

Attorneys for Claimant and Objector
Pioneer Irrigation District

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18946.0137

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

In Re SRBA

Case No. 39576

Subcase Nos. 63-00166A 63-00166B
63-00167A 63-00167B
63-00179A 63-00179C
63-32580

**NOTICE OF SERVICE OF PIONEER
IRRIGATION DISTRICT'S SUPPLEMENTAL
RESPONSES TO MASON CREEK DITCH
COMPANY'S FIRST SET OF DISCOVERY
REQUESTS**

NOTICE IS HEREBY GIVEN that on the 1st day of October, 2010, the original
PIONEER IRRIGATION DISTRICT'S SUPPLEMENTAL RESPONSES TO MASON CREEK DITCH
COMPANY'S FIRST SET OF DISCOVERY REQUESTS was served on Albert P. Barker and a copy

**NOTICE OF SERVICE OF PIONEER IRRIGATION DISTRICT'S
SUPPLEMENTAL RESPONSES TO MASON CREEK DITCH
COMPANY'S FIRST SET OF DISCOVERY REQUESTS - 1**

Client:1779434.1

COPY

of the foregoing NOTICE OF SERVICE was served by the method indicated below and addressed to the following at the address shown below:

Mason Creek Ditch Company
Represented by:
Albert P Barker
BARKER RSHOLT & SIMPSON LLP
1010 W. Jefferson, STE 102
P.O. Box 2139
Boise, ID 83701-2139

☐ U.S. Mail, Postage Prepaid
☒ Hand Delivered
☒ Overnight Mail
☐ Facsimile

Franklin Ditch Co.
Represented by:
Jon C. Gould
Daniel V. Steenson
Ringert Clark Chartered
P.O. Box 2773
Boise, ID 83701

☐ U.S. Mail, Postage Prepaid
☒ Hand Delivered
☒ Overnight Mail
☐ Facsimile

Martin Galvin
P.O. Box 115
Middleton, ID 83644

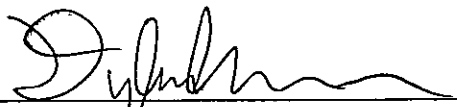
☒ U.S. Mail, Postage Prepaid
☐ Hand Delivered
☐ Overnight Mail
☐ Facsimile

John J. McEvoy
1703 N. KCID Road
Caldwell, ID 83605

☒ U.S. Mail, Postage Prepaid
☐ Hand Delivered
☐ Overnight Mail
☐ Facsimile

Director
IDAHO DEPARTMENT OF WATER RESOURCES
322 E. Front Street, 6th Floor
P.O. Box 83720
Boise, ID 83720

☒ U.S. Mail, Postage Prepaid
☐ Hand Delivered
☐ Overnight Mail
☐ Facsimile



Dylan B. Lawrence

Section 2 – Inventory of Water Resources

WATER RIGHTS

No.	Canal	Priority Date	Flow Rate (cfs)	Use	Basis
63-00166A	Highline	7-3-1866	15.40	Irrigation	Stewart Decree
63-00167A	Highline	10-29-1880	27.60	Irrigation	Stewart Decree
63-00179A	Highline	6-1-1869	37.20	Irrigation	Stewart Decree
63-00224	Phyllis	9-1-1890	200.00	Irrigation	Stewart Decree
63-00225	Phyllis	4-1-1904	56.34	Irrigation	Stewart Decree
63-00294	Phyllis and Highline	4-1-1905	306.56	Irrigation	Bryan Decree
63-00295	Phyllis and Highline	4-1-1908	54.50	Irrigation	Bryan Decree
63-00371	Phyllis and Highline	6-1-1884	53.10	Irrigation	Stewart Decree
63-02114	Indian Creek	10-15-1909	8.64	Irrigation	License
63-02275	Lowline	9-8-1915	60.00	Irrigation	License
63-02276	Highline (Mason Creek)	9-8-1915	120.00	Irrigation	License
63-02294	Highline (Five Mile)	4-3-1916	150.00	Irrigation	License
63-02529	Groundwater	12-31-1936	87.10	Irrigation	License
63-02891	Phyllis (Wilson Drain)	1-23-1952	13.00	Irrigation	License
63-03614A Anderson Ranch Res.	Phyllis	12-9-1940	25,582 AFY	Storage	
63-03618A Lucky Peak Res.	Phyllis and Highline	1-1-1955	16,000 AFY	Storage	
63-04249A W. Valley	Groundwater	6-1-1944	2.82	Irrigation	Beneficial Use
63-05199	Groundwater	10-15-1950	3.80	Irrigation	Beneficial Use
63-05200	Groundwater	3-1-1958	8.00	Irrigation	Beneficial

No.	Canal	Priority Date	Flow Rate (cfs)	Use	Basis
					Use
63-05219	Phyllis (Indian Creek)	5-1-1961	18.00	Irrigation	Beneficial Use
63-05237	Indian Creek (Golden Gate)	4-1-1910	16.00	Irrigation	Beneficial Use
63-05255	Indian Creek	5-1-1915	2.17	Irrigation	Beneficial Use
63-05262A Arrowrock Res.	Phyllis and Highline	1-13-1911	21,018 AFY	Storage	
63-08436 W. Valley	Groundwater	2-11-1977	0.46	Irrigation	License
63-08737 Blackhawk	Groundwater	4-25-1977	1.20	Irrigation	License
63-08738 Blackhawk	Groundwater	4-25-1977	0.60	Irrigation	License
63-09109	Groundwater	5-1-57	5.04	Irrigation	License
63-10169	Groundwater	8-11-1983	0.04	Domestic	License
63-11622	Groundwater	1-17-1992	4.91	Irrigation	License
63-21706	Boise River	5-1-1958	1.00	Irrigation	Beneficial Use
63-21713	Pipe Gulch	6-1-1904	4.4	Irrigation	Beneficial Use
63-21714	Groundwater	10-3-1963	0.04	Domestic (shop)	Beneficial Use
63-21716	Groundwater	3-7-1939	0.04	Domestic	Beneficial Use
63-21731	Phyllis (Five Mile)	6-1-1918	100.00	Irrigation	Beneficial Use
63-21739	Phyllis (Elijah Drain)	5-1-1957	10.00	Irrigation	Beneficial Use
63-00161BU	Phyllis	5-1-1866	21.715	Irrigation	Stewart Decree

BUREAU OF RECLAMATION CONTRACTS

- Boise Project Contract with Pioneer Irrigation District (February 27, 1913), Contract No. 11r-94 (re-construction of drains and Arrowrock Reservoir)

- Boise Project Contract (Supplemental) with Pioneer Irrigation District and Payette Boise Water Users Association (June 15, 1915) (Contract No. 11r-94) re-construction of drains and Arrowrock Reservoir)
- United States, Department of the Interior, Bureau of Reclamation, Supplemental Contract with Pioneer Irrigation District (November 30, 1926) (Contract No. 11r-94) (Arrowrock Reservoir)
- United States, Department of the Interior, Bureau of Reclamation Boise Project – Idaho, Contract with Pioneer Irrigation District concerning construction of Anderson Ranch Reservoir and related matters (November 10, 1943) (Contract No. 11r-1479)
- United States, Department of the Interior, Bureau of Reclamation Boise Project – Idaho, Supplemental Contract with Pioneer Irrigation District (August 3, 1954) (Contract No. 14-06-W-85) (Arrowrock, Anderson Ranch and Lucky Peak Reservoirs)
- United States, Department of the Interior, Bureau of Reclamation Boise Project – Idaho, Water Service Contract between the United States of America and Pioneer Irrigation District providing for the conservation use of Lucky Peak Dam and Reservoir (August 24, 1966)(Contract No. 14-06-100-5599)
- Amendatory Contract between the United States of America and the Pioneer Irrigation District for conformance with the Reclamation Reform Act of 1982 (Title II, Public Law 97-293) (June 20, 1986) (Amendment No. 1 to Contract No. 11r-1479) (Anderson Ranch Reservoir)





THIS AGREEMENT, made and entered into this eighth day of May, 1941, by and between Mrs Helen Wells, hereafter known as the first party, and Pioneer Irrigation District of Caldwell, Idaho, hereafter known as the second party;

WITNESSETH, That first party claims the right to 120 inches of irrigation water from the Mason Creek Ditch Co., which water until now has been diverted to her from Five Mile Creek at the Mason Creek dam; and that for greater convenience and better service she desires that diversion of said water be from a ditch controlled by said second party thru a headgate located at a point on said ditch across the section line between the SE $\frac{1}{4}$ of the SE $\frac{1}{4}$ of Section 20, T 4 North, Range 2 West of Boise Meridian, and the NW $\frac{1}{4}$ of the NE $\frac{1}{4}$ of Section 29, T 4 North, Range 2 West of Boise Meridian.

