

DEPARTMENT OF
WATER RESOURCES

3. Attached to this Affidavit as Exhibit "B" is a true and correct copy of the selected excerpts of the decree entered on January 18, 1906 in *Farmers Co-Operative Ditch Company vs. Riverside Irrigation District, Ltd.*, commonly referred to as the "Stewart Decree."

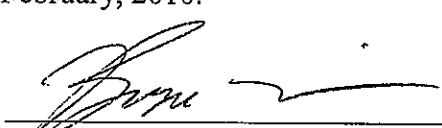
4. Attached to this Affidavit as Exhibit "C" are true and correct copies of the Complaint, Answer, Stipulations and Decree filed in the District Court of the Sixth Judicial District of the State of Idaho, Custer County, in the case *Raymond Gossi et al. v. Phillip Gossi*, (1933), which my office obtained from the Idaho Historical Society.

5. Attached to this Affidavit as Exhibit "D" is a true and correct copy of the Complaint filed in 1937 with the District Court of the Sixth Judicial District of the State of Idaho, Custer County, in the case *Gossi et al. v. Giampedraglia et al.*, which my office obtained from the Idaho Historical Society.

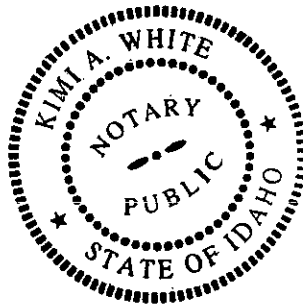
6. Attached to this Affidavit as Exhibit "E" is a true and correct copy of the Answer and Cross-Complaint filed in 1938 with the District Court of the Sixth Judicial District of the State of Idaho, Custer County, in the case *Gossi et al. v. Giampedraglia et al.*, which my office obtained from the Idaho Historical Society.

7. Attached to this Affidavit as Exhibit "F" are a true and correct copies of Stipulations of the parties filed in 1938 with the District Court of the Sixth Judicial District of the State of Idaho, Custer County, in the case *Gossi et al. v. Giampedraglia et al.*, which my office obtained from the Idaho Historical Society.

DATED this 12 day of ^{March} February, 2010.


S. Bryce Farris

Sworn to and subscribed before me this 12th day of March, 2010.



Kimi A. White
Notary Public for Idaho
Residing in Boise, Idaho
My Commission Expires: 04/21/14

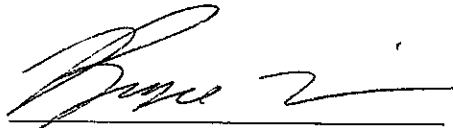
CERTIFICATE OF SERVICE

I certify that on March 12, 2010, I served copies of this document, including all attachments by mailing a copy thereof, postage prepaid, to each of the parties listed below.

Idaho Department of Water Resources
P.O. Box 83720
Boise, ID 83720-0098

Laird Lucas
Attorney at Law
P.O. Box 1342
Boise, ID 83701

Chief, Natural Resources Division
Office of the Attorney General
P.O. Box 44449
Boise, ID 83711-4449



Person serving documents

EXHIBIT A

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37-A-2

IN THE DISTRICT COURT OF THE FOURTH JUDICIAL DISTRICT
OF THE STATE OF IDAHO, IN AND FOR THE
COUNTY OF BLAINE.

---oOo---

ADELBERT L. POTTER ET AL,
PLAINTIFFS,
VS.
JOSEPH R. PATTERSON ET AL,
-----DEFENDANTS-----

Transfers Noted #

D E C R E E.

The testimony in this case having been taken by Mr. E.
H. Weaver, Referee, pursuant to stipulation and cause submitted
for decision at the May 1914 term of said Court, held at Hailey,
Blaine County, Idaho and the Court having made and filed its
findings of fact and conclusions of law, and the Court being fully
advised;

It is hereby ordered, adjudged and decreed that the
several parties, plaintiffs and defendants herein named, do have
judgement respectively for a right to use for irrigation and
other purposes the following number of inches of water, each fifty
inches thereof to be equivalent to the flow of one cubic foot per
second, as prescribed by law, from Fish Creek and its tributaries,
in the County of Blaine, State of Idaho, their priorities to date
from the times hereinafter named to wit;

Allred, E. A. 11½ inches from March 30, 1883 for the irrigation of
the following tract; commencing at a point 45 rods
South of the North East corner of the NW¼, of the
NE¼, Sec. 33, T. 1 S., R. 21 E., thence West 80
rods; thence South 22½ rods; thence East 80 rods;
thence North 22½ rods to the place of beginning,
containing 11½ acres, known as Tax Lot No. 765.

MAY 28 1915

That defendants, E. A. Allred, Aaron Boulton, William G. Briggs, G. A. Condie, Ira Eldridge, S. L. Hammer, E. P. Knutson, Joseph R. Patterson, Fred T. Phillips, Teresa Parks, A. L. Welch and E. Wolpert as successors in interest of George W. Case as against Isabella McDougal as successor in interest of W. J. Crooks and John Cameron, are entitled, pro rata, to the amount of land owned by them as such successors, to 750 inches, measured under a four inch pressure of the waters of said Fish Creek; that the defendant Isabella McDougal is thereafter entitled to 100 inches of water measured as aforesaid of the waters of East Fork, a tributary of said Fish Creek, that said defendants, successors of said George W. Case, as aforesaid, are thereafter entitled to 150 inches of the waters of said Fish Creek in addition to said 750 inches, and 150 inches divided pro rata as aforesaid.

That each party hereto be, and he and his agents, servants, employees, successors, assigns and all others acting by, through or under him are hereby perpetually enjoined from in any manner interfering with the flow of the waters of Fish Creek, except as in this decree provided.

That each party hereto pay his own costs and expenses.

Done at Twin Falls, Idaho this 16th day of December, 1914.

EDWARD A. WALTERS

District Judge.

filed Dec. 22, 1914.
W. F. Horne, Clerk.
By L. A. Duvall, Deputy.

---oOo---

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

I, Cassie M. Russell, Clerk of the District Court of the Fourth Judicial District of the State of Idaho, in and for the County of Blaine, do hereby certify that the foregoing is a full, true and correct copy of the original Decree in the above entitled action now on file in my office, and recorded in Judgment Book 7, Page 269.

Given under my hand and the seal of said Court in my office, at Hailey, this, the 18th day of May, A. D., 1926.

Attest: Cassie M. Russell, Clerk.

(SEAL)

By Geo. A. McLeod, Deputy.

MAY 28 1926

EXHIBIT B

277 inches, from Oct. 25, 1901.

1471 ADA COUNTY FARMERS' IRRIGATION COMPANY, A. H. EAGLESON & SONS, Limited, and ESTHER HALE.

100th. That the defendants, the Ada County Farmers' Irrigation Company, A. H. Eagleson & Sons, Limited, and Esther Hale, and neither of them acquired any rights to the use of the waters of Boise river separate or apart from the appropriation thereof by the New York Canal Company as found and decreed herein, and that the rights of the said defendants

1472 and each of them, as found herein, are included in and constitute a part of the right to the use of the said waters herein allotted to the said New York Canal Company, Limited.

Let judgment be entered accordingly.

Dated January 18, 1906.

(Signed) GEO. H. STEWART,

Judge.

(Title of Court and Cause.)

DECREE.

1473 In the above entitled cause the default of the non-answering defendants having been duly entered, to-wit:

Frank Gilbert, William McKnett, Neil McCarron, Michael Gilbride, Lower Boise Ditch Company, H. F. Vanderpool, John Atkins, Ben Ross, John Ross, D. K. McConnel, H. Carlyle, J. Bowman, E. M. Kirkpatrick, S. H. Mitchell, L. F. Cook, Triphenia Jobe, administratrix of the estate of J. H. Jobe; William Jobe, Alice Jobe, Edith Jobe and Corrinna Jobe

1474 (minors); A. Holcomb, George Milner, George Hess, John Thomas, H. N. Whitney, Edwin Curtis, Kate

Perrault, Henry Ott and John Doe et al., L. F. Graham, M. S. Cobb and O. F. Short; and said cause having been regularly tried and submitted to the Court for its decision, and the Court having considered the evidence and being fully advised in the premises, makes and files its findings of fact and conclusions of law and directs judgment to be entered in accordance therewith.

1475 Whereupon it is ordered, adjudged and decreed as follows:

1. That each and every of the tracts of land described in the complaint, answers and cross complaints in this action as belonging to the several parties, or tributary to the canals of certain parties plaintiff and defendant herein, are arid in character and require the artificial application of water to render them valuable for agricultural purposes.

1476 2. That the quantity of water required for the successful irrigation and cultivation of said lands, measured at the intake of the respective ditches under a four-inch pressure, is one inch per acre for bench lands, and one and one-tenth inch per acre for bottom lands.

3. That the quantity of water to which each of the parties to this action is entitled under this decree, shall be measured at the point or points of diversion thereof.

1477 4. It is further ordered, adjudged and decreed that none of the parties hereto, or their successors in interest, shall have a right to the use of the waters of Boise river herein awarded, except for a beneficial purpose; and that whenever the beneficial use has ceased, such party or parties shall cease to divert and have no right to divert the said waters; that each and every of

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L. F. Gra-
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Farmers' Co-operative Ditch Co. vs. Riverside Irrigation Dist., Ltd.

the parties hereto, their servants, attorneys, employees, privies and successors in interest, are hereby enjoined and restrained from any and all interference with or diversion or use of the waters of said Boise river, except as provided in this decree, whenever such interference, diversion or use would in any manner interfere with the quantity of water awarded by this decree to any of the other parties to this action.

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5. It is further ordered, adjudged and decreed that the complaint, answers and cross-complaints and all pleadings filed in this cause be and the same are hereby amended to conform to the facts as found by the Court herein.

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6. That each of the parties to this action or their predecessors in interest, whose rights are adjudicated by this action, did respectively appropriate and divert from the Boise river the quantities of water hereinafter stated, and on the dates respectively as hereinafter stated, such water being estimated and measured under a four-inch pressure and did respectively appropriate and divert such quantities of water for a beneficial use, and that ever since said dates of the several appropriations such water has been by said parties and their grantors and predecessors in interest so diverted and

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used.

7. That the following named parties, parties to this action, are entitled to the use of the waters of Boise river upon the lands mentioned and described in the complaint and cross-complaints and answers herein, in the following amounts and from the following dates, to-wit:

That the defendant Thomas Davis be and is hereby awarded the use of the waters of Boise river, diverted from a point on the north bank of said river about

1481 one mile east of the east line of the original townsite of Boise City, Idaho, through what is commonly known as the Jacobs Canal, for use upon lands lying in sections 10 and 11, township 3 north, range 2 east, Boise Meridian, in the following amount from the following date:

110 inches, from June 1, 1864; and hereby designated as Right No. 1.

That the defendant Thomas Davis be and is hereby awarded the use of said waters diverted from a point
1482 on the south side of said river in northwest quarter of northwest quarter of section 9, township 3 north, range 2 east, Boise Meridian, through what is known as the Davis Canal, for use upon lands in sections 5, 6, 31 and 32, township 3 north, range 2 east, Boise Meridian, in the following amount from the following date:

670 inches, from June 1, 1886; and hereby designated as Right No. 94.

That the defendant Thomas Davis be and is hereby
1483 awarded the use of said waters diverted from said river at a point in northwest quarter of section 9, township 3 north, range 2 east, Boise Meridian, through what is known as the Davis private ditch, for use upon south-east quarter of section 5 and southeast quarter of sections 8 and 9, all in township 3 north, range 2 east, Boise Meridian, in the following amount from the following date:

27 inches, from June 1, 1891; and hereby designated as Right No. 119.

1484 And adjudged to pay \$56 49 costs, in addition to the costs incurred by him.

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II.

JACOBS CANAL COMPANY, Limited, a Corporation.

That the defendant the Jacobs Canal Company, Limited, be and it is hereby awarded the use of the waters of Boise river, diverted from a point on the north side of said river about one mile east of the east boundary line of the original townsite of Boise City, Idaho, through what is commonly known as the Jacobs Canal, for use upon the town lots and lands lying under said canal in sections 4, 9, 10, 11, 13, 14, township 3 north, range 2 east, Boise Meridian, in the following amount from the following date:

1000 inches, from June 1, 1864; and hereby designated as Right No. 2.

And adjudged to pay \$70.00 costs, in addition to the costs incurred by it.

III.

That the defendant The Middleton Mill Ditch Company, a corporation be and it is hereby awarded the use of the waters of Boise river, diverted from said river at a point near the farm of Davis & Hart, section 13, township 4 north, range 1 west, Boise Meridian, for use upon the lands lying under its canal system, in the following amounts from the following dates:

640 inches, from June 1, 1864; and hereby designated as Right No. 3.

1685 inches, from June 1, 1871; and hereby designated as Right No. 54.

850 inches, from June 1, 1891; and hereby designated as Right No. 120.

And adjudged to pay \$222.25 costs, in addition to the costs incurred by it.

EXHIBIT C

IN THE DISTRICT COURT OF THE SIXTH JUDICIAL DISTRICT OF THE
STATE OF IDAHO, IN AND FOR CUSTER COUNTY.

RAYMOND GOSSI, ROSA V. CARMEN,
FRIDOLIN LEUZINGER, and
GIAMPEDRAGLIA BERNARDO,
Plaintiffs,

-vs-

PHILLIP GOSSI,
Defendant.

C O M P L A I N T.

Come now the plaintiffs and complain of defendant and for
cause of action allege:

I.

