues attributable to those six units, and such payments will, for the period that the United States is obligated to curtail power operations as provided in (a) of this article, be accepted by the District, to the extent of its interest in the net profits attributable to the first six units, as full settlement for losses resulting from such curtailed operations.

PROVISIONS RELATING TO STATUS OF CERTAIN EXISTING RIGHTS; DELIVERY OF WATER AT HEADWORKS
(Articles 25 through 26)

STATUS OF CERTAIN EXISTING CONTRACTS WITH THE DISTRICT

25. Except to the extent that the provisions of this contract are in conflict therewith, the provisions of the existing contracts between the United States and the District, particularly the provisions of the contract of February 11, 1927, with respect to the 50,000 acre-feet of storage capacity in American Falls Reservoir, shall remain unaffected by this contract.

DELIVERY OF WATER AT HEADWORKS

26. Deliveries to the District of water to which it, or its water users, are entitled, both natural flow and stored water, will be made at the headworks of the main canals in the amounts requested by the

District within the limits of safe operating capacity of the facilities involved and the limitations of the contract of December 12, 1950, as to the main South Side Canal, if water within the entitlements of the District is available in sufficient quantity to meet the requests.

PROVISIONS OF GENERAL APPLICATION TO ALL RIGHTS ESTABLISHED OR DEFINED BY THIS CONTRACT (Articles 27 through 54)

TEMPORARY STORAGE AND EXCHANGE OF WATER; RELEASE OF JACKSON LAKE AND PALISADES WATER FOR POWER PRODUCTION

27. (a) It is the purpose of the United States and the water users having storage rights in the reservoir system (including the District) to have the reservoir system so operated as to effect the greatest practicable conservation of water, but this provision deals exclusively with the physical storing of water and does not derogate from the right of the District, on paper, to the extent of available capacity held either in the District's name or in the name of its water users under water right applications, from designating the reservoir from which water will be received during the irrigation season involved, or from designating at the end of particular seasons where the carryover waters will be held. In keeping with this purpose, the endeavor will be to hold stored water in reservoir system space that is farthest upstream. Water in storage in any of the reservoirs of the system may, however, when the Watermaster and the Advisory Committee determine this to be in the interest of water conservation, be held temporarily in unoccupied space in any other reservoir of the system. And the District hereby consents to the making, with the

approval of the Watermaster, of annual exchanges of stored water among the various reservoirs of the system. No such temporary holding of water or such annual exchanges shall, however, deprive any entity of water accruing to space held for its benefit.

(b) During any storage season, the United States, after consultation with the Advisory Committee, may release stored water from Jackson Lake and Palisades reservoirs for the maintenance of power production at Palisades dam powerplant and may store such water, as Jackson Lake or Palisades water as the case may be, in American Falls Reservoir. The release of such water will be confined, however, in storage seasons when it appears that American Falls, Palisades, and Jackson Lake reservoirs will fail to fill, to water required for the maintenance of a minimum firm power production (estimated to be about 11,000,000 kilowatt-hours per month at an average production of 15,000 kilowatts) and which can be stored in American Falls Reservoir; and no such release shall be made that will preclude the later delivery of water, by exchange or otherwise, to the upper valley entities entitled thereto.

EXHIBIT "F"

Excerpt from United States Department of the Interior, Memorandum of Agreement Between The Bureau of Reclamation and The Bureau of Indian Affairs Relating to Water Supply for Michaud Division of the Fort Hall Indian Reservation, Idaho, Draft of April 9, 1957, as approved April 25, 1957, by E. G. Nielsen, Assistant Commissioner, Bureau of Reclamation, W. Barton Greenwood, Deputy Commissioner, Bureau of Indian Affairs, and Fred G. Anadahl, Assistant Secretary of the Interior.

Delivery of Water; Measurement and Losses; Return Flow

8. (a) To the extent that water is pumped from wells and from surface streams that flow into American Falls Reservoir, actual measurements at the well heads and at the discharge lines of other pumping plants delivering water for the said Michaud Division shall be made during each irrigation season. All water provided through the Michaud Division system for the irrigation of lands of the Michaud Division of the Fort Hall Indian Reservation from any and all sources in any irrigation season shall be accounted for as water stored for the Indian Bureau as provided in article 4 and charged thereto, except:

(1) Surface waters that may be available under flood water rights that may be obtained with a priority of not earlier than one year before the priority held for Palisades Reservoir; and

(2) Not to exceed an average annual amount of 22,400 acre-feet, as prescribed by Section 3(b)(1) of said act of August 31, 1954 (Supra) calculated over a ten-year period including the irrigation season just ended and the preceding nine irrigation seasons, from ground water pumped any place in the Michaud Division system. Until a full ten-year period is available, the average shall be for the years of project operation.

Delivery of water to lands of the said Michaud Division that as above provided in this article is chargeable to stored water for any irrigation season, shall be limited, however, to the quantities of stored water available as provided in article 4, and the supply of water available from all sources through the Michaud Division system shall be limited to the irrigation of not to exceed 21,000 acres of land. Lands within the outer boundaries of the Michaud Division, but which do not share in the water supply provided by this agreement, are hereby excluded from any of the benefits of this agreement, of the act of August 31, 1954, and of the Michaud Division system.

(b) The water chargeable to Indian Bureau stored water as provided in this article shall be determined from day to day during the irrigation season of each year. Corresponding credits from day to day shall be given by the watermaster to the water rights, whether natural flow or storage rights, that have been infringed on by pumping for the Michaud Division. The amounts represented by such infringements, to whomsoever they shall accrue, shall be made up out of stored water available to the Indian Bureau under this agreement, from day to day, if necessary. The determination of the charges and the credits hereunder shall be under a formula to be devised by the watermaster, after consultation with the Advisory Committee, taking into account as one factor the so-called Newell formula with respect to the inflow into American Falls Reservoir, as this formula is affected, in the judgment of the watermaster,

by operation of this contract and by other factors that affect the formula. Departures from that formula shall be called to the attention of the Advisory Committee from time to time.

(c) In addition to other specific provisions as to the distribution of losses chargeable to stored water, there shall be charged against stored water held under this agreement to the credit of the Indian Bureau at the end of any irrigation season one and one-half per cent (1½%) to offset evaporation losses. Such charge shall be made as of not later than the end of the ensuing storage season.

(d) The Indian Bureau shall make no claim on behalf of the United States or of any individual, community or band of Indians of any surface return flows from the Michaud Division after they enter American Falls Reservoir, except as they are recaptured before leaving the Division, and are used directly on the land of that Division. Nor shall any such claim be made for underground flows except to the extent covered by paragraph (a) of this article. Return flows hereby relinquished, whether surface or underground, shall be credited either to the river or to the reservoir in accordance with the relative priorities heretofore or hereafter established under the laws of the State of Idaho.

Statutory Limitations on Water Supply

15. (a) In accordance with the act of August 31, 1954 (68 Stat. 1026), this agreement (except for the flood water rights referred to in article 8) with respect to the water supply for the irrigation of the lands of the Michaud Division of the Fort Hall Indian Reservation,

(1) hereby limits that supply to (i) the yield of the space in Palisades and American Falls Reservoirs, as set out in this agreement, and (ii) to the supply obtained by the pumping of ground water of not more than 22,400 acre-feet as an average calculated at the end of an irrigation season including the irrigation season just ended and the preceding irrigation seasons up to a maximum of nine; and

(2) hereby provides the consent to a priority in time and right in such beneficial consumptive uses of the waters of the Snake River, and its tributaries, as are established under the laws of the State of Idaho, prior to August 31, 1954, as against any use of the water arising on or flowing through the Fort Hall Bottoms within the Fort Hall Indian Reservation, including, but not limited to, the intercepted flow of Ross Fork Creek, the Portneuf River below Pocatello, Big Jimmy Creek, Big Spring Creek, and Clear Creek.

And the United States, with the construction, operation and maintenance of said works of the Michaud Division of the Fort Hall Indian Reservation, hereby waives any of its rights, exclusive of the rights provided in this

agreement, to the use of the waters arising on or flowing through the Fort Hall Bottoms, including, but not limited to, the intercepted flow of Ross Fork Creek, the Portneuf River below Pocatello, Big Jimmy Creek, Big Spring Creek and Clear Creek, for the irrigation of the lands of said Michaud Division. Except as provided herein, nothing in this agreement shall affect any rights in and to the waters of the Fort Hall Indian Reservation or the Snake River and its tributaries.

(b) The limitations imposed in the statute and in (a) of this article 15, are made for the benefit both of Reclamation and water users' organizations contracting with Reclamation for storage capacity in the reservoir system, and for water users having natural flow rights below the points of diversion for the Michaud Division by the Indian Bureau. No modification in these limitations, or in other provisions of this agreement intended to effect the purposes of Section 3 of the Act of August 31, 1954, shall be made without the contractual approval of all the water users and water users' organizations for the benefit of whom these limitations are imposed.

PARRY, ROBERTSON, DALY & LARSON
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
FRED D. DECKER
CRAIG H. NEILSEN

July 18, 1968

RECEIVED
JUL 19 1968
Department of Reclamation

Mr. R. Keith Higginson
State Reclamation Engineer
State House - Annex 2
Boise, Idaho 83707

Re: Supplemental Decree

Dear Keith:

Enclosed are certified copies of the Findings of Fact and Conclusions of Law and the Supplemental Decree as entered in the Fifth District Court in and for the County of Twin Falls on July 10, 1968.

In reading through the Code, I have questions about the procedure to be followed henceforth because of the provisions of Idaho Code §42-1404. I am uncertain as to whether or not we should proceed to have the Findings of Fact and Conclusions of Law as well as the Supplemental Decree put in printed form for distribution or whether this section provides that your office should have responsibility for accomplishing said printing.

In any event, the section does provide that the expense shall be borne by the water users. The statute appears to attempt to provide a network whereby such expense can be collected through the water district. I suppose in fairness, the expense of the publication of these findings and this decree should be charged to the clients represented by this office, Cecil Hobdey, Adonis Nielson, and Roger Ling. We anticipate that the upper valley action will reach a like conclusion in the near future and perhaps the expense of the publication of their final documents should be their responsibility.

I am writing primarily to seek your counsel on this matter since this office could probably have the same printed if it were in a form acceptable to you and include the costs together with the other costs that have been advanced during the course of these proceedings. If this is to be your suggestion, I would also request that you indicate the

number of copies you think should be published so as to get copies to those people who are concerned.

Although I am not certain that this provision applies to supplemental decrees, it would appear that in a case involving rights of this magnitude that publication would be advisable and more convenient than attempting to make copies of the same by some photostatic process.

I would appreciate your remarks at your early convenience and feel obligated to advise you that the Women's Golf Association at the Blue Lakes Country Club has informed me that they have no more tournaments scheduled for the summer. I'll see if I can generate some additional significant water problems for the Twin Falls area.

Thanks, Keith, for your continuing cooperation.

Sincerely,

JOHN

JOHN A. ROSHOLT

JAR:dp

Enclosures

Exhibit F

Supplemental Decree, Aberdeen-Springfield Canal Co. v. Eagle (Idaho 7th Dist. Ct. Mar. 12, 1969)

IN THE DISTRICT COURT OF THE SEVENTH JUDICIAL DISTRICT,
STATE OF IDAHO, COUNTY OF FREMONT

ABERDEEN-SPRINGFIELD CANAL COMPANY, Ltd.,

Plaintiff,

vs.

HENRY EAGLE, WATERMASTER, DISTRICT # 36,

Defendant.

SUPPLEMENTAL DECREE

March 12, 1969

MAIL
35590

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

#6117

ABERDEEN-SPRINGFIELD CANAL COMPANY, a corporation; REBECCA HOLDEN, a widow; BLACKFOOT IRRIGATION CO., a corporation; BRAMWELL DITCH CO., a corporation; BUTLER ISLAND CANAL CO., a corporation; BUTTE & MARKET LAKE CANAL CO., a corporation; CLARK & EDWARDS CANAL CO., a corporation; CORBETT SLOUGH DITCH CO., a corporation; DANSKIN DITCH CO., a corporation; DILTS IRRIGATION CO., LTD., a corporation; DEWEY FOX; HARRISON CANAL & IRRIGATION CO., a corporation; MARVON M. NEWBY; IDAHO IRRIGATION DISTRICT, an irrigation district organized and existing under the laws of the State of Idaho; MARVIN M. JOHNSON; WILLIAM S. HOLDEN; TED BLOSCH; MARVEL JACKSON and V .E. HIER; LaBELLE IRRIGATION CO., a corporation; LIBERTY PARK IRRIGATION CO., a corporation; LONG ISLAND IRRIGATION CO., a corporation; ROBERT D. MACKAY; JOHN L. NELSON, ADRIAN NELSON, ERVEN SCOTT, VELMA ANDERSON and LAURA ANDERSON. NEW SWEDEN IRRIGATION DISTRICT, an irrigation district organized and existing under the laws of the State of Idaho; CARL JOHNSON: UTAH-IDAHO SUGAR CO., a corporation; PROGRESSIVE IRRIGATION DISTRICT, a corporation: REID CANAL CO., a corporation: RIVERSIDE DITCH CO., a corporation; SHATTUCK IRRIGATION CO., a corporation. SAM SAKAGUCHI: SNAKE RIVER VALLEY IRRIGATION DISTRICT, an irrigation district organized and existing under the laws of the State of Idaho. TEXAS SLOUGH IRRIGATING CANAL CO., a corporation: R. DUWAYNE SCOTT. WEST LaBELLE IRRIGATION CO., a corporation. ENTERPRISE IRRIGATION DISTRICT, an irrigation district organized and existing under the laws of the State of Idaho: RALPH D. MILLER; FARMERS FRIEND CANAL CO., a corporation; SALEM UNION CANAL CO., a corporation EGIN IRRIGATING CO., a corporation: INDEPENDENT CANAL CO.,LTD. a corporation; JAMES A CROFT: PINCOCK-BYINGTON CANAL CO. a corporation; PINCOCK-GARNER DITCH COMPANY, a corporation; FALL RIVER IRRIGATION CO., a corporation: ST. ANTHONY UNION CANAL CO., a corporation, CONSOLIDATED FARMERS CANAL COMPANY, a corporation; WILFORD IRRIGATION & MFG. CO., a corporation; D. F. RICHARDS: D.V. HAGENBARTH; AL FRAZIER; SAUREY-SOMMER DITCH by LeRoy Saurey; FARMERS OWN DITCH CO., a corporation: TETON IRRIGATION & MFG. CO., a corporation; GEORGE BAUER, ~~BENJAMIN STEWART, ANDREW STEWART, ANNIE WRIGHT, BOYD~~ HOLLIST and ALICE P. BIRCH, operating as Stewart Canal; BURLEY IRRIGATION DISTRICT, an irrigation district organized and existing under the laws of the State of Idaho; MINIDOKA IRRIGATION DISTRICT, an irrigation district organized and existing under the laws of the State of Idaho; MILNER LOW-LIFT IRRIGATION DISTRICT, an irrigation District organized and existing under the laws of the State of Idaho; TWIN FALLS CANAL COMPANY, a corporation; CLARENCE H TILLEY. WILLIAM KENDALL: FALLS IRRIGATION DISTRICT, an irrigation district organized and existing under the laws of the State of Idaho; A & B IRRIGATION DISTRICT, an irrigation district organized and existing under the laws of the State of Idaho, OTIS ORTEN: AMERICAN FALLS RESERVOIR DISTRICT, an irrigation district organized and existing under the laws of the State of Idaho:

SUPPLEMENTAL DECREE

AMERICAN FALLS RESERVOIR DISTRICT NO. 2 an irrigation district organized and existing under the laws of the State of Idaho; NORTH SIDE CANAL COMPANY, a corporation; BURGESS CANAL & IRRIGATING CO., a corporation; CRAIG MATTSON CANAL CO., a corporation; ENTERPRISE CANAL CO., LTD, a corporation: FOOD MACHINERY & CHEMICAL CORP., a corporation: ISLAND IRRIGATION COMPANY, a corporation; J. R. SIMPLOT CO., a corporation; THE LENROOT CANAL CO., a corporation LOWDER SLOUGH CANAL CO., LTD., a corporation; THE MARTIN CANAL CO., a corporation; THE NEW LAVA SIDE DITCH CO., a corporation; NORTH RIGBY IRRIGATION & CANAL CO., a corporation; OWNERS MUTUAL IRRIGATION CO., a corporation; PARKS & LEWISVILLE IRRIGATION CO., A corporation: PARSONS DITCH CO., a corporation; PEOPLES CANAL & IRRIGATION CO. a corporation: CITY OF POCATELLO, a municipal corporation of the State of Idaho; POPLAR IRRIGATION DISTRICT, an irrigation district organized and existing under the laws of the State of Idaho: THE RIGBY CANAL & IRRIGATING CO., a corporation: RUDY IRRIGATION CANAL CO., a corporation; SUNNYDELL IRRIGATION DISTRICT, an irrigation district organized and existing under the laws of the State of Idaho: THE TREGO DITCH CO., a corporation; WATSON SLOUGH DITCH & IRRIGATION CO., LTD., a corporation; WEARYRICK DITCH CO., a corporation; WEST SIDE MUTUAL CANAL CO., a corporation: WOODVILLE CANAL CO., a corporation: and PALISADES WATER USERS INC., a corporation,

Plaintiffs,

-vs-

HENRY EAGLE, Watermaster, Water District No. 36 State of Idaho,

Defendant.

This matter having come on regularly before the court and the court having made and entered its Findings of Fact and Conclusions of Law directing that Decree be entered accordingly, and good cause appearing therefor,

IT IS HEREBY ORDERED, ADJUDGED AND DECREED as follows:

I

That the rights hereinafter decreed in Paragraph III shall be supplemental to the decrees entered in the cases of Woodville Canal Co. v. Clark & Edwards Canal & Irrigation Company, et al., in the District Court of the United States for the District of Idaho, Eastern Division, on June 25, 1929, Twin Falls Canal Company v. Charles N. Foster, et al., in the District Court of the Fourth Judicial District of the State of Idaho, in and for the County of Twin Falls, on June 20, 1913, and Rexburg Irrigation Company, et al., v. Teton Irrigation Canal Company, et al., in the District Court of the Sixth Judicial District of the State of Idaho, in and for the County of Fremont, on December 16, 1910, and said Decrees and the Findings of Fact and Conclusions of Law upon which they are based are binding upon all plaintiffs herein.

II

That the following parties have the right to divert and use, for irrigation and other purposes, the waters of the Snake River and its tributaries, which rights were originally decreed to said parties in the said Woodville Decree, and they shall have the right to divert and use such waters in the amounts and with the priority dates listed, which water shall be diverted at the points and be appurtenant to the lands described herein:

A. BURGESS CANAL & IRRIGATING CO. 1 0249 TRANS. #3103

That the Burgess Canal & Irrigating Co. (Burgess Canal & Irrigating Company*) is entitled to divert and use the waters of Snake River in the amount of 10,000 miner's inches with a

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* As the name appears in the Woodville Decree, similarly indicated in the following paragraphs II-A through II-FF

priority date of January 22, 1916, (being the right recognized in the Woodville Decree).

Point of Diversion

Southeast Quarter of Section 20, Township 4 North, Range 40 East Boise Meridian, in Jefferson County, State of Idaho.

Lands to Which Appurtenant

In Township 4 North of Range 40 East Boise Meridian, the Southwest Quarter of Section 19.

In Township 4 North of Range 39 East Boise Meridian. The North Half of the South Half, the Northwest Quarter and the South Half of the Northeast Quarter of Section 23, the North Half and the North Half of the South Half of Section 22, the Southwest Quarter of Section 15, the South Half of Section 16, the North Half and the Southwest Quarter and the North Half of the Southeast Quarter of Section 21, the Southeast Quarter, the South Half of the Northeast Quarter, and the South Half of the Southwest Quarter of Section 17, the South Half of the Southeast Quarter of Section 18, entire Sections 19 and 20 and the North Half of the North Half of Section 29, the North Half and the Southwest Quarter of Section 30.

In Township 4 North of Range 38 East Boise Meridian, the South Half of the Southwest Quarter of Section 15, the South Half and the South Half of the Northeast Quarter of Section 16, the South Half of the South Half and the North Half of the Southwest Quarter of Section 17, the South Half and the East Half of the North east Quarter of Section 19, entire Sections, 20, 21, 22, 23, 24 25, 26, 27, 28, 29, 30, 31, 32 the West Half and the Northeast Quarter of Section 33, the Northwest Quarter, the North Half of the Northeast Quarter and the North Half of the Southeast Quarter of Section 34, the South Half of Section 35, entire Section 36.

In Township 4 North of Range 37 East Boise Meridian. The South Half and the Northwest Quarter of Section 24, entire Section 26, Entire Section 36.

In Township 3 North of Range 37 East Boise Meridian. Entire Sections 1, 12, 13 and the North Half of Section 24.

In Township 3 North of Range 38 East Boise Meridian. The South Half of the Northeast Quarter of Section 3, entire Section 10, the North Half of the North Half of Section 15, The South Half of the Southeast Quarter and the West Half of Section 4, the Northeast Quarter of the Northeast Quarter of Section 9, entire Sections 5, 6, 7 and 18, the West Half of Section 8, the West Half of Section 17, and the North Half of Section 19. Containing approximately 24,440 acres of irrigable land. All land in Township Three North is in Bonneville County.

B. BUTLER ISLAND CANAL CO. 1 0231✓

That the Butler Island Canal Co. (Butler Island Canal Company) is entitled to divert and use the waters of Snake River in the Amount of 500 miner's inches with a priority date of January 22, 1916, (being the

right recognized in the Woodville Decree.)

Point of Diversion

Northwest corner of the Northwest Quarter of Section 35, Tp. 4 North, Range 40 E.B.M.,

Lands to Which Appurtenant

Sections 21, 22, 26, 27 and 28 of Township 4 North, Range 40 E.B.M., containing an irrigable area of approximately 1800 acres.

C. CLARK & EDWARDS CANAL CO 1 0264

That the Clark & Edwards Canal Co. (Clark & Edwards Canal & Irrigating Company) is entitled to divert and use the waters of Snake River in the amount of 1500 miner's inches with a priority date of January 22, 1916, (being the right recognized in the Woodville Decree.

Point of Diversion

Southwest Quarter of Section 19, Tp. 4 North, Range 40 E.B.M., in Jefferson County, State of Idaho

Lands to Which Appurtenant

In Township 4 North of Range 39 East B.M., the South Half of Section 13, all of Section 14 lying South of the dry bed, so called, the East Half and the Northwest Quarter of Section 15, the Northeast Quarter of Section 16, the North Half of the North Half of Section 23, the North Half and the North Half of the South Half of Section 24.

In Township 4 North of Range 40 E.B.M., the Southwest Quarter of Section 18, Section 19 and Section 20, contianing a total irrigable area of approximately 3680 acres.

D. CONSOLIDATED FARMERS CANAL COMPANY 1 0270

That the Consolidated Farmers Canal Company (Consolidated Farmers Canal Company, Ltd.,) is entitled to divert and use the waters of Snake River in the amount of 3,900 miner's inches with a priority date of January 22, 1916 (being the right recognized in the Woodville as amended by Order Amending and Correcting said Woodville Decree Decree, dated March 10, 1931) .

Point of Diversion

South side of the North Fork of Snake River in the Southeast Quarter of the Northeast Quarter of Section 10 in Township 7 North, Range 40 East of the Boise Meridian.

Lands to Which Appurtenant

Sections 1 and 2, all that part of Section 3 lying east of the North Fork of Snake River, the East Half of the Southwest Quarter of Section 4 lying East of the said North Fork of Snake River, all that part of Section 9 lying East of said North Fork of Snake River, Sections ten and eleven, the East Half of Section 12, the North Half and the North Half of the South Half of Section 21, Township 6 North, Range 39 E.B.M.

All of Section 25 lying South of the North Fork of Snake River; all that part of the Southwest Quarter of Section 34 lying East of said North Fork of Snake River, the South Half of Section 35, the West Half of the Northeast Quarter, the Northwest Quarter, the Southeast Quarter, the South Half of the Southwest Quarter of Section 36 in Township 7 North, Range 39, East of the Boise Meridian.

All that part of Section 19 South of the North Fork of Snake River, Section 20, the North Half of Section 21, the Northwest Quarter of Section 29, all of Section 30, the North Half of the Northeast Quarter and the Northwest Quarter of the Southwest Quarter of Section 31, in Township 7 North, Range 40 East Boise Meridian.

E. DANSKIN DITCH CO 1 0821

That the Danskin Ditch Co. (Danskin Ditch Company) is entitled to divert and use the Waters of Snake River in the amount of 1,000 miner's inches with a priority date of January 22, 1916, (being the right recognized in the Woodville Decree).

Point of Diversion

West side of Snake River at a point about one-half mile South of what is known as the Blackfoot Snake River Bridge in the County of Bingham, State of Idaho.