IN CONSIDERATION, therefore, of the delivery of said water by second party from its ditch at the point above mentioned, said first party agrees that she will accept such rotation schedule as may be found necessary for all users from said ditch; That at no time will she expect delivery of more than 120 inches of water; and that at times of shortage of water she will not claim or expect delivery of more than such proportion of water as said second party is able to deliver to all other users from said ditch.

THIS AGREEMENT shall be binding upon the successors, heirs or assigns of the parties hereto.

IN WITNESS WHEREOF said first party has hereunto set her hand and seal the day and year first above written.

Helen Wells
First party.

STATEMENT

PIONEER IRRIGATION DISTRICT

P. O. Box 426 — Caldwell, Idaho

February 12, 1986

Date

7a

Mason Creek Ditch Company
% Joe Martin
Route# 3 Box 51
Caldwell, Idaho 83605

2-11-86 Watermaster Tax \$4,098.74

you pay .09547%

\$391.31 Balance Due



THIS INDENTURE, made the twenty-first day of June, A.D. 1902,
between The Caldwell Land Company Limited, a corporation organized
and existing under the laws of the State of Idaho, whose principal
place of business is in the City of Caldwell, County of Canyon, State
of Idaho, party of the first part and the Pioneer Irrigation District
and irrigation district organized and existing under and by virtue
of the laws of the State of Idaho, the party of the second part, Wit-
nesseth:

That whereas the said party of the first part is a corporation
duly incorporated and existing under and by virtue of the laws of
the State of Idaho, and in pursuance of the Statutes in such cases
made and provided, has acquired and is the owner of a certain irrigat-
ion ditch, water rights and rights of way, known as the Caldwell Canal
and Irrigation Ditch and Water-right, (sometimes called the Strahorn
System) situate in Canyon County, State of Idaho; and whereas the
Board of Directors of said party of the first part duly assembled
did by resolution duly adopted authorize and empower Walter Sebree
XXX President and Albert W. Ripson, Secretary to sell and convey said
property to the said Pioneer Irrigation District for the sum of
ten thousand dollars, payable in the bonds of said District and
and authorized and directed said Walter Sebree President and
Albert W. Ripson, Secretary, to make execute and deliver, for and in XXX
behalf of said Caldwell Land Company Limited, and as its act and deed
a conveyance of said Irrigation Ditch, water-right, and rights of way,
and to affix to said conveyance the corporate name and seal of said
corporation.

Now, therefore, in pursuance of said authorization and the payment
of said sum of ten thousand dollars bonds of said party of the
second part, the receipt whereof is hereby acknowledged, the said
party of the first part does by these presents grant, bargain, sell,
convey and confirm unto the said party of the second part its suc-
cessors and assigns forever, to wit: -

All the water rights, canal, later-
als, ditches, rights of way, headgates, and sloughs constituting and
embracing the system known as the Caldwell Canal and Irrigation Ditch and Water-right,
(Sometimes called the Strahorn System) the same including the water rights, sloughs,
and ditches formerly known as the Franklin property having source
on the South side of Boise River on the farm of William Frost, about
seven miles above Middleton, Idaho, which was by deed of conveyance
dated June 24th, 1894, and recorded in Book 2 of Deeds, Page 370, Rec-
ords of Canyon County, Idaho, conveyed by the Franklin Ditch Company
to the Idaho and Oregon Land Improvement Company, and including also
all the water rights, canals and ditches, and property conveyed to
the Caldwell Real Estate and Water Company by the said Idaho and Ore-
gon Land Improvement Company by deed dated September 22nd, 1890, and
recorded in Book 2 of Deeds, Page 465, Records of Canyon County, Idaho,
and including all the water rights acquired and added to said

system having source and tapping the Boise River on the South side near the Canyon and Ada County boundary line on the farms of William Frost and Adam Shindler and extending thence in a Westerly course to and in Canyon County, Idaho, to the city of Caldwell, Idaho, the main ditch or canal being about 18 miles long.

Together with all and singular the tenements, hereditaments, and appurtenances thereunto belonging or in anywise appertaining and the reversion and reversions, remainder and remainders, rents, issues and profits thereof, and all estate, right, title and interest in and to the said property, as well in law as in equity, of the said party of the first part:

To have and to hold, All and singular, the above mentioned and described premises, together with the appurtenances, unto the said party of the second part, and to its successors and assigns forever. and the said party of the first part, and its successors and assigns, the said premises in the quiet and peaceable possession of the said party of the second part, its successors and assigns, against the said party of the first part and its successors and assigns and against all and every person and persons whomsoever, lawfully claiming or to claim the same shall and will warrant and by these presents forever DEFEND, except as against the Franklin Ditch Co. its successors and assigns.

In witness whereof, the said party of the first part, by resolution of its Board of Directors, has caused these presents to be subscribed by its President and Secretary, and its Corporate name and seal to be hereunto affixed, the day and year first above written.

Walter Seabee
By *Walter Seabee* President.

Attest

Robert H. Griffiths
Secretary.

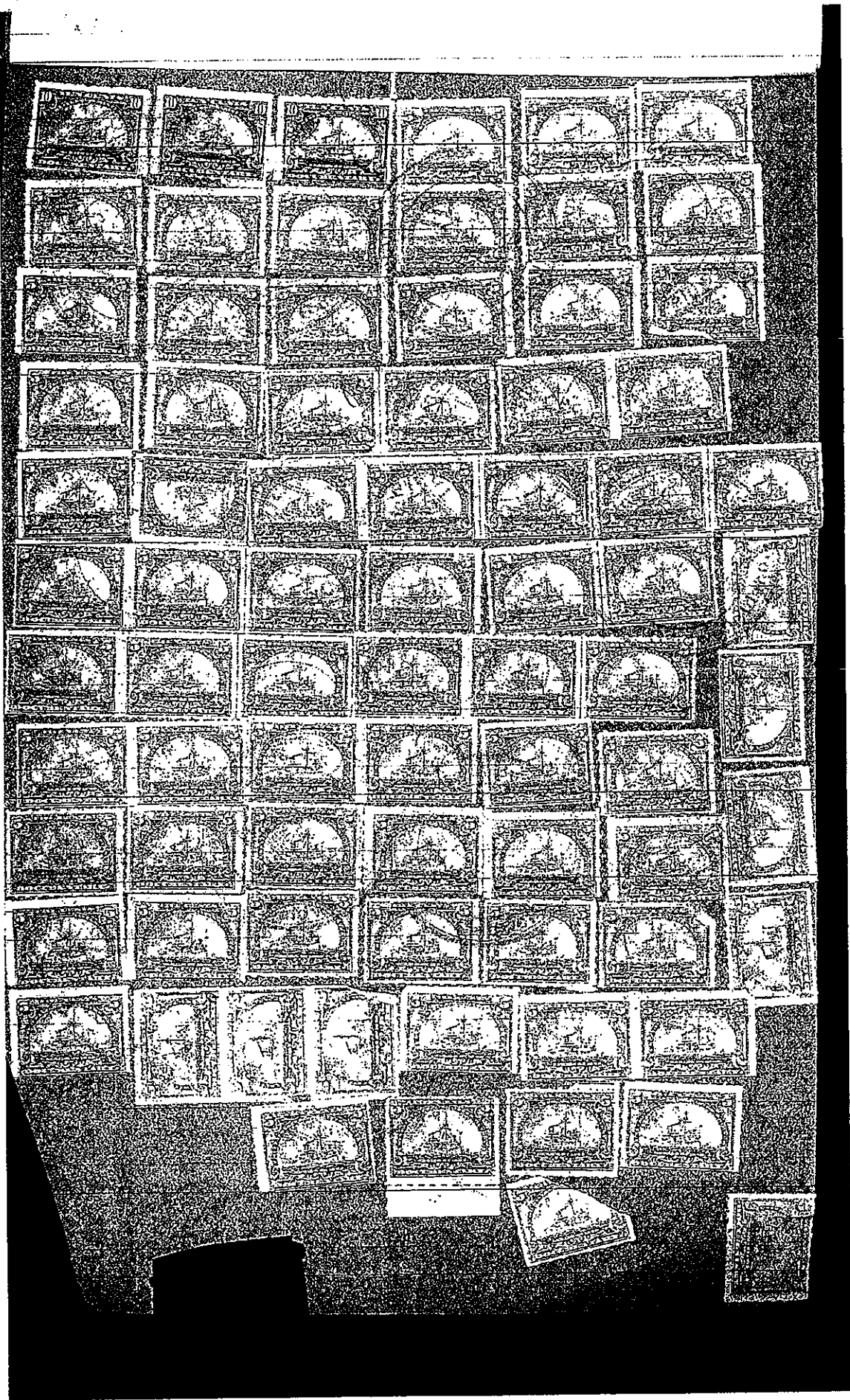
State of Idaho,
County of Canyon.