That the East Fork of Salmon River is a tributary of Salmon
River and flows generally in a northerly direction until it inter-
sects and flows into the main Salmon River and that the lands and
premises of these plaintiffs and the defendant are situated along
said stream and adjacent thereto and are within the county of Custer.

II.

That these plaintiffs are the owners in fee simple of the
lands and premises hereinafter mentioned and described as belong-
ing to them and all of said lands and premises are arid in character
and require artificial irrigation in order to raise profitable
crops thereon.

III.

That in order for plaintiffs to raise profitable crops upon
said lands and premises it is and has been necessary to apply at
least one (1) miner's inch of water per acre thereon.

IV.

That the plaintiffs or their predecessors in interest have
constructed dams, diversion works, flumes and ditches for the
purpose of conveying the waters of said East Fork of Salmon River
to and upon the said lands for irrigation purposes and using the
same for culinary and domestic use and have at all times herein

mentioned so diverted and used said water for the purposes and in the amounts herein mentioned for such purposes.

V.

That the defendant has or claims to have some interest in the flow of the waters of said East Fork of the Salmon River, adverse to these plaintiffs, but as plaintiffs are informed and believe and therefor say such right is subject to and inferior to the rights of these plaintiffs and each and all of them, but nevertheless the said defendant threatens to and will unless enjoined by an order of this Court appropriating the waters belonging to these plaintiffs to his own use and deprive these plaintiffs of the benefits thereof.

VI.

That plaintiffs have no plain, speedy or adequate remedy in the ordinary course of law.

VII.

That the following named plaintiffs are the owners as aforesaid of the lands and premises specifically hereinafter described as belonging to them and said plaintiffs or their predecessors in interest have applied the amounts of water hereinafter set forth to beneficial use upon the dates hereinafter mentioned and have diverted said water for such use as aforesaid to the use hereinafter mentioned.

A.--The plaintiff Raymond Gossi, is the owner of the NW $\frac{1}{4}$ NW $\frac{1}{4}$, S $\frac{1}{2}$ NW $\frac{1}{4}$, E $\frac{1}{2}$ SW $\frac{1}{4}$, SW $\frac{1}{4}$ SE $\frac{1}{4}$, NW $\frac{1}{4}$ SW $\frac{1}{4}$, all in Sec. 1, Twp. 10N., R. 18; NW $\frac{1}{4}$ NE $\frac{1}{4}$ of Sec. 12, Twp 10 N., R. 18 E., B.M. and he and his predecessors in interest have beneficially applied 320 miner's inches of the flow of the waters of the East Fork of the Salmon River upon said lands and premises since the first day of May, 1883 and have diverted said water for such beneficial use as aforesaid in the SW $\frac{1}{4}$ NW $\frac{1}{4}$ of Section 12, Twp. 10 N., Range 18 E. B.M.

B.--The plaintiff Rosa V. Carmen, is the owner of the Tax 1 in the NE $\frac{1}{4}$ NW $\frac{1}{4}$, containing 28.64 acres, Sec. 13, Twp. 10 N. R. 19 E. B.M., SE $\frac{1}{4}$ SW $\frac{1}{4}$, W $\frac{1}{2}$ SE $\frac{1}{4}$, SW $\frac{1}{4}$ NE $\frac{1}{4}$, in Sec. 12, Twp. 10 N. R. 19 E., B.M. and she and her predecessors in interest have beneficially applied 188.64/minutes of the flow of the waters of the East Fork of the Salmon River upon said lands and premises since the first day of May, 1885 and have diverted said water for such beneficial use as aforesaid in the SW $\frac{1}{4}$ NW $\frac{1}{4}$ of Section 13, Twp. 10 N. R. 19 E., B.M.

C.--The plaintiff Fridolin Leuzinger is the owner of the S $\frac{1}{2}$ NW $\frac{1}{4}$, NE $\frac{1}{4}$ SW $\frac{1}{4}$, all in Sec. 24, Twp. 10, N., R. 18, E., B.M. and he and his predecessors in interest have beneficially applied 120/minutes of the flow of the waters of the East Fork of the Salmon River upon said lands and premises since the first day of May, 1880 and have diverted said water for such beneficial use as aforesaid in the SE $\frac{1}{4}$ SE $\frac{1}{4}$ of Section 23, Twp 10 N., R. 18 E., B.M.

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D.--The plaintiff Giampedraglia is the owner of the SW $\frac{1}{4}$ NW $\frac{1}{4}$, NW $\frac{1}{4}$ SW $\frac{1}{4}$, in Sec. 25, Twp. 10 N. R. 18; E $\frac{1}{2}$ SE $\frac{1}{4}$, in Sec. 26, Twp. 10, N. R. 18; W $\frac{1}{2}$ NE $\frac{1}{4}$, NW $\frac{1}{4}$ SE $\frac{1}{4}$, all in Sec. 35, Twp. 10 N. R. 18 E., B.M. and he and his predecessors in interest have beneficially applied 280 miner's inches of the flow of the waters of the East Fork of the Salmon River upon said lands and premises since the tenth day of May 1880 and have diverted said water for such beneficial use as aforesaid in the NE $\frac{1}{4}$ SW $\frac{1}{4}$ of Section 35, Twp. 10 N., Range 18 E. B.M.

WHEREFORE Plaintiffs pray judgment against the said defendant; that said defendant be required to set up the nature of his right if any he has, and that the rights of the plaintiffs and the said defendant, both as to the amount and priority be determined by a

decree of this Court and for such other and further relief as to the Court shall seem just and equitable.

Solon B. Clark
Attorney for Plaintiffs, Res. & P.
O. Address, Mackay, Idaho.

State of Idaho, }
County of Custer.) ss.

Solon B. Clark being first duly sworn deposes and says that he is the Attorney for the plaintiffs and as such makes this verification for and on behalf of the said plaintiffs; that affiant is and has been for more than 28 years last past personally acquainted with the facts hereinbefore set out in this complaint and knows the same to be true of his own personal knowledge.

That he has read and prepared the foregoing complaint, knows the contents thereof and believes the facts therein stated to be true as aforesaid.

Solon B. Clark

Subscribed and sworn to before me this 25th day of July, 1933.

M. D. DeLeon
Notary Public.

Residence and L. O. address, Mackay, Idaho
My Commission Expires May 10, 1936

IN THE DISTRICT COURT OF THE SIXTH JUDICIAL DISTRICT OF THE
STATE OF IDAHO, IN AND FOR CUSTER COUNTY.

RAYMOND GOSSI, ROSA V. CARMEN,
FRIDOLIN LEUZINGER, and
GIAMPEDRAGLIA BERNARDO,
Plaintiffs, }

-vs-

PHILLIP GOSSI,
Defendants. }

A N S W E R.

Comes now the defendant, Phillip Gossi and in answer to
plaintiffs' complaint on file herein denies and alleges as
follows:

Denies each and all the allegations and averments contained
in plaintiffs' said complaint:

FOR CAUSE OF CROSS COMPLAINT THIS DEFENDANT ALLEGES:

I.

That the East Fork of Salmon River is a tributary of Salmon
River and flows generally in a northerly direction until it inter-
sects and flows into the main Salmon River and that the lands
and premises of this defendant are situated along said stream and
adjacent thereto are all within the county of Custer.

II.

That this defendant is the owner in fee simple of the lands
and premises hereinafter mentioned and described as belonging to
them and all of said lands and premises are arid in character
and require artificial irrigation in order to raise profitable
crops thereon.

III.

That in order for defendant to raise profitable crops upon
said lands and premises it is and has been necessary to apply
at least one (1) miner's inch of water per acre thereon.

IV.

That the defendant or his predecessors in interest has constructed dams, diversion works, flumes and ditches for the purpose of conveying the waters of said East Fork of Salmon River to and upon the said lands for irrigation purposes and using the same for culinary and domestic use and has at all times herein mentioned so diverted and used said water for the purposes and in the amounts herein mentioned for such purposes.

V.

That the defendant or his predecessors in interest appropriate 160 miner's inches of the flow of said East Fork of Salmon River for irrigation, domestic and culinary purposes upon the 1st day of April 1881 and every since has and now does use said water upon the following described lands and premises to-wit:

W $\frac{1}{2}$ SE $\frac{1}{4}$, SE $\frac{1}{4}$ SE $\frac{1}{4}$, NE $\frac{1}{4}$ SW $\frac{1}{4}$, in Sec. 35, Twp. 11, N.,
R. 18 E., B.M.

And has diverted said water from said stream as aforesaid,
NW $\frac{1}{4}$ NW $\frac{1}{4}$ of Sec. 2 Twp 10 N. Range 18 E. B.M.

WHEREFORE defendant prays judgment against said plaintiffs; that by decree of this Court the defendant's right both as to amount and priority be determined by the decree of this Court and for such other and further relief as to the Court may seem just and equitable.



Defendant in Person.

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

Phillip Gossi being first duly sworn deposes and says that he is the defendant in the above entitled action, that he has read the foregoing answer and cross complaint, knows the contents thereof and believes the facts therein stated to be true.

Phillip Gossi

Subscribed and sworn to before me this 25th day of July, 1933.

W. P. Kellogg
Notary Public.

*Residence and P.O. Address, Mackay, Idaho.
My Commission Expires May 10, 1934*

IN THE DISTRICT COURT OF THE SIXTH JUDICIAL DISTRICT OF THE
STATE OF IDAHO, IN AND FOR CUSTER COUNTY.

RAYMOND GOSSI, ROSA V. CARMEN,)
FRIDOLIN LEUZINGER, and)
GIAMPEDRAGLIA BERNARDO,)
Plaintiffs,)

-vs-

PHILLIP GOSSI,

Defendant.)

STIPULATION.

It is hereby stipulated and agreed by and between Solon B. Clark, Attorney for the plaintiffs duly authorized for this purpose and the defendant Phillip Gossi, that:

WHEREAS an action has been instituted in the above entitled Court in the above entitled cause for the purpose of securing a judicial determination of the rights to the flow of the waters of the East Fork of Salmon River by the respective parties in this action for irrigation, domestic and culinary purposes;

AND WHEREAS the parties hereto have agreed between and among themselves as to such rights with reference to the land to be irrigated and the amount of water necessary therefore, dates of priority and points of diversion for such water;

IT IS THEREFORE stipulated and agreed, subject to the approval of the Court, that the Court may enter a decree in this action incorporating therein the following specific provisions as well as the ordinary provisions generally made in decrees, establishing the right to the use of waters in the State of Idaho.

I.

The plaintiffs and each of them are entitled to a decree of this Court, fixing the duty upon water, the dates of it's application to beneficial use upon the lands and premises de-

scribed and from the points of diversion described in plaintiffs' said complaint.

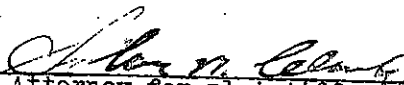
II.

That the defendant is entitled to a decree of this Court, fixing the duty upon water, the date of its application to beneficial use upon the lands and premises described and from the point of diversion described in defendant's said cross complaint.

III.

It is further stipulated and agreed that the Court may include such other and further jurisdictional and ordinary provisions as are generally included in decrees for the distribution of water in the state of Idaho.

Dated this 25th day of July, 1933.


Attorney for plaintiffs.


Defendant in person.

IN THE DISTRICT COURT OF THE SIXTH JUDICIAL DISTRICT OF THE
STATE OF IDAHO, IN AND FOR CUSTER COUNTY.

RAYMOND GOSSI, ROSA V. CARMEN,
FRIDOLIN LEUZINGER, and
GIAMPEDRAGLIA BERNARDO,
Plaintiffs,)

-vs-

PHILLIP GOSSI,

Defendants.)

STIPULATION.

It is hereby stipulated and agreed by and between the
plaintiffs by their attorney Solon B. Clark and the defendant
in his own proper person that the stipulation heretofore
entered into this day may be presented to Hon. Guy Stevens,
Judge of the above entitled Court at Chambers in Blackfoot,
Bingham County, Idaho, upon the 26th day of July, 1933, for
the purpose of securing final judgment and decree in this
action.

Dated this 25th day of July, 1933.

Solon B. Clark
Attorney for plaintiffs.

Phillip Gossi
Defendant in person.

IN THE DISTRICT COURT OF THE SIXTH JUDICIAL DISTRICT OF THE
STATE OF IDAHO, IN AND FOR CUSTER COUNTY.

RAYMOND GOSSI, ROSA V. CARMEN,
FRIDOLIN LEUZINGER, and
GIAMPEDRAGLIA BERNARDO,
Plaintiffs,)

-vs-

PHILLIP GOSSI,
Defendant.)

D E C R E E.

This cause came on regularly to be heard and tried before the Court sitting at Chambers in Blackfoot, Bingham County, Idaho, this 26th day of July, 1933, upon stipulation of Solon B. Clark, counsel of record for the plaintiffs and Phillip Gossi, the defendant in his own individual capacity.

Upon said hearing it appearing satisfactorily to the Court that all of the parties hereto and all the parties interested in the determination of this action have appeared either by counsel or individually and have stipulated that a decree of the waters of the East Fork of the Salmon River in Custer County, Idaho, might be adjudicated by a decree of this Court and the Court being fully advised in the premises and having taken into consideration the complaint filed herein and the answer and cross complaint of the defendant, Phillip Gossi, as well as the stipulation of the interested parties hereto, hereby enters the following judgment and decree:

IT IS HEREBY ORDERED, ADJUDGED AND DECREED:

I.

