

ARTICLE OF AGREEMENT made and entered into by and between Ernest R. Benedict, A.C. Mather, Eliza Mather, Ora L. Igou, William M. Igou, Elwood D. Clark, Theodore Batson, Thomas Palmer, John Palmer, Hiliard H. Dahle, Henry Lund, Mary Lund, Montraville White, John Dimmock, Albert J. Mathews, John Daniels, Wallace W. Slavin, Frank P. McCracken, William Smith, and Robert Martin, all of Lemhi County, Idaho, parties of the one part, hereinafter designated as the "Carman Creek People" and David McNutt, Mary J. Birdseye, and J. W. Birdseye her husband, Anna B. Davis, Henry Griebner, Neil Sweeney, George L. Shoup, by M.M. McPerson his attorney in fact, Murdock M. McPerson, A.J. Macnab, William H. Shoup, and Peter McKinney, all of said county and state, parties of the other part, hereinafter designated as the "Big Flat People".

WITNESSETH: THAT WHEREAS, The Big Flat People and the Carman Creek People are interested in the appropriation and use of the waters of Carman Creek in the aforesaid County for the irrigation of their several ranches: AND WHEREAS, water for irrigating the ranches of the Carman creek People is obtainable only from said Carman Creek, and there is barely sufficient in said creek for that purpose; Therefore said Carman Creek People are desirous of purchasing all the waters of said creek heretofore appropriated and used by said Big Flat People: Now therefore, to that end the parties aforesaid agree as follows:

1. For the purpose of furnishing water to said Big Flat People in exchange for the water of Carman Creek heretofore appropriated and used by them, said Carman Creek People agree to construct a good and sufficient ditch from Salmon River to a point on the Big Flat where the same will intersect the Carman Creek ditch now owned by McNutt Birdseye and Davis; such point to be at a place where water will be delivered to cover the highest land now irrigated by the Big Flat people. Said ditch to be six feet wide at the bottom, ten feet wide at the top except at the head thereof and a short distance below where it shall be 10 feet wide on top, two feet deep, and on an even grade of five feet to the mile and low enough at the head to admit water two feet in depth at low water season. Said ditch to have a suitable head gate.

2. In consideration of the construction of said ditch from Salmon river, in the manner aforesaid, and after the construction thereof, said Big Flat People and each of them, his and her heirs and assigns agree to convey to said Carman creek people or to such of them as shall participate in the construction of said ditch, his, her, or their heirs and assigns, by proper deeds of conveyance all of their joint and several right, title and interest in and to the aforesaid waters of Carman creek heretofore appropriated by them or either of them.

3. It is agreed to refer the following matters and subjects with reference to said ditch and conveyance of water to the award and determination of James H. Hockingsmith, William Peterson, and Thomas Pyeatt, and said arbitrators may, by their award, order and determine the following:

A. To determine whether the river ditch is completed according to the above named specifications, and whether low enough to admit at the head thereof two feet of water at low water season.

b. To decide and determine by whom said ditch shall be maintained.

c. If it is determined that the Carman Creek people shall maintain said ditch, then to decide and determine how long they shall so maintain it.

d. To determine how many inches of the waters of Carman Creek each of said Big Flat people heretofore appropriated and used, and are entitled to convey.

e. To decide and determine when said Big Flat people shall convey their aforesaid right, title and interest in and to said waters of Carman Creek, to said Carman Creek people.

4. Said Arbitrators shall be at liberty to examine the parties, either of them, and their witnesses in the reference, and the parties respectively shall produce before said Arbitrators all documents, papers, maps and writings in their custody or control relating to the matters referred, which said Arbitrators may require. Said award and decision shall be in writing under the hands of said arbitrators and be delivered to the parties; One copy to the Big Flat people and another to the Carman Creek people.

5. It is mutually agreed and covenanted by and between all parties hereto, for themselves, their heirs and assigns, that the award and decision of said arbitrators upon the aforesaid subjects shall be conclusive and binding upon all parties hereto, their heirs and assigns, and we do each of us agree to abide by, perform and carry out such award and decision.

Our property
ownership traces
back to

Elwood D. Clark

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WATER RESOURCES

6. It is further agreed that this agreement and the covenants herein, on the part of the Big Flat people, his and her heirs and assigns, and the award and determination of said arbitrators, relative to the conveyance of his or her or their right, title and interest in and to the waters of said Carman Creek to said Carman Creek people, shall run with and bind the aforesaid water and be connected with the title thereto, and conveyance thereof may be enforced by action in a proper Court against the Big Flat people or either of them or his or her heirs and assigns.

7. It is mutually agreed and understood that if any of said Carman Creek people fail or neglect to pay in money, his or her share or portion of the costs of constructing said ditch at the completion thereof, or within thirty days thereafter he or her shall not be entitled to any portion of the waters of Carman Creek so to be conveyed by said Big Flat people. In such case the share or portion such person would be entitled to had he or she participated in the construction of said ditch and paid therefor, shall be conveyed to those who do participate in such construction and pay for same. The Arbitrators aforesaid shall consider this subject and be governed thereby in determining which of the Carman Creek people are entitled to a conveyance of said water under the covenants and agreements herein.