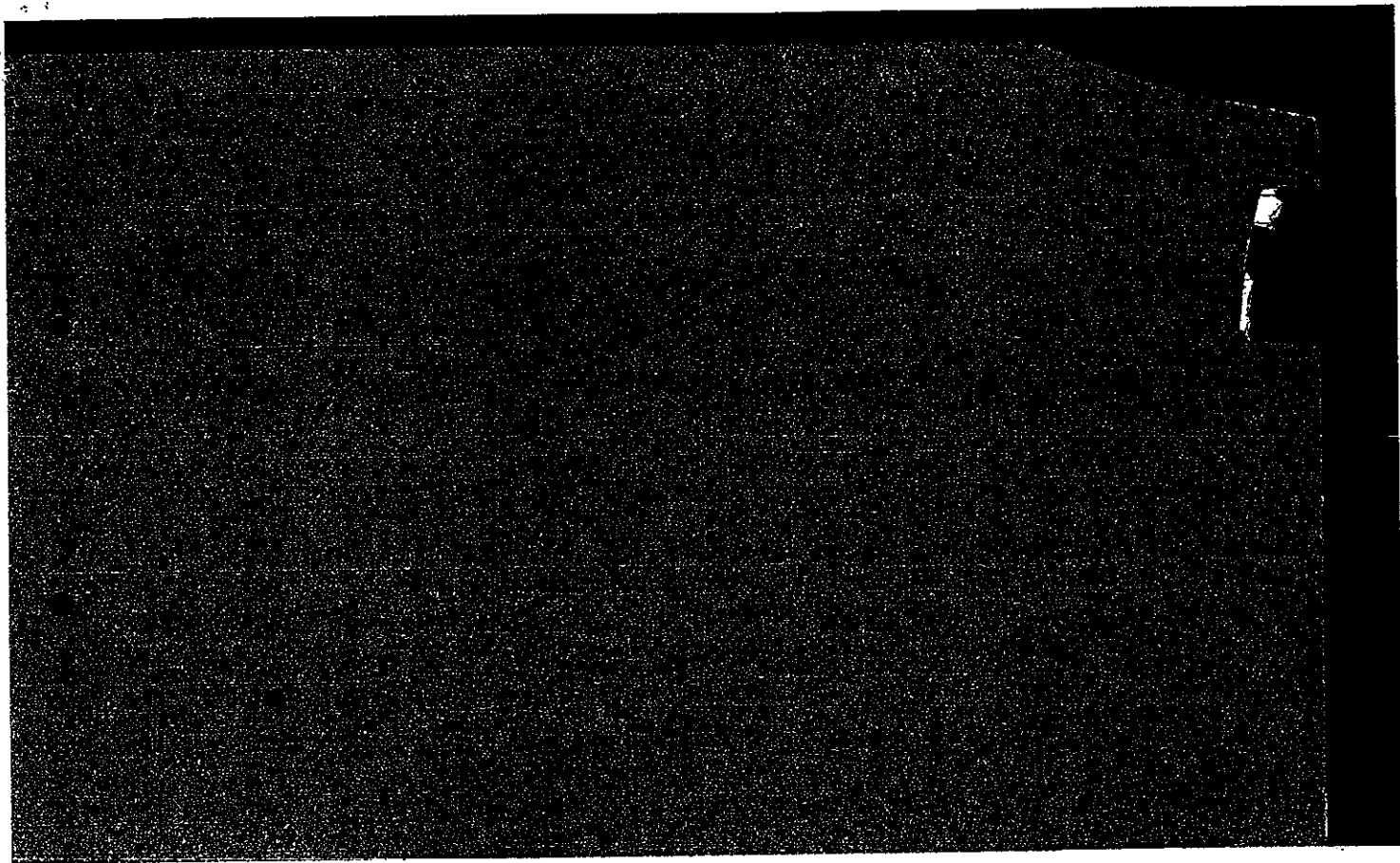
On this 23rd day of June, A.D. 1902, before me H.A. Griffiths, a Notary Public, in and for the County of Canyon, State of Idaho, personally appeared Walter Seabee, personally known to me to be the President of the Caldwell Land Company Limited, the Corporation that executed the foregoing instrument, and acknowledged to me that such Corporation executed the same.

In witness whereof, I have hereunto set my hand and affixed my notarial seal, the day and year in this certificate first above written.

H.A. Griffiths

Notary Public.





MINUTE BOOK, PIONEER IRRIGATION DISTRICT

Aug 5, 1907, 10, am
 Report met pursuant
 to law, present, from
 Bissett, President, Smith,
 Bull, Bissett, Cowden,
 Davis, Deaf.

Following business
 was transacted.

Claims allowed.

Moved by Cowden that a
 warrant be drawn in favor
 of Mr. March for \$3.50. Carried.
 Bill of H. D. Blatchley represents,
 This is a bill of 4 perches in con-
 nection with the construction of
 a flume across Indian Creek.
 Moved that bill be allowed and amount charged
 upon to the users of the flume. Carried.

Petition of Long
 for admission
 of land granted.

In the matter of admitting
 H. C. Long's land. He having
 presented proper measurements
 and description as requested
 by the Board, said land
 amounting to 29.5 acres
 the same is hereby admitted
 and the boundaries
 shown as follows: 1. Beginning

at the present boundary line at
 the corner of Section 19 34 37 R 2 M. W. 11, thence
 south 660 feet, east 330 feet, south 660 feet,
 east 330 feet, south 330 feet, east 330 feet,
 south 330 feet, west 330 feet, north 660 feet,
 west 330 feet, north 660 feet west 330
 feet and north 660 feet to the
 present boundary line at a point
 1980 feet west of the quarter corner
 between Sections 19 34 37 R 2 M. W. 11.

The above described land is
 situated in the south half of the south east
 quarter of said Section 19 34 37 R 2 M.
 and the said petition is to be concluded.

MINUTE BOOK, PIONEER IRRIGATION DISTRICT.

New Canal

Board met pursuant to adjournment present all members, following business transacted:

Now, came on ^{exhibits} to be heard Complaint of H. Schick against H. Bader
Mo.

Ordered. Moved that Mr. Bader be informed that if he shall again tamper with head gates or in any way interfere with them he will be fined \$50. Carried.

On motion it is ordered that a watermaster be employed for the distribution of water to the new ^{in Caldwell} portion of the town of Caldwell and Messrs Cowden and English are hereby authorized to find ^{and} engage a suitable man. ^{Mo.} Moved that Carried that Watermaster Murlett be and he hereby is directed to continue to supply water to Mr. J. N. Pagenter through the Caldwell Canal for this ^{upon payment of 98%} season, on the understanding that said Pagenter shall have an equal amount of water turned in to Caldwell from the Franklin Company's portion as he Pagenter shall take out from the Caldwell Canal. It is understood by all parties concerned, and Mr. Pagenter being present and agreeing thereto, that this is only a temporary arrangement and carries no right whatever in Mr. Pagenter to have his water

MINUTE BOOK, PIONEER IRRIGATION DISTRICT.

Communication
from Middle
Ditch Co. filed

Received a communication
from Middle Ditch Co. as presented from the Middle
Ditch Co. and the same is ordered
filed.

It is ordered
to prepare report

It is ordered that the District
Treasurer be directed to make
a report as required under
the by-laws.
And examine and allowance
of claims. For detailed account
by book of allowances.
Resumption of board adjourned
until Wednesday, Aug 6th 1904
J. W.

Irvin Bissett
President

Office Board of Directors, American Dental Association,
District, May 3rd 1904.

Board met in regular session, present
Corden, Ball, Callaway and Gray,
Doris, Denton, when the following
proceedings were had:

On motion, Mr. Corden was
elected president, for term.

Memorandum was read. Notice
was served on this board that
Dutchman Bore & McLain has filed
a lien on any money due Paris
and Keal, Contractors, to the amount
of \$7,763.00. It is ordered that
that said notice be filed.

A letter was received from
Hawley and Buckitt, giving notice of
the filing of a lien against Paris
& Keal for \$400. There is no bar. The
letter is ordered filed.