A. That the plaintiff, Raymond Gossi, is entitled to the use of 320 miner's inches of the flow of the waters of the East Fork of the Salmon River, date of priority May 1st, 1883, for the irrigation of the following described lands and premises, to-wit:

NW $\frac{1}{4}$ NW $\frac{1}{4}$, S $\frac{1}{2}$ NW $\frac{1}{4}$, E $\frac{1}{2}$ SW $\frac{1}{4}$, SW $\frac{1}{4}$ SE $\frac{1}{4}$, NW $\frac{1}{4}$ SW $\frac{1}{4}$, all in Sec. 1, Twp. 10 N., R. 18; NW $\frac{1}{4}$ NE $\frac{1}{4}$, of Sec. 12, Twp. 10 N., R. 18, E., B.M.

to be diverted for such beneficial use as aforesaid in the SW $\frac{1}{4}$ NW $\frac{1}{4}$ of Section 12, Twp. 10 N., Range 18 E., B.M.

B.--That the plaintiff, Rosa V. Carmen, is entitled to the use of 188.64 miner's inches of the flow of the waters of the East Fork of the Salmon River, date of priority May 1st, 1885, for the irrigation of the following described lands and premises, to-wit:

Tax 1 in the NE $\frac{1}{4}$ NW $\frac{1}{4}$, containing 28.64 acres, Sec. 13, Twp. 10 N., R. 19 E.B.M. SE $\frac{1}{4}$ SW $\frac{1}{4}$, W $\frac{1}{2}$ SE $\frac{1}{4}$, SW $\frac{1}{4}$ NE $\frac{1}{4}$, in Sec. 12, Twp. 10 N. R. 19 E., B.M.

to be diverted for such beneficial use as aforesaid in the SW $\frac{1}{4}$ NW $\frac{1}{4}$ of Section 13, Twp. 10 N., Range 18 E., B.M.

C.--That the plaintiff, Fridolin Leuzinger, is entitled to the use of 120 miner's inches of the flow of the waters of the East Fork of the Salmon River, date of priority May 1st, 1880, for the irrigation of the following described lands and premises, to-wit:

S $\frac{1}{2}$ NW $\frac{1}{4}$, NE $\frac{1}{4}$ SW $\frac{1}{4}$, all in Sec. 24, Twp. 10 N., R. 18 E., B.M.

to be diverted for such beneficial use as aforesaid in the SE $\frac{1}{4}$ SE $\frac{1}{4}$ of Sec. 23, Twp. 10 N., Range 18 E., B.M.

D.--That the plaintiff, Giampedraglia Bernardo, is entitled to the use of 280 miner's inches of the flow of the waters of the East Fork of the Salmon River, date of priority May 10th, 1880, for the irrigation of the following described lands and premises, to-wit:

SW $\frac{1}{4}$ NW $\frac{1}{4}$, NW $\frac{1}{4}$ SW $\frac{1}{4}$, in Sec. 25, Twp. 10 N., R. 18; E $\frac{1}{2}$ SE $\frac{1}{4}$ in Sec. 26, Twp. 10 N. R. 18; W $\frac{1}{2}$ NE $\frac{1}{4}$, NW $\frac{1}{4}$ SE $\frac{1}{4}$, all in Sec. 35, Twp. 10 N. R. 18 E., B.M.,

to be diverted for such beneficial use as aforesaid in the NE $\frac{1}{4}$ SW $\frac{1}{4}$ of Section 35, Twp. 10 N., R. 18 E., B.M.

E.--That the defendant, Phillip Gossi is entitled to the use of 160 miner's inches of the flow of the waters of East Fork of the Salmon River, date of priority April 1st, 1881, for the irrigation of the following described lands and premises, to-wit:

W $\frac{1}{2}$ SE $\frac{1}{4}$, SE $\frac{1}{4}$ SE $\frac{1}{4}$, NE $\frac{1}{4}$ SW $\frac{1}{4}$, in Sec. 35, Twp. 11 N.,
R. 18 E., B.M.

to be diverted for such beneficial use as aforesaid in the
NW $\frac{1}{4}$ NW $\frac{1}{4}$ of Sec. 2, Twp 10 N., Range 18 E., B.M.

II.

That irrigation rights and beneficial use and purposes
include the right to divert and use water for irrigation,
domestic and culinary purposes and the watering of livestock.

III.

That each and all of the parties hereto are hereby en-
joined and restrained forever from in any manner interfering
with the rights as herein adjudicated of any or all of the
parties hereto.

Dated at Chambers at Blackfoot, Bingham County, Idaho,
this 26th day of July, 1933.

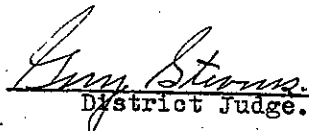

District Judge.

EXHIBIT D

IN THE DISTRICT COURT OF THE SIXTH JUDICIAL DISTRICT OF THE
STATE OF IDAHO, IN AND FOR THE COUNTY OF CUSTER.

ROSA A. GOSSI and FRED GOSSI,
husband and wife; HATTIE BAKER,
a widow; MARCO YACOMELLA, a single
man; GEORGE M., MARY C., and NETTA
C. YACOMELLA, all single persons;
CATERINA PEDRINI, a widow; ELLIS
M. BAKER and MARY BAKER, husband
and wife; JOE SCIUCHETTI, a single
man; ANTONIO YACOMELLA and MRS.
ANTONIO YACOMELLA, husband and
wife; LEO BRICKER and JERRY
BRICKER, husband and wife; L. V.
CAROTHERS, a single man; DAVE
BRICKER and EDNA BRICKER; husband
and wife; and ELMER FRY and RHODA
FRY, husband and wife,

Plaintiffs,

vs.

C O M P L A I N T

GIAMPEDRAGLIA BERNARDO, a single man;
VIRGIL GOSSI, a single man; RAYMOND
GOSSI and EVA GOSSI, husband and wife;
FREDOLIN LEUZINGER, a single man; ROSA
V. CARMAN, a widow; MARION PEEL and
LUCY PEEL, husband and wife; DAISY
PAPWORTH, a widow; and ANTHONY BRICKER
and JACKIE BRICKER, husband and wife,

Defendants.

Comes now the plaintiffs and complain of the defendants,
and each of them, and for cause of action alleges:

I.

That the parties plaintiff and the parties defendant are of
the marital status as shown in the caption of this complaint.

II.

That there is no controversey or dispute between the plain-
tiffs, or any of them, in this action as to the amount or priority
of the use of the waters of the East Fork of the Salmon River and/or
any of the tributaries of said East Fork of the Salmon River as
hereinafter alleged.

III.

That the East Fork of the Salmon River and its tributaries

hereinafter named is a tributary of the Salmon River, all within Custer County, State of Idaho.

IV.

That the plaintiffs, Rosa A. Gossi and Fred Gossi, are the owners, in the possession and entitled to the possession of the following described land situated in the County of Custer, State of Idaho, to-wit: Lots 1 and 2, Section 3, Tp. 9 N., R. 18, E. B. M. NW $\frac{1}{4}$ SW $\frac{1}{4}$, SW $\frac{1}{4}$ NW $\frac{1}{4}$, Section 25, E $\frac{1}{2}$ SE $\frac{1}{4}$, Section 26, SE $\frac{1}{4}$ SE $\frac{1}{4}$, Section 34; SW $\frac{1}{4}$ SW $\frac{1}{4}$, W $\frac{1}{2}$ NE $\frac{1}{4}$, NW $\frac{1}{4}$ SE $\frac{1}{4}$, Section 35, all in Township 10, N., R. 18 East Boise Meridian, together with certain water rights as hereinafter alleged.

V.

That the plaintiff, Hattie Baker, is the owner, in the possession and entitled to the possession of the following described land situated in the County of Custer, State of Idaho, to-wit:

SW $\frac{1}{4}$ NW $\frac{1}{4}$, E $\frac{1}{2}$ NW $\frac{1}{4}$, Section 27, Tp. 9 N., R. 17, East Boise Meridian, together with certain water rights as hereinafter alleged.

VI.

That the plaintiff, Marco Yacomella is the owner, in the possession and entitled to the possession of the following described lands, situate in the County of Custer, State of Idaho, to-wit:

Lots 1 and 2, Section 4, Tp. 9 N., R. 18, E. B. M., and Lots 5 and 6, Section 33, Twp. 10 N., R. 18, E. B. M., together with certain water rights as hereinafter alleged.

VII.

That the plaintiffs, George M., Mary C. and Netta C. Yacomella are the owners, in possession and entitled to the possession of the following described lands situated in the County of Custer, State of Idaho, to-wit:

Lot 4, Section 4, Tp. 9 N., R. 18, E. B. M., S $\frac{1}{2}$ SE $\frac{1}{4}$, S $\frac{1}{2}$ SW $\frac{1}{4}$, Section 32; Lot 4, Section 33, all in Twp. 10 N., R. 18, E. B. M., together with certain water rights as hereinafter alleged.

VIII.

That the plaintiff, Caterina Pedrini, is the owner, in the possession and entitled to the possession of the following described lands situated in the County of Custer, State of Idaho, to-wit:

Lot 4 and 5, and Lots 1, 2 and 3, Section 6, Tp. 9 N., R. 18 E. B. M.; Lot 4, SE $\frac{1}{4}$ SW $\frac{1}{4}$, S $\frac{1}{2}$ SE $\frac{1}{4}$, Section 31, Tp. 10 N., R. 18, East Boise Meridian, together with certain water rights as hereinafter alleged.

IX.

That the plaintiffs, Ellis M. Baker and Mary Baker, are the owners, in the possession and entitled to the possession of the following described lands situate in the County of Custer, State of Idaho, to-wit:

Lots 1 and 2, SW $\frac{1}{4}$ NE $\frac{1}{4}$, Section 1; SW $\frac{1}{4}$ NW $\frac{1}{4}$, Section 14; Lots 1, 5, 6 and 7, Section 15, Tp. 9 N., R. 17, E. B. M.; Lot 4, Section 6, Tp. 9 N., R. 18, East Boise Meridian, together with certain water rights as hereinafter alleged.

X.

That the plaintiff, Joe Sciuchetti, is the owner, in the possession and entitled to the possession of the following described land situated in the County of Custer, State of Idaho, to-wit:

SW $\frac{1}{4}$ SW $\frac{1}{4}$, Section 1; SE $\frac{1}{4}$ SW $\frac{1}{4}$, Section 2; N $\frac{1}{2}$ NE $\frac{1}{4}$, Section 11, Tp. 9 N., R. 18, East Boise Meridian, together with certain water rights as hereinafter alleged.

XI.

That the plaintiffs, Joe Sciuchetti, Antonio Yacomella and Mrs. Antonio Yacomella are the owners, in the possession and entitled to the possession of the following described lands situated in the County of Custer, State of Idaho, to-wit:

E $\frac{1}{2}$ NW $\frac{1}{4}$, SW $\frac{1}{4}$ NE $\frac{1}{4}$, NE $\frac{1}{4}$ SW $\frac{1}{4}$, SE $\frac{1}{4}$ SW $\frac{1}{4}$, Section 11, Tp. 9 N., R. 17 East Boise Meridian, together with certain water rights as hereinafter alleged.

XII.

That the plaintiffs, Antonio Yacomella and Mrs. Antonio Yacomella, are the owners, in the possession and entitled to the possession of the following described lands situate in the County of Custer, State of Idaho, to-wit:

S $\frac{1}{2}$ NW $\frac{1}{4}$, N $\frac{1}{2}$ SW $\frac{1}{4}$, Section 1 $\frac{1}{2}$, NE $\frac{1}{4}$ SW $\frac{1}{4}$, Section 2, Tp. 9 N., R. 17 E. B. M., together with certain water rights as herein after alleged.

XIII.

That the plaintiffs, Leo Bricker and Jerry Bricker, are the owners, in the possession and entitled to the following described lands situated in the County of Custer, State of Idaho, to-wit:

Lot 3, SE $\frac{1}{4}$ NW $\frac{1}{4}$, NE $\frac{1}{4}$ SW $\frac{1}{4}$, Section 4, Tp. 8 N., R. 17, E. B. M. together with certain water rights as hereinafter alleged.

XIV.

That the plaintiff, L. V. Carothers, is the owner, in the possession and entitled to the possession of the following described lands situated in the County of Custer, State of Idaho, to-wit:

W $\frac{1}{2}$, W $\frac{1}{2}$ E $\frac{1}{2}$, Section 33, Tp. 9 N., R. 17, E. B. M.; Lot 4, Section 4, and Lots 1 and 2, Section 5, Tp. 8 N., R. 17, E. B. M., together with certain water rights as herein after alleged.

XV.

That the plaintiffs, Dave Bricker and Edna Bricker, are the owners, in the possession and entitled to the possession of the following described land situated in the County of Custer, State of Idaho, to-wit:

SE $\frac{1}{4}$ NW $\frac{1}{4}$, SW $\frac{1}{4}$ NE $\frac{1}{4}$, NE $\frac{1}{4}$ SW $\frac{1}{4}$, NW $\frac{1}{4}$ SE $\frac{1}{4}$, Section 9, Twp. 8 N., R. 17, E. B. M. Together with certain water rights as hereinafter alleged.

XVI.

That the plaintiffs, Elmer Fry and Rhoda Fry, are the owners, in the possession and entitled to the possession of the following described lands situated in the County of Custer, State of Idaho, to-wit:

Lot 3, E $\frac{1}{2}$ SW $\frac{1}{4}$, SW $\frac{1}{4}$ SE $\frac{1}{4}$, Section 7, W $\frac{1}{2}$ NE $\frac{1}{4}$, N $\frac{1}{2}$ SE $\frac{1}{4}$, Section 18, Tp. 9 N., R. 19, E. B. M., together with certain water rights as hereinafter alleged.