Lands to Which Appurtenant

Southeast Quarter of Section 30, Township 2 S.R.35 E.B.M.; Northeast Quarter of Southwest Quarter and lot 2 of Section 11, Township 3 S., R. 35 E.B.M.; Northeast Quarter of Southwest Quarter of Section 25, Tp. 2 S., R. 34 E.B.M.; North Half of Northwest Quarter of Section 34, and East Half of Northeast Quarter of Section 33, Tp. 2 S. R. 34 E.B.M.; South Half of the Northeast Quarter of Section 30, Tp 2 S. R. 34 E.B.M.; East Half of Lot 3, Section 35, Tp. 2 S. R. 34 E.B.M.; Southwest Quarter of Northwest Quarter and Lot 4 of Section 2, Tp 3.S. R. 34 E.B.M.; East Half of Northeast Quarter of Section 3, Tp 3 S. R. 34 E.B .M. East Half of Northwest Quarter of Northwest Quarter, East Half of West Half of Northwest Quarter, North Half of North Half of Southwest Quarter of Northwest Quarter of Section 36, Tp 2 S. R. 34 E.B.M.; part of Northeast Quarter of Northeast Quarter of Northeast Quarter of Section 26, Tp. 2 S. R. 34 E.B.M.; Northeast Quarter of Southeast Quarter and East Half of Northwest Quarter of Southeast Quarter of Section 25, Tp. 2 S. R. 34 E.B.M.; West Half of Lot 4, Section 36, Tp. 2 S., R. 34 E.B.M.; Northwest Quarter of Section 4, Tp. 3 S., R. 34 E.B.M.; Lot 2 Section 35, Tp. 2 S. R. 34 E.B.M. Southeast Quarter of Southeast Quarter of Section 29, Tp. 2 S. R. 35 E.B.M.; 2 strips each 10 chains wide by 100 chains long in Sections 26 and 35, Tp. 2 S. R. 34 E.B.M.;

beginning at Northwest corner of Northeast Quarter of Northwest Quarter of Section 26, Tp.2 S.,R. 34 E.B.M; thence 170 rods to center of County Road; thence E. along road 32 rods; thence S. 170 rods to a point due E. of beginning; thence W. to beginning; East Half of Southeast Quarter of Southwest Quarter of Section 34, Tp. 2 S. R. 34 E.B.M.; also commencing at the Northwest corner of Northeast Quarter of Section 36, Tp. 2 S. R. 34, thence S. 10 rods, thence W. 40 rods. thence N. 10 rods, thence E., 40 rods to beginning; West Half of Northwest Quarter and East Half of Northwest Quarter of Section 26, Tp. 2 S. R. 34 E.B.M. 20 acres in East Half of Northwest Quarter of Section 26, Tp. 2 S. R. 34 E.B.M.; Southeast Quarter of Northwest Quarter, Southwest Quarter of Northeast Quarter and Lots 2 and 3, section 3, Tp. 3 S. R. 34 E.B .M.; East Half of Northwest Quarter and West Half of Northeast Quarter of Section 5, Tp. 3 S. R. 34 E.B.M.; West Half of Southeast Quarter and the Southwest Quarter of Section 25, Tp. 2 S. R. 34 E.B.M.; also a strip 10 rods wide from Section 36, lying North of the County Road and joining said land on the South; Northeast Quarter of Southeast Quarter of Section 35, Tp. 2 S. R. 34 E.B.M.; Northwest Quarter of Southwest Quarter, five acres on north side of Southwest Quarter of Southwest Quarter of Section 25, Tp. 2 S. R. 34 E.B.M.: 60 by 80 rods on North side of Southwest Quarter of Northwest Quarter of Section 36, Tp. 2 S. R. 34 E.B.M.; East Half of the Northwest Quarter of Northwest Quarter of Section 25, Tp. 2 S. R. 34 E.B.M.; commencing at center of Section 26, Tp. 2 S. R. 34 E.B.M.; thence South 40 rods; thence West 8 rods, thence South 360 rods, thence East .88 rods, thence North 80 rods, thence East 10 rods, thence north 320 rods, thence West 90 rods to beginning: Southwest Quarter of Southwest Quarter of Section 25, Tp. 2 S.R. 34 E.B.M.; lot 1, Section 34, Tp. 2 S. R. 34 E.B.M.; Northwest Quarter of Northwest Quarter of Section 23, Tp. 2 S. R. 34 E.B.M.; also 3 acres in Northeast Quarter of Southwest Quarter of said Section 23; West Half of the Southwest Quarter of Section twenty-seven Tp. 2 S.R. 34 E.B.M.; East Half of lot 6, Section 36, Tp. 2 S. R. 34 E.B.M.; Southeast Quarter of Southeast Quarter of Section 30, Tp 2 S., R. 35 E.B.M.; West Half of Lot 3, Section 36, Tp.2 S. R. 34 E.B.M.; Northwest Quarter of Southwest Quarter of Section 36, Tp. 2 S./R. 35 E.B.M.; West Half of the Southwest Quarter of Section 29, Tp. 2 S.R. 35 E.B.M.; 22 acres in Southeast Quarter of Southwest Quarter of Section 25, Tp. 2 S. R. 35 E.B.M.; Southeast Quarter of Southeast Quarter of Section 4, Tp 2 S. R. 34 E.B.M.; East Half of Section 36, East Half of Northwest Quarter and Northeast Quarter of Southwest Quarter of Section 36, Tp. 2 S. R. 35 E.B.M.; Northwest Quarter of Northwest Quarter of Southeast Quarter of Section 26, Tp. 2 S. R. 34 E.B.M.; West Half of West Half of Northwest Quarter of Northwest Quarter of Section 36, Tp. 2 S. R. 35 E.B.M.; Southeast Quarter of Northwest Quarter of Section 30, Tp. 2 S. R. 35 E.B.M.; West Half of Section thirty-one Tp. 2 S. R. 35 E.B.M.; East Half of Southwest Quarter and West Half of Southeast Quarter of Section 34, Tp. 2 S. R. 34 E.B.M.; West Half of Southeast Quarter and East Half of Southwest Quarter of Section 27, Tp. 2 S. R. 34 E.B.M; West Half of Section thirty-two and East Half of Section 31, Tp. 2 S. R. 35 E.B .M.; West Half of Northwest Quarter of Section 3, Tp. 2 S. R. 34 E.B.M.; a strip 10 chains wide by 100 chains long in Sections 26 and 35, Tp. 2S.R.34 E.B.M.; West Half of Section 30, Tp. 2S. R. 35 E.B.M. Southwest Quarter of Northeast Quarter, Southeast Quarter of Northwest Quarter and Northwest Quarter of Northeast Quarter of Section 34 Tp. 2 S. R. 34 E.B.M.; a strip 10 chains wide by 100 chains long in

Sections 26 and 35, Tp. 2S. R. 34 E.B.M.; West Half of Southwest Quarter of Section 26, East Half of Southeast Quarter of Section 27, East Half of Northeast Quarter of Section 34, Northeast Quarter of Southeast Quarter of Section 34, West Half of Northwest Quarter and Northwest Quarter of Southwest Quarter of Section 35, Tp 2 S. R. 34 E.B.M.; Moreland Townsite. Riverside Townsite

F. Dilts Irrigation Co. Ltd. 1 0236

That the Dilts Irrigation Co., Ltd. (Dilts La Belle Irrigation Company) is entitled to divert and use the waters of Snake River in the amount of 500 miner's inches with a priority date of January 22, 1916, (being the right recognized in the Woodville Decree).

Point of Diversion

Northeast corner of the Southeast Quarter of Section 10 Township 4 N. Range 39 East Boise Meridian, in Jefferson County, State of Idaho.

Lands to Which Appurtenant

The West Half of Section three., the East Half of Section four, the West Half of Section nine and the West Half of Section ten, all in Township 4 North of Range 39 East Boise Meridian, containing a total irrigable area of approximately 1280 acres.

G. ENTERPRISE IRRIGATION DISTRICT 1 0233

That the Enterprise Canal Co., Ltd., (Enterprise Canal Company) is entitled to divert and use the waters of Snake River in the amount of 3100 miner's inches with a priority date of January 22, 1916, (being the right recognized in the Woodville Decree).

Point of Diversion

Southeast corner of the Southeast Quarter of Section 36, Tp. 4 North, Range 40 E.B.M., in Jefferson County, State of Idaho.

Lands to /Which Appurtenant

In Township 3 North, Range 40 E.B.M., in Bonneville County, Idaho:

In Section 6: $N\frac{1}{2}$,$N\frac{1}{2}$ of $S\frac{1}{2}$,$S\frac{1}{2}$ of $SW\frac{1}{4}$ and $SW\frac{1}{4}$ of $SE\frac{1}{4}$

In Section 7: $W\frac{1}{2}$ of $NE\frac{1}{4}$,$E\frac{1}{2}$ of $NW\frac{1}{4}$, $NW\frac{1}{4}$ pf $NW\frac{1}{4}$ of $NW\frac{1}{4}$, $NE\frac{1}{4}$ of $SW\frac{1}{4}$, $NW\frac{1}{4}$ of $SE\frac{1}{4}$;

In Township 4 North, Range 39 E.B.M., Jefferson County,Idaho:

In Section 36: E½ and the SW¼;

In Township 3 North, Range 39 E.B.M., Bonneville County,Idaho:

In Section 1: N½ of NE¼, SE¼ of NE¼: S½;

In Section 2: S½ of SE¼, SE¼ of SE¼:

In Section 10: S½ of SE¼.

In Section 11: E½ of NE¼, SW¼ of NE¼, E½ of SW¼: and NE¼ of SW¼;

In Section 12: N½ of NE¼;

In Section 14: NW¼ amd NW¼ of SW¼;

In Section 15: NE¼, N½ of SE¼ and SW¼:

In Section 16: SE¼ of SE¼;

In Section 19: S½ of NW¼, SW¼:

In Section 20: NW¼, SE¼ of NE¼, NE¼ of SE¼:
In Section 21: NW¼, SW¼ of NE¼, NW¼ of SW¼
In Section 30: NW¼ and NW¼ of SE¼.

In Township 4 North, Range 40 E.B.M., Jefferson County, Idaho:

In Section 21: S½ of NW¼ and N½ of SW¼:

In Section 26: S½ of S½ and NE¼ of SW¼:

In Section 27: S½ of SE¼ and SW¼:

In Section 28: S½ of S½

In Section 29: S½ of S½ .

In Section 30: E½ of NE¼, SE¼, S½ of SW¼.

Entire Section 31.

In Section 32: W½ of SW¼ and N½ of NE¼;

In Section 33: N½ of N½:

In Section 34: NW¼ of NW¼;

In Section 35: SW¼ of NE¼; SE¼ of NW¼; W½ of SE¼;

Containing approximately 6280.4 acres of irrigable land.

H. ENTERPRISE IRRIGATION DISTRICT

1 0287

That the Enterprise Irrigation District (Enterprise Irrigation District) is entitled to divert and use the waters of Snake River in the amount of 1,500 miner's inches with a priority date of January 22, 1916, (being the right recognized in the Woodville Decree.)

Point of Diversion

South side of Fall River in the Northeast Quarter of the Southwest Quarter of Section 22, Township 8 North, Range 42 East of the Boise Meridian.

Lands to Which Appurtenant

Commencing at the center of Section 15, Township 7 North, Range 41 E.B.M., thence East 4620 feet; South 660 feet; East 660 feet; South 660 feet; East 660 feet; South 1320 feet; East 660 feet; South 1320 feet; East 660 feet; South 1320 feet; East 660 feet; South 1980 feet; West 660 feet; South 660 feet; West 1320 feet; South 660 feet; West 660 feet; South 660 feet; West 1320 feet; South 660 Feet; West 660 feet; South 1980 feet; West 660 feet; South 660 feet; West 660 feet; South 1320 feet; West 660 feet; South 660 feet; West 660 feet; South 1320 feet; West 660 feet; South 3960 feet; East 660 feet; South 660 feet; West 660 feet; South 660 feet; West 660 feet; South 660 feet; West 660 feet; South 660 feet; West 1320 feet; South 660 feet; West 1320 feet; South 1320 feet; East 1320 feet; South 5940 feet; west 5280 feet; South 660 feet; West 1320 feet; North 660 feet; West 660 feet; North 660 feet; West 1980 feet; South 1980 feet; West 2640 feet; South 660 feet; West 1320 feet; South 660 feet; west 1320 feet; South 1320 feet; West 1320 feet to the Southwest corner of SW¼; Section 18 Tp. 6N. R. 41 E.B .M. thence North 1320 feet; East 660 feet; North 1320 feet; East 660 feet; North 1320 feet; East 660 feet; North 1320 feet; East 1320 feet; North 3960 feet; East 660 feet; North 660 feet; East 1320 feet; North 660 feet; east 5280 feet; North 1320 feet; West 660 feet; North 2640 feet; East 660 feet; North 660 feet; East 660 feet; North 1980 feet; West 660 feet; North 660 feet; East 660 feet; North 660 feet; East 660 feet; North 660 feet; East 660 feet; North 660 feet; East 330 feet; North 1320 feet ; East 330 feet; North 1980 feet; East 660 feet; North 660 feet; East 1320 feet; North 660 feet; East 660 feet; North 1980 feet to the Northwest corner of Section 27 Tp. 7 N. R. 41 E.B.M., thence East 660 feet; North 2640 feet; West 330 feet; North 1320 feet; West 330 feet North 1320 feet; East 660 feet; N orth 1320 feet; East 660 feet; N orth 660 feet; East 1320 feet; North 660 feet to the place of beginning.

I. FARMERS FRIEND CANAL CO

1 0289

That the Farmers Friend Canal Co. (Farmers Friend Canal Company Ltd.) is entitled to divert and use the waters of Snake River in the Amount of 2,350 miner's inches with a priority date of January 22, 1916 (Being the right recognized in the Woodville Decree , as amended by Order Amending and correcting said Woodville Decree, dated March 10, 1931)

Point of Diversion

South side of the North Fork of Snake River in the NW¼ NE¼ of Section 33, in Township 8 North of Range 41 East of the Boise Meridian.

Lands to Which Appurtenant

The Northeast Quarter of Section 12, the Northeast Quarter and the East half of the Southeast Quarter of Section 13: the Southeast Quarter of Section 22· all of Section 23, except the North Half of the Northwest Quarter: the North Half and the North Half of the South Half of Section 24; the West Half of Section 26; all of Section 27, except the East Half of the Northwest Quarter, in Township 7 North Range 40 E.B.M.; the South half of the South Half of Section 5; the South half of the Southeast Quarter of Section 6; all of Section 7; the West half of the Northwest Quarter of Section 8; all of Section 18 excepting the Southeast Quarter: the Northwest Quarter, the North Half of the Southwest Quarter, the North Half of the Southeast Quarter and the South 60 rods of the Northeast Quarter of Section 19, in Township 7 North, Range 41 E.B.M.

1 0282

J. HARRISON CANAL & IRRIGATION CO.

That the Harrison Canal & Irrigation Co. (Harrison Canal and Irrigation Company) is entitled to divert and use the waters of Snake River in the amount of 4,800 miner's inches with a priority date of January 22, 1916 (being the right recognized in the Woodville Decree).

Point of Diversion

Northwest corner of the Northwest Quarter of Section 27, Township 4 North, Range 40 East Boise Meridian, in Jefferson County, State of Idaho.

Lands to /Which Appurtenant

In Bonneville County:
In Township Three (3) North, /Range 38, E.B.M.:

Entire Sections 1, 2, 3 and 12;

NE¼ and N½ of SE¼ Section 4; East Half of Section 8; West Half and E½ of NE¼ Section 9; N½ of N½ and S½ of SE¼ Section 11;

N½ of N½ and S½ of NW¼ Section 14;

S½ of NW¼, N½ of SW¼, SW¼ of SW¼, Section 15,

S½, NE¼ and E½ NW¼ Section 16; S½ of S½ Section 17;

N½ of NW¼ and NE¼ of NE¼ of Section 20;

N½ of NE¼ of SE¼ Section 23; N½ of N½; S½ of NE¼, SE¼ of NW¼; NE¼ of SW¼ .and N½ of SE¼ Section 24;

In Township 3 North, Range 39 E.B.M.;

Entire Sections 4, 5, 6 7 and 8;

NW¼ and W½ of NE¼ Section 3; W½ and NE¼, Section 9, W½ NW¼ Section 10; SW¼ Section 17: N½ of NW¼ and NW¼ of NE¼, Section 18.

In Jefferson County, Idaho:
In Township four (4) North: Range 38 E.B.M.,

SE¼ and SE¼ of NE¼, Section 33;

S½ and S½ of NE¼, Section 34;

W½ and NE¼, Section 36:

Sw¼, S½ of NW¼, W½ of SE¼, Section 36.

In Township four (4) North, Range 39 E.B.M.

Entire Sections 31, 32, 33, 34:

N½ of S½ and N½, Section 35: N½ of N½ and S½ of NW¼ Section 36: S½ and NE¼, Section 25,

In Township four (4) North, Range 40 E.B.M.

Sw¼ of SE¼ of SW¼ Section 19;

W½ and SE¼ Section 30

A total of 15,400 acres.

1 0254

01. 0244 K. LaBELLE IRRIGATION CO.

That the La B elle Irrigation Co. (La Belle Irrigation Company). is entitled to divert and use the waters of Snake River in the amount of 1300 miner's inches with a priority date of January 22, 1916, (being the right recognized in the Woodville Decree.)

Point of Diversion

Southeast Quarter of the Southeast Quarter of Section 13, Township 4 North, Range 39 E.B.M.

Lands to Which Appurtenant

(For the lands of the stockholders of said company, a particular description of which lands may be hereafter supplied and filed as an exhibit in this cause.*)

Sections 2,3,4,10,11 and 12, Township 4 North, Range 39 E.B .M.

Sections 33 and 34, Township 5 North, Range 39 E.B.M.

All in Jefferson County, Idaho.

* Language as contained in the Woodville Decree. The following is a description of the current lands of the La Belle Irrigation Co.

L. LIBERTY PARK IRRIGATION CO. 1 0253

That the Liberty Park Irrigation Co. (The Liberty Park Irrigation Company). is entitled to divert and use the waters of Snake River in the amount of 800 miner's inches with a priority date of January 22, 1916, (being the right recognized in the Woodville Decree).

Point of Diversion

No. 1. Center of Northeast Quarter, Section 27, Township 5 N., Range 39 E.B.M.

No. 2. Near Southwest corner of the Northwest Quarter of the Southwest Quarter of Section 10, Township 5 North, Range 39 E.B.M. Jefferson County, State of Idaho.

Lands to Which Appurtenant

In Township 5 North of Range 39 E.B.M.:

Entire Sections 4 and 5 lying South of Texas Slough:

In Section 7; $NE\frac{1}{4}$· $N\frac{1}{2}$ $SE\frac{1}{4}$: $E\frac{1}{2}$ $NW\frac{1}{4}$; $NW\frac{1}{4}$ $NW\frac{1}{4}$· $NE\frac{1}{4}$ of $SW\frac{1}{4}$ of $NW\frac{1}{4}$; $E\frac{1}{2}$ of $NE\frac{1}{4}$ of $SW\frac{1}{4}$;

Entire Sections 8, 9 and 16:

Entire Section 17 lying North and East of Bannock Jim Slough:

In Section 15: $W\frac{1}{2}$ of $SW\frac{1}{4}$, $SE\frac{1}{4}$ of $SW\frac{1}{4}$; and portions of the $NE\frac{1}{4}$ of the $SW\frac{1}{4}$ and the $W\frac{1}{2}$ of the $NW\frac{1}{4}$ lying West of Texas Slough;

In Section 10: All lying West of Texas Slough;

In Section 20: $E\frac{1}{2}$ of $NE\frac{1}{4}$ of $NE\frac{1}{4}$ East of Bannock Jim Slough;

In Section 21: All thereof lying East and North of Bannock Jim Slough;

In Section 22: $NW\frac{1}{4}$, $N\frac{1}{2}$ of $SW\frac{1}{2}$, $W\frac{1}{2}$ of the Southeast Quarter and part of the $NW\frac{1}{4}$ of $NE\frac{1}{4}$ West of Texas Slough; also all of South Half of $SW\frac{1}{4}$ lying North of Bannock Jim Slough;

Containing a total irrigable area of approximately 4000 acres.

M. LOWDER SLOUGH CANAL CO. 1 0237

That the Lowder Slough Canal Co., Ltd. (Lowder Slough Canal Company) is entitled to divert and use the waters of Snake River in the amount of 1650 miner's inches with a priority date of January 22, 1916, (being the right recognized in the Woodville Decree).

Point of Diversion

Corner of the Section 18, Township 4 North, Range 40 East of the Boise Meridian.

Lands to Which Appurtenant

Sections seven and eighteen, Township four North, Range 40 E.B.M.; Sections twelve and thirteen, Township four North, Range 39 E.B.M.

N. NEW LAVA SIDE DITCH CO. 1 0283 Tran. #2342

That The New Lava Side Ditch Co. (New Lavaside Ditch Company) is entitled to divert and use the waters of Snake River in the amount of 1,500 miner's inches with a priority date of January 22, 1916 (being the right recognized in the Woodville Decree).

Point of Diversion

West side of Snake River at a point near the Southeast corner of lot three, Section twenty-four Township one South, Range thirty-six, East of the Boise Meridian, Bingham County, Idaho.

Lands to Which Appurtenant

Northwest Quarter of Section 14 and West Half of West Half of Southwest Quarter of Section 14, Tp. 2 S., R. 35 E.B.M.; South Half of Northeast Quarter of Section 11, Tp. 2 S. R. 35 E.B.M.· East Half of Southeast Quarter of Section 15, Tp. 2 S. R. 35 E.B.M.· lot 1 of Section 2, Tp. 2 S. R. 35 E.B.M.; Northwest Quarter of Section 21 Tp. 2 S. R. 35 E.B.M.: East Half of the Northwest Quarter and the West Half of the Northeast Quarter of Section 14, Tp. 2 S. R. 35 E.B.M.· Northwest Quarter of Section 15, Tp. 2 S. R. 35 E.B.M.· part of Southwest Quarter of Northwest Quarter of Section 23, and lots 1 , 2 and 3 of Section 25, Tp. 2 S. R. 35 E.B.M.· Northwest Quarter of Northwest Quarter of Section 23, Tp. 2 S. R. 35 E.B.M.: Southeast Quarter of Section 11, Tp. 2 S. R. 35 E.B.M.: lot 1 of Section 27 .and Southeast Quarter of Southeast Quarter of Section 22 , Tp. 2 S. R. 35 E.B.M.; South Half of Southwest Quarter, Northeast Quarter of Southwest Quarter and Southeast Quarter of Northeast Quarter of Section 10, Tp. 2 S. R. 35 E.B.M.; North Half of Southwest Quarter of Section 1 Tp. 2 S. R. 35 E.B.M. 176 acres in Sections 1 and 12; East Half of Northwest Quarter and Southwest Quarter of Northwest Quarter of Section 12, Tp. 2 S. R. 35 E.B.M. Southeast Quarter of Southwest Quarter of Section 2, Tp. 2 S. R. 35 E.B.M.; Northwest Quarter of Section 11, Tp 2 S. R. 35 E.B.M.; Southwest Quarter of Northwest Quarter, North Half of Southwest Quarter, and Northwest Quarter of Southeast Quarter of Section 15, Tp. 2 S. R. 35 E.B.M.; Northeast Quarter of Northeast Quarter of Section 14, Lot 5 of Section 13, and lots 1,2 and 3 of Section 14, Tp. 2 S. R. 35 E.B.M.; lots 2 3 and 4 and West Half of Southwest Quarter of Section 12, Tp. 2 S. R. 35 E.B.M.; Southwest quarter of Section 11, Tp. 2 S. R. 35 E.B.M.; East Half of Section 18. Tp. 2 S. R. 35 E.B.M.; Northeast Quarter of Southwest Quarter and Northwest Quarter of Southeast Quarter of Section 22, Tp. 2 S. R. 35 E.B.M.;

East Half of East Half of Southeast Quarter of Southeast Quarter ofSection 14, Tp. 2 S. R. 35 E.B.M.; North Half of Northeast Quarter of Section 11, Tp. 2 S. R. 35 E.B.M.; West Half of East Half of Southwest Quarter of Section 14 Tp. 2 S. R. 35 E.B.M.; Southeast Quarter of Southwest Quarter and Southwest Quarter of Southeast Quarter of Section 15, Tp. 2 S. R. 35 E.B.M.; South Half of Southwest Quarter of Section 33, Tp. 1 S. R.36 E.B.M.; Lots 2 and 3 and Southwest Quarter of Northwest Quarter of Section 4, lots 1 and 2 and South Half of Northeast Quarter, North Half of Southeast Quarter, Northeast Quarter of Southwest Quarter and Southeast Quarter , Northeast Quarter of Southwest Quarter and Southeast Quarter of Northwest Quarter of Section 5, Tp. 2 S. R. 36 E.B.M. lots 1, 4 and 5 of Section 4, Lots, 6 , 7 and 8 of Section 5, Tp. 2 S. R. 36 E.B.M. North Half of Southeast Quarter and South Half of Northeast Quarter of Section 33, Tp. 1 S.R. 36 E.B.M.; South Half of Northeast Quarter, Southeast Quarter of Northwest Quarter, East Half of Southwest Quarter, North Half of Southeast Quarter, and lots, 5, 6, 7, 8 and 9, of Section 6 Tp. 2 S. R. 36 E.B.M. Lot 1, Section 7, Southwest Quarter of Northwest Quarter, Northwest Quarter of Southwest Quarter and lot 5 of Section 5, Tp. 2 S. R. 36 E.B.M. Southeast Quarter of Northeast Quarter, East Half of Southeast Quarter, Section 1, Northeast Quarter of Northeast Quarter and lot 1 of Section 12, Tp. 2 S. R. 35 E.B.M. excepting therefrom a strip 28 rods wide by 400 rods long; also South Half of Southeast Quarter of Section 33, Tp. 1 S. R. 38 E.B.M. 240 acres of unsurveyed land in Tp 1 S. R.35 E.B.M.: lots 3 and 4 , South Half of Northwest Quarter and Southwest Quarter of Section 2, Tp 2 S. R. 35 E.B.M.; Southwest Quarter of Southeast Quarter of Section 2 Tp. 2 S. R. 35 E.B.M.; lots 1 and 2 and South Half of Northeast Quarter, and North Half of Southeast Quarter, and Southeast Quarter of Southeast Quarter of Section 2, Tp. 2 S. R. 35 E.B.M.; West Half of the Southwest Quarter and Southwest Quarter of Northwest Quarter of Section 1 and Northwest Quarter of Northwest Quarter of Section 12, Tp. 2 S. R. 35 E.B.M.;lot 3 and Southeast Quarter of Northwest Quarter of Section 12, Tp 2 S. R. 35 E.B.M.: South Half of the Northeast Quarter and North 26 and 75/100 acres in Northeast Quarter of Southeast Quarter of Section 22, Tp. 2 S. R. 35 E.B.M.: West Half of the Southwest Quarter of Section 3, and North Half of the Northwest Quarter, Section 10, Tp. 2 S. R. 35 E.B.M.; Northwest Quarter of the Southwest Quarter, Section 10 Tp. 2 S. R. 35 E.B.M. Southwest Quarter of Northwest Quarter of Section 22, Tp 2 S. R.35 E.B.M.; Southeast Quarter of the Southwest Quarter of Section 10, Tp. 2 S. R. 35 E.B.M.; East Half of the Southwest Quarter, West Half of Southeast Quarter, Section 3, Tp 2 S. R. 35 E.B.M.: West Half of the Northeast Quarter of Northwest Quarter, Section 22, Tp. 2 S. R. 35 E.B.M. Northwest Quarter of Northeast Quarter and East Half of Northeast Quarter of Northwest Quarter, Section 22, Tp. 2 S. R. 35 E.B.M.: South Half of Southwest Quarter of Southwest Quarter, Section 15, Tp 2 S. R. 35 E.B.M.: Northwest Quarter of Northwest Quarter of Section 15, Tp. 2 S. R. 35 E.B.M.: Southeast Quarter of Southwest Quarter of Section 10, Tp. 2 S.R. 35 E.B.M.; Northeast Quarter of Northeast Quarter of Section 15 Tp. 2 S. R. 35 E.B.M.: Southwest Quarter of Southwest Quarter of Section 10 Tp. 2 S. R. 35 E.B.M.; Northwest Quarter of Southwest Quarter of Section 10, Tp. 2 S.R. 35 E.B.M; Northeast Quarter of

Northeast Quarter of Section 22, Tp. 2 S.R.35 E.B.M.: Northwest Quarter of Section 17, Tp. 2S.R.35 E.B.M.; East Half of Northeast Quarter of Section 22, Tp 2 S.R. 35 E.B.M.: Southeast Quarter of Northwest Quarter of Section 10, Tp. 2 S. R. 35 E.P.M. Northeast Quarter of Southwest Quarter of Section 10, Tp 2 S. R. 35 E.B.M.: North Half of Northeast Quarter, Southwest Quarter of Northeast Quarter and Northwest Quarter of Southeast Quarter of Section 10, Tp 2 S. R. 35 E.B.M.: North Half of Northeast Quarter of Section 31 Tp 2 S. R. 35 E.B.M: Northwest Quarter of Northwest Quarter of Section 22 Tp. 2 S. R. 35 E.B.M.; Southwest Quarter of Southwest Quarter of Section 10, Tp 2 S. R. 35 E.B.M; Southeast Quarter of Southwest Quarter of Section 9 Tp 2 S. R. 35 E.B.M.

O. NEW SWEDEN IRRIGATION DISTRICT 1 0235

That the New Sweden Irrigation District (New Sweden Irrigation District) is entitled to divert and use the waters of Snake River in the amount of 7,250 miner's inches with a priority date of January 22, 1916 (being the right recognized in the Woodville Decree)

Point of Diversion

Northeast Corner of the Northwest Quarter of the Northwest Quarter of Section 12, Township 2 North, Range 37 East Boise Meridian, Porter Canal head near the North Quarter corner of Section 2, Township 3 North, Range 37 E.B.M. Great Western Head, both points in Bonneville County, State of Idaho.

Lands to Which Appurtenant

In Township 3 North, Range 37 East Boise Meridian in Bonneville County:

The Southwest Quarter of the Southwest Quarter of Section 12; all of Section 13 West of Snake River; the East 10 acres of the East Half of the Southeast Quarter of Section 14; all of Section 24 lying West of Snake River and East of the main Great Western Canal; all of Section 25 lying West of Snake River and East of the main Great Western Canal; the East Half, and the Southeast Quarter of the Northwest Quarter and the Southwest Quarter of Section 35; all of Section 36 lying West of Snake River.

In Township 2 North, Range 37 East Boise Meridian:

The West Half of the West Half of Section 1 lying West of Snake River; entire Section 2; all of the Southeast Quarter of the Southeast Quarter lying East of the Great Western Canal; Section 3. That portion of the West Half of the Southwest Quarter of the Northwest Quarter and that portion of the West Half of the Southwest Quarter of Section 4 lying West of the West Lateral Canal. The South Half of Section 5; the East Half of the Southeast Quarter of Section 6; the Northeast Quarter of the Northeast Quarter of the Northeast Quarter of Section 7; entire Section 8; the West

Half of the West Half of the Northwest Quarter of Section 9; The East Half of the Southwest Quarter and the Southwest Quarter of the Northwest Quarter of Section 10; entire Section 11; the Northwest Quarter and the West Half of the Northeast Quarter and the West Half of the Southwest Quarter of Section 13; entire Sections 14 and 15: the South Half and all of the Northeast Quarter lying South of the West lateral Canal; all of the Northwest Quarter lying South of the West lateral Canal in Section 16; entire Sections 17, 20,21,22,23,26,27,28,29,32,33; The West Half of the Northwest Quarter; the Southwest Quarter; and the West Half of the Southwest Quarter of the Southeast Quarter of Section 24; the Northwest Quarter and the North Half of the Southwest Quarter of Section 25; the Northwest Quarter and all of the Northeast Quarter lying North and West of Snake River in Section 35: the North Half and the Southwest Quarter and all of the Southeast Quarter lying North and West of Snake River, Section 34: the East Half of the East Half of Section 31.