A communication from Mr. W.H.
Schenk was received and read, when
he offers to continue the ~~operation~~
High Lin lateral to completion
on certain terms. The communication
was ordered filed and no action
taken.

On motion of Ball, the Board
agreed to make a personal
examination of the old Caldwell
Caud from the point where the
High Lin depicts into it, to its
terminus, to ascertain if it was
necessary to complete the High Lin
lateral at this time. The examination
was made and it was determined
that the completion of the High
Lin lateral was is not necessary.
Mrs. Cline, Bore et al appearing
made application to have a
chuck placed in the Phyllis

motion of which
is made for
the Board to
be referred to
a committee
to act.

Canal, it is ordered that this matter
be and hereby is referred to the Supt
and Engineer, with authority to act.

Attorney Frank J. Smith appears
before the Board on behalf of a
number of parties who desire to
use the old Caldwell Canal from
Ten Mile down, as a lateral.

On motion of Bell, it is
ordered that this matter be and
the same hereby is referred to the
District's Attorneys for advice.

motion of
which is made
for the Board
to be referred
to a committee
to act.

In the matter of a tap
where the Franklin Ditch Company's
water comes out of the Caldwell
High Line, The same is hereby
referred to the Supt with instructions
to fix it.

motion of
which is made
for the Board
to be referred
to a committee
to act.

Thomas H. Griffith appears
and requests a remeasurement
of land taken for Rights of way
on Caldwell Canal, and
if found more than original mea-
surement that he be paid accordingly.
No action taken.

motion of
which is made
for the Board
to be referred
to a committee
to act.

Hereupon the Board adjourns
to 3:00 clock, p.m.

Three O'clock p.m. Board
met pursuant to adjournment,
present, full board.

In the matter of the Carter
road, it is ordered that this matter
be and the same hereby is referred
to the District's Attorneys, also
the matter of a bridge for Mr. Carter.

Mr. James requests that the
District's Engineer to be directed
to give certain lines for him for lateral,
and the request is hereby granted.

In the Matter of the Abandonment
of the Caldwell Canal. Things
have been done, for the District,
having determined their opinion,
as per request; Order, that the
same be accepted and that,
acting on the advice therein
given, the Order of the Board touching
the abandonment of the Caldwell
Canal shall stand as entered
on the Minutes of the Meetings
of March the 1st and April 5th 1904.

The Secretary is hereby directed
to write Mr. Maun, O. & S. Dept.,
respecting the siphons to be placed
in the Phyllis Canal by the RR
Co. and urge that the same be
attended to immediately.

Stratton Claim for siphons is allowed, see Home Book of the Club.

The Secretary is hereby authorized
and directed to draw a warrant
in favor of M. Wilson for
\$100 to pay for Rights of way, and
Caldwell High Line lateral.

The Supt is hereby directed to
fix the siphons at Club's place.

Secretary is hereby instructed
to communicate with Ed Owen
respecting placing of
siphons under Dewey Railroad
for lateral.

Stratton the Board
adjourns to 10, a.m. May 17th 1904

Attest R. S. Davis
Secretary

R. S. Davis
Atty. Genl.

MINUTE BOOK, PIONEER IRRIGATION DISTRICT.

Office of Board of Directors, Pioneer Irrigation
Dist. Caldwell, Ida. July 5th 1904.
Board met in regular session, present
Cushman, president, Cowden, Ball and
Flora. J. L. Davis Secretary pro tem.

The petition of Cushman & Denton, asking
for the construction of a bridge across
the 13.3, lateral, on motion it is
ordered that said petition be granted
on condition that the District furnish
the material and provisions for the
work.

It is ordered that a well be
placed within the first headgate west
of Five mile to measure Franklin
Pitch Co's water.

Moved by Mr. Ball
and seconded by Mr. Callaway
that Mr. Culver be requested to
hand in his resignation as
superintendent of construction,
The ayes and nays being called,
Ball, Callaway and Cowden
voted aye, Mr. Flora voted
nay, and so the motion
carried.

It appearing that
Mr. Culver would not hand
in his resignation, on motion
of Mr. Ball it is hereby ordered
that he be and he hereby is dis-
charged from the service of this
District.

A communication from
Mr. J. A. McKee respecting
sale of water power rights on
drop at Phyllis Canal
near Harpua, it is ordered
that the Secretary inform Mr.
McKee that this board

weir
headgate
9 5 m
men
d.r.

Want to take
charge of this
business
along canal.

find no authority in law for
selling District property.
On motion Mr. Hunt is
authorized to gather up lumber
and other property of District lying
along canals, that, charged
of same and report thereon
next thing to the Board.
Hempson the Board adjourned
at 2 O'clock pm.

Two O'clock pm, then
Board met pursuant to adjournment
present same as in the morning,
when the following business
was transacted:

Business on

Hempson & amount due
allowance of claims was
taken up. See allowance
book of this date.

Examine the
land and for
the Board

In the matter of disposing
of District Bonds, on motion
it is ordered that Mr. J. E. Eggleston
be and he hereby is authorized
to find purchasers for said Bonds,
being \$40,000. of the first issue
of the second series, at a discount
of the best possible advantage.

Business on
working interest
in the canal

On motion Messrs. Bill
Callaway & Flora were appointed
a committee to examine the
work done by Contractors
Bridget, Mosh and Rees and
report as to whether or not said
Contractors are entitled to
additional compensation.

Caldwell Canals

On motion Mr. J. A. Jones
was placed in charge of the
said work on the Fly Mill and
Caldwell Canals.

MINUTE BOOK, PIONEER IRRIGATION DISTRICT.

On motion, Henry R. Davis
 was placed in charge of all
 matters pertaining to distribution.
 Whereupon the Board adjourned
 See p. 13
 Attest R. H. Davis H. E. Smith
 Secy. President

Friday, July 10, 1903
D. C. and Boston
Regular Meeting. Present
Bissett and Ball, and
there being no quorum,
adjourned to 2 p.m.
Wednesday, July 9, 1903.
R. H. Davis Secy. Irvin Bissett
Pres.

Wednesday, July 9, 1903. 2.
P.m. Board met pursuant
to adjournment. Present Bissett
Ball, Eggleston. Business
transacted as follows:

Reading of
minutes
approved

Report of B. S. Arbitration
John Huston Pres. rec'd
and laid over for full board.

Money was
drawn for the

It is ordered that the Secy
be provided with a cash
contingent fund of
\$25.00 and that a check
be drawn for said amount
be drawn.

Mr. Eggleston
for aid in
the purchase of

Moves that the Franklin
Ditch Co. be asked for
\$150.00 to assist in litigation
now pending.

Bill of
Davis & Keel
for clearing
land over

Bill of Davis & Keel for
clearing land over
adjourned 2 p.m. July 14, 1903.

R. H. Davis Secy. Irvin Bissett
Pres.

Dec 10 17903, 1910
Special Session President,
Cocodan, Acting President,
Flora, Ball, Callaway and
Davis, Secy.

Following business was
had: Minutes of previous meeting
read and approved.

In the matter of a flume
at Detrock's place, it is hereby
ordered that the District will
pay for lumber if Mr. Detrock
will do the work of building
flume.

Communication from Davis
& Keel read and ordered filed.

It is hereby ordered that the Secretary
be and he hereby is directed to notify
the President of the American
Bandings Company of Baltimore
that Davis & Keel have not
completed their contract according
to the terms thereof; that a
copy of Davis' notification be
sent to Davis & Keel also to
Mr. Neal at Bowen.

Resolved, that it is not the
purpose of this board to have
the Caldwell Canal filled
or as to in anyway interfere
with the delivery of water to the
Franklin Ditch.

The Treasurer is authorized
to refund money to Mr. Morris
on account of error reported
in assessment.

Flume

make as for
flume at Detrock's

American Bandings
Co notified of
failure to complete
contract.

Franklin
Ditch Co

In regard to
filling Caldwell
Canal

Refund, tax

MINUTE BOOK, PIONEER IRRIGATION DISTRICT.

The Secretary reported the sales of some
 changes in the business forms of the
 District relating to the checks
 warrants etc. and was directed authorized
 to carry out the suggestions made.
 Adjourned 6:45 PM

Aug 30 PM, Board met pursuant
 to adjournment. Acty President
 called to order. The Secretary
 was authorized to have built
 the District plot enclosed by
 a suitable board fence, and
 cause a shed to be made for
 the safe and proper keeping
 of District property.
 Sherburn claims were
 examined and allowed.
 In warrant book,
 Board now adjourned in
 due.

attest. R. H. Davis
 Secy.