XVII.

That all of the lands of the plaintiffs hereinafter described are arid in character and require the artificial use of water thereon to produce profitable agricultural crops and that one and one-half miner's inches per acre is necessary for the profitable and successful cultivation thereof.

XVIII.

That on or about the first day of May 1885, the said plaintiffs, Rosa A. Gossi and Fred Gossi, and their predecessors in interest, appropriated from the East Fork of the Salmon River and its tributaries, known as Herd Creek, McDonald Creek and Fox Creek, three hundred miner's inches or six cubic feet per second of time of the waters of said streams and by means of dams and ditches of sufficient capacity to convey the same, converted the same quantity of water from said streams to and upon the said lands now belonging to the said Rosa A. Gossi and Fred Gossi, for the purpose of irrigating the same, and have continued to so appropriate and convert said waters and apply the same to said lands to said beneficial use from that time hitherto; and that on or about the first day of May, 1936, the said plaintiffs, Rosa A. Gossi and Fred Gossi, appropriated from the East Fork of the Salmon River fifteen miner's inches of water and by means of dams and ditches of sufficient capacity to convey the same, converted said quantity of water from said stream to and upon the said lands now belonging to said Rosa A. Gossi and Fred Gossi, for the purpose of irrigating the same, and have continued to so appropriate and convert said waters and apply the same to said lands to said beneficial use during the entire irrigation season of 1936.

~~XIX.~~
XIX.

That on or about May first, 1915, the said plaintiff, Hattie Baker, and her predecessors in interest, appropriated from the East Fork of the Salmon River sixty miner's inches per second of time

and by means of dams and ditches of sufficient capacity to convey the same, converted the said quantity of water from said stream to and upon the said lands now belonging to the said Hattie Baker, for the purpose of irrigating the same, and have continued to so appropriate and convert said waters and apply the same to said lands to said beneficial use, from that time hitherto.

XX.

That on or about the first day of May, 1895, the plaintiff, Marco Yacomello, and his predecessors in interest, appropriated from the East Fork of the Salmon River sixty miner's inches of water per second of time and by means of dams and ditches of sufficient capacity to convey the same, converted the said quantity of water from said streams to and upon the said lands now belonging to said Marco Yacomella for the purpose of irrigating the same and have continued to so appropriate and convert said waters and apply the same to said lands to said beneficial use, from that time hitherto; that on May 1, 1936, the said Marco Yacomella appropriated from the East Fork of the Salmon River sixty miner's inches per second of time of the waters of said stream and by means of dams and ditches of sufficient capacity to convey the same, converted the said quantity of water from said stream to and upon the said lands now belonging to the said Marco Yacomella for the purpose of irrigating the same and has continued to so appropriate and convert said water and apply the same to said lands to said beneficial use from that time hitherto.

XXI.

That on or about the first day of May, 1895, the said plaintiffs, George M., Mary C., and Netta C. Yacomella, and their predecessors in interest, appropriated from the East Fork of the Salmon River and its tributaries commonly known and called Lake

Creek, one hundred twentyseven miner's inches of water per second of time and by means of dams and ditches of sufficient capacity to convey the same, converted the said quantity of water from said stream to and upon the said lands now belonging to the said George M., Mary C., and Netta C. Yacomella, for the purpose of irrigating the same, and have continued to so appropriate and convert said waters and apply the same to said lands to said beneficial use from that time hitherto; and that on May first, 1936, the said George M., Mary C., and Netta C. Yacomella, and their predecessors in interest, appropriated from the East Fork of the Salmon River sixty-five miner's inches per second of time of the waters of said stream and by means of dams and ditches of sufficient capacity to convey the same, converted the said quantity of water from said stream to and upon the said lands now belonging to them for the purpose of irrigating the same and have continued to so appropriate and convert said water and apply the same to said lands to said beneficial use for the entire irrigation season of 1936.

XII:

That on or about May 1, 1888, the said plaintiff, Caterina Pedrini, and her predecessors in interest, appropriated from the said East Fork of the Salmon River and its tributary commonly known and called Pine Creek, two hundred twenty five miner's inches of four and one half cubic feet per second of time of said water from said stream, and by means of dams and ditches of sufficient capacity to convey the same, converted the said quantity of water from said streams to and upon the said lands now belonging to said Caterina Pedrini, for the purpose of irrigating the same, and have continued to so appropriate and convert said water and apply the same to said lands to said beneficial use, from that time hitherto; that on the first day of May, 1936, the said plaintiff, Caterina Pedrini, appropriated from the East Fork of the Salmon River seventyfive miner's

inches or one and one half cubic feet per second of time of the waters of said stream and by means of dams and ditches of sufficient capacity to convey the same, converted the said quantity of water from said stream to and upon the said lands now belonging to the said Caterina Pedrini, for the purpose of irrigating the same and did continue to so appropriate and convert said waters and apply the same to said lands to said beneficial use for the entire irrigation season for the year 1936.

XXIII.

That on or about the first day of May, 1885, the said plaintiffs, Ellis M. Baker and Mary Baker, and their predecessors in interest, appropriated from the East Fork of the Salmon River and its tributary known as Boulder Creek, one hundred miner's inches or two cubic feet per second of time of the waters of said streams and by means of dams and ditches of sufficient capacity to convey the same, converted the said quantity of water from said streams to and upon Lots 1 and 2, SW $\frac{1}{4}$ SE $\frac{1}{4}$, Section 1, Tp. 9 N., R. 17, E. B. M. and Lot 4, Section 6, Tp. 9 N., R. 18, E. B. M., for the purpose of irrigating the same, and have continued to so appropriate and convert said waters and apply the same to said lands to said beneficial use from that time hitherto.

XXIV.

That on or about the first day of May, 1911, the said plaintiffs, Ellis M. Baker and Mary Baker, and their predecessors in interest, appropriated from the said East Fork of the Salmon River, sixty miner's inches per second of time of the waters of said stream and by means of dams and ditches of sufficient capacity to convey the same, converted the said quantity of water from said stream to and upon SW $\frac{1}{4}$ NW $\frac{1}{4}$, Section 14 and Lots 1, 5, 6 and 7, Section 15, Tp. 9 N., R. 17, E. B. M., for the purpose of irrigating the same and have continued to so appropriate and convert said

waters and apply the same to said lands to said beneficial use from that time hitherto; that that on May 1, 1936, the said plaintiffs, Ellis M. Baker and Mary Baker, appropriated from the East Fork of the Salmon River, thirty miner's inches per second of time of the waters of said stream and by means of dams and ditches of sufficient capacity to convey the same, converted said quantity of water from said stream to and upon the said lands in this paragraph described, for the purpose of irrigating the same and did continue to so appropriate and convert said water and apply the same to said lands to said beneficial use for the entire irrigation season for the year 1936.

XXV.

That on or about the 1st day of May, 1885, the said plaintiff, Joe Sciuchetti, and his predecessors in interest, appropriated from the said East Fork of the Salmon River, ~~one hundred~~ miner's inches of two cubic feet per second of time of the waters of said stream and by means of dams and ditches of sufficient capacity to convey the same, converted said quantity of water from said stream to and upon the said lands now belonging to the said Joe Sciuchetti for the purpose of irrigating the same and have continued to so appropriate and convert said waters and apply the same to said lands to said beneficial use from that time hitherto; that on the 1st day of May, 1936, the said plaintiff, Joe Sciuchetti, appropriated from said East Fork of the Salmon River twenty miner's inches per second of time of the waters of said stream and by means of dams and ditches of sufficient capacity to convey the same, converted said quantity of water from said stream to and upon the said lands now belonging to said Joe Sciuchetti for the purpose of irrigating the same, and did continue to so appropriate and convert said waters and apply the same to said beneficial use for the entire irrigation season for the year 1936.

XXVI.

That on or about the 1st day of May, 1896, the said plain-

tiffs, Joe Sciuchetti, Antonio Yacomella and Mrs. Antonio Yacomella, and their predecessors in interest, appropriated from the East Fork of the Salmon River, and its tributaries commonly known and called Boulder Creek, Baker Basin Creek and Bluett Creek, one hundred forty miner's inches per second of time of waters of said stream and by means of dams and ditches of sufficient capacity to convey the same, converted the said quantity of water from said streams to and upon the said lands now belonging to the said Joe Sciuchetti, Antonio Yacomella and Mrs. Antonio Yacomella, for the purpose of irrigating the same and have continued to so appropriate and convert said waters and apply the same to said lands for said beneficial use from that time hitherto; that on the first day of May, 1936, Joe Sciuchetti, Antonio Yacomella and Mrs. Antonio Yacomella, appropriated from the East Fork of the Salmon River, thirty-eight miner's inches per second of time of the waters of said stream and by means of dams and ditches of sufficient capacity to convey the same, converted the said quantity of water from said stream to and upon the said lands now belonging to the said Joe Sciuchetti, Antonio Yacomella and Mrs. Antonio Yacomella, for the purpose of irrigating the same, and did continue to so appropriate and convert said waters and apply the same to said lands for said beneficial use for the entire irrigation season for the year 1936.

XXVII.

That on or about the first day of May, 1885, the plaintiffs, Antonio Yacomella and Mrs. Antonio Yacomella, and their predecessors in interest, appropriated from the East Fork of the Salmon River, one hundred twenty miner's inches per second of time of the waters of said stream and by means of dams and ditches of sufficient capacity to convey the same, converted the said quantity of water from said stream to and upon the said lands now belonging to the said Antonio Yacomella and Mrs. Antonio Yacomella, for the purpose of irrigating the same, and have continued to so appropriate and convert the said waters and apply the same to said lands for said beneficial use, from that time hitherto; that on the 1st day of May, 1936, the said

Antonio Yacomella and Mrs. Antonio Yacomella, appropriated from the said East Fork of the Salmon River, thirty-eight miner's inches per second of time of the waters of said stream and by means of dams and ditches of sufficient capacity to convey the same, converted the said quantity of water from said stream to and upon said lands now belonging to the said Antonio Yacomella and Mrs. Antonio Yacomella, for the purpose of irrigating the same, and did continue to so appropriate and convert said waters and apply the same to said lands for said beneficial use for the entire irrigation season for the year 1936.

XXVIII.

That on or about August 1, 1925, the said plaintiffs, Leo Bricker and Jerry Bricker, and their predecessors in interest, appropriated from the said East Fork of the Salmon River, sixty miner's inches per second of time of the waters of said stream and by means of dams and ditches of sufficient capacity to convey the same, converted the said quantity of water from said stream, to and upon the said lands now belonging to the said Leo Bricker and Jerry Bricker, for the purpose of irrigating the same, and have continued to so appropriate and convert said waters, and apply the same to said lands to said beneficial use, from that time hitherto.

XXIX.

That on or about the first day of May, 1919, the said plaintiff, L. V. Carothers and his predecessors in interest, appropriated from the said East Fork of the Salmon River and its tributaries commonly known and called Wickiup Creeks, sixty miner's inches per second of time of the waters of said stream and by means of dams and ditches of sufficient capacity to convey the same, converted said quantity of water from said streams to and upon the said lands now belonging to the said L. V. Carothers, for the purpose of irrigating the same, and have continued to so appropriate and convert said waters and apply the same to said lands for said beneficial use from that time hitherto;

XXX.

t

That on or about the first day of May, 1925, the plaintiffs, David J. Bricker and Edna Bricker, appropriated from Bowery Creek, a tributary to the said East Fork of the Salmon River, forty miner's inches per second of time of the waters of said stream and by means of dams and ditches of sufficient capacity to convey the same converted the said quantity of water from said stream to and upon the said lands now belonging to the said David J. Bricker and Edna Bricker, for the purpose of irrigating the same, and have continued to so appropriate and convert said waters and apply the same to said lands for said beneficial use from that time hitherto; that on the first day of May, 1936, the said plaintiffs, David J. Bricker and Edna Bricker, appropriated from the said East Fork of the Salmon River, eighty miner's inches per second of time of the waters of said stream and by means of dams and ditches of sufficient capacity to convey the same, converted said quantity of water from said stream to and upon the said lands now belonging to the said David J. Bricker and Edna Bricker, for the purpose of irrigating the same, and did continue to so appropriate and convert said water and apply the same to said lands for said beneficial use for the entire irrigation season for the year 1936.

XXXI.

That on or about May 1, 1900, the said plaintiffs, Elmer Fry and Rhoda Fry, and their predecessors in interest, appropriated from Herd Creek, a tributary to the said East Fork of the Salmon River, ninety miner's inches per second of time of the waters of said stream and by means of dams and ditches of sufficient capacity to convey the same, converted the said quantity of water from said stream, to and upon the said lands now in the possession of the said Elmer Fry and Rhoda Fry, for the purpose of irrigating the same, and have continued to so appropriate and convert said water and apply the same to said lands for said beneficial use from that

time hitherto.

XXXII.

That the defendants, Raymond Gossi, Rosa V. Carman, Fredolin Leuzinger, Virgil Gossi and Giampedraglia Bernardo, claim some right and title in and to the use of the waters of said East Fork of the Salmon River, and/or its tributaries, under and by virtue of a decree rendered in the above entitled Court, decreeing the waters of said East Fork, and/or its tributaries, in the case wherein Raymond Gossi, et al, were plaintiffs and Phillip Gossi was defendant, which decree, dated August 3, 1933, is of record in Book 3 of Judgments at Page 350, records of said Custer County, Idaho.