8. It is further agreed that the cost of maintenance of said Salmon River ditch shall be a legal charge against all persons who are liable to maintain it under the award and decision of said Arbitrators, and if said cost is advanced by other or others of the parties interested, he or she or they shall have and are hereby given a right of action for the same against the person neglecting or refusing to pay his or her share of such maintenance.

8. The cost of maintaining said Salmon River ditch is and shall be a legal charge against all persons who are liable to maintain the same under the award and decision of said arbitrators, and if said cost is advanced either in labor or money by other or others of the Carman Creek people, he or she or they shall have and are hereby given the right to use such delinquent persons share of the waters of Carman Creek obtained from said Big Flat people under this agreement, until such delinquent person pays or tenders the amount so expended.

9. It is further agreed that said Carman Creek people will complete said ditch on or before December 1st, 1900, at their own cost and expense; and until said ditch is completed and water runs through the same, said Big Flat People shall have the right to use water from Carman Creek in the amount and manner specified in the judgement and decree entered in the District Court of the Fifth Judicial District of the State of Idaho, in and for Lemhi County in an action wherein the Big Flat people are plaintiff and said Carman Creek people are defendants. Said judgement and decree being known as the "Standrod Decree" Robert Martin is hereby appointed water master to regulate the flow of water from Carman Creek between the parties hereto until said river ditch is completed and sufficient water runs through the same.

10. It is further agreed that if at any time during the period fixed by said arbitrators for said Carman Creek people to maintain said ditch, the same shall be broken or insufficient to carry a proper amount of water to said point of intersection for the irrigation of the lands belonging to said Big Flat people, their heirs or assigns, then, and so long as said ditch is so broken or insufficient to carry such water, said Big Flat People or any of them desiring water for irrigating purposes as aforesaid, shall have the right to use water from Carman Creek belonging to said Carman Creek people, not exceeding the amount designated in the aforesaid "Standrod decree".

11. It is further mutually agreed that all costs connected with this matter of arbitration shall be borne by all parties hereto.

All and every of the covenants, agreements, and conditions herein contained shall extend to and bind the several heirs, executors, administrators, and assigns of the parties hereto.

It is understood and agreed that from the time of completion of said river ditch to the time of conveyance of said water by said Big Flat people, said Carman Creek people shall have the use of the waters of Carman Creek so to be conveyed by said Big Flat people, except at the intervals when said river ditch is broken etc. as hereinbefore stated.

In witness whereof the parties hereto have set their hands and seals this 20th day of June A.D. 1900.

David McNutt seal.
Mary J. Birdseye seal.
By J.W. Birdseye seal.
her atty in fact
J.W. Birdseye seal.
Peter McKinney seal.
Henry Greiber seal.
Neil Sweeney seal.
Thomas Palmer seal.
Geo. L. Shoup By seal.
Murdock M. McPherson
his atty in fact
Murdock M. McPherson seal.
A.J. Macnab seal.
William H. Shoup seal.
Anna B. Davis seal.

Robt. Martin seal.
Henry Lund seal.
Mary R. Lund seal.
A.C. Mather seal.
Elizer Mather seal.
O. L. Igou seal.
John Palmer seal.
John Daniels seal.
W. M. Igou seal.
E. R. Benedict seal.
Theodore Batson seal.
Wallace W. Slavin seal.
John P. Dimock seal.
A.J. Mathews seal.
H. H. Danile seal.
Elwood D. Clark seal.

State of Idaho,)
County of Lemhi) ss.

On this day of A.D. 1900, before me
a notary Public in and for said County, personally appeared

known to me to be the persons whose names are subscribed to
the within instrument, and acknowledged to me that they executed the same. And
at the same time and place, before me, the office above described, personally
appeared Mary J. Birdseye, known to me to be the person whose name is subscribed
to the within instrument, described as a married woman; and upon an examination,
without the hearing of her husband, I made her acquainted with the contents of
the instrument, and thereupon she acknowledged to me that she executed the
same, and that she does not wish to retract such execution.

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

David McNutt etal
Plaintiff

vs.
Thomas Palmer etal
Defendant.

Filed Oct. 9th 1901
J. P. Clough, Clerk

CERTIFICATE

STATE OF IDAHO,)
County of Lemhi) ss.

I, W.W. SIMMONDS, Clerk of the District Court and Ex-Officio
Auditor and Recorder in and for said County aforesaid, do hereby certify that
the above and foregoing is a full, true and complete copy of an ARTICLE OF
AGREEMENT, as the same appears on file in my office in the above entitled case,
official records of Lemhi County, Idaho.

IN WITNESS WHEREOF, I have hereunto set my hand and affixed
my official seal this 27th day of November, A.D. 1957.

W. W. Simmonds,
Clerk of the District Court and
Ex-Officio Auditor and Recorder.
By
Opal Reddington
Deputy