In Township 1 North, Range 37 East Boise Meridian:

Entire Sections 4 and 5: the East Half and the Southwest Quarter of Section 6; the North Half of Section 7; the West Half of the Southwest Quarter and the West Half of the East Half of the Southeast Quarter the Southwest Quarter of Section 7; the North Half and the Southeast Quarter of Section 8; the Northwest Quarter of Section 9.

In Township 1 North, Range 36 East Boise Meridian:

The Southeast Quarter of Section 1; the East Half of the Northeast Quarter and the Southeast Quarter of Section 12.

In Bingham County, Idaho;
In Township 1 North, Range 36 East Boise Meridian;

The East Half of Section 13: the Southeast Quarter and the East Half of the Southwest Quarter of Section 24; entire Section 25; and entire Section 36 lying West of Snake River; the East Half of the Southeast Quarter of Section 35.

In Township 1 North, Range 37 East Boise Meridian:

The West Half, and the Southwest Quarter, and all of the East Half lying West of Snake River in Section 30.

In Township 1 South, Range 37 East Boise Meridian:

The Southwest Quarter of the Southwest Quarter of Section 6; the West Half of the Southwest Quarter of Section 7; the West Half of the Northwest Quarter of Section 18: the West Half of the West Half of the Southwest Quarter of section 18; the Northwest Quarter of the Northwest Quarter of Section 19.

In Township 1 South, Range 36 East Boise Meridian;

The East Half and the East Half of the East Half of the Northwest Quarter and the Southwest Quarter of Section 1; the Southeast Quarter of the Southeast Quarter of Section 2; the East Half of the East Half of Section 11; entire Sections 12, 13 and 24;

The South Half of the Southeast Quarter of Section 14; the East Half and the Southwest Quarter of Section 23; the Southeast Quarter of the Southeast Quarter of Section 22; the Northwest Quarter of the Northwest Quarter of Section 25; the Northwest Quarter and all of the Northeast Quarter lying north of Snake River, and the Northwest Quarter of the Southwest Quarter of Section 26; the East Half and the Southwest Quarter and the Southeast Quarter of the Northwest Quarter of Section 27; the South Half of the South Half and the South Half of the Northeast quarter of the Southwest Quarter, and the South Half of the Northwest Quarter of the Northwest Quarter of Section 28; the Southeast Quarter of the Southeast Quarter of Section 29; the South Half of the Southeast Quarter of Section 31; the Southwest Quarter and the North Half of the Southeast Quarter and the North Half of the South Half of the /Southeast Quarter and the East Half of the Northeast Quarter of Section 32; the North Half, and the North Half of the Southwest Quarter of Section 33, and the Northwest Quarter of the Southeast Quarter of Section 33; the Northwest Quarter of Section 34.

In Township 2 South, Range 36 East Boise Meridian;

The North Half of the Northwest Quarter of Section 5, and the North Half of the Northeast Quarter of Section 6, aggregate acreage 21,494 acres.

P. NORTH RIGBY IRRIGATION & CANAL CO. 1 0238

That the North Rigby Irrigation & Canal Co. (North Rigby Irrigation Canal Company) is entitled to divert and use the waters of Snake River in the Amount of 1500 miner's inches with a priority date of January 22, 1916, (being the right recognized in the Woodville Decree).

Point of Diversion

Southeast corner of the Southwest Quarter of the Northwest Quarter of Section 9, Township 4 North Range 39 East Boise Meridian, in Jefferson County, State of Idaho.

Lands to Which Appurtenant

In Township 4 North, Range 38 East Boise Meridian;

In Section 1: $S\frac{1}{2}$;
In Section 2: $SE\frac{1}{4}$, $S\frac{1}{2}$ $NE\frac{1}{4}$, $NW\frac{1}{4}NE\frac{1}{4}$, $E\frac{1}{2}$ $NW\frac{1}{4}$, $SW\frac{1}{4}$ $NW\frac{1}{4}$,

In Section 12, $NE\frac{1}{4}$

In Township 4 North, Range 39 E.B.M.

In Section 5: $S\frac{1}{2}$ of $SW\frac{1}{4}$:

In Section 5: $S\frac{1}{2}$ of $S\frac{1}{2}$: $NW\frac{1}{4}$ of $SW\frac{1}{4}$:

In Section 7: N½:

In Section 8: NW¼, N½SW¼: SW¼ NE¼ and NW¼ of SE¼

Containing a total irrigable area of approximately 1800 acres.

Q. PARKS & LEWISVILLE IRRIGATION CO. 1 0210

That the Parks & Lewisville Irrigation Co. (Parks and Lewisville Irrigation Company) is entitled to divert and use the waters of Snake River in the amount of 4200 miner's inches with a priority date of January 22, 1916, (being the right recognized in the Woodville Decree.)

Point of Diversion

Near center of NE¼ of the Southeast Quarter of Section 9, Township 4 North, Range 39 East Boise Meridian, on the dry bed in Jefferson County, State of Idaho.

Lands to Which Appurtenant

In Township 4 North of Range 37 East, in Sections 1, 2, 11, 12, 13 and 14.

In Township 4 North of Range 38 East, in Sections 1 to 12, both numbers inclusive, and 14 to 18, both numbers inclusive.

In Township 4 North of Range 39 East B.M., in Sections 7, 8 and 9 a total irrigable area of approximately 16,640 acres.

R. PARSONS DITCH CO. 1 0232

That the Parsons Ditch Co. (Parsons Ditch Company) is entitled to divert and use the waters of Snake River in the amount of 900 miner's inches with a priority date of January 22, 1916, (being the right recognized in the Woodville Decree).

Point of Diversion

NW¼NW¼ of Section 5, Tp. 3 South, Range 35 E.B.M. In Bingham County, State of Idaho.

Lands to Which Appurtenant

SE¼, SE¼SW¼, Section 1; NW¼NW¼, Section 12; NE¼ NE¼, Section 11: SW¼NE¼, Section 12: SE¼NE¼, E½ of Lot 1 and Lot 2, Section 11; NE¼SW¼, W½ of lot 2, Section 11; NW¼NW¼, SW¼, NW¼SW¼, Section 11; N½ NE¼SE¼ Section 10; S½NE¼SE¼, NW¼SE¼, Section 10; S½SE¼ , Section 10, all in Township 3 South, Range 34 E.B.M.

S. PEOPLES CANAL & IRRIGATION CO. 1 0259 T. #3104

That the Peoples Canal & Irrigation Co. (The Peoples Canal & Irrigation Company) is entitled to divert and use the waters of Snake River in the amount of 10,000 miner's inches with a priority date of January 22, 1916, (being the right recognized in the Woodville Decree).

Point of Diversion

West Side of Snake River at a point near the Southeast Quarter of Section 27, Township 1 South, Range 36 E.B.M., in the County of Bingham, State of Idaho.

Lands to Which Appurtenant

60,000 acres of land, lying in the County of Bingham, State of Idaho, and contained in Townships 1,2,3,4, and 5 South, Range 32 East B.M., also Townships 1, 2, 3 and 4 South, Range 33 East B.M., also Townships 1, 2,3, and 4 South, Range 34 East B.M., also Townships 1 and 2 South Range 35 East B.M. and Township 2 South, Range 36 E.B.M.

1 0259

T. POPLAR IRRIGATION DISTRICT

That the Poplar Irrigation District (Poplar Irrigation District) is entitled to divert and use the waters of Snake River in the amount of 600miner's inches with a priority date of January 22,1916, (being the right recognized in the Order Amending and Correcting, the Woodville Decree, dated March 10, 1931).

Point of Diversion:

South side of the South Fork of Snake River near the rush bed so called, a short distance down stream from the point where the river leaves the last canyon at the headgate of the canal of said district formerly known as the J.H.Riley Ditch.

Lands to Which Appurtenant

The South half ($S\frac{1}{2}$) and the South half of the North Half ($S\frac{1}{2}N\frac{1}{2}$) of Section One (1); The Southwest Quarter ($SW\frac{1}{4}$); the South half of the Southeast Quarter ($S\frac{1}{2}SE\frac{1}{4}$) and the Southeast Quarter of the Northeast Quarter ($SE\frac{1}{4}NE\frac{1}{4}$) of Section Two (2) ; the North half of the Northwest Quarter ($N\frac{1}{2}NW\frac{1}{4}$) and the Northwest Quarter of the Northeast Quarter ($NW\frac{1}{4}NE\frac{1}{4}$) of Section Twelve (12), all in Township Three (3) North of Range Forty, (40) E.B.M.

The Northwest Quarter ($NW\frac{1}{4}$) and the West half of the Northeast Quarter ($W\frac{1}{2}NE\frac{1}{4}$); the Southeast Quarter of the Northeast Quarter ($SE\frac{1}{4}NE\frac{1}{4}$) ; the North half of the Southwest Quarter ($N\frac{1}{2}SW\frac{1}{4}$) and the Southwest Quarter of the Southwest Quarter ($SW\frac{1}{4}SW\frac{1}{4}$) of Section Six (6) all in Township Three (3) North of Range Forty-one(41) E.B.M.

U. PROGRESSIVE IRRIGATION DISTRICT

That the Progressive Irrigation District (Progressive Irrigation District) is entitled to divert and use the waters of Snake River in the amount of 15,000 miner's inches with a priority date of January 22, 1916, (being the right recognized in the Woodville Decree).

Point of Diversion

Anderson Head: Near West Quarter corner of Section 5 Tp. 3 North, Range 40 E.B.M., on South bank of South Fork.

Eagle Rock and Willow Creek Head: Near Southwest corner of Section 31, Township 4 North, Range 40 E.B.M.

Lands to Which Appurtenant

In Township 1 North, Range 38 E.B.M.:

In Section 21: $E\frac{1}{2}$ of $E\frac{1}{2}$, $SW\frac{1}{4}$ of $SE\frac{1}{4}$, all of the $NW\frac{1}{4}$ of $SE\frac{1}{4}$, $SW\frac{1}{4}$ of $NE\frac{1}{4}$ and $NW\frac{1}{4}$ of $NE\frac{1}{4}$ lying East of the Taylor Canal.

Entire Sectiob 22, 15, 11, 10, 2.

In Section 16: 17 acres of the $SE\frac{1}{4}$ of $SE\frac{1}{4}$ lying East of the Taylor Canal.

In Section 14: $NW\frac{1}{4}$, $W\frac{1}{2}$ $NE\frac{1}{4}$, $N\frac{1}{2}$ $SW\frac{1}{4}$

In Section 12: $NW\frac{1}{4}$ of $NW\frac{1}{4}$

In Section 1: $W\frac{1}{2}$ of $W\frac{1}{2}$, $E\frac{1}{2}$ of $NW\frac{1}{4}$, $NW\frac{1}{4}$ of $NE\frac{1}{4}$

In Section 3: $E\frac{1}{2}$, $SW\frac{1}{4}$

In Township 2 North, Range 38 E.B.M.

Entire Sections 35, 36, 25, 26, 27, 22, 23, 24, 13, 14, 15, 16, 9 10,11,12,1,2,3,4

In Section 21: $E\frac{1}{2}$, NE $\frac{1}{4}$ of $NW\frac{1}{4}$, E. 20 R. of the $SW\frac{1}{4}$

In Section 17: $NE\frac{1}{4}$, $SE\frac{1}{4}$ of $SE\frac{1}{4}$

In Section 8 $E\frac{1}{2}$

In Section 5: $E\frac{1}{2}$, $E\frac{1}{2}$ of $NW\frac{1}{4}$, $NW\frac{1}{4}$ of $NW\frac{1}{4}$, $E\frac{1}{2}$ of $SW\frac{1}{4}$ of $NW\frac{1}{4}$, $NE\frac{1}{4}$ of $SW\frac{1}{4}$; $E\frac{1}{2}$ of $SE\frac{1}{4}$ of $SW\frac{1}{4}$.

In Section 6: $N\frac{1}{2}$, $SW\frac{1}{4}$, $NW\frac{1}{4}$ of $SE\frac{1}{4}$

In Section 7: $N\frac{1}{2}$ of $NW\frac{1}{4}$, $SW\frac{1}{4}$ of $NW\frac{1}{4}$

In Section 34: $E\frac{1}{2}$

In Township 3 North, Range 39 E.B.M.;

In Section 31: $S\frac{1}{2}$, $S\frac{1}{2}$ of $N\frac{1}{2}$, $NE\frac{1}{4}$ of $NE\frac{1}{4}$

Entire Sections 32, 33, 35, 36, 28, 29, 20, 21.

In Section 34: $W\frac{1}{2}$, $W\frac{1}{2}$ of $NE\frac{1}{4}$, $SE\frac{1}{4}$

In Section 25: $E\frac{1}{2}$, $SW\frac{1}{4}$

In Section 26: $S\frac{1}{2}$ of $SE\frac{1}{4}$ of $SE\frac{1}{4}$.

In Section 27: $N\frac{1}{2}$, $SW\frac{1}{4}$, $W\frac{1}{2}$ of $SE\frac{1}{4}$

In Section 30: $E\frac{1}{2}$ of $E\frac{1}{2}$

In Section 22: $S\frac{1}{2}$ $SW\frac{1}{4}$, $NW\frac{1}{4}$ $SW\frac{1}{4}$

In Section 19: $SE\frac{1}{4}$, $SE\frac{1}{4}$ of $NE\frac{1}{4}$

In Township 2 North, Range 39 E.B.M.

In Section 30: $W\frac{1}{2}$ of $W\frac{1}{2}$, $NE\frac{1}{4}$ of $SW\frac{1}{4}$. $E\frac{1}{2}$ of $NW\frac{1}{4}$, $NW\frac{1}{4}$ of $NE\frac{1}{4}$

Entire Sections 19, 18, 7

In Section 20: $W\frac{1}{2}$ $NW\frac{1}{4}$, $NW\frac{1}{4}$ of $SW\frac{1}{4}$
In Section 17: $SW\frac{1}{4}$ $SW\frac{1}{4}$
In Section 6: $W\frac{1}{2}$, $W\frac{1}{2}$ of $E\frac{1}{2}$, $W\frac{1}{2}$ of $SE\frac{1}{2}$ of $SE\frac{1}{4}$

In Section 31: $NW\frac{1}{4}$ of $NW\frac{1}{4}$

In Township 4 North, Range 40 E.B.M.

In Section 34: $SE\frac{1}{4}$

In Section 35: $SW\frac{1}{4}$, $S\frac{1}{2}$ of $SE\frac{1}{4}$, So. 20 rods of $NW\frac{1}{4}$ of $SE\frac{1}{4}$

In Section 36: $SW\frac{1}{4}$

In Township 3 North, Range 39 E.B.M.

In Section 31 $W\frac{1}{2}$

In Section 29: $N\frac{1}{2}$ of $NW\frac{1}{4}$

In Section 30 $NE\frac{1}{4}$, $NW\frac{1}{4}$ of $SE\frac{1}{4}$, $SW\frac{1}{4}$

In Section 19 $N\frac{1}{2}$

In Section 20 $SW\frac{1}{4}$, $W\frac{1}{2}$ of $SE\frac{1}{4}$

In Section 16: S½ of SW¼

In Section 18: S½

In Township 3 North, Range 40 E.B.M.

In Section 1: N½ of NW¼, N½ of NE¼

In Section 2: N½ of N½, S½ of NW¼, SW¼ of NE¼ N½ of SE¼

In Section 3: NE¼, W½ of NW¼, N½ of SE¼

In Township 1 North, Range 37 E.B.M.

Entire Section 1 East of Snake River

In Township 3 North, Range 37 E.B.M.

Entire Section 36, East of Snake River

In Township 2 North, Range 37 E.B.M.

In Section 12: All of NE¼ East of Snake River.

V. Reid Canal Co

That the Reid Canal Co. (The Reid Canal Company) is entitled to divert and use the waters of Snake River in the amount of 2,000 miner's inches with a priority date of January 22, 1916,(being the right recognized in the Woodville Decree)

Point of Diversion

Southwest corner of the Southwest Quarter of Section 6 Township 4 North, Range 39 East Boise Meridian, in Jefferson County, State of Idaho.

Lands to Which Appurtenant

In Township 5 North, Range 39 E.B.M.
In Section 2: SW¼ of SE¼ an d SE¼ of SW¼;

In Section 11: All except the NW¼ of NW¼ and W½ of NE¼ of NW¼

In Section 12: The S½ of the SE¼ and the West Half except the N½ of the NW¼

Entire Sections 13, 14 and East Half of Section 15;

In Section 22: E½ of the E½;

In Section 23: The West Half and the S½ of the SE½;

In Section 24: the E½ and the S½ of the SW¼, entire Sections 25 and 26;

Township 2 South, Range 35, E.B.M.

Section 8	$S\frac{1}{2}$	
Section 9	$E\frac{1}{2}$	$W\frac{1}{2}$
Section 10	$E\frac{1}{2}$	$W\frac{1}{2}$
Section 16	$E\frac{1}{2}$	

Township 3 South Range 33 E.B.M.

Section 1	$E\frac{1}{2}$	$W\frac{1}{2}$
Section 2	$E\frac{1}{2}$	$W\frac{1}{2}$
Section 3	$E\frac{1}{2}$	$W\frac{1}{2}$
Section 4	$E\frac{1}{2}$	
Section 10	$E\frac{1}{2}$	$W\frac{1}{2}$
Section 11	$E\frac{1}{2}$	$W\frac{1}{2}$
Section 12	$E\frac{1}{2}$	$W\frac{1}{2}$
Section 13	$E\frac{1}{2}$	$W\frac{1}{2}$
Section 14	$E\frac{1}{2}$	$W\frac{1}{2}$
Section 15	$E\frac{1}{2}$	$W\frac{1}{2}$
Section 20	$S\frac{1}{2}$	
Section 21	$E\frac{1}{2}$	$W\frac{1}{2}$
Section 22	$E\frac{1}{2}$	$W\frac{1}{2}$
Section 23	$E\frac{1}{2}$	$W\frac{1}{2}$
Section 24	$E\frac{1}{2}$	$W\frac{1}{2}$
Section 25	$W\frac{1}{2}$	
Section 26	$E\frac{1}{2}$	$W\frac{1}{2}$
Section 27	$E\frac{1}{2}$	$W\frac{1}{2}$
Section 28	$E\frac{1}{2}$	$W\frac{1}{2}$
Section 29	$E\frac{1}{2}$	$W\frac{1}{2}$
Section 30	$E\frac{1}{2}$	
Section 31	$E\frac{1}{2}$	$W\frac{1}{2}$
Section 32	$E\frac{1}{2}$	$W\frac{1}{2}$
Section 33	$E\frac{1}{2}$	$W\frac{1}{2}$
Section 34	$E\frac{1}{2}$	$W\frac{1}{2}$
Section 35	$E\frac{1}{2}$	$W\frac{1}{2}$

Township 3 South, Range 34 E. B.M.

Section 6	$W\frac{1}{2}$	
Section 18	$W\frac{1}{2}$	

Township 4 South, Rahge 31 E.B.M.

Section 11	$E\frac{1}{2}$	
Section 13	$E\frac{1}{2}$	$W\frac{1}{2}$
Section 14	$E\frac{1}{2}$	
Section 22	$E\frac{1}{2}$	$W\frac{1}{2}$
Section 23	$E\frac{1}{2}$	$W\frac{1}{2}$
Section 24	$E\frac{1}{2}$	$W\frac{1}{2}$
Section 25	$E\frac{1}{2}$	$W\frac{1}{2}$
Section 26	$E\frac{1}{2}$	$W\frac{1}{2}$
Section 27	$E\frac{1}{2}$	$W\frac{1}{2}$
Section 28	$E\frac{1}{2}$	
Section 33	$E\frac{1}{2}$	$W\frac{1}{2}$
Section 34	$E\frac{1}{2}$	$W\frac{1}{2}$
Section 35	$E\frac{1}{2}$	$W\frac{1}{2}$
Section 36	$N\frac{1}{2}$	

In Section 27: the NE¼ of the SE¼

In Section 35: All lying North and East of Texas Slough;

In Section 36: NW¼, W½ of NE¼ and all of the SW¼ lying North and East of the Texas Slough.

In Township 5 North, Range 40 E.B.M.,

In Section 7: S½ of N½ of SW¼; SW¼ of SW¼

In Section 18: N½ of SW¼

In Section 19: W½ of NW¼: SE¼ of NW¼: N½ of SW¼ and W½ of SE¼

In Section 30: N½ of the NW¼ of the NE¼

Containing a total irrigable area of approximately 5350 acres.

W. RIGBY CANAL & IRRIGATING CO. 1 0752

That the Rigby Canal & Irrigating Co. (Rigby Canal & Irrigation Company) is entitled to divert and use the waters of Snake River in the amount of 4,900 miner's inches with a priority date of January 22, 1916, (being the right recognized in the Woodville Decree.)

Point of Diversion

Southwest corner of the Southeast Quarter of Section 10, Township 4 North, Range 39 East Boise Meridian. In Jfferson County, State of Idaho.

Lands to Which Appurtenant

In Township 4 North, Range 39 East Boise Meridian, in Jefferson County, Idaho:

The South Half of Section 7.

The South Half of the South Half and the South Half of the North Half of the South Half of Section 8.

The South Half of the South Half and the South Half of the North Half of the South Half of Section 9.

The Southwest Quarter of the Southwest Quarter and that part of the Southeast Quarter of the Southwest Quarter lying South and West of the Rigby /Canal of Section 10. (60 acres)

The Northwest Quarter of the Northeast Quarter and the Northwest Quarter of Section 16.

The Northeast Quarter; the Northwest Quarter; the North Half of the Southwest Quarter; and the North Half of the South Half of the Southwest Quarter of Section 17.

Township 4 South, Range 32, E.B.M.

Section 1	$E\frac{1}{2}$	$W\frac{1}{2}$
Section 2	$S\frac{1}{2}$	
Section 3	$S\frac{1}{2}$	
Section 7	$E\frac{1}{2}W\frac{1}{2}$	
Section 8	$E\frac{1}{2}$	$W\frac{1}{2}$
Section 9	$E\frac{1}{2}$	$W\frac{1}{2}$
Section 10	$E\frac{1}{2}$	$W\frac{1}{2}$
Section 11	$E\frac{1}{2}W\frac{1}{2}$	
Section 12	$E\frac{1}{2}$	$W\frac{1}{2}$
Section 13	$E\frac{1}{2}$	$W\frac{1}{2}$
Section 14	$E\frac{1}{2}$	$W\frac{1}{2}$
Section 15	$E\frac{1}{2}$	$W\frac{1}{2}$
Section 16	$E\frac{1}{2}$	$W\frac{1}{2}$
Section 17	$E\frac{1}{2}$	$W\frac{1}{2}$
Section 18	$E\frac{1}{2}$	$W\frac{1}{2}$
Section 19	$E\frac{1}{2}$	$W\frac{1}{2}$
Section 20	$E\frac{1}{2}$	$W\frac{1}{2}$
Section 21	$W\frac{1}{2}$	
Section 28	$W\frac{1}{2}$	
Section 29	$E\frac{1}{2}$	$W\frac{1}{2}$
Section 30	$E\frac{1}{2}$	$W\frac{1}{2}$
Section 31	$E\frac{1}{2}$	$W\frac{1}{2}$
Section 32	$E\frac{1}{2}$	$W\frac{1}{2}$

Township 4 South, Range 33 E.B.M.,

Section 2	$W\frac{1}{2}$	
Section 3	$E\frac{1}{2}$	$W\frac{1}{2}$
Section 4	$E\frac{1}{2}$	$W\frac{1}{2}$
Section 5	$E\frac{1}{2}$	$W\frac{1}{2}$
Section 6	$E\frac{1}{2}$	$W\frac{1}{2}$
Section 7	$E\frac{1}{2}$	$W\frac{1}{2}$

Township 4 South, Range 33 E.B.M.

Section 8	$E\frac{1}{2}$	$W\frac{1}{2}$
Section 9	$E\frac{1}{2}$	$W\frac{1}{2}$
Section 10	$W\frac{1}{2}$	
Section 16	$E\frac{1}{2}$	
Section 17	$E\frac{1}{2}$	$W\frac{1}{2}$
Section 18	$E\frac{1}{2}$	$W\frac{1}{2}$
Section 19	$E\frac{1}{2}$	$W\frac{1}{2}$
Section 20	$W\frac{1}{2}$	

Township 5 South, Range 31 E.B.M.

Section 1	$W\frac{1}{2}$	
Section 2	$E\frac{1}{2}$	$W\frac{1}{2}$
Section 3	$E\frac{1}{2}$	$W\frac{1}{2}$
Section 7	$E\frac{1}{2}$	
Section 8	$E\frac{1}{2}$	$W\frac{1}{2}$
Section 9	$E\frac{1}{2}$	$W\frac{1}{2}$
Section 10	$E\frac{1}{2}$	$W\frac{1}{2}$

In Section 18.

In Township 4 North, Range 38 East Boise Meridian, in Jefferson County, Idaho:

The Southeast Quarter; the South Half of the Southwest Quarter; The Northeast Quarter of the Southwest Quarter; and that part of the Northwest Quarter of the Southwest Quarter lying South and East of the Lewisville Canal of Section 12, 290 acres.

Section 13.

The South Half; the South Half of the Northeast Quarter; theSouth Half of the North Half of the Northeast Quarter; and the South Half of the Northwest Quarter of Section 14.

The Southeast Quarter of Section 15.

The North Half of the Northeast Quarter of Section 22.

The Northeast Quarter and that part of the North Half of the Northwest Quarter lying North of the Rigby Canal of Section 23. 175 acres.

The North Half of the Northwest Quarter the Southwest Quarter of the Northwest Quarter: and that part of the Southeast Quarter of the Northwest Quarter lying North and West of the Burgess Canal of Section 24, 140 acres.

Containing a total irrigable area of approximately 4145 acres.

X RIVERSIDE DITCH CO. 1. 0024

That the Riverside Ditch Co. (Riverside Canal Company) is entitled to divert and use the waters of Snake River in the amount of 1,500 miner's inches with a priority date of January 22, 1916, (being the right recognized in the Woodville Decree)

Point of Diversion

(No point of diversion set out in Woodville Decree.)

Lands to Which Appurtenant

In Township 2 South, Range 33 E.B.M.

Northeast Quarter of Northeast Quarter, Section 22;

In Township 2 South, Range 34 E.B.M.

Northwest Quarter of Southwest Quarter, Section 28:

In Township 2 South , Range 35 E.B.M.

Lot five and Northwest Quarter Section 13; lots 1, 2, 3 and East Half of Northeast Quarter of Section 14; South Half of Southwest Quarter, Section 20; South Half of Section 21; Southwest Quarter, Southwest Quarter of Southeast Quarter, Section 22; lots 1,2,3,

Section 11	$E\frac{1}{2}$	$W\frac{1}{2}$
Section 12	$E\frac{1}{2}$	$W\frac{1}{2}$
Section 13	$W\frac{1}{2}$	
Section 14	$E\frac{1}{2}$	$W\frac{1}{2}$
Section 15	$W\frac{1}{2}$	
Section 17	$E\frac{1}{2}$	$W\frac{1}{2}$
Section 16	$E\frac{1}{2}$	$W\frac{1}{2}$
Section 18	$E\frac{1}{2}$	$W\frac{1}{2}$
Section 19	$E\frac{1}{2}$	$W\frac{1}{2}$
Section 20	$E\frac{1}{2}$	$W\frac{1}{2}$
Section 21	$E\frac{1}{2}$	$W\frac{1}{2}$
Section 22	$E\frac{1}{2}$	$W\frac{1}{2}$
Section 23	$E\frac{1}{2}$	$W\frac{1}{2}$
Section 26	$E\frac{1}{2}$	$W\frac{1}{2}$
Section 27	$E\frac{1}{2}$	$W\frac{1}{2}$
Section 28	$E\frac{1}{2}$	$W\frac{1}{2}$
Section 29	$E\frac{1}{2}$	$W\frac{1}{2}$
Section 30	$E\frac{1}{2}$	$W\frac{1}{2}$
Section 31	$E\frac{1}{2}$	$W\frac{1}{2}$
Section 32	$E\frac{1}{2}$	$W\frac{1}{2}$
Section 33	$E\frac{1}{2}$	$W\frac{1}{2}$
Section 34	$E\frac{1}{2}$	$W\frac{1}{2}$
Section 35	$E\frac{1}{2}$	$W\frac{1}{2}$

Township 5 South , Range 32, E.B.M.