R. H. Cowdson
 Acty Pres

Office of the Pioneer Irrigation District April 15th 1905

The following call for a special meeting was filed with the Secretary on this date.

We the undersigned constituting a majority of the Board of Directors of the Pioneer Irrigation District do hereby call a special meeting of the Board of Directors for the purpose of considering the advisability of bearing a part of the expense of defending the water right of the Franklin Ditch Co. The time of the special meeting is set for 4 p.m. April 25th 1905.

(Signed N.S. Dills
W.T. Calloway
L.E. Greenleaf)

4 p.m. April 25th 1905

Pursuant to the above call the Board of Directors met in special session.

Present Messrs. Dills, Calloway, Greenleaf and Washiter. Messrs. Balkins and Washiter not having qualified the full Board is represented by the Messrs Dills, Calloway and Greenleaf.

Upon motion of Greenleaf second by Calloway Mr Dills is elected President pro tem.

Messrs N.B. Allen and Adam Schindler representing the Franklin Ditch Co appear and request that as the water rights owned by their company will be of great value to the Pioneer Irrigation District, the Pioneer Irrigation bear one half of the expense of defending same in the suit.

After due consideration and discussion it is moved by Mr. Calloway that an agreement be entered into with the Franklin Ditch Co. whereby the said Franklin Ditch Co bear one half and the Pioneer Irrigation District bear one half the expenses of defending said suit. Seconded by Mr. Greenleaf. Motion carried.

The business being concluded for which the meeting was called the Board adjourns sine die.

Attest: H.M. Hedges

Secretary

Approved May 2nd 1905

N.S. Dills
Pres

Call for Special Meeting

again to be in case of special expense to defend Franklin Ditch Co. 4/25/05

See P. 100

Franklin Ditch Co. P. 100

Franklin Ditch Co. P. 100

Agreement to bear 1/2 expense

MINUTE BOOK, PIONEER IRRIGATION DISTRICT.

Office of the Pioneer Irrigation District May 2nd 1905 - 11 am.
 On this day and hour the board met in regular session.
 The Official Bonds and oaths of Messrs N.D. Bils L. E. Greenslet
 J. J. Wichter and Geo. L. Balkins having been filed the board
 proceeds to organize. J.
 The full board is present
 Moved by Mr Balkins seconded by Mr Greenslet that Mr Bils be
 elected president. Motion carried.
 The board now adjourns until 1 p.m. this date.

1 p.m. May 2 - 1905
 Present N.D. Bils president Wichter, Calloway, Greenslet
 and Balkins.
 The minutes of the meetings of April 4th 8th and 15th
 were read and approved.
 The allowance of bills was now taken up and upon motion
 of Calloway seconded by Balkins the following bills were
 approved and warrants ordered drawn.

NO.	NAME	AMOUNT
	L. Cox Labor	\$ 41.62
	L. Cox "	12.00
	W. R. Ballard "	2.12
	Frank Star "	4.37
	Roy Ballard "	3.37
	G. Tish "	1.12
	L. P. Jones "	2.12
	Will Hewland "	4.25
	R. G. McFarland "	6.50
	A. Doore "	2.12
	J. Dennerline "	1.12
	Albert Baker "	1.60
	H. Shellenberger "	8.10
	J. D. Jennings "	4.50
	Jno. Johnson "	2.25
	Jno. Johnson "	1.13
	M. A. Click "	2.40
	E. N. Brown "	75.06
	L. E. Greenslet "	6.18
	I. Bissett "	2.25
	A. B. Troyer "	2.25
	L. E. Greenslet "	4.25
	I. Bissett "	3.18
	E. R. Greenslet "	3.18
	J. Click "	5.00
	J. Click "	3.18
	Willis Troyer "	3.18
	Alf. Ferris "	2.12
	Patrick Kelly "	6.37
	J. Reeser "	42.11
	S. Reeser "	27.55
	S. B. Fowler "	6.35
	J. L. Needles "	6.35
	E. R. Fletcher "	16.90
	J. L. Hunter "	8.83
	B. McComb "	8.83
	Jno. Downey "	4.50
	W. Gupp "	2.25
	Thos. Glenn "	1.50
	Leon Golden "	3.00
	Jno. Eidson "	2.25
	John Lathan "	3.00
	H. R. Strohbecker "	75.00
	C. E. Scott "	5.63
	G. Wilson "	12.00
	H. R. Lee "	26.00
	J. Davis "	16.83
	J. Davis "	19.12
	G. R. Lee "	6.50

NO.	NAME	AMOUNT
	Mampa Lbr. Co. Lumber	\$102.40
	C. G. Hofzinger Labor March 1904.	10.00
	Mampa Lbr. Co. Lumber	52.79
	Mampa Hdw. & Furn. Co. Material	4.90
	Ernest Boone Time Check	17.76
	Robbins Lbr. Co. Lumber	16.80
	W. T. Galloway Services as Director	15.00
	A. L. Gowan Blacksmithing	6.75
	P. E. Engel Livery Rigs	5.50
	Ballentyne & Dee Mdse	46.32
	Mampa Hdw. Co. Material	66.65
	C. Kesse Ray	10.29
	Cooper Lbr. Co. Lumber	1.61
	Cooper Lbr. Co. Lumber	84.38
	D. D. Campbell Livery Rigs	4.00
	J. A. Fenton Lbr. Co. Lumber	18.13
	Ed. Hedden Surveying	5.00
	Rocky Mt. Bell Tel. Co. Telephone	22.75
	Central Lbr. Co. Lumber	119.26
	O. C. Wilson Labor	6.38
	O. C. Wilson "	6.75
	S. E. Fowler "	14.88
	S. Richardson "	7.28
	C. R. Lee "	3.00
	Wilson Leiser "	5.06
	M. Bacon "	2.25
	J. Reesser "	5.00
	Wm. Marsh "	5.31
	Maggie Davis Salary as Clerk	50.00
	G. Springer Labor	75.00
	Ray Leavell "	75.00
	Irvin Bissett "	4.50
	A. S. Garber Vouchers	14.30
	C. Roe "	61.53
	T. A. Domogalla "	22.38
	V. J. Domogalla "	19.44
	Ray Domogalla "	5.65
	S. Domogalla "	3.38
	C. Shellenberger "	15.31
	L. C. Parkinson "	5.36
	Bert Smith "	2.13
	Jacob Peterson "	7.63
	A. L. Gowan "	25.00
	D. D. Holt "	44.08
	Wm. Marsh "	14.31
	B. Lee "	11.57
	P. Amick "	63.00
	C. Emerson "	9.00
	J. Wilson "	46.12
	W. H. McCloskum "	43.20
	W. Grovornor "	31.00
	D. Amick "	14.62
	C. Roe "	65.07
	A. Mason "	6.58
	C. Roe "	40.00
	S. Ball "	50.00
	S. Ball "	64.50
	W. Hamilton "	55.12
	N. G. Cleek "	2.25

NO.	NAME	AMOUNT
	Wesley Charity Labor	6.37
	Harl Fisher "	10.62
	Clive Fisher "	5.67
	S. A. Williams "	1.12
	Chas. Murray "	3.19
	H. H. Holmer "	2.25
	H. H. Holmer "	2.25
	Chas. Metcalf "	3.50
	A. Sebree "	2.25
	B. W. Sowers "	75.00
	H. H. Hedges Salary & Expenses	153.25
	Trib. Ptg. and Pub. Notice	1.00
	Forrest Sower Labor	2.12

Messe Davis	Voucher	6.00
Idaho Implement Co.	" Material	9.00
J. J. Hamilton	"	10.00
S. Park	Labor	50.82
C. R. Lee	"	40.00
Mrs. S. A. Kurtz	In lieu of War. # 909 lost	75.00
C. C. Kavanaugh	Hauw damage case	127.50
L. E. Bebb	Labor	25.50
Bert Ballard	"	4.50

Account Pg 387 -

In the matter of the case of *Manor vs the Pioneer Irrigation District* in the 3rd Judicial District, the plaintiff in said case offering to settle for damages sustained by him for \$1375⁰⁰ ^{wherein said Manor vs Pioneer Irrigation District} it is hereby ordered that a warrant be drawn for said amount and the same delivered to the plaintiff when said case is dismissed. Motion by Calloway second by Calkins. Motion carried.

In the matter of Mr. Cary's petition for change of boundaries of the District, this being the day appointed for the hearing of same and the same having been advertised as required by law, and as no objection to granting same has been filed on motion of Calkins seconded by Greenslet the matter is laid over for final action at the next regular meeting pending the signing of agreement by said Cary releasing the district from damages caused by breaks in the Phyllis Canal. Motion carried.