XXXIII.

That the plaintiffs in this action, and none of their predecessors in interest, were made parties to said last described cause of action, although they had appropriated and were using waters for irrigation purposes from said East Fork of the Salmon River, and/or its tributaries, at the time said cause of action was filed and have continuously used said waters ever since.

XXXIV.

That for the reasons herein alleged, said decree and all matters therein set forth, are wholly void and in no way binding upon the plaintiffs in this action.

XXXV.

That the defendants herein, and each of them, claim an interest in the said waters so appropriated and used by these plaintiffs and their predecessors in interest, but that such claim on the part of the defendants, is without right and these cross-complainants are entitled to the exclusive use and possession of said waters as hereinabove set out, for the irrigation of their said lands.

XXXVI.

That the defendants threaten to interfere with these plaintiffs in the free use and enjoyment of said waters so appropriated and now owned by them and unless the defendants are restrained

by an order of this Court, they will continue to assert a right to the use of said waters and will interfere with these plaintiffs in the free use and enjoyment of their said water rights, to which they are entitled;

XXXVII.

Plaintiffs herein have no plain, speedy or adequate remedy at law, Wherefore plaintiffs pray for judgment and decree of this Court:

1.

Quieting the title to the said waters of the said East Fork of the Salmon River and its tributaries mentioned in this complaint and determining the rights of all the parties hereto in and to said waters and the use of the said waters of said East Fork of the Salmon River and its tributaries.

That these plaintiffs have a judgment and decree of this Court awarding to them the amounts and quantities of waters so appropriated, diverted and used by them, as hereinbefore in this complaint set forth, and that the rights of these plaintiffs are superior to the rights of the defendants, and each of them, in and to the waters of the said East Fork of the Salmon River and its tributaries.

3.

That the defendant, and each of them, be restrained by an order of this Court from obstructing in any manner, or to any extent, or from in any manner or to any extent, interfering with the flow of the waters of the said East Fork of the Salmon River and its tributaries, to or through the ditches of the plaintiffs herein, to the full extent of the waters claimed by them in their complaint herein, and for an order of the Court requiring said defendants, and each of them, to remove or cause to be removed, any

and all obstructions maintained or caused by either or any of them to the flow of the waters of said East Fork of the Salmon River or any of its tributaries, to the ditches of these plaintiffs and to cease any and all obstructions to or interferences with the ditches belonging to the plaintiffs herein or either or any of them;

4.

These plaintiffs pray for such other and further relief as to the foregoing facts may warrant or such as to the Court may seem just and equitable, and, upon final determination of this action, perpetual restraining order and injunction may be made herein;

5.

The plaintiffs pray for their costs herein incurred and all general relief.


and P. O. Address: Challis, Idaho

STATE OF IDAHO)
COUNTY OF CUSTER) ss.

Fred Gossi being first duly sworn deposes and says: That he is one of the plaintiffs in the above entitled action and that he makes this verification for himself and in behalf of the other plaintiffs; that he has read the Complaint in this action, knows the contents thereof and believes the same to be true.

Subscribed and sworn to before me this 18th day of Feb-

My commission expires: 3/1/38

IN THE DISTRICT COURT OF THE SIXTH JUDICIAL DISTRICT OF THE
STATE OF IDAHO, IN AND FOR THE COUNTY OF CUSTER.

ROSA A. GOSSI and FRED GOSSI,
husband and wife; HATTIE BAKERS,
a widow; MARIO YACOMELLA, a single
man; GEORGE M. MARY C., and NETTA
C. YACOMELLA, all single persons;
CATERINA PEDRINI, a widow; ELLIS M.
BAKER and MARY BAKER, husband and
wife; JOE SCIUCHETTI, a single man;
ANTONIO YACOMELLA and M.S. ANTONIO
YACOMELLA, husband and wife; LEO
BRICKER and JERRY BRICKER, husband
and wife; V. C. BRICKER, a single man;
DAVE BRICKER and LEO BRICKER, husband
and wife; and RHODA TRY,
husband and wife.

Plaintiffs.

GIAMPIRO DRAGLIA, BERNARDO, a single man;

V. CARMAN, a widow; MARION PEEL and
LUCY PEEL, husband and wife; DAISY PAP-
WORTH, a widow; and ANTHONY BRICKER and
JACKIE BRICKER, husband and wife,

Defendants.

NOTICE IS HEREBY GIVEN: That an action has been commenced
in the above entitled Court by the above named plaintiffs against
the above named defendants for the purpose of decreeing the
waters of the East Fork of the Salmon River and the tributaries
of the East Fork of the Salmon River except Road Creek; and that
the water to be decreed and the premises to be affected by this
suit are all situated in the said County of Custer, State of Idaho,
and are specifically described in the plaintiffs' complaint on
file in the above action in the office of the Clerk of said County.

Dated this 15th day of April, 1937

Max L. Drake
Attorney for plaintiffs
Residence and P. O. Address:
Challis, Idaho

EXHIBIT E

IN THE DISTRICT COURT OF THE SIXTH JUDICIAL DISTRICT OF THE
STATE OF IDAHO, IN AND FOR CUSTER COUNTY.

ROSA A. GOSSI and FRED GOSSI,	0	
husband and wife; HATTIE BAKER,	)	
a widow; MARCO YACOMELLA, a single	)	
man; GEORGE M., MARY C., and NETTA	)	
C. YACOMELLA, all single persons;	)	
CATERINA PEDRINI, a widow; ELLIS	)	
M. BAKER and MARY BAKER, husband	)	
and wife; JOE SCIUCHETTI, a single man;	)	
ANTONIO YACOMELLA and MRS. ANTONIO	)	
YACOMELLA, husband and wife; LEO	)	
BRICKER and JERRY BRICKER, husband	)	
and wife; L. V. CAROTHERS, a single	)	
man; DAVE BRICKER and EDNA BRICKER,	)	
husband and wife; and ELMER FRY and	)	
RHODA FRY, husband and wife,	)	
Plaintiffs,	)	ANSWER AND CROSS-
	)	COMPLAINT
vs.	)	
GIAMPEDRAGLIA BERNARDO, a single man;	)	
VIRGIL GOSSI, a single man; RAYMOND	)	
GOSSI and EVA GOSSI, husband and wife;	)	
FREDOLIN LEUZINGER, a single man; ROSA	)	
V. CARMAN, a widow; MARION PEEL and	)	
LUCY PEEL, husband and wife; DAISY PAP-	)	
WORTH, a widow; and ANTHONY BRICKER and	)	
JACKIE BRICKER, husband and wife,	)	
Defendants.	)	

Comes now Paul Giampedraglia and Mabel Giampedraglia, husband and wife, Louie Giampedraglia and Viola Giampedraglia, husband and wife, all successors in interest of Giampedraglia Bernardo, defendant Giampedraglia Bernardo, successor in interest to Daisy Papworth; herein; Virgil Gossi, a single man; Raymond and Eva Gossi, husband and wife; Fredolin Leuzinger, a single man, Rosa V. Carman, a widow; Marion Peel and Lucy Peel, husband and wife; Anthony Bricker and Jackie Bricker, husband and wife; and Rose Nowacki as a successor in interest to Raymond Gossi and Eva Gossi, defendants in the above entitled action, and for answer to the complaint on file in this action, admit, deny and allege as follows:

I.

The defendants admit the allegations contained in paragraphs 1, 2, 3, 4, 5, 6, 7, 8, 9, 10, 11, 12, 13, 14, 15, 16, and 17.

II.

These defendants have no knowledge, information or belief

sufficient to enable them to answer paragraphs 18, 19, 20, 21, 22, 23, 24, 25, 26, 27, 28, 29, 30 and 31, and placing their denial thereon, they deny each and every allegation contained in said paragraphs in said complaint.

III.

The defendants admit the allegations contained in paragraphs 32, 33 and 34.

IV.

Answering paragraph 35 of the plaintiffs' complaint, these defendants admit that each of them claim an interest in said waters so appropriated and used by these plaintiffs and their predecessors in interest, but deny that such claim is without right and deny that the plaintiffs are entitled to the exclusive use and possession of said water as set forth in their complaint.

CROSS COMPLAINT

And further answering said complaint, and by way of cross-complaint against the said plaintiffs, and each and every of them, these said defendants and cross-complainants allege:

I.

That the parties defendant are of the marital status as shown in the caption of this answer and cross complaint.

II.

That Paul and Mabel Giampedraglia, husband and wife, and Louie and Viola Giampedraglia, husband and wife, are successors in interest of Giampedraglia Bernardo; and that Rose Nowacki is a successor in interest as to a portion of the property owned by Raymond Gossi and Eva Gossi, at the time of filing the complaint in said action.

III.

That there is no controversey or dispute between these answering defendants as to the amount or priority of use of the waters of East Fork and its tributaries, as hereinafter alleged; the defendants and cross-complainants, Raymond Gossi, Rosa V. Carman, Fredolin Leuzinger, Paul Giampedraglia and Mabel Giampedraglia, Louie Giampedraglia

and Viola Giampedraglia, plaintiffs or successors in interest to plaintiffs therein, and Virgil Gossi, successor in interest to the defendant therein, being all of the parties to said suit, allege, that a certain decree made and entered on the third day of August, 1933 and of record in Book 3 of Judgments at page 350, records of Custer County, Idaho, in a suit entitled "RAYMOND GOSSI, ROSA V. CARMEN, FRIDOLIN LEUZINGER, and GIAMPEDRAGLIA BERNARDO, Plaintiffs, vs. PHILLIP GOSSI, Defendant", does not correctly set forth the amounts of water appurtenant to their respective tracts of land, nor does it correctly set forth the respective dates of priority or appropriation thereof and that the correct amounts of water and dates of priority appurtenant to their respective lands are as hereinafter set forth in this cross complaint.

IV.

That the East Fork of the Salmon River, and its tributaries hereinafter named, is a tributary of the Salmon River, all within the County of Custer, State of Idaho.

V.

That the cross-complainants, Paul Giampedraglia and Mabel Giampedraglia, husband and wife, are the owners in fee simple of the following described land situated in Custer County, Idaho, to-wit:

N $\frac{1}{2}$ SW $\frac{1}{4}$, SW $\frac{1}{4}$ NW $\frac{1}{4}$, Section 26; SE $\frac{1}{4}$ NE $\frac{1}{4}$, NE $\frac{1}{4}$ SE $\frac{1}{4}$, Section 27, Township 11 North, Range 18 East Boise Meridian. Together with certain water rights as hereinafter alleged.

VI.

That the cross-complainants, Louie Giampedraglia and Viola Giampedraglia, husband and wife, are the owners in fee simple, of the following described land, situated in the County of Custer, State of Idaho, to-wit:

S $\frac{1}{2}$ SW $\frac{1}{4}$, Section 26; N $\frac{1}{2}$ NW $\frac{1}{4}$, SE $\frac{1}{4}$ NW $\frac{1}{4}$, Section 35, Township 11, North, Range 18, East Boise Meridian. Together with certain water rights as hereinafter alleged.

VII.

That the cross-complainant, Virgil Gossi, is the owner, in fee simple, of the following described land, situated in the County of

Custer, State of Idaho, to-wit:

NE $\frac{1}{4}$ SW $\frac{1}{4}$, W $\frac{1}{2}$ SE $\frac{1}{4}$, SE $\frac{1}{4}$ SE $\frac{1}{4}$, Section 35, Township 11 North, Range 18, East Boise Meridian. Together with certain water rights as hereinafter alleged.

VIII.

That the cross-complainants, Raymond Gossi and Eva Gossi, husband and wife, are the owners in fee simple, of the following described land, situated in the County of Custer, State of Idaho, to-wit:

Lot 4, S $\frac{1}{2}$ NW $\frac{1}{4}$, N $\frac{1}{2}$ SW $\frac{1}{4}$, SE $\frac{1}{4}$ SW $\frac{1}{4}$, SW $\frac{1}{4}$ SE $\frac{1}{4}$, Section 1; NW $\frac{1}{4}$ NE $\frac{1}{4}$ Section 12, all in Township 10 North, Range 18, East Boise Meridian. Together with certain water rights as hereinafter alleged.

IX.

That the cross-complainant, Rosa V. Carman, is the owner, in fee simple, of the following described land, situate in the County of Custer, State of Idaho, to-wit:

SW $\frac{1}{4}$ NE $\frac{1}{4}$, W $\frac{1}{2}$ SE $\frac{1}{4}$, SE $\frac{1}{4}$ SW $\frac{1}{4}$, Section 12; and 28.64 acres in the NE $\frac{1}{4}$ NW $\frac{1}{4}$, Section 13, all in Township 10 North Range 18 East Boise Meridian. Together with certain water rights as hereinafter alleged.

X.

That the cross-complainant, Fredolin Leuzinger, is the owner, in fee simple, of the following described land, situate in the County of Custer, State of Idaho, to-wit:

11.36 acres in the NE $\frac{1}{4}$ NW $\frac{1}{4}$; all of S $\frac{1}{2}$ NW $\frac{1}{4}$, N $\frac{1}{2}$ SW $\frac{1}{4}$, SW $\frac{1}{4}$ SW $\frac{1}{4}$, Section 13; NW $\frac{1}{4}$, NW $\frac{1}{4}$ NE $\frac{1}{4}$, NE $\frac{1}{4}$ SW $\frac{1}{4}$, Section 24, all in Township 10 North, Range 18, East Boise Meridian. Together with certain water rights as hereinafter alleged.