Section 5	$W\frac{1}{2}$	
Section 6	$E\frac{1}{2}$	
Section 7	$E\frac{1}{2}$	
Section 8	$W\frac{1}{2}$	
Section 18	$E\frac{1}{2}$	$W\frac{1}{2}$

Township 6 South, Range 30 E.B.M.,

Section 25	$E\frac{1}{2}$	$W\frac{1}{2}$
Section 36	$E\frac{1}{2}$	$W\frac{1}{2}$

Township 6 South, Range 31 E.B.M.

Section 2	$E\frac{1}{2}$	$W\frac{1}{2}$
Section 3	$E\frac{1}{2}$	$W\frac{1}{2}$
Section 4	$E\frac{1}{2}$	$W\frac{1}{2}$
Section 5	$E\frac{1}{2}$	$W\frac{1}{2}$
Section 6	$E\frac{1}{2}$	$W\frac{1}{2}$
Section 7	$E\frac{1}{2}$	
Section 8	$E\frac{1}{2}$	$W\frac{1}{2}$
Section 9	$E\frac{1}{2}$	$W\frac{1}{2}$
Section 10	$E\frac{1}{2}$	$W\frac{1}{2}$
Section 11	$E\frac{1}{2}$	$W\frac{1}{2}$
Section 15	$E\frac{1}{2}$	$W\frac{1}{2}$
Section 16	$E\frac{1}{2}$	$W\frac{1}{2}$
Section 17	$E\frac{1}{2}$	$W\frac{1}{2}$
Section 18	$E\frac{1}{2}$	
Section 19	$E\frac{1}{2}$	$W\frac{1}{2}$
Section 20	$E\frac{1}{2}$	$W\frac{1}{2}$
Section 21	$E\frac{1}{2}$	$W\frac{1}{2}$

Southwest Quarter of Northwest Quarter, Section23: lots 1, 2, West Half of Northeast Quarter, East Half of Northwest Quarter of Section 25; Southwest Quarter of Southeast Quarter of Section 26; Lots 2, 3, and 4 of Section 27: entire Section 28, and all accretion lands; entire section 29· lots 1, 2, and 3 , Northwest Quarter of Southwest Quarter, Section 30: East Half of Section 32; entire Section 33, and 110 acres of riparian or accretion land.

Y. RUDY IRRIGATION CANAL CO. 1 0253

That the Rudy Irrigation Canal /Co. (The Rudy Canal & Irrigation Company) is entitled to divert and use the waters of Snake River in the amount of 6,000 miner's inches with a priority date of January 22, 1916 (being the right recognized in the Woodville Decree).

Point of Diversion

Northeast corner of the Northeast Quarter of Section 29, Township 4 North, Range 40 East Boise Meridian, in Jefferson County, State of Idaho.

Lands to Which Appurtenant

In Township 4 North of Range 38 East B.M., 560 acres in Section 36.

In Township 4 North of Range 39 East B.M., the South Half of Section 29, the South Half of Section 30, entire section 31, entire section 32, South Half of Section 21, South Half of Section 22, /South Half of Section 23, South Half of Section 24, entire Sections 25, 26, 27 and 28. The North Half of Section 33, North Half of Section 34, North Half of Section 35.

In Township 4 North of Range 40 East, the Northwest Quarter of Section 30. A total irrigable area of approximately 7440 acres.

Z. SNAKE RIVER VALLEY IRRIGATION DISTRICT 1 0250

That the Snake River Valley Irrigation District (Snake River Valley Irrigation District) is entitled to divert and use the waters of Snake River in the amount of 3,400 miner's inches with a priority date of January 22, 1916, (being the right recognized in the Woodville Decree).

Point of Diversion

Northwest Quarter of the Northeast Quarter of Section 3, Township 1 North, Range 37 East Boise Meridian, in Bonneville County, State of Idaho.

Lands to Which Appurtenant

Section 22	W½	
Section 28	E½	W½
Section 29	E½	W½
Section 30	E½	W½
Section 31	E½	W½
Section 32	E½	W½
Section 33	W½	

Township 7 South, Range 30 E.B.M.

Section 1	E½	W½
Section 11	E½	
Section 12	E½	W½
Section 13	W½	
Section 14	E½	W½
Section 23	E½	W½
Section 24	E½	W½
Section 25	E½	W½
Section 26	E½	W½
Section 27	E½	
Section 34	E½	
Section 35	E½	
Section 36	E½	W½

Township 7 South, Range 31 E.B.M.,

Section 5	E½	W½
Section 6	E½	W½
Section 7	E½	W½
Section 8	W½	

Township 8 South, Range 30 E.B.M.

Section 1	W½	
Section 2	E½	W½
Section 11	N½	

All in Bingham and Power Counties, Idaho

B. BLACKFOOT IRRIGATION CO. 1 0298

That Blackfoot Irrigation Co., shall have the right to divert and use 100.0 cubic feet of water per second at the following point of diversion and upon the following described lands:

Point of Diversion

Northwest Quarter of the Southeast Quarter of Section 6, Township 1 South, Range 37 E.B.M.

Lands to Which Appurtenant

Sections 25, 26, 35 and 36, all in Township 1 South, Range 36. E.B.M.;

In Township 1 North, Range 37 E.B.M.;

Entire Sections 19, 20 and 29
In
Section 21: W½ NW¼, SW¼

In Section 28: West Half, W½ of NE¼, NW¼ of SE¼, W½ of NW¼ of SW¼ of SE¼

Entire Sections 31, 32, 33

In Section 34: W½ of E½

In Township 1 South, Range 37 E.B.M.

Entire Sections 3, 4, 5, 8, 9, 10, 15, 16, 17, 19, 20, 21, 22, 27, 28, 29, 30, 31, 32, 33. West Half of Section 2.

All of Sections 6, 7, 18, 19 lying East of Snake River

In Section 11: N½ NW¼, SW¼ of NW¼, W½ of SW¼

In Section 14: West Half

In Section 34: NW¼, N½ of NE¼, SW¼ of NE¼, W½ of SW¼

In Township 1 South, Range 36 E.B.M.,

In Section 25; East Half; portion of E½ of SW¼ East of Government Canal.

In Section 36: E½; SW¼; E½ of NW¼; Portion of NW¼ of NW¼ East of Government Canal

In Township 2 South, Range 36, E.B.M.

Entire Sections 1, 11 and 12

In Section 2: E½; SW¼; SW¼ of NW¼

In Section 3: SE¼; S½ of SW¼

In Section 10: N½

In Township 2 South, Range 37 E.B.M.

Entire Section 6

In Section 5: N½ and SW¼

In Section 4: N½ of NW¼: NW¼ of NE¼ 1 0254

AA. TEXAS SLOUGH IRRIGATING CANAL CO

That the Texas Slough Irrigating Canal Co. (The Texas Slough Irrigation Canal Company) is entitled to divert and use the waters

Sections 2, 3, 7, 8, 9, 10, 11, 15, 16, 17, 18, 19, 20, 21 22, 23, 27, 28, 29, 30, 31 and 32 all in Township 2 South Range 36, E.B.M.;

Sections 13, 22, 23, 24, 25, 26, 27, 34, 35 and 36 all in Township 2 South, Range 35, E.B.M.;

Sections 5 and 6 all in Township 3 South, Range 36 E. B.M.

Sections 1, 2, 3,4,8,9,10,11,12 and 18, all in Township 3 South, Range 35, E.B.M., all in Bingham County, Idaho.

C. TED BLOSCH; MARVEL JOHNSON AND V.E. HIER 1 0299

That Ted Blosch, Marvel Johnson and V. E. Hier shall have the right to divert and use 4.0 cubic feet of water per second at the following point of diversion and upon the following described lands:

Point of Diversion

Taken from the Great Feeder Canal, which has a point of diversion as follows:

Northeast Quarter of the Northwest Quarter of Section 36, Township 4 North, Range 40 E.B.M.

Lands to Which Appurtenant

South Half Southeast Quarter : ($S\frac{1}{2}SE\frac{1}{4}$) Section 19, Township 4 North, Range 40 E.B.M. (Ted Blosch)

Northwest Quarter of Northeast Quarter ($NW\frac{1}{4}NE\frac{1}{4}$) and that part of the Northeast Quarter of Northeast Quarter ($NE\frac{1}{4}NE\frac{1}{4}$) lying North and West of the South Branch Canal in Section 30, Township 4 North, Range 40 E.B.M. (Marvel Johnson)

North Half Southeast Quarter ($N\frac{1}{2}SE\frac{1}{4}$) Section 19, Township 4 North, Range 40 E.B.M. (V. E. Hier)

All in Jefferson County, Idaho.

D. BRAMWELL DITCH CO 1 0300

That the Bramwell Ditch Co. shall have the right to divert and use 4.0 cubic feet of water per second at the following point of diversion and upon the following described lands:

Point of Diversion

Northeast Quarter of the Southeast Quarter of Section 1 Township 4 North, Range :38 E.B.M.

of Snake River in the amount of 800 miner's inches with a priority date of January 22, 1916 (being the right recognized in the Woodville Decree)

Point of Diversion

Near the westerly line of the Northwest Quarter of the Southeast Quarter (NW¼ SE¼) of Section 15, Township 5 North Range 39 East Boise Meridian, in Madison County, State of Idaho.

Lands to Which Appurtenant

In Township 6 North, Range 39 East Boise Meridian:

In Section 29: S½ of SW¼; in Section 30; S½ of SE¼; entire Section 31 East of the North Fork of Snake River; entire sections 32 and 33;

In Section 34; SW¼ and S½ of NW¼

In Township 5 North, Range 39 East Boise Meridian:

In Section 2: NW¼; N½ of SW¼ S½ of NE¼; NW¼ of NE¼; NW¼ of SE¼ ; entire section 8.

In Section 4: All of East Half lying North and East of Texas Slough; NW¼ of NW¼

In Section 5: N½ of NE¼ North of Texas Slough.

In Section 6: NE¼ and N½ of NW¼; entire Section 10;

In Section 15: E 60 R. of SE¼ of NW¼; W½ of W½ of NE¼

In Township 5 North, Range 38 E.B.M.

In Section 1: The NE¼ of the NE¼ of the NE¼

In Township 6 North, Range 38 E.B.M.

In Section 36: Portion of the S½ of the SE¼ lying South of the North Fork of Snake River.

Containing a total irrigable area of approximately 4340 acres.

B B TREGO DITCH CO 1 0226

That the Trego Ditch Co. (Trego Ditch Company) is entitled to divert and use the waters of Snake River in the amount of ;900 miner's inches with a priority date of January 22, 1916 (being the right recognized in the Woodville Decree)

Lands to which Appurtenant

Southwest Aurter of the Southeast Quarter (SW¼SE¼) South of Drybed and Southeast Quarter (SE¼) South of Drybed, Section 35, Township 5 North, Range 38 E.B.M.

Lots 3 and 4 South of /Drybed and West Half of the Northeast Quarter (W¼NE¼) of Section 2, Township 4 North, Range 38 E.B.M.

Southeast Quarter Southeast Quarter (SE¼SE¼) Section 35, Township 5 North, Range 38 E.B.M., all in Jefferson County, Idaho.

E. BUTLER ISLAND CANAL CO 1 0301

That the Butler Island Canal Co. shall have the right to divert and use 16.0 cubic feet of water per second at the following point of diversion and upon the following described lands:

Point of Diversion

Northeast Quarter of the Northwest Quarter of Section 35 Township 4 North, Range 40 E.B.M.

Lands to Which Appurtenant

Section 20, 21, 22, 26, 27, 28 and 29, Township 4 North, Range 40 E.B.M., all in Jefferson County, Idaho.

F. BUTTE & MARKET LAKE CANAL CO 1 0302

That Butte & Market Lake Canal Co. shall have the right to divert and use 120.0 cubic feet of water per second at the following point of diversion and upon the following described lands:

Point of Diversion

Northwest Quarter of the Northwest Quarter, Section 22 Township 5 North, Range 38 E.B.M.

Lands to which Appurtenant

Sections 6, 7, 17, 18, 19, 20, 21, 22, 28,29 ,30,31,32 and 33 Township 5 North, Range 37 E.B.M., Jefferson County, Idaho

Sections 7 and 17, Township 5 North Range ;38 E.B.M. Madison County, Idaho

Sections 1, 2, 10, 11, 12, 13, 14, 22, 23, 24, 25, 26, 27, 33, 34, 35, and 36, Township 5 North, Range 36 E.B.M.,Jefferson County, Idaho.

Sections 1, 2, 3, 4, 5, 12, 13, 24 and 25, Township 4 North, Range 36 E.B.M., Jefferson County, Idaho.

Point of Diversion

Northwest Quarter of the Southwest Quarter of Section 33, Township 2 South, Range 35 E.B.M.

Lands to which Appurtenant

South Half of North Half, South Half of Section 31; Southwest Quarter of the Northwest Quarter, Southwest Quarter, East Half of the Southeast Quarter of Section 32; Township 2 South, Range 35, E.B.M. Entire Section 5 West of River, Entire Section 6, Township 3 South Range 35 E.B.M. Southeast Quarter of the Southeast Quarter of Section 1, Township 3 South, Range 34 E.B.M.

CC. WATSON SLOUGH DITCH & IRRIGATION CO. Ltd.

That the Watson Slough Ditch & Irrigation Co., Ltd. (Watson's Slough Ditch Company) is entitled to divert and use the waters of Snake River in the amount of 1,800 miner's inches with a priority date of January 22, 1916, (being the right recognized in the Wood - ville Decree).

Point of Diversion

West side of Snake River at a point about one half mile south of what is known as the Blackfoot Snake River Bridge in the County of Bingham, Idaho.

Lands to Which Appurtenant

Northwest Quarter of the Southwest Quarter and lots 3 and 4 of Section fifteen, Northeast Quarter of Southeast Quarter of Section Sixteen and Southeast Quarter of Southeast Quarter of Section sixteen, Southwest Quarter of Section Three: Southeast Quarter of Section three; West Half of Northwest Quarter of Section one; Southwest Quarter of Southwest Quarter of Section one and Northwest Quarter of Northwest Quarter of Section twelve; East Half of Southeast Quarter of Section nine; West Half of Northeast Quarter of Section eleven; Southeast Quarter of Northeast Quarter of Section sixteen; west half of /Southwest Quarter of Section two , Northwest Quarter of / Southeast Quarter of Section nine; Southwest quarter of Section ten; Northeast Quarter of Section nine; Southeast Quarter of Section five; West Half of Southeast Quarter of Section sixteen; East Half of Northeast Quarter of Section ten; East Half of Northwest Quarter of Section seventeen; Northwest Quarter of Northwest Quarter of Section eleven; Northeast Quarter of Section Seventeen: Northwest Quarter of Section ten, all in township three South, Range thirty four E.M. B. also East Half of Southwest Quarter of Section seventeen and lots one, two and three of Section twenty, Township three South, Range thirty four E.B.M.; North west Quarter of Southwest Quarter of Section three, township three South Range Thirty five E.B.M. and Southeast Quarter of

Sections 3, 4, 5, 6 , 7, 8, 9, 15,16, 17, 18, 19, 20, 21, 22, 27, 28, 29 and 30, Township 4 North, Range 37 E.B.M. Jefferson County, Idaho.

G. CLARK & EDWARDS CANAL CO. 1 0303

That Clark & Edwards Canal Co. shall have the right to divert and use 5.0 cubic feet of water per second at the following point of diversion and upon the following described lands:

Point of Diversion

Southwest Quarter of the Southwest Quarter of Section 20, Township 4 North, Range 40 E.B.M.

Lands to Which Appurtenant

Sections 10, 13, 14, 15, 16, 23 and 24, Township 4 North Range 39 E.B.M.

Sections 18 and 19 in Township 4 North, Range 40 E.B.M

All in Jefferson County, Idaho.

H. CORBETT SLOUGH DITCH CO. 1 0304

That Corbett Slough Ditch Co. shall have the right to divert and use 13.0 cubic feet of water per second at the following point of Diversion and upon the following described lands:

Point of Diversion

Northeast Quarter of the Northeast Quarter of Section 9, Township 2 South, Range 36 E.B.M.

Lands to Which Appurtenant

Parts of the following sections:

Sections 6, 7 and 18, Township 2 South, Range 36 E.B.M.

Sections 24, 25, 36, 35, 34 and 26, Township 2 South, Range 35 E.B.M.

Sections 1, 12, 11, 10, 9 and 4, Township 3 South Range 35 E.B.M.

All in Bingham County, Idaho.

I. JAMES A. CROFT 1 0305

That James A. Croft shall have the right to divert and use 2.0 cubic feet of water per second at the following point of diversion and upon the following described lands:

Section seventeen, Township three South, Range thirty four E.B.M., and two hundred acres of accretion lands lying adjacent to last above described lands.

1 0237

DD. WEARYRICK DITCH CO.

That the Wearyrick Ditch Co. (Wearyrich Ditch Company) is entitled to divert and use the waters of Snake River in the amount of 1,500 miner's inches with a priority date of January 22, 1916, (being the right recognized in the Woodville Decree)

Point of Diversion

Center of the Northeast Quarter of the Northeast Quarter of Section 18, Township 3 South, Range 35 East Boise Meridian, in Bingham County, State of Idaho.

Lands to which Appurtenant

In Township 3 South, Range 34, E.B.M.,

Section 1:	$N\frac{1}{2}$, $NE\frac{1}{4}SW\frac{1}{4}$.
Section 2:	$NE\frac{1}{4}$, $NE\frac{1}{4}SE\frac{1}{4}$, $SE\frac{1}{4}$ $NW\frac{1}{4}$;
Section 3:	$SW\frac{1}{4}$
Section 4:	$NE\frac{1}{4}$: $S\frac{1}{2}$:
Section 5:	$SE\frac{1}{4}$
Section 8:	$NE\frac{1}{4}$
Section 9:	$NW\frac{1}{4}$

Containing a total irrigable area of approximately 1720 acres.

EE. WEST LaBELLE IRRIGATION CO. 1 0239

That the West La Belle Irrigation Co. (West La Belle Irrigation Company) is entitled to divert and use the waters of Snake River in the amount of 1400 miner's inches which a priority date of January 22, 1916, (being the right recognized in the Woodville Decree as amended by Order Amending and Correcting said Woodville Decree, dated March 10, 1931).

Point of Diversion

South Half of the Northeast Quarter of the Northwest Quarter of Section 19, Township 4 North, Range 40 E.B.M.

Lands to Which Appurtenant

South Half of the Northeast Quarter ($S\frac{1}{2}NE\frac{1}{4}$) of the Northwest Quarter ($NW\frac{1}{4}$) of Section 19, Township 4 North, Range 40 E.B.M., Jefferson County, Idaho.

J. DANSKIN DITCH CO 1 0306

That Danskin Ditch Co. shall have the right to divert and use 80.0 cubic feet of water per second at the following point of diversion and upon the following described lands:

Point of Diversion

Northeast Quarter of the Northeast Quarter of Section 27, Township 2 South, Range 35 E.B.M.,

Lands to Which Appurtenant

$N\frac{1}{2}$, $W\frac{1}{2}NE\frac{1}{4}$, $SE\frac{1}{4}NE\frac{1}{4}$, Section 32·
$S\frac{1}{2}SE\frac{1}{4}$, $E\frac{1}{2}SW\frac{1}{4}$, Section 29·
$S\frac{1}{2}$, $S\frac{1}{2}NE\frac{1}{4}$, Section 30·
$NW\frac{1}{4}$, $N\frac{1}{2}NE\frac{1}{4}$, Section 31·
All in Township 2 South, Range 35 E.B.M.,
Bingham County, Idaho

$S\frac{1}{2}$, $NW\frac{1}{4}$, $NW\frac{1}{4}NE\frac{1}{4}$, $W\frac{1}{2}W\frac{1}{2}SW\frac{1}{4}NE\frac{1}{4}$, Section 25·
$S\frac{1}{2}SW\frac{1}{2}SE\frac{1}{2}$, $S\frac{1}{2}SE\frac{1}{2}SW\frac{1}{2}$, Section 24·
$S\frac{1}{2}$, $S\frac{1}{2}N\frac{1}{2}$, $S\frac{1}{2}N\frac{1}{2}NW\frac{1}{4}NE\frac{1}{4}NE\frac{1}{4}$, Section 26:
$S\frac{1}{2}$, $SE\frac{1}{4}NE\frac{1}{4}$, $S\frac{1}{2}SW\frac{1}{4}NE\frac{1}{4}$, Section 27:
all in Sections 34 and 35·
$N\frac{1}{2}$, $N\frac{1}{2}S\frac{1}{2}$, $SW\frac{1}{4}SW\frac{1}{4}$, Section 36:
all in Township 2 South, Range 34, E.B.M.,
Bingham County, Idaho.

$NW\frac{1}{4}NE\frac{1}{4}$, $NE\frac{1}{4}NW\frac{1}{4}$, $W\frac{1}{2}NW\frac{1}{2}$, Section 2:
$N\frac{1}{2}$, $W\frac{1}{2}SE\frac{1}{4}$, $E\frac{1}{2}SW\frac{1}{4}$, $NW\frac{1}{4}$ $NW\frac{1}{4}$, $SW\frac{1}{2}$, Section 3;
$S\frac{1}{2}NW\frac{1}{4}$, Section 4;
$SE\frac{1}{4}NE\frac{1}{4}$ Section 5,
all in Township 3 South, Range 34 E.B.M. Bingham County, Idaho

K. DILTS IRRIGATION CO., LTD. 1 0307

That Dilts Irrigation Co., Ltd., shall have the right to divert and use 6.0 cubic feet of water per second at the following point of diversion and upon the following described lands·

Point of Diversion

Northeast corner of the Southwest Quarter of Section 10, Township 4 North Range 39 East Boise Meridian, in Jefferson County, State of Idaho.

Lands to Which Appurtenant

In Township 4 North of Range 39 East Boise Meridian. the West Half of Section 4, and entire Section 5;

In Township 5 North of Range 39 East Boise Meridian, the South half and the Southeast Quarter of the Northeast Quarter of Section 31, the Southwest Quarter of Section 32; entire Section 6, the South half of the Southeast QUARTER, THE South east Quarter of the Southwest Quarter and the Northeast Quarter of the Southeast Quarter of Section 36:

Township 4 North of Range 38 East Boise Meridian, the Northeast Quarter of the Northeast Quarter of Section 1;

Containing a total irrigable area of approximately 2460 acres.

1 0235

FF. WOODVILLE CANAL CO

That the Woodville Canal Co (Woodville Canal Company) is en titled to divert and use the waters of Snake River in the amount of 1900 miner's inches with a prority date of January 22, 1916 (being the right recognized in the Woodville Decree)

Point of Diversion

3700 feet up stream from the South Quarter corner of Section 34, Tp. 2 North, Range 37 E.B.M. on the west bank of Snake River, in Bonneville County, Idaho

Lands to Which Appurtenant

East Half of the Southwest Quarter; East half of the North-west Quarter of the Southwest Quarter, Southeast Quarter of Section 7; Southwest quarter of Section 8 ; Southwest Quarter; South 100 rods of the West Half of the Northeast Quarter; West Half of the Southeast Quarter; Southeast Quarter of the South-east quarter Section 9; West Half of the Southwest Quarter Section 10, all of the foregoing described lands lying in Township one (1) North Range thirty seven (37) E.B.M. In Bonne-ville County, Idaho; North Half; North Half of the /Southwest Quarter; North Half of the Southeast Quarter, notth of Snake River, being approximately fifty acres; all in Sekction 16; North Half; North Half of the Southwest Quarter; all of the Southeast Quarter lying north of Snake River, being approximately 120 acres; all in Section 17; entire Section 18; West Half of Section 19; Southwest Quarter of Southwest Quarter of Section 29; Norththwest Quarter of the Northwest Quarter; West Half of

Point of Diversion

Northeast Quarter of the Southeast Quarter of Section 10, Township 4 North, Range 39 E.B.M.

Lands to Which Appurtenant

Sections 3, 4, 9 and 10, all in Township 4 North, Range 39 E.B.M., all in Jefferson County, Idaho.

L. Dewey Fox 1 0308

That L. Dewey Fox shall have the right to divert and use 6.0 dubic feet of water per second at the following point of diversion and upon the following described lands:

Point of Diversion

Southeast Quarter of the Southeast Quarter of Section 36, Township 4 North, Range 40 E.B.M.

Lands to Which Appurtenant

SW¼SE¼ North of Eagle Rock Canal:
SE¼SW¼ North of Eagle Rock Canal;
Section 36, Township 4 North, Range 40 E.B.M.
Jefferson County, Idaho.

M. HARRISON CANAL & IRRIGATION CO. 1 0309

That Harrison Canal & Irrigation Co. shall have the right to divert and use 55.0 cubic feet of water persecond at the following point of diversion and upon the following described lands:

Point of Diversion

Northwest Quarter of the Southwest Quarter of Section 27, Township 4 North, Range 40 E.B.M.

Lands to Which Appurtenant

Section 30, Township 4 North, Range 40 E.B.M., Jefferson County, Idaho

Sections 24, 25, 36, 35, 34, 33, 32 and 31, Township 4 North Range 39 E.B.M., Jefferson County, Idaho;

Sections 33, 34, 35, and 36, Township 4 North, Range 38 E.B.M., Jefferson County, Idaho;

Sections 3, 4, 5, 6, 7, 8 and 9, Township 3 North, Range 39 E.B.M. Bonneville ,County, Idaho.

Southwest Quarter of the Northwest Quarter Section 32; Northeast Quarter of the Northeast Quarter; East half of Northwest Quarter of Northeast Quarter; North ten acres of the Southeast Quarter of the Northeast Quarter Section 31, all lying in Township one North of Range thirty seven East B.M. in Bingham County, Idaho; Northeast Quarter of Section 24, Township one North, Range 36 E.B.M. in Bingham County, Idaho.

III

That the following parties are entitled to divert and use pro rata, for irrigation and other purposes, the flood waters of the Snake River and its tributaries, in the amounts listed, all with the same priority date of April 1, 1939, which water shall be diverted at the points and be appurtenant to the lands described herein:

A. ABERDEEN-SPRINGFIELD C ANAL COMPANY 1 0237 T

That Aberdeen-Springfield Canal /Company shall have the right to divert and use 230.0 cubic feet of water per second at the following point of diversion and upon the following described lands:

Point of Diversion

Northwest Quarter of Section 34, Township 1 South Range 36 E.B.M.

Lands to /Which Appurtenant

Township 2 South, Range 33 E.B.M.

Section 35	E½	W½
Section 36	E½	W½

Township 2 South, Range 34 E.B.M.

Section 23	W½	
Section 27	E½	
Section 28	W½	
Section 29	S½	
Section 31	E½	W½
Section 32	E½	W½

Sections 13, 14, 15, 9, 16, 17 and 20, Township 3 North, Range 38 E.B.M., Bonneville County, Idaho.

N. REBECCA HOLDEN 1 0310 Trans #2187

That Rebecca Holden shall have the right to divert and use 6.0 cubic feet of water per second at the following point of diversion and upon the following described lands:

Point of Diversion

Northwest Quarter of Section 35 and the Northeast Quarter of Section 36, Township 4 North, Range 37 E.B.M.

Lands to Which Appurtenant

Lots 6, 7 and 8, in Section 35, and Lot 4 in Section 36, Township 4 North, Range 37 E.B.M. Jefferson County, Idaho and Lot 7 of Section 2, Township 3 North, Range 37 E.B.M. in Bonneville County, Idaho.