In the matter of checks in the High Line Canal for Miss Finney, the Supt is ordered to take levels and make report to the board at meeting May 6th at 9 AM.

G. J. Wilson asks for check in the High Line Canal. It appearing that he can get water from the Phyllis by building 1/2 mile of lateral the request is denied, on motion of Calloway seconded by Mr. Calkins.

C. P. Lee asks that 2 of his headgates ^{on the High Line Canal} be lowered, and a check be placed for headgate passing under the Q.S.D. It appearing that this check will only be needed at extreme low water and will only be 1 ft in height. It is instructed that he may put in a check satisfactory to the Supt. at his own expense, and that he may lower his headgates under the direction of the Supt. On motion of Calloway seconded by Calkins motion carried.

It is moved by Calloway seconded by Calkins that the following agreement, the original of which is now on file in this office be subscribed by the President, attested by the Secretary and the corporate seal attached. Said agreement is in words as follows to wit:-

THIS AGREEMENT Made and entered into between the Pioneer Irrigation District a corporation, organized and existing under and by virtue of the laws of the State of Idaho, with its principal place of business at Caldwell, Idaho, the party of the first part and the Franklin Ditch Company, a corporation, existing under and by virtue of the laws of the state of Idaho, the party of the second part, witnesseth:

That whereas there is now pending in the Seventh Judicial District of the State of Idaho, in and for the County of Canyon, a suit entitled the Farmers Co-Operative Ditch Company vs. The Riverside Irrigation District et al, the purpose of which suit is the adjudication of the water rights from Boise River. And

Whereas the said party of the first part owns that certain ditch or canal known as the Caldwell Canal diverting water from said Boise River and it appearing that the said party of the second part owns a certain water right connected therewith, and it appearing that it is for the best interest of both of the parties hereto that the said water right be determined by the said party of the second part appearing in said suit and proving same in the said action in the above entitled court.

Now, therefore in consideration that the said party of the first part agrees to pay at the time when due, one-half of the attorney's fees, court costs and expenses of the adjudication of the said water rights, the said party of the second part hereby agrees to appear in said action and support by evidence the water right claimed by it in said Caldwell Canal, and to pay one-half of the attorney's fees, court costs and expenses in the determination of the said water right.

In witness whereof the said party of the first part has hereunto caused these presents to be subscribed by its president and attested by its Secretary and its corporate seal affixed hereto this day of May 1905 and the said party of the second part has hereunto caused these presents to be subscribed by its president and attested by its secretary and its corporate seal affixed this 2nd day of May, 1905.

Pioneer Irrigation District

By H. S. Dile

President.

Attest H. M. Hedges

Secretary.

The Franklin Ditch Company.

By L. F. Cook

President.

Attest H. E. Allen

Secretary.

Mr. Drury appears and asks that water be furnished for his high land. After discussion it is ordered that the Supt. investigate the matter and report at the next meeting.

Mr. Weymouth requests that his east headgate on the High River be changed. The Supt. is ordered to ~~invest~~ have this change made under his supervision. The applicant to bear all expense of same.

Mr. Wachtel presents petition from Messrs. Jones, Goodlow, Howell and Botter for permission to make change in the old Caldwell Canal to avoid flooding same. The said petitioners to construct such change subject to the approval of the Supt., to bear all expense of same and to keep same in good repair. The above agreement is hereby accepted by us the undersigned

There being no further business the Board adjourned until May 6th
Attest: H. M. Hedges 9061 H-NH H. S. Dile MAY - 6 1905
Sigsbee

Education

M.S., Civil Engineering
University of Idaho

B.S., General Engineering
Idaho State University

Professional Certification

Professional Engineer
Idaho No. 7914, 1995

Certified Water Right Examiner
Idaho No. 11-133

Professional Affiliations

Member, ASCE

Member, AWRA

Areas of Expertise

- Water rights
 - investigations and analysis
 - permits and transfers
 - marketing and acquisitions
- Water resource investigations
- Water well design
- Surface water modeling
- Gravity irrigation systems
- Stream flow measurement
- Pumping efficiency evaluations

Experience Summary

Mr. King has over 18 years of professional and academic experience in water resources engineering. He is currently a Supervising Engineer with SPF Water Engineering, LLC and specializes in water right issues, water flow measurement, open-channel flow, pumping system design, water well design, and geographic information systems (GIS). Prior work includes 14 years experience in a broad variety of Idaho Department of Water Resources' (IDWR) programs including water rights adjudication, water rights administration, safety of dams, and energy efficiency. He also has recent experience developing surface water models and providing consulting engineering services while employed at DHI, Inc, formerly known as the Danish Hydraulic Institute.

SPF Water Engineering, LLC – 2005 to present

Mr. King is currently a Supervising Engineer with SPF Water Engineering, LLC. SPF was founded in March 2004 to provide hydrologic characterization, water resource development, and public water system design and regulatory compliance. Mr. King provides consulting services on water rights issues, pump design, irrigation system evaluation, surface water hydrology, surface water modeling, and river hydraulics. His recent project experience includes the following:

- Extensive water right experience including
 - permit and transfer applications
 - investigations and analysis
 - acquisitions and sales
 - beneficial use field examinations
 - adjudication claim preparation and support
- Gravity irrigation system design and analysis
- Stream flow measurement and monitoring
- Conveyance capacity determinations for streams, culverts, and other open-channel systems
- Water well design including designs to municipal public drinking water supply standards
- Well capacity determination
- Pumping system design

DHI, INC – 2004 to 2005

Mr. King worked as a senior project engineer responsible for development of various surface water models. Project experience includes the following:

Modeling – MIKE 11. Developed hydrodynamic 1-D MIKE 11 model of the Little Claggett Creek storm water drainage system, a part of Marion County's East Salem Service District, Oregon. Produced flood maps for SCS Type 1A design storms and for the February 1996 flood event. This model includes 8.5 km of streams in two branches, over 100 cross-sections extracted from a 2 ft vertical resolution DEM, and 23 culverts with corresponding broad-crested weirs representing roadways over culvert crossings. Inflow boundary conditions are represented by 21 catchments contributing point-source and distributed inflows simulated in MIKE 11's rainfall / runoff module.

Modeling – MIKE BASIN. Project lead on MIKE BASIN surface water distribution models developed for the Idaho Department of Water Resources. These models are used by IDWR for three primary purposes: flow enhancement tools to address flow-limited stream reaches; decision making tools to assist in selecting effective mitigation and restoration projects; and communication tools for educating decision makers and stimulating discussion among stakeholders. Developed systems include the Pahsimeroi River and East Fork Salmon River, and experiences with Lemhi River and Stanley Basin models. These models operate on a daily time step and represent the water distribution system within the basins including the stream networks, points of diversion, places of use, and locations of return flow. Time series information includes records of stream gaging, diversion measurements, precipitation, and evapotranspiration. Provided training to IDWR staff, contractors, and watermasters on the operation of MIKE BASIN through a series of hands-on sessions. Presented proposals to local waterusers and stakeholders for new model applications in Morgan Creek and Carmen Creek.

Modeling – Rainfall / Runoff. Developed lumped conceptual rain/snow/runoff models of the Stanley and East Fork Salmon River Basins for the Idaho Department of Water Resources using DHI's lumped conceptual rainfall/runoff module. The developed models are used to supply tributary inflow boundary conditions to the East Fork Salmon River and Stanley Basin MIKE BASIN models.

Developed rainfall/runoff models of 21 catchments supplying inflow boundary conditions for the Little Claggett Creek MIKE 11 model described above. Rainfall/runoff is simulated using DHI's URBAN module. Four storm events are modeled including the February 1996 observed event and SCS Type-1A 2-, 10-, and 50-year design storms.

Idaho Department of Water Resources – 1990 to 2004

During 14 years with the Idaho Department of Water Resources, Mr. King held four engineering positions and gained experience in a wide range of IDWR activities. These positions included Technical Engineer in the Adjudication Bureau, and Staff Engineer positions in the Water

Distribution Section, in Western Region's Safety of Dams unit, and in the Energy Division. Relevant experience includes the following:

Program Management

Managed Western Region's Safety of Dams program. Inspected dams and made recommendations for maintenance and operation to improve safety and meet state standards. Issued storage certificates and authorizations to fill.

Lead technical consultant in statewide water measurement program. Defined water measurement standards and implemented a program for measuring and reporting ground-water withdrawals. Coordinated field work performed by department staff and various measuring districts. Inspected contractor projects for adequacy and compliance with department standards. Designed and managed water measurement databases.