XI.

That the cross-complainants, Marion Peel and Lucy Peel, husband and wife, are the owners, in fee simple, of the following described land, situated in the County of Custer, State of Idaho, to-wit:

SW $\frac{1}{4}$ SE $\frac{1}{4}$, SE $\frac{1}{4}$ SW $\frac{1}{4}$, Section 15; W $\frac{1}{2}$ NE $\frac{1}{4}$, E $\frac{1}{2}$ NW $\frac{1}{4}$, NW $\frac{1}{4}$ SE $\frac{1}{4}$, NE $\frac{1}{4}$ SW $\frac{1}{4}$, Section 22, all in Township 9 North, Range 17 East Boise Meridian. Together with certain water rights as herein-after alleged.

XII.

That the cross-complainants, Anthony Bricker and Jackie Bricker, husband and wife, are the owners, in fee simple, of the following described land situated in the County of Custer, State of Idaho, to-wit:

SE $\frac{1}{4}$ SW $\frac{1}{4}$, SW $\frac{1}{4}$ SE $\frac{1}{4}$, Section 4; NE $\frac{1}{4}$ NW $\frac{1}{4}$, NW $\frac{1}{4}$ NE $\frac{1}{4}$, Section 19, Township 8 North, Range 17 East Boise Meridian. Together with certain water rights as hereinafter alleged.

XIII.

That the cross-complainant, Rose Nowacki, is the owner, in fee simple, of the following described lands, situated in the County of Custer, State of Idaho, to-wit:

That the cross-complainant, Giampedraglia Bernardo, is the owner, in fee simple, of the following described lands, situate in the County of Custer, State of Idaho, to-wit:
SW $\frac{1}{4}$ NE $\frac{1}{4}$, Section 35, Township 11 North, Range 18, E. B. M., together with certain water rights as hereinafter alleged.

plainants, hereinabove described, are arid in character and require the artificial use of water thereon to produce profitable and agricultural crops, and that $1\frac{1}{2}$ miner's inches per acre is necessary for the profitable and successful cultivation thereof.

XV.

That on or about the tenth day of May, 1880, the said defendants and cross-complainants, Paul Giampedraglia and Mabel Giampedraglia, and their predecessors in interest, appropriated from the East Fork of the Salmon River 150 miner's inches or 3 cubic feet per second of time of the waters of said stream, and by means of dams and ditches of sufficient capacity to convey the same, converted said quantity of water from said stream to and upon the lands now belonging to the said Paul Giampedraglia and Mabel Giampedraglia, for the purpose of irrigating the same, and have continued to so appropriate and convert said waters and apply the same to said lands to said beneficial use from that time hitherto; and that on or about the first day of May, 1936, the said defendants, and cross-complainants, Paul Giampedraglia and Mabel Giampedraglia, and their predecessors in interest, appropriated from the East Fork of the Salmon River, 20 miner's inches or .4 cubic feet per second of time of the waters of said stream, and by means of dams and ditches of sufficient capacity to convey the same, converted

said quantity of water from said stream to and upon said lands now belonging to them for the purpose of irrigating the same, and have continued to so appropriate and convert said water and apply the same to said lands to said beneficial use from that time hitherto.

XVI.

That on or about the tenth day of May, 1880, the said defendants and cross-complainants, Louie Giampedraglia and Viola Giampedraglia, and their predecessors in interest, appropriated from the East Fork of the Salmon River 150 miner's inches or 3 cubic feet per second of time of the waters of said stream, and by means of dams and ditches of sufficient capacity to convey the same, converted the said quantity of water from said stream, to and upon the said lands now belonging to the said Louie Giampedraglia and Viola Giampedraglia, for the purpose of irrigating the same, and have continued to so appropriate and convert said waters and apply the same to the said lands to the said beneficial use from that time hitherto; and that on or about the first day of May, 1936, the said defendants and cross-complainants, Louie Giampedraglia and Viola Giampedraglia, and their predecessors in interest, appropriated from the East Fork of the Salmon River, 20 miner's inches or .4 cubic feet per second of time of the waters of said stream, and by means of dams and ditches of sufficient capacity to convey the same, converted the said quantity of water from said stream to and upon the said lands now belonging to the said Louie Giampedraglia and Viola Giampedraglia, for the purpose of irrigating the same, and have continued to so appropriate and convert said waters and apply the same to said lands to said beneficial use from that time hitherto.

XVII.

That on or about the first day of April, 1881, the said defendant and cross-complainant, Virgil Gossi, and his predecessors in interest, appropriated from the East Fork of the Salmon River 180 miner's inches or 3.6 cubic feet per second of time of the waters of said stream, and by means of dams and ditches of sufficient capacity to convey the same, converted the said quantity of water from said

stream to and upon the said lands now belonging to the said Virgil Gossi, for the purpose of irrigating the same, and have continued to so appropriate and convert said waters and apply the same to said lands to said beneficial use from that time hitherto; and that on or about the first day of May, 1936, the said defendant and cross-complainant, Virgil Gossi, appropriated from the East Fork of the Salmon River, 30 miner's inches or .6 cubic feet per second of time of the waters of said stream, and by means of dams and ditches of sufficient capacity to convey the same, converted the said quantity of water, from said stream, to and upon the said lands now belonging to the said Virgil Gossi, for the purpose of irrigating the same, and have continued to so appropriate and convert said waters and apply the same to said lands to said beneficial use from that time hitherto.

XVIII.

That on or about the first day of May, 1880, the said defendants and cross-complainants, Raymond Gossi and Eva Gossi, and their predecessors in interest, appropriated from the East Fork of the Salmon River, 240 miner's inches or 4.8 cubic feet per second of time of the waters of said stream, and by means of dams and ditches of sufficient capacity to convey the same, converted the said quantity of water from said stream to and upon the said lands now belonging to the said Raymond Gossi and Eva Gossi, for the purpose of irrigating the same, and have continued to so appropriate and convert said waters and apply the same to said lands to said beneficial use from that time hitherto; and that on or about the first day of May, 1936, the said defendants and cross-complainants, Raymond Gossi and Eva Gossi, appropriated from the East Fork of the Salmon River, 25 miner's inches or .5 cubic feet per second of time of the waters of said stream, and by means of dams and ditches of sufficient capacity to carry the same, converted the said quantity of water from said stream to and upon the said lands now belonging to the said Raymond Gossi and Eva Gossi, for the purpose of irrigating the same, and have continued to so appropriate and convert said waters and apply the same to said lands to said beneficial use from that time hitherto.

XIX.

That on or about the first day of May, 1885, the said defendant and cross-complainant, Rosa V. Carman, and her predecessors in interest, appropriated from the East Fork of the Salmon River, 66 miner's inches or 1.32 cubic feet per second of time of the waters of said stream, and by means of dams and ditches of sufficient capacity to convey the same, converted the said quantity of water from said stream, to and upon the said lands now belonging to the said Rosa V. Carman, for the purpose of irrigating the same, and have continued to so appropriate and convert said waters and apply the same to said lands to said beneficial use from that time hitherto; and that on or about the first day of May, 1936, the said defendant and cross-complainant, Rosa V. Carman, appropriated from the East Fork of the Salmon River, 15 miner's inches or .3 cubic feet per second of time of the waters of said stream, and by means of dams and ditches of sufficient capacity to convey the same, converted said quantity of water from said stream, to and upon said lands now belonging to the said Rosa V. Carman, for the purpose of irrigating the same, and have continued to so appropriate and convert said waters and apply the same to said lands to said beneficial use from that time hitherto.

XX.

That on or about the first day of May, 1880, the said defendant and cross-complainant, Fredolin Leuzinger, and his predecessors in interest, appropriated from the East Fork of the Salmon River, 400 miner's inches or 8 cubic feet per second of time of the waters of said stream, and by means of dams and ditches of sufficient capacity to convey the same, converted said quantity of water from said stream, to and upon the said lands now belonging to the said Fredolin Leuzinger for the purpose of irrigating the same, and have continued to so appropriate and convert said waters and apply the same to said lands to said beneficial use from that time hitherto.

XXI.

That on or about the first day of May, 1920, the said defendants and cross-complainants, Marion Peel and Lucy Peel, appropriated from the Little Boulder Creek, a tributary of the East Fork of the Salmon River, 30 miner's inches or .6 cubic feet per second of time of the waters of said stream, and by means of dams and ditches of sufficient capacity to convey the same, converted the said quantity of water from said Little Boulder Creek, ^{to and upon the lands now} belonging to the said Marion Peel and Lucy Peel, for the purpose of irrigating the same, and have continued to so appropriate and convert said waters and apply the same to said lands to said beneficial use from that time hitherto; and that on or about the first day of May, 1936, the said defendants, and cross-complainants, Marion Peel and Lucy Peel, appropriated from the East Fork of the Salmon River 65 miner's inches or 1.3 cubic feet per second of time of the waters of said stream, and by means of dams and ditches of sufficient capacity to convey the same, converted the said quantity of water from said stream to and upon the said lands now belonging to the said Marion Peel and Lucy Peel, for the purpose of irrigating the same, and have continued to so appropriate and convert said waters and apply the same to said lands to said beneficial use from that time hitherto.

XXII.

That on or about the first day of August, 1925, the said defendants and cross-complainants, Anthony Bricker and Jackie Bricker, appropriated from the East Fork of the Salmon River, 60 miner's inches or 1.2 cubic feet per second of time of the waters of said stream, and by means of dams and ditches of sufficient capacity to convey the same, converted the said quantity of water from said stream to and upon the said lands now belonging to the said Anthony Bricker and Jackie Bricker, for the purpose of irrigating the same, and have continued to so appropriate and convert said waters and apply the same to said lands to said beneficial use from that time hitherto.

XXIII.

That on or about the first day of May, 1926, the said defendant, and cross-complainant, Rose Nowacki, and her predecessors in interest,

XXIII-A.

appropriated from West Pass Creek, a tributary of the East Fork of the Salmon River and the East Fork of the Salmon River, 80 miner's inches or 1.2 cubic feet per second of time of the waters of said stream, in interest, appropriated from the East Fork of the Salmon River, and by means of dams and ditches of sufficient capacity to convey 15 miner's inches or .3 cubic feet per second of time of the waters of said stream, converted said quantity of water from said stream, to and upon the said lands now belonging to the said Rose Nowacki, for the purpose of irrigating the same, and have continued to so appropriate and convert the said water and apply the same to said lands to said beneficial use from that time hitherto.

That on or about the first day of May, 1885, the said defendant and cross-complainant, Giampedraglia Bernardo, and his predecessors in interest, appropriated from the East Fork of the Salmon River, 15 miner's inches or .3 cubic feet per second of time of the waters of said stream, and by means of dams and ditches of sufficient capacity to convey the same, converted said quantity of water from said stream, to and upon the said lands now belonging to the said Giampedraglia Bernardo for the purpose of irrigating the same, and have continued to so appropriate and convert the said water and apply the same to said lands to said beneficial use from that time hitherto.

That on or about the first day of May, 1926, the said defendant and cross-complainant, Rose Nowacki, and her predecessors in interest, appropriated from the West Pass Creek, a tributary of the East Fork of the Salmon River,

83 miner's inches of 1.66 cubic feet per second of time of the waters of said stream, and by means of dams and ditches of sufficient capacity to convey the same, converted the said quantity of water from said stream, to and upon the said lands now belonging to the said Rose Nowacki, for the purpose of irrigating the same, and have continued to so appropriate and convert said waters and apply the same to said lands to said beneficial use from that time hitherto.

XXIV.

That the plaintiffs herein, and each of them, claim an interest in the said waters so appropriated and used by these cross-complainants and their predecessors in interest, but that such claim on the part of the plaintiffs is without right and these cross-complainants are entitled to the exclusive use and possession of said waters, as hereinbefore set forth, for the irrigation of said lands.

XXV.

That the plaintiffs threaten to interfere with these cross-complainants in the free use and enjoyment of said water rights so acquired and now owned by them, and unless the plaintiffs are re-

strained by an order of this Court, the plaintiffs will continue to assert a right to the use of said waters and will interfere with these cross-complainants in the free use and enjoyment of their said water rights, to which they are entitled;

XXVI.

Cross-complainants have no plain, speedy or adequate remedy at law.

WHEREFORE, These answering defendants and cross-complainants pray for judgment and decree of this court.

1.

Quieting the title to the waters of the East Fork of the Salmon River and its tributaries mentioned in the complaint and in this cross-complaint, and determining the rights of all the parties hereto and to said waters and the use of the waters of said East Fork of Salmon River and its tributaries, as described in the pleadings herein.

2.

That the decree mentioned in paragraph three of this cross-complaint be modified to show the rights of the parties thereto to be as in this cross complaint alleged.

3.

That these answering defendants, under their cross-complaint herein, have a judgment and decree of this court awarding to them the amount and quantity of water so appropriated, diverted and used by them as hereinbefore in their cross-complaint set forth, and that the rights of these defendants and cross-complainants are superior to the rights of the plaintiffs and each of them in and to the waters of said East Fork of the Salmon River and its tributaries;

4.