O. WILLIAM S. HOLDEN 1 0311

That William S. Holden shall have the right to divert and use 8.0 cubic feet of water per second at the following point of diversion and upon the following described lands:

Point of Diversion

Southwest Quarter of the Southeast Quarter of Section 24 and in the Southwest Quarter of the Northwest Quarter of Section 25, all in Township 1 North Range 44 E.B.M.

Lands to Which Appurtenant

SW¼SE¼ less Road and Tract 2, Section 24, Township 1 N. North Range 44 E.B.M.

NW¼NE¼ and NE¼NW¼ lying east and south of Palisades Creek, Section 25, Township 1 North, Range 44 E.B.M.

SW¼NW¼ east of county road less Tracts 3, 5, and 6 Section 25, Township 1 North, Range 44 E.B.M.

SE¼NW¼ Section 25, Township 1 North, Range 44 E.B.M.

NE¼SE¼ Less 6.75 acres, SE¼NE¼ lying SE of County road Less Tract 1, Section 26, Township 1 North, Range 44 E.B.M., all in Bonneville County, Idaho.

P. IDAHO IRRIGATION DISTRICT 1 0312

That Idaho Irrigation District shall have the right to divert and use 130.0 cubic feet of water per second at the following point of diversion and upon the following described lands:

Point of Diversion

Northwest Quarter of the Southwest Quarter of Section 36, Township 3 North, Rangd 37 E.B.M.

Lands to Which Appurtenant

Sections 1, 2, 11, 12, 13, 14, 23, 24, 25, 26, 34 and 35 Township 1 South, Range 37 E.B.M.

Sections 5, 6 7, 18 and 19, Township 1 South, Range 38 E.B.M.

Sections 12, 13 and 24, Township 2 South, Range 37 E.B.M.

Sections 3, 4, 5, 7, 8, 9 18 and 19 Township 2 South Range 37 E.B.M.

Sections 1, 2, 3, 10, 11, 12, 13, 14, 15, 16, 21, 22, 23 24, 25, 26, 27, 28, 34, 35 and 36, Township 1 North Range 37 E.B.M.

Sections 3, 4, 5, 6, 7, 8, 9, 16, 17, 18, 19, 20, 21, 28 29, 30, 31, and 32, Township 1 North, Range 38 E.B.M.

Sections 25, 34, 35 and 36, Township 2 North, Range 37 E.B.M.

Sections 5, 6, 7, 8, 17, 20, 21, 28, 29, 30,31 32, and 33 and 34, Township 2 North, Range 38 E.B.M.

Sections 13, 24, 25 and 36, Township 3 North, Range 37 E.B.M.

Sections 19, 30 and 31, Township 3 North, Range 38 E.B.M.

All in Bonneville County and Bingham County, Idaho.

Q Carl Johnson 1 0813

That Carl Johnson shall have the right to divert and use 4.0 cubic feet of water per second at the following point of diversion and upon the following described lands:

Point of Diversion

Northwest Quarter of the Southeast Quarter of Section 8, Township 2 South, Range 36 E.B.M.

Lands to Which Appurtenant

Lands located in Section 7, 12 and 13, Township 2 South Range 36, E.B.M. Bingham County, Idaho.

R. MARVIN M JACKSON 1 0314

That Marvin M. Jackson shall have the right to divert and use 5.0 cubic feet of water per second at the following point of diversion and upon the following described lands;

Point of Diversion

Northeast Quarter of the Northeast Quarter of Section 34, Township 5 North, Range 37 E.B.M.

Lands to Which Appurtenant

$N\frac{1}{2}N\frac{1}{2}$ Section 34, Township 5 North, Range 37 E.B.M. Jefferson County, Idaho.

S. LA BELLE IRRIGATION CO. 1 0315

That La Belle Irrigation Co. shall have the right to divert and use 30.0 cubic feet of water per second at the following point of diversion and upon the following described lands:

Point of Diversion

Southeast Quarter of the Southeast Quarter of Section 13, Township 4 North, Range 39 E.B.M.

Lands to Which Appurtenant

Sections 2, 3, 4, 10, 11 and 12, Township 4 North Range 39 E.B.M.

Sections 33 and 34, Township 5 North, Range 39 E.B.M.

All in Jefferson County, Idaho.

T. LIBERTY PARK IRRIGATION CO. 1 0316

That Liberty Park Irrigation Co. shall have the right to divert and use 20.0 cubic feet of water per second at the following point of diversion and upon the following described lands:

Point of Diversion

Southwest Quarter of the Southwest Quarter of Section 6, Township 4 North, Range 40 E.B.M.

Lands to Which Appurtenant

Sections 1, 4, 5, 6, 7, 8, 9 , 10, 12, 14, 15, 16, 17, 18 20, 21, 22, 23, 26, 27 and 28, Township 5 North, Range 39 E.B.M. Madison County, Idaho.

U. LONG ISLAND IRRIGATION CO. 1 0317

That Long Island Irrigation Co. . shall have the right to divert and use 35.0 cubic feet of water per second at the following point of diversion and upon the following described lands:

Point of Diversion

Northeast Quarter of the Southwest Quarter of Section 10, Township 4 North, Range 39 E.B.M.

Lands to Which Appurtenant

Sections31, 32 and 33, Township 5 North, Range 39 E.B.M.

Sections 31, 32, 33, 34, 35 and 36, Township 5 North, Range 38 E.B.M.

Sections 2, 3, 4, 5 and 6, Township 4 North, Range 38 E.B.M.

Sections 35 and 36 Township 5 North, Range 37 E.B.M.

Sections 26, 27, 28, 29 and 30, Township 5 North, Range 38 E.B.M.

Section 2 Township 4 North, Range 37 E.B.M.

Sections 12, 13, 14, 23, 24, 25 and 26, Township 5 North Range 37 E.B.M.

Section 18, 19, 20, 21, 22 and 23, Township 5 North Range 38 E.B.M.

All in Jefferson County, Idaho;

V. ROBERT D. MACKAY 1 0318

That Robert D. Mackay shall have the right to divert and use 4.0 cubic feet of water per second at the following point of diversion and upon the following described lands;

Point of Diversion

Southwest Quarter of Section 23, Township 4 North,Range 40 E.B.M.

Lands to Which Appurtenant

Lot 3, $SW\frac{1}{4}SW\frac{1}{4}$, $SE\frac{1}{4}NW\frac{1}{4}$ Section 36, and Lot 4, Section 35, all in Township 4 North, Range 37 E.B.M.Jefferson County,Idaho

W. JOHN L. NELSON, ADRIAN NELSON, ERVEN SCOTT, VELMA ANDERSON and LAURA ANDERSON 1 0319

That John L. Nelson, Adrian Nelson, Erven Scott, Velma Anderson and Laura Anderson, shall have the right to divert and use 5.0 cubic feet of water per second at the following point of diversion and upon the following described lands:

Point of Diversion

Southwest Quarter of the Northwest Quarter of Section 35, Township 5 North, Range 39 E.B.M.

Lands to Which Appurtenant

Commencing at the Northwest corner of the Southwest Quarter of the Northwest Quarter of Section 27, Township 5 North, Range 39 E.B.M., in Madison County, Idaho, and running thence East 160 rods; thence South 51 rods; thence West bearing slightly North 97.1 rods, to a point 63 rods East of the West line of said Section; thence South 69.7 rods; thence West 63 rods; thence North 117 rods to the place of beginning, excepting therefrom the O.S.L. Railroad and the State Highway rights-of-way.

Also all of Lots 3 and 4 of Section 28, Township 5 North, Range 39 E.B.M., in Madison County, Idaho.

Also, the Northeast Quarter of the Northeast Quarter, the South Half of the Northeast Quarter, and the Northwest Quarter of the Southeast Quarter of Section 27, Township 5 North, Range 39 East, Boise Merdiain, In Madison County, Idaho.

Also, eommencing at a point 24 rods South of the Northwest corner of the Northeast Quarter of the Southeast Quarter of Section 27, Township 5 North, Range 39 East Boise Meredian, in Madison County, Idaho, and running thence South 56 rods· thence East 44 rods: thence following the meanderings of Bannock Jim Slough in a Northwesterly direction to the place of beginning, containing $6\frac{1}{2}$ acres more or less.

All in Madison County, Idaho.

X. NEW SWEDEN IRRIGATION DISTRICT 1 0320

That New Sweden Irrigation District shall have the right to divert and use 220.0 cubic feet of water per second at the following point of diversion and upon the following described lands:

Point of Diversion

Southwest Quarter of the Southwest Quarter of Section 12 Township 3 North, Range 37 E.B.M., and in the Southwest Quarter of the Southwest Quarter of Section 1, Township 2 North, Range 37 E.B.M.

Lands to Which Appurtenant

Sections 12, 13, 24, 25, 35 and 36 in Township 3 North, Range 37 E.B.M., lying west of the Snake River.

Sections 1, 2, 3, 4, 5, 6, 8, 9, 10, 11, 13, 14, 15, 16, 17 20, 21, 22, 23 , 24, 25, 26, 27, 28, 29, 32, 33 34 and 35 Township 2 North, Range 37 E.B.M., lying West of the Snake River.

Sections 4, 5, 6 , 7, 8, 9 and 30 in Township 1 North Range 37 E.B.M.

Section 1 , 12, 13, 24, 25, and 36 in Township 1 North, Range 36E.B.M.

Sections 1, 2, 11, 12, 13, 14, 22, 23, 24, 26, 27, 28, 31, 32 33 and 34 in Township 1 South Range 35 E.B.M., lying West of the Snake River

Sections 5 and 6, Township 2 South, Range 35 E.B.M.
All in Bonneville County and Bingham County, Idaho.

Y. MARVON M. NEWBY 1 0321

That Marvon M. Newby shall have the right to divert and use 6.0 cubic feet of water per second at the following point of diversion and upon the following described lands:

Point of Diversion

Northeast Quarter of the Southeast Quarter of Section 31, Township 4 North, Range 31 E.B.M.

Lands to Which Appurtenant

Lots 3, 4, 5 and 6, and the $SE\frac{1}{4}NE\frac{1}{4}$ of Section 31 Township 4 North, Range 41 E.B.M.

Lots 1 and 2 and $E\frac{1}{2}$ $NW\frac{1}{4}$ and $SW\frac{1}{4}NE\frac{1}{4}$ Section 31, Township 4 North, Range 41 E.B.M.

All in Jefferson County, Idaho.

Z. PROGRESSIVE IRRIGATION DISTRICT 1 0322

That Progressive Irrigation District shall have the right to divert and use 80.0 cubic feet of water per second at the following point of diversion and upon the following described lands:

Point of Diversion

Southwest Quarter of Section 31, Township 4 North, Range 41 E.B.M. and in the Southwest Quarter of Section 31, Township 3 North Range 41 E.B.M.

Lands to Which Appurtenant

Sections 1 and 12, Township 2 North, Range 37 E.B.M.

Sections 1, 2, 3, 10,11, 12, 14, 15 16 and 22 Township 1 North Range 38 E.B.M.

Sections 1, 2, 3, 4, 5, 6,7, 8,9,10,11,12,13, 14, 15, 16, 17 21, 22, 23, 24, 25, 26 , 27, 34 35 and 36 Township 2 North Range 38 E.B.M.

Section 36, Township 3 North, Range 37 E.B.M.

Sections 19, 25, 26, 27, 28, 29, 30, 31, 32, 33, 34, 35, 36, 20, 21 and 22, Township 3 North Range 38 E.B.M.

Sections 6, 7, 17,18,19,20,30,and 31, Township 2 North, Range 39 E.B.M.

Sections 16, 18, 19, 20, 29, 30 and 31, Township 3 North, Range 39 E.B.M.

Sections 1, 2 and 3, Township 3 North, Range 40 E.B.M.

All in Bonneville County, Idaho.

Sections 34, 35 and 36, Township 4 North, Range 40 E.B.M., Jefferson County, Idaho.

AA. REID CANAL CO 1 0323

That Reid Canal Co. shall have the right to divert and use 35.0 cubic feet of water per second at the following point of diversion and upon the following described lands:

Point of Diversion

Southwest Quarter of the Southwest Quarter of Section 6, Township 4 N. Range 40 E.B.M.

Lands to Which Appurtenant

Commencing at the diversion works from the South Fork of the Snake River in Section 6, Township 4 North, Range 40 E.B.M. The service area is bounded thusly; (1) on the East by the main canal from the division point in the Texas Slough Section 1, Township 4 North, Range 39 E.B.M., northly to the place of diversion of the Gilbert Ditch, thence on the east by that ditch and by the abrupt rise in the land, continuing to the point of intersection of the hills with the north line of Section 6, Township 5 North, Range 40 E.B.M.: (2) on the north by the north line of Section 6, Township 5 North, Range 39 E.B.M., to its point of intersection with the south branch of the Rexburg Canal, thence

westerly along this branch to the point of intersection of that branch with the Texas Slough Canal in Section 2, Township 5 North, Range 39 E.B.M.; (3) thence southerly to the intersection of the Texas Slough Canal with the road that is about one-quarter mile north of the south line of Section 10, Township 5 North, Range 39 E.B.M.: (4) thence Westerly along that road to its point of intersection with the Texas Slough; (5) thence southerly along Texas Slough to the point of intersection of the east line of Section 22, Township 5 North, Range 39 E.B.M.; (6) thence south along the east lines of Sections 22 and 27 to the point of intersection with Bannock Jim Slough and thence easterly and southerly along that slough to its intersection with the Lorenzo Road; (7) thence easterly along Lorenzo Road to the road intersection in the Southwest Quarter of Section 26, thence south about one-quarter mile to the south line of said Section 26, thence easterly about one-quarter mile along a private road and continuing along this private road easterly and southerly to a point due west of the diversion of the Liberty Park Canal from Texas Slough, to the point of ~~(8)~~ thence easterly along Texas Slough to its point of intersection with the west line of the East Half of the East Half of Section 35, Township 5 North, Range 39 E.B.M.; (9) thence south along this west line to the point of contact with the levee, thence easterly along the levee and along Texas Slough to the point of beginning, Madison County, Idaho.

BB. RIVERSIDE DITCH CO. 1 0324

That Riverside Ditch Co. shall have the right to divert and use 50.0 cubic feet of water per second at the following point of diversion and upon the following described lands:

Point of Diversion

Southeast Quarter of the Southeast Quarter of Section 12, Township 2 South, Range 35 E.B.M.

Lands to Which Appurtenant

Sections 13, 24, 23, 22, 21, 20, 19, 30, 29, 28, 27, 33 and 32, Township 2 South, Range 35 E.B.M.

Sections 24 and 25, Township 2 South Range 34 E.B.M.

All in Bingham County, Idaho.

CC. SAM SAKAGUCHI 1 0325

That Sam Sakaguchi shall have the right to divert and use 2.0 cubic feet of water per second at the following point of diversion and upon the following described lands:

Point of Diversion

Northwest Quarter of the Northeast Quarter of Section 2, Township 3 North, Range 37 E.B.M.

Lands to Which Appurtenant

All that portion of Section 2, Section 11 and Section 12 of Township 3 North, Range 37 E.B.M., lying east of the Union Pacific Railroad Right-of-way and west of the Great Western Canal, Bonneville County, Idaho.

DD R. DUWAYNE SCOTT 1 0326

That R. Duwayne Scott shall have the right to divert and use 9.0 cubic feet of water per second at the following point of diversion and upon the following described lands:

Point of Diversion

Southwest Quarter of the Southwest Quarter of Section 27, Township 4 North, Range 40 E.B.M.

Lands to Which Appurtenant

Part of the Northwest Quarter, lying South of the South bank of Great Feeder Canal, Section 28, Township 4 North, Range 40 E.B.M.

Northwest Quarter of the Southwest Quarter ($NW\frac{1}{4}SW\frac{1}{4}$) of Section 28 Township 4 North, Range 40 E.B.M.

South Half of the Northwest Quarter ($S\frac{1}{2}NW\frac{1}{4}$) and the North Half of the Scutheast Quarter ($N\frac{1}{2}SE\frac{1}{4}$) of Section 29 Township 4 North Range 40 E.B.M.

Part of the Northeast Quarter of the Southwest Quarter ($NE\frac{1}{4}SW\frac{1}{4}$) of Section 29, Township 4 North, Range 40 E.B.M.

All in Jefferson County, Idaho.

EE. SHATTUCK IRRIGATION CO. 1 0327

That Shattuck Irrigation Co. shall have the right to divert and use 16.0 cubic feet of water per second at the following point of diversion and upon the following described lands:

Point of Diversion

Northeast Quarter of Section 35, Township 4 North, Range 37 E.B.M.

Lands to Which Appurtenant

Section 14, 11, 23, and 26, Township 3 North, Range 37 E.B.M. Bonneville County, Idaho.

FF. SNAKE RIVER VALLEY IRRIGATION DISTRICT

1 0328

That Snake River Valley Irrigation District shall have the right to divert and use 100.0 cubic feet of water per second at the following point of diversion and upon the following described lands:

Point of Diversion

Southwest Quarter of the Southwest Quarter of Section 35, Township 2 North, Range 37 E.B.M.

Lands to Which Appurtenant

Sections 16, 17, 18, 19, 20, 21, 28, 29, 30, 31, 32, 33, and 34 Township 1 North, Range 37 E.B.M.

Section 36, Township 1 North, Range 36, E.B.M.

Sections 2, 3, 4, 5, 6, 7, 8, 9 , 10, 11, 14, 15, 16, 17, 18, 19 20, 21, 22, 27, 28, 29, 30, 31, 32, 33 and 34 Township 1 South Range 37 E.B.M.

Sections 4, 5, and 6, Township 2South Range 37 E.B.M.

Sections 24, 25, 36 and 36 Township 1 South, Range 36 E.B.M.

Sections 1, 2, 3, 4, 10, 11 and 12, Township 2 South Range 36 E.B.M.

All in Bingham County and Bonneville County, Idaho.

GG. TEXAS SLOUGH IRRIGATING CANAL CO. 1 0329

That Texas Slough Irrigating Canal Co. shall have the right to divert and use 20.0 cubic feet of water per second at the following point of diversion and upon the following described lands;

Point of Diversion

Southeast Quarter of the Northwest Quarter of Section 15, Township 5 North, Range 39 E.B.M., and in the Northeast Quarter of the Southeast Quarter of Section 35, Township 5 North, Range 39 E.B.M.

Lands to Which Appurtenant

Sections 3, 4, 6, 9, 10, 11 and 15, Township 5 North, Range 39 E.B.M.

Sections 29, 36, 31, 32, 33 and 34, Township 6 North, Range 39 E.B.M.

All in Madison County, Idaho.

HH. UTAH-IDAHO SUGAR CO. 1 0330

That the Utah-Idaho Sugar Co. shall have the right to divert and use 21.0 cubic feet of water per second at the following point of diversion and upon the following described lands:

Point of Diversion

Southeast Quarter of the Southwest Quarter of Section 35, Township 4 North, Range 37 E.B.M., and in the Southeast Quarter of the Northeast Quarter of Section 26, Township 1 North, Range 36. E.B.M.

Lands to which Appurtenant

Sections 3, 4, 9, 10, 16, 21, 22, 27, 28, 33 and 34, Township 3 North, Range 37 E.B.M., Bonneville County, Idaho.

Sections 22, 23, 24, 25, 26, 27, 35 and 36 Township 1 North, Range 36, E.B.M. Bingham County, Idaho.

II. WEST LABELLE IRRIGATION CO. 1 0331

That West LaBelle Irrigation Co. shall have the right to divert and use 35.0 cubic feet of water per second at the following point of diversion and upon the following described lands;

Point of Diversion

Northeast Quarter of the Northeast Quarter of Section 9, Township 4 North, Range 39 E.B.M.

Lands to Which Appurtenant

Sections 9, 4, 5, and 6, Township 4 North, Range 39 E.B.M.

Sections 31 and 32, Township 5 North, Range 39 E.B.M.

Section 1, Township 4 North, Range 38 E.B.M.

Section 36, Township 5 North, Range 38 E.B.M.

All in Jefferson County, Idaho.

~~1 0332~~ 22-065

JJ. GEORGE BAUER, BENJAMIN STEWART, ANDREW STEWART ANNIE WRIGHT, BOYD HOLLIST and ALICE P. BIRCH operating as STEWART CANAL

That George Bauer, Benjamin Stewart, Andrew Stewart, Annie Wright, Boyd Hollist and Alice P. Birch, operating as Stewart Canal, shall have the right to divert and use 30.0 cubic feet of water per second at the following point of diversion and upon the following described lands:

point of Diversion

Northeast Quarter of the Southeast Quarter of Section 30, Township 7 North, Range 41 E.B.M.

Lands to Which Appurtenant

SW¼, SW¼SE¼ of Section 25: Tax No. 4, Section 25, Tax No. 3 Section 25: North 40 rods of SE¼ of Section 25, Tax No. 5 of Section 25, all in Township 7 North, Range 40 E.B.M.Fremont County,Idaho.

Lot 4, SE¼SW¼ of Section 30, Township 7 North, Range 41 E.B.M. Fremont County, Idaho.

KK. CONSOLIDATED FARMERS CANAL COMPANY 1 0333

That Consolidated Farmers Canal Company shall have the right to divert and use 70.0 cubic feet of water per second at the following point of diversion and upon the following described lands:

Point of Diversion

Northeast Quarter of Section 10, Township 7 North, /Range 40 E.B.M., Fremont County, Idaho.

Lands to Which Appurtenant

Sections 1, 2, 3, 9 10, 11 and 17 Township 7 North, Range 39 E.B.M. Fremont County, Idaho

Sections 24, 25, 34, 35 and 36, Township 7 North, Range 39 E.B.M. Fremont County, Idaho.

Sections 16, 19, 20, 29 and 30, Township 7 North, Range 40 E.B.M. Fremont County, Idaho

Section 31, Township 7 North, Range 40 E.B.M. Madison County, Idaho.

LL. EGIN IRRIGATING CO. 1 0334

That Egin Irrigating Co. shall have the right to divert and use 23.0 cubic feet of water per second at the following point of diversion and upon the following described lands:

Point of Diversion

Southwest Quarter of the Northeast Quarter of Section 1, Township 7 North, Range 40 E.B.M.

Lands to Which Appurtenant

Section 2, 3, 4, 5, 6, 7, 8, 9, 10 and 18, Township 7 North Range 40 E.B.M.

Section 1, 10, 11, 12, 13, 14, 15, 16, 21, 22, 27, 28, 32 and 33 Township 7 North, Range 39 E.B.M.

All in Fremont County and Madison County, Idaho.

MM. ENTERPRISE IRRIGATION DISTRICT ~~1 0335~~ 21-0165

That Enterprise Irrigation District shall have the right to divert and use 29.0 cubic feet of water per second at the following point of diversion and upon the following described lands:

Point of Diversion

Southwest Quarter of Section 22, Township 8 North, Range 42 E.B.M.

Lands to Which Appurtenant

Sections 14, 22, 23, 24, 26, 27, 28, 33 and 34, Township 7 North, Range 41 E.B.M., Fremont County, Idaho.

Sections 3, 4, 7, 8, 9, 10, 16, 17 and 18, Township 6 North, Range 41 E.B.M., Madison County, Idaho.

NN. FALL RIVER IRRIGATION CO. ~~1 0336~~ T. #2351 21-016

That Fall River Irrigation Co. shall have the right to divert and use 32.0 cubic feet of water per second at the following point of diversion and upon the following described lands:

Point of Diversion

Southeast Quarter of Section 20, Township 8 North, Range 42 E.B.M.

Lands to Which Appurtenant

Sections 2, 3, 4, 5, 8, 9 , 10, 15, 16, 17, 18, 19, 20, 21, 25, and 28 Township 7 North , Range 41 E.B.M. Fremont County, Idaho.

Sections 26, 27, 30, 32, 33, 34 and 35, Township 8 North, Range 41 E.B.M. Fremont County, Idaho.

Sections 19, 26, and 30, Township 8 North, Range 42 E.B.M. Fremont County, Idaho.

Section 22, Township 9 N orth, Range 44 E.B.M., Fremont County, Idaho.

OO. FARMERS FRIEND CANAL CO. 1 0337

That Farmers Friend Canal Co. shall have the right to divert and use 9.0 cubic feet of water per second at the following point of diversion and upon the following described lands:

Point of Diversion

Northeast Quarter of Section 33, Township 8 North, Range 41 E.B.M.

Lands to Which Appurtenant

Sections 6, 7, 8, 18 and 19, Township 7 North, Range 41 E.B.M.

Sections 13, 22, 23, 24, 26 and 27, Township 7 North, Range 40 E.B.M.

All in Fremont County, Idaho.

PP. FARMERS OWN DITCH CO. ~~1 0338~~ 21-0167

That Farmers Own Ditch Co. shall have the right to divert and use 12.0 cubic feet of water per second at the following point of diversion and upon the following described lands:

Point of Diversion

Southeast Quarter of Section 35, Township 9 North, Range 43 E.B.M. Fremont County, Idaho.

Lands to Which Appurtenant

Sections 1 through 11, Township 8 North, Range 42, E.B.M.: Sections 22, 23, and 26, Township 8 North, Range 42 E.B.M.; Sections 22, through 28, Township 9 North, Range 42 E.B.M.; Sections 33, 34, 35 and 36, Township 9 North, Range 42 E.B.M. Sections 6 through 14, Township 8 North, Range 42 E.B.M.; Sections 31, 32, 33 and 34, Township 9 North, Range 43 E.B.M., all in Fremont County, Idaho.

QQ AL FRAZIER 1 0339

That Al Frazier shall have the right to divert and use 2.0 cubic feet of water per second at the following point of diversion and upon the following described lands:

Point of Diversion

Northwest Quarter of the Northwest Quarter of Section 31, Township 15 North, Range 44 E.B.M., Fremont County, Idaho.

Lands to Which Appurtenant

$S\frac{1}{2}NW\frac{1}{4}NW\frac{1}{4}$ and $SW\frac{1}{4}NW\frac{1}{4}$ and $NW\frac{1}{4}SW\frac{1}{4}$ and $SW\frac{1}{4}SW\frac{1}{4}$ of Section 31, Township 15 North, Range 44 E.B.M., in Fremont County, Idaho.

RR. D. V. HAGENBARTH 1 0340

That D. V. Hagenbarth shall have the right to divert and use 6.0 cubic feet of water per second at the following point of diversion and upon the following described lands:

Point of Diversion

Southwest Quarter of the Southeast Quarter of Section 36, Township 14 North, Range 42 E.B.M., and in Section 1, Township 13 North, Range 40 E.B.M.

Lands to Which Appurtenant

SW¼NW¼, N½SW¼, SE¼SW¼ and SW¼SE¼ of Section 6, Township 13 North, Range 42 E.B.M. Fremont County, Idaho

E½SE¼, NW¼SE¼, E½SW¼, SW¼SW¼ of Section 11, Township 13 North, Range 40 E.B.M., Clark County, Idaho

SS. INDPENEDENT CANAL CO. LTD. 1 0311

That Independent Canal Co. Ltd., shall have the right to divert and use 35.0 cubic feet of water per second at the following point of diversion and upon the following described lands:

Point of Diversion

Southeast Quarter of the Southeast Quarter of Section 2, Township 7 North, Range 40 E.B.M.,

Lands to Which Appurtenant

Sections 2, 7, 8, 9, 10, 11, 16, 17, 18 and 19, Township 7 North, Range 40 E.B.M.

Sections 13, 14, 15, 16, 17, 19, 20, 21, 22, 23, 27, 28 29, 30, 31, 32 and 33, Township 7 North, Range 39 E.B.M.

Sections 5, 6, 7, 8, 13, 17 and 18, Township 6 North Range 39 E.B.M.

All in Fremont and Madison Counties, Idaho.

TT. RALPH D. MILLER ~~1 0352~~ 21-0173

That Ralph D. Miller shall have the right to divert and use 6.0 cubic feet of water per second at the following point of diversion and upon the following described lands:

Point of Diversion

Southwest Quarter of Section 21, Township 8 North, Range 42 E.B.M.

Lands to Which Appurtenant

Northwest Quarter :(NW¼) south of Railroad, Section 20, Township 8 North, Range 42 E.B.M.

Lot 4 and the Northeast Quarter of the Southwest Quarter (NE¼SW¼) less Tax # 1 Section 20, Township 8 North, Range 42 E.B.M.

All in Fremont County, Idaho.

All in Fremont County, Idaho.