Water Rights

Reviewed complex water right claims and prepared water right recommendations for the Director's Report to the Snake River Basin Adjudication court. Provided technical analysis and recommendations for nonstandard water right claims, such as claims for diversion rates exceeding the standard allocation, and for claims to the use of water outside of the standard seasons of use.

Provided training and direction to new employees, water districts, water measurement districts, groundwater districts, and private consultants on water rights, water measurement programs, and adjudication procedures.

Worked with water users and their legal representatives on various water right enforcement issues, including excessive and illegal water diversions.

Experienced with all aspects of IDWR regional office operations including water rights, transfers, well drilling, adjudication, water district operation, violations, enforcement, and customer complaints.

Irrigation and Pumping Systems

Performed pumping system evaluations including determinations of municipal, industrial, and agricultural pumping plant efficiencies and recommended measures for improved efficiency and reduced operating costs. Provided recommendations and designs for conversions to low-pressure irrigation systems for reduced operating costs and improved yields.

Technical Expert to Snake River Basin Adjudication (SRBA) Court

Provided technical engineering support to department staff in the ongoing SRBA.

Designated as department expert to the SRBA court regarding irrigation requirements, evapotranspiration, and crop water requirements, and how this information is utilized for preparing recommendations.

Public Relations

Presentations at public meetings to explain laws and regulations relating to water measurement and water appropriation.

Provided conflict resolution support for several water related disputes.

Trained IDWR employees, state Watermasters and Hydrographers, contractors, and consultants on water measurement standards, equipment, practices, and procedures through regular training sessions and individual assistance.

Guest lecturer in 1996 and 1998 for College of Southern Idaho's Water Measurement course, and in 1998 for Boise State University's Water Measurement lab.

Presented *Selection and Installation of Pipe Flow Water Measurement Devices* at the 1997 Idaho Irrigation Equipment Show and Exhibition, Shilo Inn, Idaho Falls, January 8-9.

Technical

Developed and proposed to department administration and to the general public technically sound methods of using power records for estimation of pumped water diversions.

Determined acceptability and provided professional opinions for numerous non-standard water measurement methods and devices proposed to IDWR by engineering consultants and water users.

Determined conveyance capacity of pumps, diversions, pipelines, open channels, turbines, etc.

Led IDWR efforts to utilize global positioning systems (GPS). Developed standards for use, trained staff and consultants, and integrated GPS data collection into GIS work.

Report Development

Authored various reports including annual reports of ground water diversions, reports to individual water users, flowmeter accuracy reports, and various other reports relating to water measurement.

Co-author of *Eastern Snake Plain Aquifer Water Measurement Program, A Summary of Measurement Activity & Results from Basin 36 Project Area, 1995-1996 and a Review of Program Expansion in 1997*, IDWR, May 1998.

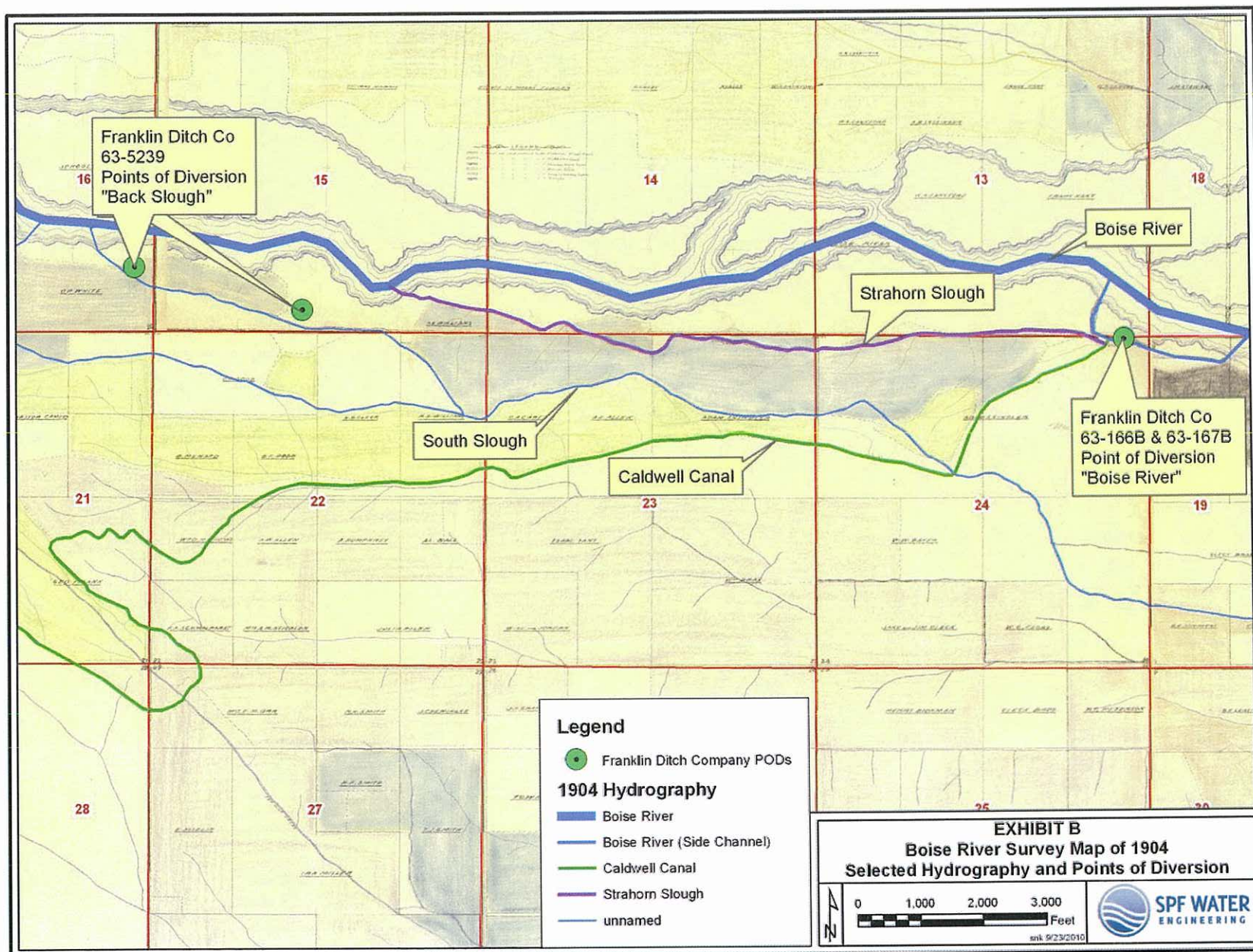
University of Idaho – 1999 to 2002

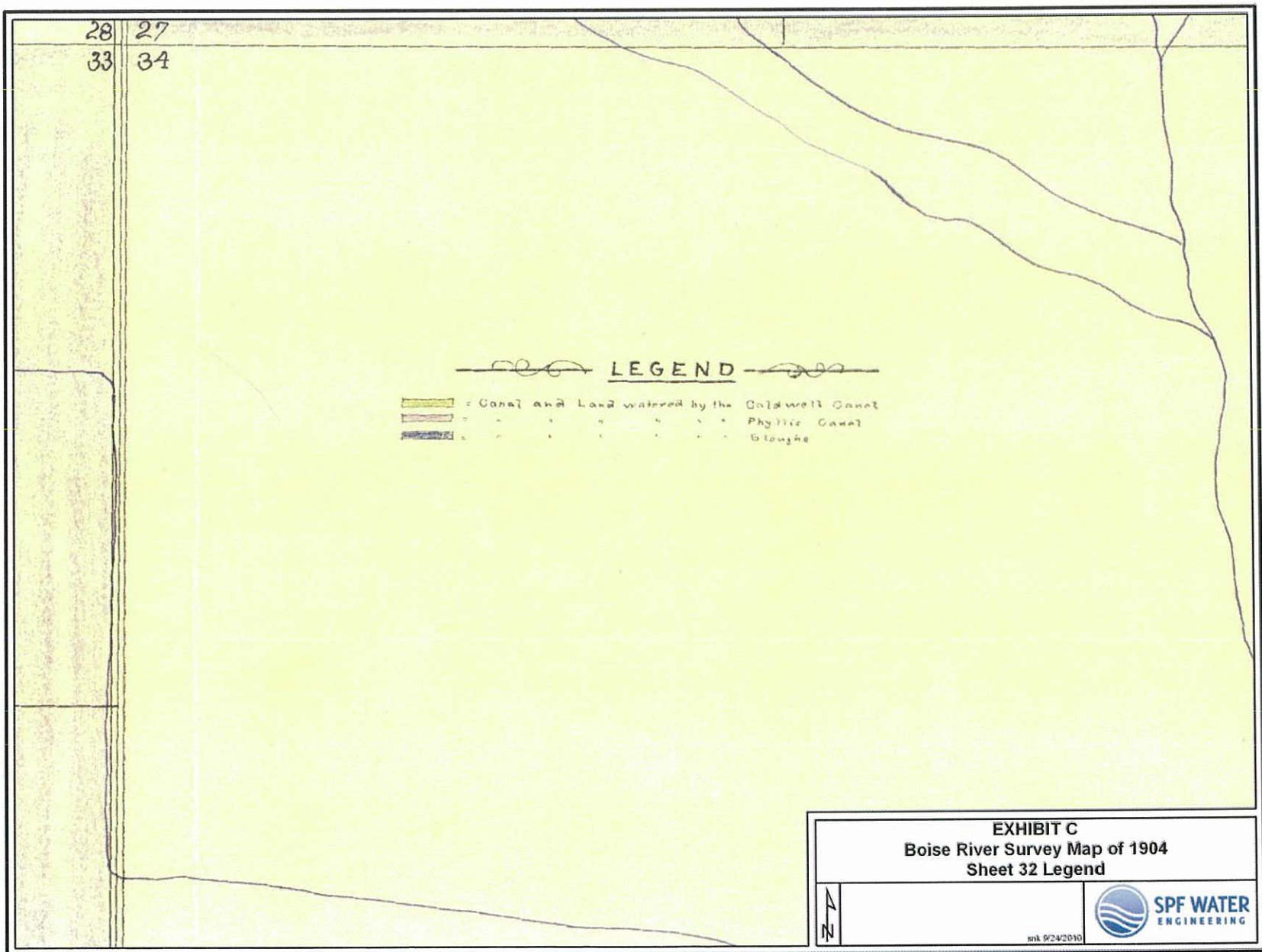
Masters of Science in Civil Engineering Thesis: *The Effective Discharge Concept in Gravel Bed Stream Restoration: The Twelve Mile Reach of the Salmon River at Challis, Idaho.*