That the plaintiffs, and each of them, be restrained by an order of this Court from obstructing in any manner, or to any extent, or from in any manner or to any extent, interfering with the flow of the waters of said East Fork of the Salmon River and its tributaries,

to or through the ditches of these answering defendants and cross-complainants, to the full extent of the water claimed by them in their cross complaint herein, and for an order of the Court requiring said plaintiffs, and each of them, to remove, or cause to be removed, any and all obstructions maintained or used by any of them to the flow of the waters of said East Fork of the Salmon River, or any of its tributaries, to the ditches of these answering defendants and cross-complainants, and to cease any and all obstructions, to or interference with the ditches belonging to these answering defendants and cross-complainants, or any of them;

5.

These defendants and cross-complainants pray for such other and further relief as the foregoing facts may warrant and such as to the court may seem just and equitable, and, upon the final determination of this action, perpetual restraining order and injunction may be made herein;

6.

These defendants and cross complainants pray for their costs herein incurred and for all general relief.

Y. P. Thatcher
Attorney for defendants and cross-complainants, Residence and P. O. address: Salmon, Idaho

STATE OF IDAHO }
County of Custer } ss.

Raymond Gossi, being first duly sworn, deposes and says that he is one of the defendants and cross-complainants in the above entitled action and that he makes this verification for himself and on behalf of the other defendants and cross-complainants; that he has read the foregoing Answer and Cross-complaint in this action, knows the contents thereof and believes the facts therein

set forth to be true.

Raymond Graci

Subscribed and sworn to before me this 16th day of February,
1938.

Merle L. Drake
Notary Public residing at Challis,
Idaho. My commission expires:
3/1/38

DISTRICT COURT
CHALLIS, IDAHO

CHIEF CLERK
IN and out
of the Court

Deputy

Witness

EXHIBIT F

IN THE DISTRICT COURT OF THE SIXTH JUDICIAL DISTRICT OF THE
STATE OF IDAHO, IN AND FOR THE COUNTY OF CUSTER.

ROSA A. GOSSI and FRED GOSSI,
husband and wife; HATTIE BAKER, a
widow; MARCO YACOMELLA, a single
man; GEORGE M., MARY C., and NETTIE
C. YACOMELLA, all single persons;
CATERINA PEDRINI, a widow; ELLIS M.
BAKER and MARY BAKER, husband and
wife; JOE SCIUCHETTI, a single man;
ANTONIO YACOMELLA and MRS. ANTONIO
YACOMELLA, husband and wife; LEO
BRICKER and JERRY BRICKER, husband
and wife; L. V. CAROTHERS, a single
man; DAVE BRICKER and EDNA BRICKER,
husband and wife; and ELMER FRY and
RHODA FRY, husband and wife,

Plaintiffs,

STIPULATION

vs.

PAUL GIAMPEDRAGLIA and MABEL GIAMPED-
RAGLIA, husband and wife and LOUIE
GIAMPEDRAGLIA and VIOLA GIAMPEDRAGLIA,
husband and wife, successors in interest
to GIAMPEDRAGLIA BERNARDO; VIRGIL GOSSI,
a single man; RAYMOND GOSSI and EVA
GOSSI, husband and wife; ROSE NOWACKI,
a successor in interest of RAYMOND GOSSI
and EVA GOSSI; FREDOLIN LEUZINGER, a
single man; ROSA V. CARMAN, a widow;
MARION PEEL and LUCY PEEL, husband and
wife; DAISY PAPWORTH, a widow; and AN-
THONY BRICKER and JACKIE BRICKER, hus-
band and wife,

Defendants.

Whereas, a certain decree of this court was made and entered
on the third day of August, 1933 and thereafter recorded in Book 3
of Judgments at page 350, records of Custer County, Idaho, wherein
Raymond Gossi, Rosa V. Carman, Fredolin Leuzinger, and Giampedraglia
Bernardo were plaintiffs and Phillip Gossi was defendant, and where-
as it now appears from said decree and the facts set forth in the
Complaint, Answer and Cross-complaint herein that said decree so made
and entered was in many respects erroneous and did not provide for the
proper quantities of water appurtenant to the lands therein described,
nor proper dates of priority and appropriation of said water and
did not include all of the lands and waters of the parties thereto,
and it further appearing that in order to determine all the rights

of the parties to this action, it will be necessary that said decree be modified and corrected in accordance with the Complaint, Answer and Cross-complaint on file in this action, and the parties to said decree or their successors, having consented in their Answer and Cross-complaint herein that said decree be modified and corrected in the manner and to the extent in said Answer and Cross-complaint set forth.

It is hereby stipulated and agreed by and between the attorneys for the respective parties that that certain decree of this court made and entered on the third day of August, 1938 and recorded in Book 3 of Judgments at page 350, records of Ouster County, Idaho, wherein Raymond Gossi, Rosa V. Carman, Fredolin Gensinger and Giampedraglia Bernardo were plaintiffs and Phillip Gossi was defendant, may be modified and corrected in accordance with the Answer and Cross-complaint on file in this action.

Dated this 14th day of February, 1938.

Mercer L. Drake
Attorney for Plaintiffs

Preston Thatcher
Attorney for Defendants.

and that Giampedraglia Bernardo be substituted in the place of the defendant Daisy Papworth.

Dated this 14th day of February, 1938.

Sam Litwansky
District Judge

RECEIVED
FEB 15 1938
U.S. DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK
CLERK OF COURT
BY
JAMES J. CONNELLEY
CLERK

L. Drake, attorney for the plaintiffs in said action and Preston Thatcher, attorney for the defendants in said action and their successors, that Paul Giampedraglia and Mabel Giampedraglia, husband and wife, and Louie Giampedraglia and Viola Giampedraglia, husband and wife, may be substituted as defendants herein in the place of Giampedraglia Bernardo, that Rose Nowacki may be substituted as a party defendant herein, insofar as the property conveyed to her by Raymond Gossi and Eva Gossi is concerned, and that Giampedraglia Bernardo may be substituted as defendant herein in the place of Daisy Papworth.

Dated this fourteenth day of February, 1938.

M. L. Drake
Attorney for Plaintiffs

Preston Thatcher
Attorney for Defendants and their
successors in interest.

IN THE DISTRICT COURT OF THE SIXTH JUDICIAL DISTRICT OF THE
STATE OF IDAHO, IN AND FOR THE COUNTY OF CUSTER.

ROSA A. GOSSI and FRED GOSSI,
husband and wife; HATTIE BAKER, a
widow; MARCO YACOMELLA, a single
man; GEORGE M., MARY C., and NETTA
C. YACOMELLA, all single persons;
CATERINA PEDRINI, a widow; ELLIS M.
BAKER and MARY BAKER, husband and
wife; JOE SCIUCHETTI, a single man;
ANTONIO YACOMELLA and MRS. ANTONIO
YACOMELLA, husband and wife; LEO
BRICKER and JERRY BRICKER, husband
and wife; L. V. CAROTHERS, a single
man; DAVE BRICKER and EDNA BRICKER,
husband and wife; and ELMER FRY and
RHODA FRY, husband and wife,

Plaintiffs,

vs.

STIPULATION

PAUL GIAMPEDRAGLIA and MABEL GIAMPED-
RAGLIA, husband and wife and LOUIE
GIAMPEDRAGLIA and VIOLA GIAMPEDRAGLIA,
husband and wife, successors in interest
to GIAMPEDRAGLIA BERNARDO; VIRGIL GOSSI,
a single man; RAYMOND GOSSI and EVA
GOSSI, husband and wife; ROSE NOWACKI,
a successor in interest of RAYMOND GOSSI
and EVA GOSSI; FREDOLIN LEUZINGER, a
single man; ROSA V. CARMAN, a widow;
MARION PEEL and LUCY PEEL, husband and
wife; DAISY PAPWORTH, a widow; and AN-
THONY BRICKER and JACKIE BRICKER, hus-
band and wife,

Defendants.

It is hereby stipulated and agreed, by and between the attor-
neys for the respective parties to the above entitled action, that
the ownership and description of the lands; quantities of water ap-
purtenant thereto; and dates of priority^{are} as set forth in the propo-
sed Decree, herewith tendered to the court; that Findings of Fact
and Conclusions of Law in said action are hereby waived; and that
pursuant to this stipulation and other stipulations on file in this
action, the Decree may be made and entered in this action without further
notice to any of the parties.

Dated this 14th day of February, 1935.

Wm. J. ...
Attorney for Plaintiff.

James H. ...
Attorney for Defendant.

Case No. 1335
DISTRICT COURT

of the
Sixth Judicial District
in and for
CUSTER COUNTY.

vs.
Plaintiff.

Defendant.

Filed this 14th day of

Feb. 14 D. 1935

James H. ...
Clerk.

John ...
Deputy.

Attorney for

finds that the decree should be entered in accordance with the stipulation on file herein,

WHEREFORE, IT IS ORDERED, ADJUDGED AND DECREED as follows:

1. That the creeks named and mentioned in the decrees herein, are all tributaries of the East Fork of the Salmon River, and said East Fork of the Salmon River and its tributaries lie within the boundary of Custer County, State of Idaho.
2. That each and every of the tracts of land described in the complaint and answer and cross-complaint in this action, belonging to the several parties plaintiff and defendant herein, are arid in character and will not successfully raise any crops without the artificial application of water thereon by irrigation thereof, and that all of said lands are susceptible of irrigation from the East Fork of the Salmon River and its tributaries.
3. That 1 1/2 inches of water per acre, or its equivalent in cubic feet per second of time, is necessary and ample for the proper irrigation of said land.
4. That the dams and diverting works of the several parties to this action were at the time of the several appropriations, and are now, of sufficient size and capacity to carry and convey water so appropriated to and upon the several tracts of land of the said several parties for the irrigation thereof, and that each and every of said several tracts of land are situated in Custer County, State of Idaho.
5. That each of the parties to this action, plaintiffs and defendants hereinafter named, or their predecessors in interest, were at the time of the several appropriations of water, made as herein-after set forth, the owners respectively of the several tracts of land set forth and described in the complaint, answer and cross-complaint and stipulation on file herein, and that for the irrigation of the same, the said parties, or their predecessors in interest, did respectively appropriate the quantities of water hereinafter stated, and on the dates and from the streams respectively hereinafter stated, and

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set opposite the names of each of said parties, such water being an estimate under a four inch pressure or its equivalent in cubic feet per second of time, and ever since said dates of the said several appropriations, said waters have been so diverted and used on said lands in the irrigation thereof.

6. That the certain decree of this Court made and entered on the third day of August, 1933 and of record in Book 3 of Judgments at page 350, records of Ouster County, Idaho wherein Raymond Gossi, Rosa V. Carmen, Fredolin Leuzinger and Giampedraglia Bernardo were plaintiffs and Philip Gossi was defendant, pursuant to the consent of all the parties to said action or their successors, and the consent of all parties to this action as shown by the pleadings and stipulation of counsel in this action, is hereby modified and corrected as to the quantities of water and dates of priority of appropriation thereof, in the manner and to the extent as in paragraph seven herein set forth.

7. That the following named persons, parties to this suit, are entitled to the uninterrupted use of the flow of the waters of East Fork of the Salmon River and its tributaries, forks, branches, springs and streams, hereinafter named, upon the lands mentioned and described in the complaint, answer and cross-complaint and stipulations on file herein and appurtenant to said lands as hereinafter specified, in the following amounts and from the following dates, to-wit:

That ROSA A. GOSSI and FRED GOSSI are the owners of Lots 1 and 2, Section 3, Township 9 North Range 18, E. B. M.; NW1/4, Section 26; NE1/4, Section 26; SE1/4, Section 34; SW1/4, Section 35, all in Township 10 North, Range 18, E. B. M., and appurtenant to said land they are entitled to .4 cubic feet per second of time of the waters of Kerd Creek with date of priority May 1, 1885; .2 cubic feet per second of time of the waters of McDonald Creek with date of priority May 1, 1885; .2 cubic feet per second of time of the waters of Fox Creek with date of priority May 1, 1885; 5.2 cubic feet per second of time of the waters of East Fork of the Salmon River with date of priority May 1, 1885; and .3 cubic feet per second of time of the waters of the East Fork of Salmon River with date of priority May 1, 1936, and with points of diversion in the NE1/4, Section 2; SE1/4, NE1/4, Section 3, all in Township 9 North, Range 18, E. B. M. and NW1/4, SE1/4, NE1/4, NW1/4, Section 35, all in Township 10 North, Range 18, E. B. M.

72-0190

72-0191

72-0192

72-0193

72-0194

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72-0195 That HATTIE BAKER is the owner of SW¹/₄ NW¹/₄, Section 27, Township 9 North, Range 17, E. B. M., and appurtenant to said land, she is entitled to 1.2 cubic feet per second of time of the waters of the East Fork of the Salmon River with date of priority May 1, 1915, with point of diversion in the SE¹/₄ NW¹/₄, Section 27, Township 9 North, Range 17, E. B. M.

72-0196 That MARCO YACONELLA is the owner of Lots 1 and 2, Section 4, Township 9 North, Range 18, E. B. M., and Lots 3 and 4, Section 33, Township 10 North, Range 18, E. B. M.; and appurtenant to said land, he is entitled to 1.2 cubic feet per second of time of the waters of the East Fork of the Salmon River with date of priority May 1, 1895 and he is also entitled to 1.2 cubic feet per second of time of the waters of said East Fork of the Salmon River with date of priority May 1, 1936, with point of diversion in Lot 3, Section 4, Township 9 North, Range 18, E. B. M.