~~1 0343~~ 22-0658

UU. PINCOCK-BYINGTON CANAL CO.

That Pincock-Byington Canal Co. shall have the right to divert and use 38.0 cubic feet of water per second at the following point of diversion and upon the following described lands;

Point of Diversion

Northeast Quarter of Section 36, Township 7 North, Range 40 E.B.M.

Lands to Which Appurtenant

Section 35, Township 7 North, Range 40 E.B.M., Madison County, Idaho: and Section 36, Township 7 North, Range 40 E.B.M., Fremont County, Idaho.

VV. PINCOCK-GARNER DITCH COMPANY ~~1 0344~~ 22-0659

That Pincock-Garner Ditch Company shall have the right to divert and use 4.0 cubic feet of water per second at the following point of diversion and upon the following described lands:

Point of Diversion

Northeast Quarter of Section 36, Township 7 North, Range 40 E.B.M., Madison County, Idaho.

Lands to Which Appurtenant

Section 34, Township 7 , N. Range 40 E.B.M., Madison County, Idaho.

WW. D. F. RICHARDS 1 0345

That D. F. Richards shall have the right to divert and use 10.0 cubic feet of water per second at the following point of diversion and upon the following described lands:

Point of Diversion

Section 36, Township 15, North, Range 43 E.B.M.

Lands to Which Appurtenant

$N\frac{1}{2}$ of the $SE\frac{1}{4}$ and $E\frac{1}{2}$ of $SW\frac{1}{4}$, Section 1, Township 14 North, Range 43 E.B.M., Fremont County, Idaho.

$E\frac{1}{2}$ East of old Highway in Section 2, Township 14 North Range 43 E.B.M., Fremont County, Idaho.

NE¼NE¼ of Section 12, Township 14 North, Range 43 E.B.M. Fremont County, Idaho.

W½NW¼ and the SW¼ of Section 6, Township 14 North, Range 44 E.B.M., Fremont County, Idaho

E½ and the E½ of the W½ of Lot 9, Section 7, Township 14 North, Range 44 E.B.M., Fremont County, Idaho.

Lots 2 and 3, Section 8, Township 14 North, Range 44 E.B.M., Fremont County, Idaho.

Lots 1, 2, 3, and 4 Section 17, Township 14 North Range 44 E.B.M., Fremont County, Idaho.

Lots 1, 2 and 3 Section 18, Township 14 North, Range 44 E.B.M., Fremont County, Idaho.

SE¼NW¼ and E½ SW¼ and SE¼ and S½ NE¼ West of Highway Section 11, Township 15 North, Range 43 E.B.M., Fremont County, Idaho.

S½SW¼ less Highway and SW¼NW¼ West of Highway, Section 12, Township 15 North, Range 43 E.B.M. Fremont County, Idaho.

N½NW¼, Section 13, Township 15 North, Range 43 E.B.M. Fremont County, Idaho.

NE¼ and the E½NW¼ of Section 14, Township 15 North Range 43 E.B.M., Fremont County, Idaho

XX. SALEM UNION CANAL CO 1 0316 T. 2316

That Salem Union Canal /Co. shall have the right to divert and use 15.0 cubic feet of water per second at the following point of diversion and upon the following described lands:

Point of Diversion

Northwest Quarter of Section 11, Township 7 North, Range 40 E.B.M.

Lands to Which Appurtenant

Sections 11, 14, 15, 16, 21, 22, 27, 28, 29, 31, 32, 33 and 34, Township 7 North, Range 40 E.B.M. all in Fremont County, and Madison County, Idaho

YY. ST. ANTHONY UNION CANAL CO. 1 0317

That St. Anthony Union Canal /Co. shall have the right to divert and use 24.0 cubic feet of water per second at the following point of diverson and upon the following described lands:

Point of Diversion

Northeast Quarter of the Northwest Quarter of Section 33, Township 8 North, Range 41 E.B.M., Fremont County, Idaho.

Lands to Which Appurtenant

Sections 1, 9, 10, 11, 12, 13, 14, 15, 16, 17, 19, 20, 22, 23, 29 30, 31 and 32, Township 7 North, Range 39 E.B.M.

Section 27, Township 8 North, Range 39 E.B.M.

Sections 5, 6, 7 and 8, Township 6 North Range 39 E.B.M.

Sections 2, 5, 8, 9, 18 and 22, Township 7 North, Range 40 E.B.M.

Sections 27, 28, 29, 31, 32, 33, 34, 35 and 36, Township 8 North, Range 40 E.B.M.

Section 25 and 26, Township 6 North, Range 38 E.B.M.

All of the above property located in Fremont and Madison Counties, Idaho.

ZZSAUREY-SOMMER DITCH by LEROY SAUREY ~~1 0318~~ 22-06-60

That Saurey-Sommer Ditch by LeRoy Saurey shall have the right to divert and use 9.0 cubic feet of water per second at the following point of diversion and upon the following described lands:

Point of Diversion

Southeast Quarter of the Southeast Quarter of Section 35, Township 7 Range 39 E.B.M., Madison County, Idaho.

Lands to Which Appurtenant

Lots 1 and 2, Section 3, Township 6 North, Range 39 E.B.M.; W½ of Lot 3, Lot 4, in Section 2, Township 6 North, Range 39 E.B.M.; Lot 5 E½SE½ less Tax 8, Section 34, Township 7 North, Range 39 E.B.M. E½NW¼, W½NE¼ Tax 16, E½SW¼SW¼, SE¼SW¼ Tax 18, Section 35, Township 7 North Range 39 E.B.M., all in Madison County, Idaho.

AAA TETON IRRIGATION & MFG. COMPANY ~~1 0319~~ 22-0672

That Teton Irrigation & Mfg. Company shall have the right to divert and use 9.0 cubic feet of water per second at the following point of diversion and upon the following described lands:

Point of Diversion

Southwest Quarter of the Northwest Quarter of Section 28, Township 7 North, Range 41 E.B.M.

Lands to Which Appurtenant

South Sections 1, 2, 11, 12 and 13, Township 6 North, Range 40 E.B.M., Fremont County, Idaho.

Sections 6 and 7, Township 6 North, Range 41 E.B.M. Fremont County, Idaho.

Sections 29, 30, 31, 32 and 36, Township 7 North Range 41 E.B.M. Fremont County, Idaho

BBB WILFORD IRRIGATION & MFG CO. ~~1 0320~~ 22-0673

That Wilford Irrigation & Mfg. Co. shall have the right to divert and use 50.0 cubic feet of water per second at the following point of diversion and upon the following described lands:

Point of Diversion

Northeast Quarter of Section 28, Township 7 North, Range 41 E.B.M. Fremont County, Idaho.

Lands to Which Appurtenant

SW¼SE¼ and W½SE¼SE¼ of Section 23; N½SE¼ of Section 27, and all of Section 26, Township 7 North, Range 40 E. B.M. Fremont County, Idaho.

S½ of Section 24. NW¼ of Section 25; N½NE¼ of Section 25, Township 7 North, Range 40 E.B.M. Fremont, County, Idaho.

S½ of Section 19; S½ of Section 20; N½ of Section 30; NW¼W½NE¼ of Section 29, Township 7 North, Range 41 E.B.M. Fremont County, Idaho.

IV

That the contracts entered into between various of the parties plaintiff, and others, and the United States of America, Bureau of Reclamation, as the same have been amended and modified, in connection with the Palisades project and other projects, were intended to be, and are, binding upon all persons claiming rights to the use of the waters of the Snake River and its tributaries, above Milner Dam, and constitute a common plan for administering the operation of the Snake River.

V.

That the following provisions of the Palisades contract, as amended, which provisions are common to each amended contract entered into between various of the parties plaintiff, ,and others, and the United states of America, Bureau of Reclamation, are hereby ratified, confirmed and approved.

(a) The provisions relating to "Saving of Winter Water; Special Storage Right." a copy of a typical example of such a common paragraph is attached hereto as Exhibit A and by this reference is made a part hereof, as though set out in full herein;

(b) The provisions relating to "Permanent Exchange of the American Falls and Jackson Lake Storage Rights and Redefinition of Storage Rights." a copy of a typical example of such a common paragraph is attached hereto as Exhibit B and by this reference is made a part hereof as though set out in full herein;

(c) The provisions relating to "Temporary Storage and Exchange of Water; Release of Jackson Lake and Palisades for Power Production." A copy of a typical example of such a common paragraph is attached hereto as Exhibit C and by this reference is made a part hereof as though set out in full herein.

(d) The provisions relating to "Priority of Certain Existing and Future Water Rights." a copy of a typical example of such a common paragraph is attached hereto as Exhibit D and by this reference is made a part hereof as though set out in full herein.

VI

That the pertinent paragraphs of the Palisades contract entered into by the United States of America, Bureau of Reclamation, and the Minidoka Irrigation District, the contents of which paragraphs were

confirmed by all other parties plaintiff in amendatory and supplemental contracts, a copy of which pertinent Paragraphs is attached hereto as Exhibit E and by this reference is made a part hereof as though set out in full herein, is hereby ratified, confirmed and approved.

VII

That the Memorandum of AGreement between the Bureau of Reclamation and the Bureau of Indian Affairs, a copy of the pertinent provisions of which is attached hereto as Exhibit F and by this reference is made a part hereof as though set out in full herein, is hereby ratified, confirmed and approved.

Done this 12th day of March, 1969

/s/ Willard C. Burton
District Judge

Excerpt from United States Department of the Interior, Bureau of Recelamation, Minidoka and Palisddes Projects, Idaho, Contract No. 14-06-100-1840 with the Parsons Ditch Company (Limited).

Saving of Winter Water; Special Storage Right

11. (a) Beginning with the date announced by the Secretary as the time when Palisades Reservoir will be ready for operation as provided in article 6, certain water users organizations have contracted with the United States to make, for a period of 150 consecutive days during the period from November 1 through April 30 of each storage season, no diversion of water from the Snake River or any of its tributaries by means of its existing diversion works or by any other means.

(b) The total savings of water during each storage season as the result of curtailment of winter diversions by the water users organizations diverting from the Snake River who have contracted with the United States to curtail or cease diversions is agreed to be 143,000 acre-feet, of which 135,000 acre-feet are attributable to curtailments by those diverting above American Falls Dam and 8,000 acre-feet below that point. The Company, not partaking in the winter water savings program, shall be entitled to no storage in Palisades Reservoir by reason of the program set out in this article.

(c) The right to store water pursuant to this article shall be prior in time over the storage rights held by the United States for American Falls Reservoir (the latter having a priority dated March 30, 1921), or any storage rights held by the United States or the Company that are junior to the AMerican Falls rights. The Company hereby consents to the granting of special storage rights with a like priority to all water users organizations and all water users who, directly or indirectly, contract to curtail storage season diversions

substantially as provided in (a) of this article within these maxims as to total special storage rights:

(1) For water users organizations and water users diverting above American Falls Dam -- 135,000 acre-feet.

(2) For water users organizations and water users diverting between American Falls Dam and Milner Dam— 8,000 acre-feet, exclusive of the special storage rights described in (d) of this article. (d) The Company also hereby consents to permitting the North Side Canal Company, Limited and the Twin Falls Canal Company to store, in either American Falls or Palisades Reservoir, during the months of November through March of any storage season under a priority like that provided in (c) above, water that would otherwise accrue to them within these rights:

The rights of the North Side Canal Company, Limited, and of the Twin Falls Canal Company, respectively, to divert at Milner Dam for domestic and livestock uses during those months as follows:

North Side Canal Company Limited ..... 126,000 acre-feet

Twin Falls Canal Company ..... 150,000 acre-feet

within this limitation:

If, taking acount of all storable water whether stored or not, Palisades and American Falls reservoirs fail to fill during any storage season, any water diverted during that storage season by the North Side Canal Company, Limited in excess of 126,000 acre-feet (but not to exceed the amount of deficiency in fill), and by the Twin Falls Canal /Company in excess of 150,000 acre-feet (but not to exceed the amount of deficiency in fill), will be charged as of the end of that storage season against the allotment of American Falls storage to these respective companies.

This limitation in the case of the North Side Canal Company, Limited

shall become operative from the date Palisades Reservoir is ready for operation, but in the case of the Twin Falls Canal Company need not be made operative until the first year in which that company exercises the special storage provision to which consent is here given.

Excerpt from United States Department of the Interior, Bureau of Reclamation, Minidoka and Palisades Projects, Idaho, Contract No. 14-06-W-23 with the Trego Ditch Company.

Provisions Relating to Exchange and Redefinition of Existing American Falls and Jackson Lake Storage Rights; Winter Power Operations at the Minidoka Powerplant
Articles 18 through 23)

Permanent Exchange of American Falls and Jackson Lake Storage Rights

18. (a) The United States will operate and maintain the existing Jackson Lake Dam and Reservoir and, beginning October 1, 1952, will make available to the Company stored water accruing to three thousand eight hundred eighty-five ten thousandths per cent (0.3885%) of the active capacity of that reservoir below elevation 6752 feet above sea level (U.S.G.S. datum), herein referred to as elevation 6752, within the limits and on the terms and conditions provided in this contract. This percentage shall, so long as the reservoir has a total active capacity of 847,000 acre-feet, be treated as the equivalent of 1,701 acre-feet of the active capacity below elevation 6752. The latter figure may, however, be adjusted from time to time by agreement between the Secretary and the Advisory Committee whenever there are determinations that the active capacity is other than above stated.

(b) The amount of active capacity defined in (a) of this article comprises the 1,701 acre-feet of capacity made available by permanent exchange as provided in (c) of this article.

(c) The Company, as indicated by (b) of article 6, is entitled to the use of a total of 2,072 acre-feet of the active capacity in American Falls Reservoir, of which 1, 701 acre-feet are available for permanent exchange. The United States, as of the date of this contract, operates and maintains for the benefit of the South Side Pumping and Gravity divsiolns of the Minidoka Project and for the North Side Canal Company, the following rights to capacity in Jackson Lake Reservoir below elevation 6752:

Minidoka Project	325,810,	acre-feet
North Side Canal Company ...	10,000	acre-feet

In order to assist in effecting the permanent exchange of these Jackson Lake rights for an equivalent amount of space in American Falls Reservoir, beginning October 1, 1952, there is hereby available to the Company 1,701 acre-feet of active capacity in Jackson Lake Reservoir below elevation 6752, within the limits and on the terms and conditions provided in this contract, this being in lieu of an equivalent amount of American Falls storage capacity.

Guarantee in Event Minidoka Exchanged Space Fails to Fill

19. Under the provisions of article 18 above and similar provisions in contract with other holders of storage rights in American Falls Reservoir, holders of storage rights in American Falls Reservoir will have acquired in lieu of those rights seventy-six and seven tenths per cent (76.7%) of the total active capacity in Jackson Lake Reservoir below elevation 6752 as of October 1, 1952, these rights in Jackson Lake Reservoir being hereinafter called the Upper valley exchanged space; and nineteen and seventy-five hundredths per cent (19.75%) of the active space in American Falls Reservoir will be held for the South Side Pumping and Gravity divisions of the Minidoka Project (nineteen and sixteen hundredths per cent (19.16%) and the North Side

Canal Company (fifty-nine hundredths per cent (0.59%) these rights being hereinafter called collectively the lower valley exchanged space. The seventy-six and seven tenths per cent (76.7%) in Jackson Lake below elevation 6752 and the nineteen and seventy-five hundredths per cent (19.75%) in American Falls shall, so long as the respective total active capacities are not less than 847,000 and 1,700,000 acre-feet, be treated as the equivalent of 335,810 acre-feet. The latter figure may, however, be adjusted from time to time by agreement between the Secretary and the Advisory Committee whenever there are determinations that the active capacity is other than above stated. Beginning with the 1952-1953 storage season, there shall be a determination, at the end of each storage season in which the lower valley exchanged space fails to fill, taking carryover storage into account, (1) of the amount by which the American Falls storable inflow to which the lower valley exchanged space was entitled during that season failed to fill that space; and (2) of the amount, if any, by which the Jackson Lake storable inflow to which the upper valley exchanged space was entitled during that season failed to fill that exchanged space. If the amount under (1) exceeds that under (2), there shall be credited to the lower valley exchanged space and charged to the upper valley exchanged space an amount of stored water equal to the difference, but not in excess of the amount required to fill the lower valley exchanged space as of the end of that storage season. The determinations under this article shall be made by a committee of three comprising the state watermaster of District No. 36, a representative to be selected jointly by the Burley and Minidoka irrigation districts and the North Side Canal Company, and the officer of the United States in charge of the Minidoka Project.

Redefinition of Jackson Lake Storage Rights

20. (a) Beginning with the 1952-1953 storage season, the United States will operate Jackson Lake Reservoir so as to hold over, in any space available in the reservoir, from one irrigation season to the next for use in that next season, stored water to which any holder of space in the reservoir is entitled, but the total amount of stored water which will be held for the use of any holder of space during any irrigation season shall not exceed the space available to that holder.

The United States shall, however, in its operation of the reservoir have the right, after consultation with the Advisory Committee, to lower the water surface elevation in Jackson Lake in each storage season in order to avoid damage to the dam during winter weather, and to provide incidental flood control, but, except in case of operation and maintenance emergencies, such release of water shall not result in loss of storable water in that storage season. If losses do result, these shall be prorated equally over all space in the reservoir and shall be charged against stored water including that, if any, carried over from prior irrigation seasons. Determination of the relative rights of the various holders of space in the reservoir to reservoir inflow during each storage season shall, however, continue to be on the basis of the difference in priorities for the storage of water held by the United States for the capacity below elevation 6752 and those held for the capacity above that elevation.

(b) Stored water available under the rights in Jackson Lake Reservoir as defined in this article shall be available for delivery to the/Company during any irrigation season within these limitations:

(1) Except in cases of emergency, deliveries shall be limited to periods when the Company's natural flow rights and rights to water stored in reservoirs downstream from Jackson Lake Reservoir are not sufficient to meet the Company's irrigation water requirements.

(2) Deliveries shall be limited at any time to the amount which can be delivered by means of the Company's proportionate share of the outlet capacity, taking into account the requirements of passing prior natural flow rights through the reservoir and the physical limitations of the existing outlet works.

EXHIBIT "B"

Excerpt from United States Department of the Interior, Bureau of Reclamation, Minidoka and Palisades Projects, Idaho, Contract No. 14-06-100-1840 with the Parsons Ditch Company (Limited)

Provisions of General Application to All Rights Established or Defined by This Contract
Articles 14 through 40)

Temporary Storage and Exchange of Water: Release of Jackson Lake and Palisades Water for Power Production

14. (a) It is the purpose of the United States and the water users having storage rights in the reservoir system (including the Company) to have the reservoir system so operated as to effect the greatest practicable conservation of water. In keeping with this purpose, the endeavor will be to hold stored water in reservoir system space that is farthest upstream. Water in storage in any of the reservoirs of the system may, however, when the water master and the Advisory Committee determine this to be in the interest of water conservation, be held temporarily in unoccupied space in any other reservoir in the system. And the Company hereby consents to the making, with the approval of the watermaster, of annual exchanges of stored water among the various reservoirs of the system. No such temporary holding of water or such annual exchanges shall, however, deprive any entity of water accruing to space held for its benefit.

(b) During any storage season, the United States, after consultation with the Advisory Committee may release stored water from Palisades Reservoir for the maintenance of power production at Palisades dam powerplant and may store such water in American Falls Reservoir. The release of such water will be confined, however, in storage seasons when it appears that American Falls, Palisades and Jackson Lake reservoir will fail to fill, to water required for the maintenance of a minimum firm power production (estimated to be about 11,000,000 kilowatt-hours per month at an average production 15,000 kilowatts) and which can be stored in American Falls Reservoir; and no such release shall be made that will preclude the later delivery of water, by exchange or otherwise, to the upper valley entities entitled thereto.

EXHIBIT C

Excerpt from United States Department of the Interior, Bureau of Reclamation, Minidoka and Palisades Projects, Idaho, Contract No. 14-06-100-1840 with the Parsons Ditch Company (Limited).

Priority of Certain Existing and Future Water Rights

23. (a) In connection with Island Park Reservoir, located on the North Fork (Henrys Fork) of Snake River, the United States holds water license No. R-590, with a priority date of March 14, 1935, and license No. R-686 with a priority date of June 12, 1940, Notwthstanding the later priority of license No. R-686, the Company hereby agrees that all storage rights held by the United States in connection with Island Park Reservoir may be treated as having the same priority as rights under license No. R 590.

(b) In connection with Idaho Permit No. 15134, a direct diversion permit with a priority date of March 30, 1921, held in connection with American Falls Reservoir, the United States may contract with American Falls Reservoir District No. 2 to recognize the right of that district to have water license No. 15134 exercised substantially as follows:

> American Falls Reservoir District No. 2 to have the right to divert as natural flow during each irrigation season under water license No. 15134, having a March 30, 1921 priority as follows: From May 1 of each irrigation season continuing during that season so long as there is natural flow available for that priority, the first, 1,700 cubic feet per second of flow to be available one-half (1/2) to American Falls Reservoir District No. 2 and one half (1/2) to American Falls Reservoir except that in any year in which American Falls Reservoir is full to capacity on April 30 or fills after that date, taking into account any water that may be temporarily stored to its credit in upstream reservoirs, all water diverted by American Falls Reservoir District No. 2 within the maximum of 1,700 cubic feet per second during the year prior to the initial storage draft on American Falls Reservoir after the reservoir finally fills in that year shall be considered as natural flow under Water license No. 15134. Nothing herein shall prevent American Falls Reservoir District No. 2 from diverting water under said license prior to May 1 of a given irrigation season but all such diversions shall be charged as storage in the event the reservoir is not full on April 30 of that season or does not fill after April 30 of that season.
>
> Water available at American Falls Reservoir for the March 30, 1921 priority under water license No. 15134, other than that

a to be available to American Falls Reserv oir District No. 2 as above provided, to be available for storage in American Falls Reservoir.

And the Company agrees that it will not oppose an adjudication of a natural flow right of the waters of the Snake River for the benefit of American Falls Reservoir District No. 2 consistent with the forego ing criteria. The contract by the United States with American Falls Reservoir District No. 2 shall be on the condition, however, that th. district assume its proportionate share of the obligation for the cost of replacement power under the provisions of article 13. When c contract has become operative, the United States shall make applicat to the State of Idaho for amendment of water permit No. 15134 and the issuance thereunder with a priority date of March 30, 1921, requiri that the remainder of the right under the permit, 6,300 second-feet, c the extent such right remains outstanding, be used for storage in American Falls Reservoir, such right however, if issued to the United States not to carry voting privileges in water users meetings under the laws of the State of Idaho. Such application shall, however, leave unaffected water license No. R-269 having a priority dated March 30, 19 21.

(c) If the United States, under the Feddral Reclamation Laws, hereafter constructs storage facilities on the Snake River or its tribu taries above Milner Dam in addition to those now constructed or authorized to be constructed to provide water for irrigation purposes, the Company hereby agrees that, notwithstanding the estab lishment of a storage right for such additional facilities with a priority subsequent to that assigned to Palisades Dam and Reservoir, the United States may hereafter contract with water users organizations which then have storage rights in Palisades Reservoir, to operate not to exceed 300,000 acre-feet of such capacity for the storage of water for

irrigation for the benefit of such organizations as though that capacity had a storage right of identical priority with that held for Palisades Dam and Reservoir.

(end of) EXHIBIT D

Excerpt from United States, Department of the Interior, Bureau of Reclamation, Contract with Minidoka Irrigation District Concrning Storage Capacity in American Falls, Jackson Lake and Palisades Reservoirs, and Related Matters; Contract No. 14-06-100-1833

PROVISIONS RELATING TO REDEFINITION OF EXISTING JACKSON LAKE STORAGE RIGHTS AND ANNUAL EXCHANGES THEREOF: HOLDOVER RIGHTS AND RIGHTS TO RELEASE OF WATER AND RELATED MATTERS: OPERATION AND MAINTENANCE OBLIGATIONS-- JACKSON LAKE: WINTER POWER OPERATION: MINIDOKA POWERPLANT
(Articles 21 through 24)

REDEFINITION OF JACKSON LAKE STORAGE RIGHTS OF DISTRICT AND WATER USERS COMING WITHIN ITS JURISDICTION: AND ANNUAL EXCHANGES THEREOF

21. (a) The United States will continue to operate and maintain the existing Jackson Lake Reservoir and, beginning October 1, 1958 will make available to the District stored water accruing to 42.49% of the active capacity of that reservoir below elevation 6752, within the limits and on the terms and conditions provided in this contract. This percentage shall, so long as the reservoir has a total active capacity of 847,000 acre-feet, be treated as the equivalent of one hundred eighty-six thousand thirty (186,030) acre-feet of active capacity below elevation 6752. The latter figure may, however, be adjusted from time to time by agreement between the Secretary and the Advisory Committee whenever there are determinations that the active capacity is other than above stated.

(b) After the District's irrigation season commences in any calendar year, as determined by the Watermaster, the District shall have the right to effect annual exchanges of water out of stored water that

EXHIBIT E

is exchangeable, not to exceed the extent of the District's use of Jackson Lake stored water in that year, if requested by written notice within 60 days after the commencement of the District's irrigation season in that calendar year. Any such exchanges shall be made out of water stored to the credit of upper valley water users in American Falls Reservoir or out of any water in that reservoir that is available for exchange. To the extent that there is water to effect such exchanges, they shall be effected without charge for transmission losses between Jackson Lake and American Falls Reservoir. The request for such exchanges made by the District shall be directed in writing to the officer in charge of the Minidoka Project and the Watermaster and those officers shall forthwith initiate and carry through the exchanges within the limits herein stated.

HOLDOVER RIGHTS AND RIGHTS TO RELEASE OF WATER AND RELATED MATTERS

22 (a) Beginning with the 1958-1959 storage season, the United States will operate Jackson Lake Reservoir so as to hold over, in any space available in the reservoir, from one irrigation season to the next for use in that next season, stored water to which any holder of space in the reservoir is entitled, but the total amount of stored water which will be held for the use of any holder of space during any irrigation season shall not exceed the space available to that holder. The United States shall, however, in its operation of the reservoir, have the right, after consultation with the Advisory Committee, to lower the water surface elevation in Jackson Lake in each storage season in order to avoid damage to the dam during winter weather and to provide incidental flood control, but, except in cases of operation and maintenance emergencies, such release of water shall not result in loss of storable water in that storage season. If losses do result these shall be prorated equally over all space in the reservoir and

shall be charged against stored water including that, if any carried over from prior irrigation seasons. Determination of the relative rights of the various holders of space in the reservoir to reservoir inflow during each storage season shall, however, continue to be on the basis of the difference in priorities for the storage of water held by the United States for the capacity below election 6752 and those held for the capacity above that elevation. Reservoir permits issued by the state of Wyoming for the capacity below elevation 6752 are as follows:

Permit No	Capacity in acre-feet 2/	Priority
R 894	299,000	August 23, 1906
R 1903	392,990	August 18, 1910
R 2185	438,000	July 24, 1911

The capacity below elevation 6752 shall continue to be operated, as it has been historically, on a pooled or vertical basis as to priorities with respect to storable inflow.

(b) Stored water accruing to the rights in Jackson Lake Reservoir as defined in this article shall be available for physical delivery to the District during any irrigation season within these limitations:

2/ Capacities are stated in cumulative totals.

(1) Except in cases of emergency, deliveries shall be limited to periods when the District's natural flow rights and rights to water stored in Palisades and American Falls Reservoirs downstream from Jackson Lake Reservoir are not sufficient to meet the District's irrigation water requirements, but this provision, except for limitations in the District's and in the landowners' reservoir capacity, does not preclude the District from designating for purposes of allocation, on paper, reservoirs from which the District and its water users are to receive the water, or from designating the reservoir in which the carry-over water will be stored at the end of a particular irrigation season.

(2) Deliveries shall be limited at any time to the amount which can be delivered by means of the District's proportionate share of the outlet capacity, taking into account the requirement of passing prior natural flow rights through the reservoir and the physical limitations of the existing outlet works.

(c) All carry-over of stored water in Jackson Lake Reservoir, whether held under individual water right applications coming within the jurisdiction of the District or in the name of the District itself, shall be restricted to the carry-over rights as defined in this article as being held for the District and to those held under water right applications to lands within the jurisdiction of the District, and other carry-over or drop-down rights or claims of rights are hereby abandoned.

(d) Rights under the interim exchange arrangement which was consummated in 1955 and extended from year to year since that date are terminated as of October 1 1958, but any stored water then carried over in the District's share of the lower valley exchanged space, as defined in that interim arrangement, will be carried as a credit to the District's Jackson Lake capacity as defined in this article as of the beginning of the 1958-1959 storage season.

OPERATION AND MAINTENANCE OBLIGATION-JACKSON LAKE

(a) 23. The District, during the period of operation maintenance of Jackson Lake Reservoir by the United States, shall pay to the United States twenty-one and nine thousand six hundred thirty-four ten thousandths percent (21.9634%) of the costs of operating and maintaining that reservoir, including whatever costs may be incurred in the delivery of water therefrom.

(b) Beginning with the 1959 irrigation season, payment of the District's obligation under (a) above shall be made for each calendar year on the basis of annual estimates by the Secretary. The notice of these annual estimates, hereinafter referred to as the operation and maintenance charge notice, shall contain a statement of the estimated cost of operation and maintenance under (a) above to be incurred in the

calendar year involved, and the amount of the District's share of these estimated costs. The operation and maintenance charge notice shall be furnished to the District on or before February 1 of the calendar year for which the notice is issued, but, when requested by the District, a preliminary estimate shall be given at such earlier date as is agreed upon in writing. The District shall pay the amount stated in the notice on or before April 1 of the year for which issued or such other date as may be agreed on.

(c) Whenever, in the opinion of the Secretary, funds so advanced will be inadequate to meet the costs under (a) ab ove, he may give a supplemental operation and maintenance charge notice, stating therein the amount of the District's share of the additional funds required, and the District shall advance that additional amount on or before the date specified in the suuplemental notice. If the funds advanced by the District under this article exceed the District's share of the actual cost under (a) above for the year for which advanced, the surplus shall be credited on the charges to become due for succeeding years.

WINTER POWER OPERATION: MINIDOKA POWERPLANT

24. (a) The United States, in its operation of American Falls and Minidoka dams during the storage season of each year is required to pass through enough water to satisfy existing diversion rights in the stretch of river down to and including Milner Dam and certain power rights below Milner Dam, and has the privilege under an existing decree to use at Minidoka Dam 2700 cubic feet per second of water for the development of power. While the United States must operate the American Falls and Minidoka dams so as not to interfere with these third-party rights, it will be the the objective of the United States in the op-

eration of both its American Falls and Minidoka powerplants to curtail the release of additional water from American Falls Reservoir for power production at these powerplants during the storage season of any year whenever operation of these powerplants to the full extent of their respective water rights for power production would result in loss of irrigation water otherwise storable in the reservoir system. Accordingly, except as it is determined by the Secretary that additional water may be passed through American Falls and Minidoka dams without the loss of water that could be stored for irrigation in the reservoir system, the United States has, during each storage season beginning October 1, 1952 and ending in 1958, and will, commencing with the storage season of 1958-1959 and continuing so long as the provisions of (c) of this article remain operative, limit the release of water through these dams as follows:

> To the amount of water required to provide flows below Minidoka Dam sufficient to meet existing diversion rights in the reach of the river through Milner Dam and the power rights required to be recognized under the provisions of the contract of June 15, 1923, between the United States and the Idaho Power Company (Symbol and No. 11r-733) as those diversion and power rights may be modified from time to time.

To the extent that it is practicable to do so, the Advisory Committee and the District will be informed in advance of any plans for the release of water in excess of the foregoing limitations; and that Committee will be furnished written reports as of the close of the storage season of each year showing, among other things, the releases actually made and the minimum releases required to be made.

(b) Curtailment of releases as provided in (a) of this article will result in there being, in some years, additional water available for storage for irrigation purposes in American Falls, Island Park, and Palisades reservoirs. in any storage season when these reservoirs fail to fill, the saved water attributable to such curtailment shall be credited, first, to Island Park Reservoir to the

extent of 45,000 acre-feet without regard to the priority of the storage permits held for that reservoir, and thereafter to American Falls, Island Park, and Palisades reservoirs in the order of priority of their respective storage permits, the crediting to Island Park Reservoir and to any storage right in any other reservoir (except the lower valley exchanged space in American Falls Reservoir) being contingent on the owners of these rights obligating themselves for their share of the annual payments for power replacement in keeping with the provisions of (e) of this article.

(c) For the purposes of this contract and without relinquishment of any part of the power rights herein described, it is assumed that but for curtailment of operations as provided in (a) of this article, units 1 through 6 of the Minidoka powerplant would be operated to the maximum extent practicable within the limits of the power rights therefor (2,700) second-feet as decreed by the District Court of the Fourth Judicial District of Idaho on June 20, 1913, in the case of Twin Falls Canal Company v. Charles N. Foster et al)and that in consequence of operations under this article there may be losses in the production of power and energy attributable to those units, Payment for such power and energy losses shall be made, on the basis of an average annual replacement requirement, by all contractors having reservoir rights benefiting from the water savings resulting from operations under the provisions of (a) of this article in annual amounts determined as follows:

> (1) Prior to the date when either the American Falls powerplant or Palisades dam powerplant is first in service, the payment for any year shall be the product, in dollars, of the then controlling average annual replacement requirement, in kilowatt-hours, times four mills ($0.004).
>
> (2) Beginning with the date when either the American Falls powerplant or Palisades dam powerplant is first in service, the payment for any year shall be the product, in dollars, of the then controlling average annual re-

placement requirement, in kilowatt hours, times the price per kilowatt-hour, figured at 100 percent load factor, under the then existing rate schedule for the sale of firm power and energy from the plant or plants, involved.

In determining replacement requirements under this article, no account is intended to be taken, by way of offset or otherwise, of the effect of any reservoir system storage operations on the seventh unit of the Minidoka powerplant. The Amount to be paid by the District annually shall be limited, however, to that apportionable under the provisions of (o) of this article to the District's rights in American Falls Reservoir under the provisions of article 10 and the District's rights in Palisades Reservoir under the provisions of article 16.

(d) The replacement requirements for the year ending September 30, 1953, shall be 5,699,000 kilowatt-hours, being the average annual replacement requirements for the period beginning October 1 1931 and ending September 30, 1951. The average annual replacement requirement under either (1) or (2) of (c) above for the year ending September 30, 1954, shall be the average of the annual replacement requirements for each year of the 20-year period ending September 30, 1953, and for each 12-month period after September 30, 1954, shall be the average of the annual replacement requirements of each year of the 20-year period ending on September 30 of the prior year. In deriving this average there shall be used, as annual net power production losses for each year, the annual figures for the years through September 30, 1951, as shown in Table 1 of the document entitled "Criteria and Method for Determination of Certain Minidoka Powerplant Production Losses from Restrictions on Use of Water Rights" [3], and for each year thereafter, a net power production loss calculated on the basis of the comparison of (1) the total energy that could have been produced by units 1 through 6 of the Minidoka power-

[illegible] finally recorded [illegible] U.S.A.,

3/ Duplicate originals of this document shall be filed with the Watermaster of District No. 36, the officer of the United States in charge of the Minidoka Project, and the Burley Irrigation District.

plant based on the water flows actually recorded at the U.S.G.S. Minidoka gaging station (hereinafter called the Minidoka gage,) corrected as hereinafter provided, and (2) the energy which theoretically could have been generated at those units with the flows at the Minidoka gage without a curtailment in winter power operation as provided in this article and exclusive or irrigation storage releases. Using calculations reached as to flows and heads, the power loss calculations will be made by utilizing the power production curves shown in drawing No.17-100-139, as revised, incorporated by reference in the document identified above, but increases in energy in any year by reason of taking American Falls storage into account as provided in subparagraph (3) of this subarticle (d) shall be accounted for as compensating offset up to but not exeeeding energy losses accruing in that year by reason of curtailment in power operations under this article.

To correct flows under (1) above, all storage releases except American Falls shall be excluded and the measure of American Falls storage passing the Minidoka gage shall be the increase in storage at that gage over that computed at the Blackfoot gaging station as shown in the annual report entitled "Water Distribution and Hydrometric Work, District 36, Snake River, Idaho" , the latter further corrected for any American Falls storage that may have been present by reason of having been stored temporarily upstream and that portion of Palisades storage which was diverted above the Minidoka gage. In measuring American Falls storage, it shall be assumed that storage is released in the order provided in article 19. The flow at the Minidoka gage without storage shall be taken to be the normal flow at that gage as shown by that same report. In determining water flows, with andwithout curtailment of power operations as provided in this article, these assumptions shall be used with respect to units 1 through 6 of the Minidoka powerplant/

(1) There is a right for power production to maintain a flow of 2,700 second-feet at Minidoka Dam during the storage season of each year in accordance with the decree entered June 20, 1913, supra , if that flow, disregarding the storage of saved water in the reservoir system under the provisions of this article, would be available at Minidoka Dam.

(2) There is a right to use, within the hydraulic capacity of these units, whatever natural flow passes Minidoka Dam during each irrigation season.

(3) Although there is no right to have water stored under American Falls Reservoir rights released for power production during the period that such storage is being released for irrigation there will be more energy produced by these units than is attributable to the natural-flow rights therefor, which shall be taken into account as a compensating offset as provided above in this subarticle (d).

To determine controlling power heads, the effective power head for any period shall be derived on the basis of recorded forebay and tailwater elevations for that period.

The foregoing criteria for determinations of annual net power production losses may be changed from time to time but only if the changes are made in writing with the approval of the Secretary, the Advisory Committee, and the boards of directors of both the Minidoka and Burley irrigation districts. Determinations as to net power production losses for each year and the average annual replacement requirement under this article shall be made by the committee of three comprising the State Watermaster of District No. 36, a representative to be selected jointly by the Burley and Minidoka irrigation districts and the North Side Canal Company Ltd., and the officer of the United States in charge of the Minidoka Project, but, should the Committee fail to make a determination for any year by January 1 of the year for which the determination is required, it may be made by the Secretary and reported to the District.

(e) The annual payment determined as provided in this article shall be apportioned among the benefiting reservoirs as follows:

(1) prior to the first full storage season during which Palisades Reservoir is in operation, eighty-eight percent (88%) to American Falls Reservoir and twelve percent (12%) to Island Park Reservoir; and (2) beginning with the first full storage season of Palisades operation, seventy-eight (78%) percent to American Falls, twelve percent (12%) to Island Park, and ten percent (10%) to Palisades. The amount apportioned to each reservoir shalls be accounted for as part of the operation and maintenance costs for which provisions for payment for the District's share is made elsewhere in this contract. The amount apportioned to American Falls Reservoir shall be distributed equally over all space available for irrigation storage, including the 33,563 acre-feet of space available to the District under the provisions of article 10 and the 50,000 acre-feet that were initially made available to the District under the contract of February 11, 1927.except that in lieu of the lower valley exchanged space there shall be included the upper valley exchanged space in Jackson Lake Reservoir.

(f) If the owners of any storage rights to benefit from the operation of this article fail to obligate themselves for their share of the annual payments for power replacement, hereunder, the saved water creditable to such rights and the power replacement costs chargeable thereto shall be redistributed according to a formula to be agreed on in writing between the Secretary and the Advisory Committee. Such formula shall, however, be as nearly consistent as practicable with the formula that would control but for such redistribution.

(g) In order to permit the operation of the Minidoka power system with a power supply undiminished by water savings operations under this article, the United States, as the operator of the Minidoka powerplant and of other interconnected powerplants operated under the Federal Reclamation Laws will, to the extent authorized by law, make

available to the Minidoka powerplant at rates established under law an amount of power and energy equivalent to that lost by reason of such water savings operations. In determining the net profits attributable to the first six units of the Minidoka powerplant which are, under the provisions of subsection 1 of section 4 of the act of December 5, 1924 (43 Stat. 703), and under existing contracts with the District and others, to be credited to the lands of the Gravity and South Side Pumping divisions of the Minidoka Project, all payments made by the owners of storage rights in the reservoir system in pursuance of the apportionment of power replacement charges as provided in (e) of this article shall be accounted for as revenues attributable to those six units, and such payments will, for the period that the United States is obligated to curtail power operations as provided in (a) of this article, be accepted by the District, to the extent of its interest in the net profits attributable to the first six units, as full settlement for losses resulting from such curtailed operations.

PROVISIONS RELATING TO STATUS OF CERTAIN EXISTING RIGHTS·DELIVERY OF WATER AT HEADWORKS (Articles 25 through 26)

STATUS OF CERTAIN EXISTING CONTRACTS WITH THE DISTRICT

25. Except to the extent that the provisions of this contlract are in conflict therewith, the provisions of the existing contracts between the United States and the District, particularly the provisions of the contract of February 11, 1927, with respect to the 50,000 acre-feet of storage capacity in American Falls Reservoir, shall remain unaffected by this contract.

DELIVERY OF WATER AT HEADWORKS

26. Deliveries to the District of water to which it, or its water

users, are entitled, both natural flow and stored water, will be made at the headworks of the main canals in the amounts requested by the District within the limits of safe operating capacity of the facilities involved and the limitations of the contract of December 12, 1950, as to the main South Side Canal, if water within the entitlements of the District is available in sufficient quantity to meet the requests.

PROVISIONS OF GENERAL APPLICATION TO ALL RIGHTS ESTABLISHED OR DEFINED BY THIS CONTRACT
(Articles 27 through 54)

TEMPORARY STORAGE AND EXCHANGE OF WATER: RELEASE OF JACKSON LAKE AND PALISADES WATER FOR POWER PRODUCTION

27. (a) It is the purpose of the United States and the water users having storage rights in the reservoir system (including the District) to have the reservoir system so operated as to effect the greatest practicable conservation of water, but this provision deals exclusively with the physical storing of water and does not derogate from the right of the District, on paper, to the extent of available capacity held either in the District's name or in the name of its water users under water right applications, from designating the reservoir from which water will be received during the irrigation season involved, or from designating at the end of particular seasons where the carryover waters will be held. In keeping with this purpose, the endeavor will be to hold stored water in reservoir system space that is farthest upstream. Water in storage in any of the reservoirs of the system may, however, when the Watermaster and the Advisory Committee determine this to be in the interest of water conservation, be held temporarily in unoccupied space in any other reservoir of the system. And the District hereby consents to the making, with the approval of the Watermaster, of annual exchanges of stored water among the various reservoirs of the system. No such temporary holding of water or such annual exchanges shall, however, de-

prive any entity of water accruing to space held for its benefit.

(b) During any storage season, the United States, after consultation with the Advisory Committee, may.. release stored water from Jackson Lake and Palisades reservoirs for the maintenance of power production at Palisades dam powerplant and may store such water, at Jackson Lake or Palisades water as the case may be, in American Falls Reservoir. The release of such water will be confined, however, in storage seasons when it appears that American Falls, Palisades, and Jackson Lake reserv-- will fail to fill, to water required for the maintenance of a minimum firm power production (estimated to be about 11,000,000 kilowatt- hours per month at an average production of 15,000 kilowatts) and which can be stored in American Falls Reservoir; and no such release shall be made that will preclude the later delivery of water, by exchange or otherwise, to the upper valley entities entitled thereto.

(end of) EXHIBIT "E"

Excerpt from United States Department of the Interior, Memorandum of Agreement Between The Bureau of Reclamation and The Bureau of Indian Affairs Relating to Water Supply for Michaud Division of the Fort Hall Indian Reservation, Idaho, Draft of April 9, 1957, as approved April 25, 1957, by E. G. Nielsen, Assistant Commissioner, Bureau of Reclamation, W. Barton Greenwood, Deputy Commissioner Bureau of Indian Affairs, and Fred G. Anadahl, Assistant Secretary of the Interior.

Delivery of Water; Measurement and Losses: Return Flow

8. (a) To the extent that water is pumped from wells and from surface streams that flow into /American Falls Reservoir, actual measurements at the well heads and at the discharge lines of other pumping plants delivering water for the said Michaud Division shall be made during each irrigation season. All water provided through the Michaud Division system for the irrigation of lands of the Michaud Division of the Fort Hall Indian Reservation from any and all sources in any irrigation season

shall be accounted for as water stored fro the Indian Bureau as provided in article 4 and charged thereto, except:

(1) Surface waters that may be available under flood water rights that may be obtained with a priority of not earlier than one year before the priority held for Palisades Reservoir; and

(2) Not to exceed an average annual amount of 22,400 acre-feet, as Prescribed by Section 3 (b) (1) of said act of August 31, 1954 (Supra) calculated over a ten-year period including the irrigation season just ended and the preceding nine irrigation seasons, from ground water pumped and place in the Michaud Division system. Until a full ten-year period is available, the average shall be for the years of project operation.

Delivery of water to lands of the said Michaud Division that as above provided in this article is chargeable to stored water for any irrigation season, shall be limited, however, to the quantities of stored water available as provided in article 4, and the supply of water available from all sources through the Michaud Division system shall be limited to the irrigation of not to exceed 21,000 acres of land. Lands within the outer boundaries of the Michaud Division, but which do not share in the water supply provided by this agreement, are hereby excluded from any of the benefits of this agreement, of the act of August 31, 1954, and of the Michaud Division system.

(b)The water chargeable to Indian Bureau stored water as provided in this article shall be determined from day to day during the irrigation season of each year. Corresponding credits from day to day shall be given by the watermaster to the water rights, whether natural flow or storage rights, that have been infringed on by pumping for the Michaud Division. The amounts represented by such infringements,

to whomsoever they shall accrue, shall be made up out of stored water available to the Indian Bureau, under this agreement, from day to day, if necessary. The determination of the charges and the credits hereunder shall be under a formula to be devised by the watermaster, after consultation with the Advisory Committee, taking into account as one factor the so-called Newell formula with respect to the inflow into American Falls Reservoir, as this formula is affected, in the judgment of the watermaster, by operation of this contract and by other factors that affect the flow. Departures from that formula shall be called to the attention of the Advisory Committee from time to time.

(c) In addition to other specific provisions as to the distribution of losses chargeable to stored water, there shall be charged against stored water held under this agreement to the credit of the Indian Bureau at the end of any irrigation season one and one-half per cent (1½%) to offset evaporation losses. Such charge shall be made as of not later than the end of the ensuing storage season.

(d) The Indian Bureau shall make no claim on behalf of the United States or of any individual, community or band of Indians, of any surface return flows from the Michaud Division after they enter American Falls Reservoir, except as they are recaptured before leaving the Division, and are used directly on the land of that Division. Nor shall any such claim be made for underground flows except to the extent covered by paragraph (a) of this article. Return flows hereby relinquished, whether surface or underground, shall be credited either to the river or to the reservoir in accordance with the relative priorities heretofore or hereafter established under the laws of the State of Idaho.

Statutory Limitations on Water Supply

15. (a) In accordance with the act of August 31, 1954 (68 Stat. 1026) this agreement (except for the flood water rights referred to

in article 8) with respect to the water supply for the irrigation of the lands of the Michaud Division of the Fort Hall Indian Reservation,

(1) hereby limits that supply to (i) the yield of the space in Palisades and American Falls Reservoirs, as set out in this agreement, and (ii) to the supply obtained by the pumping of ground water of not more than 22,400 acre-feet as an average calculated at the end of an irrigation season including the irrigation season just ended and the preceding irrigation seasons up to a maximum of nine; and

(2) hereby provides the consent to a priority in time and right in such beneficial consumptive uses of the waters of the Snake River, and its tributaries, as are established under the laws of the State of Idaho, prior to August 31, 1954, as against any use of the water arising on or flowing through the Fort Hall Bottoms within the Fort Hall Indian Reservation, including, but not limited to, the intercepted flow of Ross Fork Creek, the Portneuf River below Pocatello, Big Jimmy Creek, Big Spring Creek, and Clear Creek.

And the United States, with the construction, operation and maintenance of said works of the Michaud Division of the Fort Hall Indian Reservation, hereby waives any of its rights, exclusive of the rights provided in this agreement, to the use of the waters arising on or flowing through the Fort Hall Bottoms, including, but not limited to, the intercepted flow of Ross Fork Creek, the Porteneuf River below Pocatello, Big Jimmy Creek, Big Spring Creek and Clear Creek, for the irrigation of the lands of said Michaud Division. Except as provided herein, nothing in this agreement shall affect any rights in and to the waters of the Fort Hall Indian Reservation or the Snake River and its tributaries.

(b) The limitations imposed in the statute and in (a) of this article 15, are made for the benefit both of Reclamation and water users' organizations contracting with Reclamation for storage capacity in the reservoir system, and for water users having natural flow rights below the points of diversion for the Michaud Division by the Indian Bureau. No modification in these limitations, or in other provisions of this agreement intended to effect the purposes of Section 3 of the Act of August 31, 1954, shall be made without the contractual approval of all the water users and water users' organizations for the benefit of whom these limitations are imposed.

EXHIBIT "F"

Filed for record at the request of Willard C. Burton, District Judge Idaho, at 30 minutes past 10 o'clock A.M. this 13th day of March 1969 Microfilm # 315905 Records of Fremont County, Idaho

/s/ La Monte Bauer, Recorder Fremont County, Idaho.

Exhibit G

Upper Snake River Chapter of Trout Unlimited v. Hodel, 706 F.Supp. 737 (D. Idaho 1989)

issue here, to go forward under ERISA would defeat the very purpose for which preemption is provided.



UPPER SNAKE RIVER CHAPTER OF TROUT UNLIMITED, Idaho Environmental Council, South Fork Coalition, Idaho Sportsman Coalition, and Marv Hoyt, Plaintiffs,

v.

Donald HODEL, in his official capacity as Secretary of the Interior, C. Dale Duvall, in his official capacity as Chief of the Bureau of Reclamation, Defendants,

v.

COMMITTEE OF NINE, Twin Falls Canal Company, Northside Canal Company, Milner Irrigation District, Minidoka Irrigation District, Defendants/Intervenors, et al.

Civ. No. 88-4100.

United States District Court,
D. Idaho.

Jan. 24, 1989.

Sportsmen and others filed suit against the Bureau of Reclamation claiming that Bureau was required to complete an environmental impact statement (EIS) in compliance with the National Environmental Policy Act before reducing the water flow below a dam to 1,000 cubic feet per second or lower. Bureau moved to dismiss due to mootness, and plaintiffs moved for preliminary and permanent injunctions. The District Court, Callister, J., held that: (1) Bureau was not required to complete an EIS before reducing the water flow, and (2) Bureau's own standard operating procedures did not preclude it from reducing the water flow.

Motions denied.

1. Health and Environment ⇐25.15(3)

Sportsmen were not entitled to preliminary injunction to enjoin Bureau of Reclamation from reducing water flow below dam to 1,000 cubic feet per second before completing environmental impact statement, despite argument that reducing stream flows would have negative impact on downstream fishery; if precipitation was average or below and Bureau was ordered to increase outflow at dam, literally hundreds of millions of dollars in damages would occur to farming economy.

2. Health and Environment ⇐25.10(4)

Bureau of Reclamation did not have to complete environmental impact statement in compliance with National Environmental Policy Act before reducing water flow below dam to 1,000 cubic feet per second or lower; fluctuation of flows below dam was "ongoing operation," as Bureau was engaging in act which it had already taken in past. National Environmental Policy Act of 1969, §§ 101 et seq., 102, 42 U.S.C.A. §§ 4331 et seq., 4332.

3. Health and Environment ⇐25.10(4)

In regard to claim that Bureau of Reclamation was required to complete environmental impact statement before reducing flow of water below dam, Bureau was engaging in action it had already taken in past, and thus, reduction did not fall within so-called "continuing operation doctrine" and was not "routine" or "ministerial" action. National Environmental Policy Act of 1969, §§ 101 et seq., 102, 42 U.S.C.A. §§ 4331 et seq., 4332.

See publication Words and Phrases for other judicial constructions and definitions.

4. Health and Environment ⇐25.10(2)

Environmental impact statement is not required when proposed federal action will effect no change in status quo. National Environmental Policy Act of 1969, §§ 101 et seq., 102, 42 U.S.C.A. §§ 4331 et seq., 4332.

5. Waters and Water Courses ⇐222

Standard operating procedure of Bureau of Reclamation that flow of 1,000

cubic feet per second of water below dam was considered minimum did not preclude Bureau from reducing flow below that figure; procedure was not implemented as rigid barrier, but was enacted for guiding Bureau in its operation of dam.

John Radin, Radin & Webb, Idaho Falls, Idaho, for plaintiffs.

John A. Rosholt, Steven K. Tolman, Nelson Rosholt Robertson Tolman & Tucker, Twin Falls, Idaho, for Twin Falls Canal Co., North Side Canal Co., Milner Irrigation Dist., and Minidoka Irrigation Dist.

Kent W. Foster, Donald L. Harris, Holden Kidwell Hahn & Crapo, Idaho Falls, Idaho, for Committee of Nine, et al.

D. Marc Haws, Asst. U.S. Atty., John J. Hockberger, Jr., U.S. Dept. of Interior, Office of the Sol., Boise, Idaho, for U.S. defendants.

Roger D. Ling, Ling Nielsen & Robinson, Rupert, Idaho, for Aberdeen Springfield Canal Co., A & B Irrigation Dist. Co. and Falls Irrigation Dist.

MEMORANDUM DECISION

CALLISTER, District Judge.

The Court conducted hearings on November 8 and 9, 1988, on plaintiffs' motion for preliminary injunction. At the conclusion of the hearing counsel for all parties stipulated that the Court may consider the case as having been fully submitted on the merits, and that the evidence produced at the hearing, together with the affidavits and pleadings filed by the parties, may be considered by the Court to resolve the entire case without the need for further hearing. The parties have now submitted their final briefing and the matter is ready to be resolved. This written memorandum decision shall constitute the Court's findings of fact and conclusions of law pursuant to Fed.R.Civ.P. 52.

FINDINGS OF FACT

The subject of this lawsuit centers around the water, or lack thereof, flowing in the South Fork of the Snake River below the Palisades Dam. The plaintiffs, primarily sportsmen, filed suit against the Bureau of Reclamation (BOR) claiming that the BOR is required to complete an Environmental Impact Statement (EIS) in compliance with the National Environmental Policy Act (NEPA), 42 U.S.C. § 4331 *et seq.*, before reducing the flow below Palisades Dam to 1,000 cubic feet per second (cfs) or lower. In addition to the initially named defendants, the Court has allowed a number of defendants to intervene, those being canal companies and irrigation districts.

The Palisades Dam and Reservoir which began operating in 1957 constitutes a portion of the BOR's Minidoka Project which is a series of dams and reservoirs throughout much of South East and South Central Idaho. The Palisades Dam and Reservoir provides for storage and regulation of water for irrigation, flood control, power production, fish and wildlife, and recreation. Approximately 1,173,000 acres receive all or part of its water source from the Minidoka System. The storage capacity of Palisades is 1,200,000 acre feet while the storage capacity of the entire Minidoka Project is 4,151,490 acre feet. *See* Defendants' Exhibit 9.

In years when the precipitation is average or above, there is no cause for alarm. However, because of the unusually dry past, flows released from Palisades Dam were reduced to approximately 750 cfs during the winter months of 1987–1988. As of October 1988, the Palisades Reservoir contained only 200,000 acre feet of water, an unprecedented low due to the two consecutive years of drought conditions. The entire Minidoka System is desperately in need of large quantities of water. On October 26, 1988, the entire system was 89% depleted with only ¼ of the normal supply available. The inadequate amount of water storage and bleak future outlook were in part why the BOR reduced the flows below Palisades to 750 cfs on November 4, 1988. Prior to reducing the flow to 750 cfs, the BOR had consulted with the Idaho Department of Fish and Game.

The South Fork of the Snake River, a "blue ribbon trout stream," lures fisher-

men from all over the world to come experience the thrill of catching a cutthroat or brown trout. These trophy fish have continued to thrive even though there has been a number of recorded incidents in which the flows below Palisades Dam were less than 1,000 cfs since the Dam was built in 1957.

The BOR has entered into contracts with various individuals and entities for the storage of water in Palisades Reservoir for delivery during the irrigation season. Certain contract spaceholders have a winter water savings clause in their contracts. This clause is an agreement by the spaceholders to forego diversions of water from the Snake River during the period from November 1 through April 30. These spaceholders who forego their use of water are then given a priority interest in the water stored in Palisades Reservoir. *See, e.g.*, Defendants' Exhibit 10.