72-0198 That GEORGE M. MARY C., and NETTA C. YACONELLA are the owners of Lot 4, Section 4, Township 9 North, Range 18, E. B. M.; SE¹/₄ SW¹/₄, Section 32, Lot 4, Section 33, all in Township 10 North, Range 18, E. B. M.; and appurtenant to said land they are entitled to 1.5 cubic feet per second of time of the waters of Lake Creek with date of priority May 1, 1895 and with point of diversion in the SE¹/₄ NE¹/₄, Section 32, Township 10 North, Range 18, E. B. M.; and are entitled to 1.5 cubic feet per second of time of the waters of the East Fork of the Salmon River with date of priority May 1, 1895 with point of diversion in the SE¹/₄ SW¹/₄, Section 31, Township 10 North, Range 18, E. B. M.; and 1.3 cubic feet per second of time of the waters of the East Fork of Salmon River with date of priority May 1, 1936, with point of diversion in the SE¹/₄ SE¹/₄, Section 31, Township 10 North, Range 18, E. B. M.

72-0201 That CATERINA PEDRINI is the owner of Lot 4, Section 5; Lots 1, 2 and 3, Section 6, Township 9 North, Range 18, E. B. M.; Lot 4, SE¹/₄ SW¹/₄, SE¹/₄ SE¹/₄, Section 31, Township 10 North, Range 18, E. B. M.; and appurtenant to said land she is entitled to 4.5 cubic feet per second of time of the waters of the East Fork of Salmon River and Pine Creek, with date of priority May 1, 1888, and 1.5 cubic feet per second of time of the waters of the East Fork of the Salmon River with date of priority May 1, 1936, and with points of diversion in Lot 4, Section 31, Township 10 North, Range 18, E. B. M.; and SE¹/₄ NE¹/₄, Section 6, Township 9 North, Range 18, E. B. M.

72-0203 That ELLIS M. BAKER and MARY BAKER are the owners of Lot 4, Section 6, Township 9 North, Range 18, E. B. M.; Lots 1 and 2, SW¹/₄ NE¹/₄, Section 1, Township 9 North, Range 17, E. B. M.; and appurtenant to said land they are entitled to 2.0 cubic feet per second of time of the waters of the East Fork of the Salmon River with date of priority May 1, 1885 with points of diversion in SW¹/₄ NE¹/₄, Section 1, Township 9 North, Range 17, E. B. M.

72-0204 That ELLIS M. BAKER and MARY BAKER are the owners of SW¹/₄ NW¹/₄, Section 14; Lots 1, 5, 6 and 7, Section 15, Township 9 North, Range 17, E. B. M.; and appurtenant to said land they are entitled to 1.2 cubic feet per second of time of the waters of the East Fork of the Salmon River and Boulder Creek with date of priority May 1, 1911; and .6 cubic feet per second of time of the waters of said East Fork of the Salmon River and Boulder Creek with date of priority May 1, 1936 and with points of diversion in the SW¹/₄ SW¹/₄, Section 10, SW¹/₄ SE¹/₄, Section 15 all in Township 9 North, Range 17, E. B. M.

72-0206 That JOE SCIUCHETTI, ANTONIO YACONELLA and MRS. ANTONIO YACONELLA are the owners of SW¹/₄ NW¹/₄, SW¹/₄ SE¹/₄, NE¹/₄ SW¹/₄, Section 11, Township 9 North, Range 17, E. B. M.; and appurtenant to said land they are entitled to .3 cubic feet per second of time of the waters of Boulder Creek; .1 cubic feet per second of time of the

72-0208 waters from Baker Basin Creek; .1 cubic feet per second of time of
 72-0209 the waters of Bluit Creek; and 2.3 cubic feet per second of time of
 the waters of East Fork of the Salmon River, all with date of priority
 72-0210 May 1, 1896 and .8 cubic feet per second of time of the waters of
 the East Fork of the Salmon River with date of priority May 1, 1936
 and with points of diversion in the SW¹/₄ Section 15, SW¹/₄ Section
 Section 10, NW¹/₄ Section 14, and SE¹/₄ Section 11, all in Town-
 ship 9 North, Range 17 E. B. M.

That JOHN SCHUCHETTI is the owner of SW¹/₄ Section 1, SW¹/₄ Section
 72-0211 Section 2, NW¹/₄ Section 11, Township 9 North, Range 18, E. B. M.
 and appurtenant to said land he is entitled to 2 cubic feet per
 second of time of the waters of the East Fork of the Salmon River
 72-0212 with date of priority May 1, 1895, and .4 cubic feet per second of
 time of the waters of the East Fork of the Salmon River with date
 of priority May 1, 1936 and with points of diversion in the NW¹/₄ Section
 Section 11, Township 9 North, Range 17, E. B. M.

That ANTONIO YACOMELLA and LUIS ANTONIO YACOMELLA are the
 owners of SW¹/₄ Section 1, NE¹/₄ Section 2, Township 9
 72-0213 North, Range 17, E. B. M.; and appurtenant to said land they are
 entitled to 2.4 cubic feet per second of time of the waters of the
 East Fork of the Salmon River with date of priority May 1, 1895,
 72-0214 and .8 cubic feet per second of time of the waters of the East Fork
 of the Salmon River with date of priority May 1, 1936 and with
 point of diversion in the SW¹/₄ Section 1, Township 9 North, Range
 17, E. B. M.

That LEO BRICKER and JERRY BRICKER are the owners of Lot 3,
 SE¹/₄ Section 4, Township 8 North, Range 17, E. B. M.,
 72-0215 and appurtenant to said land they are entitled to 1.2 cubic feet per
 second of time of the water of East Fork of the Salmon River, with
 date of priority August 1, 1925.

That DAVE BRICKER and EDNA BRICKER are the owners of
 SE¹/₄ Section 9, NE¹/₄ Section 9, NE¹/₄ Section 10, NE¹/₄ Section 11, NE¹/₄ Section 12,
 72-0216 NW¹/₄ Section 13, Section 9, Township 8 North, Range 17, E. B. M., and
 appurtenant to said land they are entitled to .8 cubic feet per
 second of time of the waters of Bowery Creek with date of priority
 May 1, 1925 and they are also entitled to 1.8 cubic feet per second
 72-0217 of time of the waters of the East Fork of the Salmon River with date
 of priority May 1, 1936.

That BLANK FRY and RHODA FRY are the owners of Lot 3, SE¹/₄ Section
 7, NW¹/₄ Section 18, NE¹/₄ Section 18, Township 9 North, Range
 72-0218 19, E. B. M., and appurtenant to said land they are entitled to 1.8
 cubic feet per second of time of the waters of Herd Creek with date
 of priority May 1, 1900 with points of diversion in the SE¹/₄ Section
 NW¹/₄ Section 18, Township 9 North, Range 19, E. B. M.

That L. V. CAROTHERS is the owner of NE¹/₄ Section 33,
 Township 9 North, Range 17, E. B. M.; Lot 4, Section 4 and Lots 1
 and 2, Section 5, Township 8 North, Range 17, E. B. M., and appur-
 72-0219 tenant to said land he is entitled to 1.2 cubic feet per second of
 time of the waters of Wickiup Creek, Little Wickiup Creek and the
 East Fork of the Salmon River, with date of priority May 1, 1919.

That PAUL GIAMPORAGLIA and MARIE GIAMPORAGLIA are the owners
 of NE¹/₄ Section 26, SE¹/₄ Section 27, NE¹/₄ Section 27, Township
 72-0220 11 North, Range 18, E. B. M., and appurtenant to said land they are
 entitled to 3 cubic feet per second of time of the waters of the East
 Fork of the Salmon River with date of priority May 1, 1936 and they
 are also entitled to .4 cubic feet per second of time of the waters
 72-0221 of the East Fork of the Salmon River with date of priority May 1,
 1936, and with points of diversion in the NE¹/₄ Section 1, Town-

ship 10 North, Range 18, E. B. M., and the NWSE¹, Section 35, Township 11, North, Range 18, E. B. M.

72-0122 That LOUIE GIAMPEDRAGLIA and VIOLA GIAMPEDRAGLIA are the owners of S¹S¹W¹, Section 26, N¹W¹W¹, SE¹N¹W¹, Section 25, Township 11 North, Range 18, E. B. M., and appurtenant to said land they are entitled to 3 cubic feet per second of time of the waters of the East Fork of the Salmon River with date of priority May 10, 1880 and they are also entitled to .4 cubic feet per second of time of the waters of the East Fork of the Salmon River with date of priority May 1, 1936 and with points of diversion in the NW¹N¹W¹, Section 1, Township 10 North, Range 18, E. B. M., and the NWSE¹, Section 35, Township 11 North, Range 18, E. B. M.

72-0224 That VIROIL GOSSI is the owner of NW¹SW¹, W¹SE¹, SE¹SW¹, Section 35, Township 11 North, Range 18, E. B. M., and appurtenant to said land he is entitled to 3.6 cubic feet per second of time of the waters of the East Fork of the Salmon River with date of priority April 1, 1881 and also .6 cubic feet per second of time of the waters of the East Fork of the Salmon River with date of priority May 1, 1936 and with point of diversion in the NW¹N¹W¹, Section 12, Township 10 North, Range 18, E. B. M.

72-0226 That RAYMOND GOSSI and EVA GOSSI are the owners of Lot 4, S¹N¹W¹, N¹SW¹, SE¹SW¹, SW¹SE¹, Section 1, NW¹N¹W¹, Section 12, all in Township 10 North, Range 18, E. B. M., and appurtenant to said land they are entitled to 4.8 cubic feet per second of time of the waters of the East Fork of the Salmon River with date of priority May 1, 1880 and also .5 cubic feet per second of time of the waters of the East Fork of the Salmon River with date of priority May 1, 1936 and with points of diversion in the NWSE¹, NW¹N¹W¹, Section 12 and SE¹N¹W¹, Section 13 all in Township 10 North, Range 18, E. B. M.

72-0228 That ROSA V. CARLIER is the owner of SW¹N¹W¹, W¹SE¹, SE¹SW¹, Section 12 and 28.64 acres in the NW¹N¹W¹, Section 13 all in Township 10 North, Range 18, E. B. M., and appurtenant to said land she is entitled to 1.32 cubic feet per second of time of the waters of the East Fork of the Salmon River with date of priority May 1, 1885 and also .3 cubic feet per second of time of the waters of the East Fork of the Salmon River with date of priority May 1, 1936 and with point of diversion in the SE¹N¹W¹, Section 13, Township 10 North, Range 18, E. B. M.

72-0230 That FREDOLIN LEFFINGER is the owner of 11.36 acres in the NE¹N¹W¹, all of S¹N¹W¹, N¹SW¹, S¹SW¹, Section 13, NW¹, T¹N¹W¹, NE¹S¹W¹, Section 24, all in Township 10 North, Range 18, E. B. M., and appurtenant to said land he is entitled to 8 cubic feet per second of time of the waters of the East Fork of the Salmon River with date of priority May 1, 1880 and with points of diversion in the SE¹N¹W¹ and NW¹N¹W¹, Section 24, Township 10 North, Range 18, E. B. M.

72-0231 That MARION PEEL and LUCY PEEL are the owners of SW¹SE¹, S¹SW¹, Section 15, T¹N¹W¹, S¹W¹, NW¹SE¹, NE¹S¹W¹, Section 22, Township 9 North, Range 17, E. B. M., and appurtenant to said land they are entitled to .6 cubic feet per second of time of the waters of Little Boulder Creek with date of priority May 1, 1920 and 1.3 cubic feet per second of time of the waters of the East Fork of the Salmon River with date of priority May 1, 1936 and with points of diversion in the SE¹SE¹, NE¹N¹W¹, Section 22, Township 9 North, Range 17, E. B. M.

72-0233 That ANTHONY BRICHER and JOCKIE BRICHER are the owners of SE¹SW¹, NW¹SE¹, Section 4, NW¹N¹W¹, NW¹N¹W¹, Section 19, Township 8 North, Range 17, E. B. M., and appurtenant to said land they are entitled to 1.2 cubic feet per second of time of the waters of the East Fork of the Salmon River with date of priority August 1, 1925.

72-0234

72-0235

That ROSE NOVACKI is the owner of Tracts "A", "B" and "C" in H. E. Survey No. 597 and Tracts "A" and "B" in H. E. Survey No. 722, embracing a portion of, approximately, Sections 29, 30, 31 and 32 in Township 8 North, Range 17, T. B. M., and appurtenant to said land she is entitled to 1.2 cubic feet per second of time of the waters of West Pass Creek and the East Fork of the Salmon River, with date of priority May 1, 1928 and she is also entitled to 1.66 cubic feet per second of time of the waters of West Pass Creek, with date of priority May 1, 1936.

72-0236

That GEORGE A. BERNARD is the owner of SW 1/4, Section 35, Township 11 North, Range 18, T. B. M., and appurtenant to said land he is entitled to .3 cubic feet per second of time of the waters of the East Fork of the Salmon River with date of priority May 1, 1925.

IT IS FURTHER ADJUDGED AND DECREED That each of the parties to this action shall pay his or her own costs of this action.

That each and every of the parties to this suit, plaintiffs and defendants, their agents, servants, attorneys and employees and each, every and all persons acting in aid of and for any of the parties to this suit, are hereby forever restrained and enjoined from in any way or manner interfering with or diverting or using the waters of said East Fork of the Salmon River and its tributaries, except in accordance with the terms and provisions of this decree.

Dated this 14th day of February, 1938.

Wm. Stevens
District Judge

FILED IN CASE NO. 1
IN THE DISTRICT COURT

I certify that the foregoing is a
true and correct copy of the original
filed in this office.

Howard A. Bostic
Clerk of the District Court

Date *May 27, 1938*

By *Kathy Simpson*

JUL 20 1938