In 1950, the BOR reported to Congress in a supplemental report concerning the future operation of Palisades Dam and Reservoir which became part of the authorizing legislation that the anticipated stream flow below the reservoir would be "an average daily flow of 1,000 second feet and a minimum of approximately 500 second feet would be provided below the dam as compared with the present minimum flow of 1,700 second feet." *See* Defendants' Exhibit 7, p. 37, section 18.

It is without controversy that reducing the stream flows below 1,000 cfs will have a negative impact on the downstream fishery. However, controversy does arise as to the extent of that injury. The Court recognizes that the fishery's injury to a large extent will be upon the juvenile classes.[1] However, the Court is not persuaded to adopt the extent of injury alluded to by the plaintiffs and their expert, Mr. Steve Elle. Furthermore, past reductions in the flow below 1,000 cfs demonstrates that the "blue ribbon fishery" can rejuvenate in time. Even the plaintiffs' expert Mr. Elle, testified that the fishery could revive in three to five years.

It is likely that the reduced flows below Palisades Dam will have an adverse effect on the quality of the fishery and an economic impact on area outfitters and guides as well as others involved in the tourism industry. However, that economic effect is slight when compared to the potential loss which would result from the failure to store water required for irrigation of crops in the Minidoka Project. The estimated losses which could occur by increasing the outflow start at $235 million and could easily continue upwards. *See* Defendants' Exhibits 16 and 17.

CONCLUSIONS OF LAW

[1] The Court issued an order denying plaintiffs' request for preliminary injunction on November 18, 1988. This memorandum decision sets out in detail the Court's written findings on that preliminary injunction as well as the case on the merits.

The parties to this cause of action agree that the specific issues before this Court are ones of first impression. Such groundbreaking compels the Court to communicate its reasoning with more precision and understanding.

The standard for obtaining a preliminary injunction in the Ninth Circuit was set forth recently in *United States v. Odessa Union Warehouse Co-op*, 833 F.2d 172 (9th Cir.1987). There, the court found that the traditional factors considered in determining whether or not to grant a preliminary injunction are: (1) the likelihood of plaintiff's success on the merits; (2) the possibility of plaintiff suffering irreparable injury if the relief is not granted; (3) the extent to which the balance of hardships favor the respective parties; and (4) in certain cases whether the public interest will be advanced by the provision of preliminary relief. *Id.* at 174.

1. When water levels are reduced the side channels on the river develop into pockets of water which become separated from the main stream. If the fish are in these pockets when the water is reduced, they become trapped. More juvenile fish rather than adults are lost because the juveniles seek the shallow waters and covered areas as protection from predators.

In order to obtain a preliminary injunction, the moving party must show either (1) a combination of probable success on the merits and the possibility of irreparable injury, or (2) that serious questions are raised and the balance of hardship tips sharply in the moving party's favor. *Chalk v. United States Dist. Court, Cent. Dist. of California*, 840 F.2d 701, 704 (9th Cir.1988); *Odessa Union Warehouse Co-op*, 833 F.2d at 174. These two tests are not separate but they are the outer reaches of a single continuum. *City of Tenakee Springs v. Block*, 778 F.2d 1402, 1407 (9th Cir.1985). Under either of these tests, the plaintiffs have failed to demonstrate their right to a preliminary injunction. If precipitation in 1989 is average or below and the defendants were ordered to increase the outflow at Palisades Dam, then literally hundreds of millions of dollars in damages could occur. On the other hand, by refusing to grant the injunction, the Court is recognizing that many native cutthroat may die with the largest impact on the juvenile fish. However, even the plaintiffs' expert witness from the Idaho Department of Fish and Game testified that the South Fork fishery could rehabilitate itself in a matter of three to five years. Additionally, he testified that stocking programs could be implemented at a cost far less than the possible loss to the farming economy. Any way it is looked at, the balance of hardships weighs heavily in favor of the defendants. Moreover, plaintiffs have failed to show they would suffer irreparable injury if the injunction was not issued.

The Court will now address the merits of plaintiffs' complaint and in so doing will demonstrate that the preliminary injunction was properly denied.

[2] Plaintiffs maintain that reducing flows below 1,000 cfs invokes NEPA, which in turn requires the completion of an EIS in accordance with 42 U.S.C. § 4332. That section provides in part:

> [A]ll agencies of the federal government shall—
>
> (C) include in every recommendation or report on proposals for legislation and other major federal actions significantly affecting the quality of the human environment, a detailed statement by the responsible official on—
>
> (i) the environmental impact of the proposed action,
>
> (ii) any adverse environmental effects which cannot be avoided should the proposal be implemented,
>
> (iii) alternatives to the proposed action,
>
> (iv) relationship between local short-term uses of man's environment and the maintenance of enhancement of long-term productivity, and
>
> (v) any irreversible and irretrievable commitments of resources which would be involved in a proposed action should it be implemented.

In support of their position that the BOR must prepare an EIS for the Palisades Dam, plaintiffs rely on a number of cases. These cases deal with proposed dam projects, channelization, and various deposits in rivers. Although the cited cases are beneficial, they are significantly distinguishable from the case before the Court. Specifically, a majority of the cases entail proposed federal action such as channelization, new industrial water marketing programs, hydroelectric dams, or dredging. Although these cases do have similarities, the major distinguishing factor is that most of the actions are proposed and not ongoing or continuing federal action. The Court sees this as a significant factor in discounting plaintiffs' authority. The Court is also reminded of the Ninth Circuit's finding that "one of NEPA's goals is to facilitate 'widespread discussion and consideration of the environmental risks and remedies associated with the *pending project....*'" *See LaFlamme v. F.E.R.C.*, 852 F.2d 389, 398 (9th Cir.1988) (emphasis added), *citing Warm Springs Dam Task Force v. Gribble*, 621 F.2d 1017, 1021 (9th Cir.1980) (*per curiam*). The court in *LaFlamme* continued on to find that NEPA requires the evaluation take place *before* a project is approved. *LaFlamme*, 852 F.2d at 398.

[3, 4] The Court agrees with the plaintiffs that the BOR, a federal agency, is charged with operating and maintaining

Palisades Dam. Nevertheless, the Court disagrees with plaintiffs and finds that the reduction of flows in the South Fork does fall within the so-called "continuing operation doctrine" and that such reductions are "routine" or "ministerial" actions. There is no question that the BOR is not engaging in any action which it has not already taken in the past. As mentioned earlier, there have been numerous occasions where the output of water below the dam has fallen below 750 cfs. These occasions typically occur in heavy drought years. The Ninth Circuit has provided that an EIS is not required when a proposed federal action will effect no change in the status quo. *Burbank Anti-Noise Groups v. Goldschmidt*, 623 F.2d 115, 116 (9th Cir.1980) *citing Committee for Auto Responsibility v. Solomon*, 603 F.2d 992, 1001–03 (D.C. Cir.1979). In *Burbank*, an anti-noise group sought to require the preparation of an EIS for an existing airport to be purchased with the aid of federal financial assistance. In refusing to adopt this requirement, the court relied heavily upon the fact that the airport was already existing and not a mere proposal. This Court agrees with the court in *Committee for Auto Responsibility*, in that "[T]o compel [the agency] to formulate an EIS under these circumstances would trivialize NEPA's EIS requirement and diminish its utility in providing useful environmental analysis for major federal actions that truly affect the environment." *Committee for Auto Responsibility*, 603 F.2d at 1003. In the case of the Palisades Dam, the fluctuating flows are routine actions which are contingent upon Mother Nature for snowpack, runoff, precipitation, and carryover. As part of its routine and ongoing operations, the BOR fluctuates the flows depending upon weather conditions past and future. Overall, the Court views the fluctuation of flows below Palisades as "ongoing operations" which do not have to comply with the EIS provisions of NEPA.

[5] Plaintiffs also advance an argument that the BOR has not complied with its own standard operating procedures that a flow of 1,000 cfs below the Palisades Dam is considered minimum. *See* Plaintiffs' Exhibit 5, *Standard Operating Procedures for Palisades Dam and Reservoir*, February 10, 1988, p. 37. These standard operating procedures were not implemented as a rigid barrier, but were enacted for guiding the BOR in its operation of the dam. These standard operating procedures are not binding in that they cannot require the agency to do something which it is physically incapable of doing. For instance, if the agency were to increase the amount of flow and the severe drought condition continued, then at some point there would be no water left in the Palisades Reservoir. This, in and of itself, would physically prevent the BOR from complying with the 1,000 cfs minimum stream flow. The bottom line is that the BOR's hands are tied by Mother Nature and the BOR must operate the dam and reservoir as the circumstances dictate.[2]

After consideration of the preceding, it is clear that the plaintiffs were not entitled to a preliminary injunction as they could show no irreparable injury, and the hardships tipped sharply in favor of the defendants. Moreover, after full consideration of the case on the merits, the Court finds that the BOR is not required to prepare an EIS for the continued operation of the Palisades Dam and Reservoir.

As alluded to earlier, the United States Government, through the BOR, is contractually obligated to store water in the Palisades Reservoir for contract holders. Requiring the BOR to prepare an EIS would undoubtedly interfere with these contractual obligations. The Court has not been supplied and is unable to find any authority that would justify such actions.

The Idaho legislature foresaw future problems associated with supplying mini-

2. At the hearing the Court granted the defendants/intervenors' motion to limit testimony concerning bald eagles and peregrine falcons. Although the Court refused the testimony, it allowed the plaintiffs to offer proof as to the proposed witnesses' testimony. After reviewing the offer of proof, the Court is convinced that even if it had considered the testimony concerning the bald eagles and the peregrine falcons that such would not have affected its final judgment in this matter.

mum stream flows for the protection of the fish and wildlife habitat. In order to address these issues, the legislature enacted minimum stream flow legislation. *See* Idaho Code § 42–1501 to § 42–1505. The legislation sets forth procedures to apply for minimum stream flows with the Idaho Water Resource Board. In short, there is state legislation that would effectuate what the plaintiffs are trying to do by bringing this lawsuit. The plaintiffs are not without a remedy as they may apply for a minimum stream flow under Idaho law.

The plaintiffs also introduced evidence that large quantities of water are being wasted. To the contrary, defendants produced an hydrologist who testified that much of the water the plaintiffs termed as waste percolated into the ground and recharged the Snake River Aquifer System. Even though this Court agrees with the defendants that no large quantities of waste are occurring once the entire Snake River System is considered, this issue would best be addressed in the state court system.

If the Court were to accept the plaintiffs' position that an EIS is needed before the BOR could reduce the flow below the Palisades Dam to less than 1,000 cfs, the effect could be disasterous for the farmers as well as the sportsmen. So far the snowpack for the 1988–1989 winter looks favorable. However, if the next few months are extremely dry, an increase in the outflow of the Palisades Dam could possibly completely drain the reservoir before an EIS could be completed. Such would entirely destroy the fishery.

This Court feels that an EIS would be helpful to the BOR. However, it is in no way required. Further studies and conservation measures would also be beneficial to the Snake River fishery. Nevertheless, there is a major distinction between requiring them to be conducted and agreeing that they would be beneficial. In sum, this Court believes that future studies of conservation methods would greatly benefit the Snake River fishery as well as other rivers. But it is not persuaded to and the case law does not require it to order the BOR to prepare an EIS before reducing the flows below the Palisades Dam to 1,000 cfs or lower.

After consideration of the above-entitled case on its merits, the Court is of the opinion that the plaintiffs should take nothing by reason of their complaint against the defendants and defendants/intervenors.

ORDER

The Court has examined the entire record in the above-entitled matter. In accordance with the views expressed in the findings of fact and conclusions of law accompanying this order pursuant to Fed. R.Civ.P. 52(a),

NOW, THEREFORE, IT IS HEREBY ORDERED that defendants' motion to dismiss due to mootness be, and the same is hereby, DENIED.

IT IS FURTHER ORDERED that plaintiffs' motions for preliminary and permanent injunctions be, and the same are hereby, DENIED.

IT IS FURTHER ORDERED that plaintiffs take nothing by reason of their complaint against the defendants and defendants/intervenors.



UNITED STATES of America

v.

Ronald ROLLINS, Defendant.

Crim. No. 88–10033.

United States District Court,
D. Idaho.

Feb. 10, 1989.

Defendant appealed his conviction, by a United States magistrate for violation of the Migratory Bird Treaty Act, imposed

Exhibit H

Upper Snake River Chapter of Trout Unlimited v. Hodel, 921 F.2d 232 (9th Cir. 1990)

UPPER SNAKE RIVER CHAPTER OF TROUT UNLIMITED; Idaho Environmental Council; So. Fork Coalition; Idaho Sportsman Coalition; Marv Hoyt, Plaintiffs–Appellants,

v.

Donald P. HODEL, in his official capacity as Secretary of the Interior; C. Dale Duvall, in his official capacity as Chief of the Bureau of Reclamation, Defendants–Appellees,

Twin Falls Canal Co.; Committee of Nine; Aberdeen Springfield Canal Co., et al., Defendants–Intervenors–Appellees–Intervenors.

No. 89–35142.

United States Court of Appeals, Ninth Circuit.

Argued and Submitted March 5, 1990.

Decided Dec. 17, 1990.

Organizations brought action against Secretary of Interior and Chief of Bureau of Reclamation, seeking injunction relating to Bureau's control over flow of water from dam and reservoir. The United States District Court for the District of Idaho, Marion J. Callister, J., 706 F.Supp. 737, denied relief, and appeal was taken. The Court of Appeals, Koelsch, Circuit Judge, held that National Environmental Policy Act (NEPA) did not require Bureau of Reclamation to prepare environmental impact statements before periodically adjusting flow of water from dam.

Affirmed.

1. Health and Environment ⇐25.10(4)

National Environmental Policy Act (NEPA) did not require Bureau of Reclamation to prepare environmental impact statements before periodically adjusting flow of water from dam; dam was constructed before NEPA's enactment, and adjustment of water flow was part of Bureau's routine monitoring and control of flow rate. National Environmental Policy Act of 1969, § 2 et seq., 42 U.S.C.A. § 4321 et seq.

2. Federal Courts ⇐13.25

Bureau of Reclamation's reduction of flow rate through dam was conduct capable of repetition yet evading review, so that action challenging Bureau's actions under National Environmental Policy Act (NEPA) was not moot after year in question passed. National Environmental Policy Act of 1969, § 2 et seq., 42 U.S.C.A. § 4321 et seq.

3. Federal Courts ⇐776

Court of Appeals reviews de novo any questions of law or mixed questions of law and fact.

4. Federal Courts ⇐848, 850

Court of Appeals must accept lower court's findings of fact unless clearly erroneous.

5. Health and Environment ⇐25.15(10)

If agency decides not to prepare environmental impact statement, reviewing court must determine whether responsible agency has reasonably concluded that project will have no significant adverse environmental consequences. National Environmental Policy Act of 1969, § 2 et seq., 42 U.S.C.A. § 4321 et seq.

6. Health and Environment ⇐25.10(4)

If ongoing project undergoes changes which themselves amount to major federal actions, operating agency must prepare environmental impact statement under National Environmental Policy Act. National Environmental Policy Act of 1969, § 102, 42 U.S.C.A. § 4332.

7. Health and Environment ⇐25.10(4)

Although National Environmental Policy Act (NEPA) regulations issued by Council on Environmental Quality contemplate applicability of environmental impact statement requirement to ongoing programs and actions of government, such ongoing activity must rise to level of major federal action to warrant preparation of environmental impact statement. National Environmental Policy Act of 1969, § 102, 42 U.S.C.A. § 4332.

Russell E. Webb, Radin & Webb, Idaho Falls, Idaho, for plaintiffs-appellants.

George W. Van Cleve, U.S. Dept. of Justice, Land & Natural Resources Div., Washington, D.C., for defendants-appellees.

Steven K. Tolman, Nelson, Rosholt, Tobertson & Tolma, Twin Falls, Idaho, for defendants-intervenors-appellees-intervenors.

Appeal from the United States District Court for the District of Idaho.

Before KOELSCH, ALARCON and RYMER, Circuit Judges.

KOELSCH, Circuit Judge:

[1] The dispositive question on the appeal is this: Did the District Court err in concluding that the National Environmental Policy Act ("NEPA") did not require the Bureau of Reclamation ("Bureau") to prepare environmental impact statements ("EIS") before periodically adjusting the flow of water from the Palisades Dam?

We are clear that the answer is "No."

[2] Several Idaho Sportsmen organizations and an individual plaintiff commenced this suit against the Secretary of the Interior and the Chief of the Bureau to secure injunctive relief and a declaratory judgment relating to the Bureau's control over the flow of water from the Palisades Dam and Reservoir. Plaintiffs' contention, in brief, was that the Bureau was, and is, required to complete an EIS before reducing the flow of water from the Dam to less than 2,000 cubic feet per second—later amended to 1,000 cfs.[1] Defendants opposed plaintiffs' motion for a preliminary injunction, and a number of irrigation companies who have contracts for storage of water in the reservoir were permitted to intervene as defendants.

Following an extensive evidentiary hearing, the parties submitted the entire case to the district court for a determination on the merits. The factual findings of the district court, 706 F.Supp. 737, are presented below.

I

The Palisades Dam and Reservoir were constructed pursuant to an Act of Congress, and have been continuously managed and controlled by the Bureau since construction was completed in 1956. The Dam and Reservoir are one of a series of dams and reservoirs in the South Fork of the Snake River in Idaho and form part of the Bureau's Minidoka Irrigation Project. They are located between two other dams and reservoirs—the American Falls below and Jackson Lake above. The purpose of the Project is to control and conserve the waters in the River for fish and wildlife, recreation, irrigation, flood control, and power generation.

The amount of water in the Snake River fluctuates considerably from year to year, depending on the amount of snow pack in the mountains. The waters are impounded in the reservoirs and flow is controlled by the dams and regulated on the basis of annual cycles having four successive periods: the storage period extending from about October to March, the flood control period from that time until June, the refill period during which water not needed downstream is impounded, and lastly, the irrigation release period during the growing season in the summer months.

The Bureau's standard operating procedure since 1956 is to maintain the flow in the South Fork above 1,000 cfs. The Bureau has agreed to consult the Idaho Fish and Game Department before setting flows below 1,000 cfs. During previous dry periods, the average flow has been lower than 1,000 cfs for 555 days (or 4.75% of the total days in operation). Monthly average flow has been below 1,000 cfs during thirteen months of the Palisades' operation. According to the Bureau, the rate of release has fallen below 1,000 cfs in ten of the

1. Although the dispute in the district court involved the flow rate to be established for water year 1989, this case is not moot since reducing the flow below 1,000 cfs is conduct "capable of repetition yet evading review." *United States v. Oregon*, 657 F.2d 1009, 1012 n. 7 (9th Cir.1982).

approximately 30 years of the Reservoir's operation.

Due to lack of precipitation, the Bureau reduced the flow from the Palisades Dam in November 1987 to increase water stored for irrigation. Likewise, 1988 was dry and the Bureau reduced the flow again to 750 cfs.

"It is without controversy" the district court pointed out in its findings "that reducing the stream flows below 1,000 cfs will have a negative impact on the downstream fishery." But the court nevertheless concluded and ruled that the extent of the injury to fish population in this "Blue Ribbon trout stream" was not material to the inquiry, and need not be resolved because

> [i]n the case of the Palisades Dam, the fluctuating flows are routine actions which are contingent upon Mother Nature for snow-pack, runoff, precipitation, and carryover. As part of its routine and ongoing operations, the [Bureau of Reclamation] fluctuates the flows depending upon weather conditions past and future. Overall, the Court views the fluctuation of flows below Palisades as "ongoing operations" which do not have to comply with the EIS provisions of NEPA.

As noted earlier, we are clear that the district court's conclusion was correct.

II

[3–5] We review de novo any questions of law or mixed questions of law and fact. *United States v. McConney*, 728 F.2d 1195, 1201, 1205 (9th Cir.1984) (en banc). This court must accept the lower court's findings of fact unless clearly erroneous. *Id.* at 1200. If an agency decides not to prepare an EIS, the reviewing court must "determine whether the responsible agency has 'reasonably concluded' that the project will have no significant adverse environmental consequences." *City of Davis v. Coleman*, 521 F.2d 661, 673 (9th Cir.1975) (citing *Save Our Ten Acres v. Kreger*, 472 F.2d 463, 467 (5th Cir.1973)).

The National Environmental Policy Act requires all federal agencies to prepare a detailed Environmental Impact Statement for "every recommendation or report on proposals for legislation and other major Federal actions significantly affecting the quality of the human environment." 42 U.S.C. § 4332(2)(C).[2] The Ninth Circuit has interpreted NEPA to require an EIS whenever a project "may cause a significant degradation of some human environmental factor." *City of Davis*, 521 F.2d at 673.

In this case we do not reach the issue of whether reducing the river flow below 1,000 cfs has a significant effect on the environment because the reduction does not constitute a "major Federal action" within the meaning of the statute.

[6] The construction of the Palisades project was completed in 1956, and was in operation at the time NEPA became effective on January 1, 1970. Since NEPA does not apply retroactively, *see Westside Prop. Owners v. Schlesinger*, 597 F.2d 1214, 1223 (9th Cir.1979), an EIS cannot be required on the basis of the project's construction. However, if an ongoing project undergoes changes which themselves amount to "major Federal actions," the operating agency must prepare an EIS. *See Andrus v. Sierra Club*, 442 U.S. 347, 363 n. 21, 99 S.Ct.

2. 42 U.S.C. 4332(2)(C) provides:

> The Congress authorizes and directs that, to the fullest extent possible: ... (2) all agencies of the Federal Government shall—
>
> . . . .
>
> (C) include in every recommendation or report on proposals for legislation and other major Federal actions significantly affecting the quality of the human environment, a detailed statement by the responsible official on—
>
> (i) the environmental impact of the proposed action,
>
> (ii) any adverse environmental effects which cannot be avoided should the proposal be implemented,
>
> (iii) alternatives to the proposed action,
>
> (iv) the relationship between local short-term uses of man's environment and the maintenance and enhancement of long-term productivity, and
>
> (v) any irreversible and irretrievable commitments of resources which would be involved in the proposed action should it be implemented.

2335, 2343 n. 21, 60 L.Ed.2d 943 (1979) (" '[M]ajor Federal actions' include the 'expansion or revision of ongoing programs.' ").

[7] This circuit has held that where a proposed federal action would not change the status quo, an EIS is not necessary. "An EIS need not discuss the environmental effects of mere continued operation of a facility." *Burbank Anti-Noise Group v. Goldschmidt*, 623 F.2d 115, 116 (9th Cir. 1980) (holding EIS unnecessary for federal financial assistance in purchasing an existing airport since federal action would not change status quo), *cert. denied*, 450 U.S. 965, 101 S.Ct. 1481, 67 L.Ed.2d 614 (1981); *see also Committee for Auto Responsibility v. Solomon*, 603 F.2d 992 (D.C.Cir.1979) (holding government lease of parking area to new parking management firm does not trigger EIS requirement since area already used for parking so no change in status quo).[3]

We find the reasoning of the district court in *County of Trinity v. Andrus* particularly instructive. In *Trinity* the plaintiffs sought to enjoin the Bureau from lowering the level of a reservoir during the drought year of 1977 because of the potential damage to the fish population in the reservoir. The court explained that the issue was "not whether the actions are of sufficient magnitude to require the preparation of an EIS, but rather whether NEPA was intended to apply at all to the continuing operations of completed facilities." *Id.* at 1388. The court distinguished the case from cases "when a project takes place in incremental stages of major proportions," and from cases where "a revision or expansion of the original facilities is contemplated," *id.* Neither of these situations applied here, the court observed. Instead,

> [t]he Bureau has neither enlarged its capacity to divert water from the Trinity River nor revised its procedures or standards for releases into the Trinity River and the drawdown of reservoirs. It is simply operating the Division within the range originally available pursuant to the authorizing statute, in response to changing environmental conditions.

Id. at 1388–89. The court then concluded that actions taken in operating the system of dams and reservoirs (in particular, operational responses in a drought year) were not "major Federal actions" within the meaning of NEPA.

The Federal defendants in this case had been operating the dam for upwards of ten years before the effective date of the Act. During that period, they have from time to time and depending on the river's flow level, adjusted up or down the volume of water released from the Dam. What they did in prior years and what they were doing during the period under consideration were no more than the routine managerial actions regularly carried on from the outset without change. They are simply operating the facility in the manner intended. In short, they are doing nothing new, nor more extensive, nor other than that contemplated when the project was first operational. Its operation is and has been carried on and the consequences have been no different than those in years past.

The plaintiffs point out that flow rates have been significantly below 1,000 cfs for periods of seven days or more only in water years 1977, 1982, and 1988, all years of major drought. They also note that prior to construction of the dam, the lowest recorded flow rate did not fall below 1400 cfs. From these facts, they argue that the Bureau's reduction of the flow below 1,000 cfs is not a routine managerial action. However, a particular flow rate will vary over time as changing weather conditions dictate. In particular, low flows are the routine during drought years. What does not change is the Bureau's monitoring and control of the flow rate to ensure that the most practicable conservation of water is

3. NEPA Regulations issued by the Council on Environmental Quality are not to the contrary. Although the regulations contemplate the applicability of the EIS requirement to ongoing programs and actions of the government, *see, e.g.*, 40 C.F.R. §§ 1502.1, 1508.18(a) (1988), such ongoing activity must rise to the level of major federal actions to warrant preparation of an EIS. *See County of Trinity v. Andrus*, 438 F.Supp. 1368, 1388 (E.D.Cal.1977).

achieved in the Minidoka Irrigation Project. Such activity by the Bureau is routine.

Because we find no EIS is required, we need not consider the district court's rulings on damage to wildlife in addition to fish.

The district court's judgment is AFFIRMED.



Tanya Murphy GONZALES, Petitioner,

v.

IMMIGRATION AND NATURALIZATION SERVICE, Respondent.

No. 88-7173.

United States Court of Appeals, Ninth Circuit.

Submitted Oct. 5, 1990 *.

Decided Dec. 17, 1990.

Alien brought motion to reopen deportation proceedings following immigration judge's (IJ) deportation order becoming final when Board of Immigration Appeals (BIA) dismissed the alien's appeal. The BIA denied the motion. Alien petitioned. The Court of Appeals, Brunetti, Circuit Judge, held that: (1) IJ's deportation order became administratively final when BIA dismissed alien's appeal, and (2) alien was not eligible for discretionary relief, even though she was eligible when deportation proceedings against her began.

Petition denied.

* The panel finds this case appropriate for submission without oral argument pursuant to Ninth Circuit Rule 34-4 and Fed.R.App.P. 34(a).

1. Administrative Law and Procedure ⇐744

Aliens ⇐54.3(4)

Court of Appeals would review Board of Immigration Appeals' decision to deny an alien's motion to reopen deportation proceedings following immigration judge's deportation order becoming final de novo, where denial was based on determination of law. Immigration and Nationality Act, § 212(c), as amended, 8 U.S.C.A. § 1182(c).

2. Aliens ⇐53.10(2)

Discretionary relief is available from deportation for aliens lawfully admitted for permanent residence who have accrued seven consecutive years of lawful unrelinquished domicile. Immigration and Nationality Act, §§ 101(a)(20), 212(c), as amended, 8 U.S.C.A. §§ 1101(a)(20), 1182(c).

3. Aliens ⇐53.10(2)

An alien's eligibility for discretionary relief from deportation ended when immigration judge's deportation order became administratively final; once final, alien's permanent resident status was lost, and she no longer had lawful domicile in United States. Immigration and Nationality Act, §§ 101(a)(20), 212(c), as amended, 8 U.S.C.A. §§ 1101(a)(20), 1182(c).

Michael A. Mullery, and Nora Privitera, San Francisco, Cal., for petitioner.

Steven Barrios, Office of Immigration Litigation, Civ. Div., U.S. Dept. of Justice, Washington, D.C., for respondent.

Petition to Review a Decision of the Immigration and Naturalization Service.

Before SCHROEDER and BRUNETTI, Circuit Judges, and BREWSTER **, District Judge.

BRUNETTI, Circuit Judge:

Tanya Gonzales petitions the Board of Immigration Appeals ("BIA") order deny-

** Honorable Rudi M. Brewster, United States District Judge for the Southern District of California, sitting by designation.