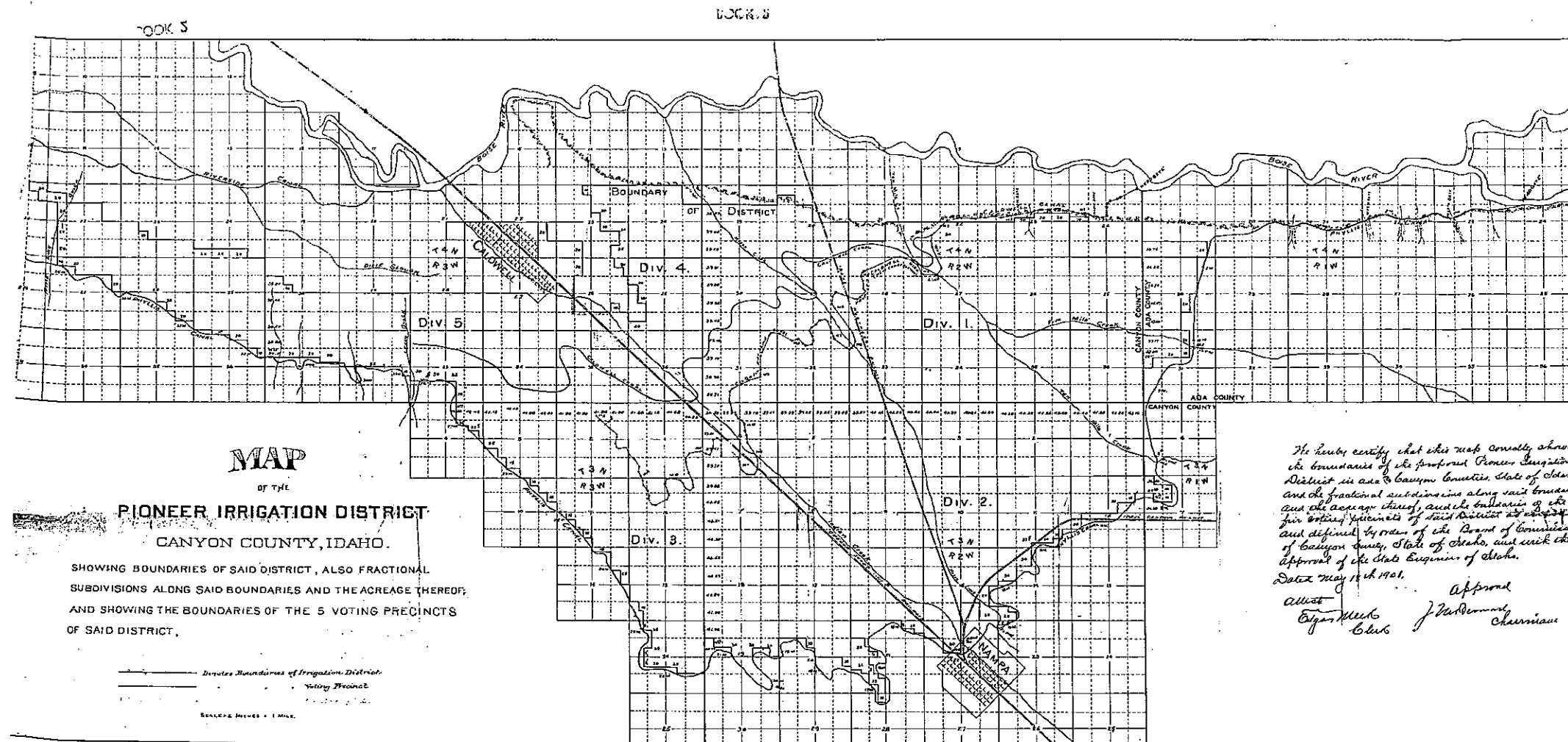
Determined channel effective discharge based on sediment transport

measurements and flow records. Compared effective discharge to bankfull discharge and stated implications of findings in regards to channel restoration. Completed hydraulic, hydrologic, and geomorphologic characteristics of the study reach. Presented findings and recommendations to technical groups and local property owners.

Developed hydrodynamic pseudo 2-D MIKE 11 model of the Twelve Mile Reach, Salmon River, near Challis, ID. Produced animated flood maps of primary flooding events from 1974 (100-yr), 1996, and 1997. This model includes 27-km of mainstem river including braided sections and split flows. Over-bank discharge into Hannah Slough and across One-Mile Island is represented by link-channels. The model includes 68 surveyed cross-sections and utilizes a 2-ft interval contour map for flood mapping.







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CLAIM INVESTIGATION HANDBOOK

CHAPTER 1

INTRODUCTION

The Idaho Department of Water Resources plays a key role in the Snake River Basin Adjudication. IDWR receives all claims for state law based water rights and investigates them before they are considered by the SRBA District Court. IDWR investigates them to determine how it believes each water right should be described, and then submits its recommendations to the SRBA District Court in the form of a Director's Report. Experience in the Test Basins shows that over 90% of the time IDWR's recommendation to the SRBA District Court is accepted and decreed without objection. Even when objections are filed conversations with IDWR often result in agreements between the claimant and IDWR regarding how the water right should be described. In other words, in most cases the water rights in the SRBA will be decreed in the way that IDWR recommends.

This fact illustrates that IDWR bears a major responsibility to ensure that the water rights decreed in the SRBA accurately describe the water uses that the rights authorize and protect. This revised Claim Investigation Handbook has been developed to assist you in investigating the water right claims in the SRBA. Although it is not possible to provide you with a "cookbook" that describes how every individual claim should be recommended, the guidelines in this manual are designed to assist you in exercising and developing your good judgment regarding water right recommendations. It also explains to you the process that will occur from the time you are assigned a claim until that claim is decreed as a water right.

Examinations of claims and preparation of recommendations is complex work. On one hand there is a temptation to be extremely thorough in this process. On the other, the public cannot afford to pay for a "Cadillac" inspection of every water right. We are seeking a "Chevrolet" inspection, maximizing the use of technology to enhance efficiency and accuracy, while developing a speedy and cost-effective product. We are always open to new ways of doing business to achieve this end.

Remember, this Handbook cannot answer every question. Use your common sense; talk with your co-workers; talk with your supervisor and consult with your regional Deputy Attorney General when you deal with a situation not quite answered by this Handbook. In the end, the State is counting on your diligence, hard work and good judgment to complete the SRBA fairly and efficiently.

Copies of this manual may be provided to the public when specifically requested, subject to payment of mailing and/or copying charges. "Subscriptions" for updates will not be available.

inception of the right to the present (this will be referred to as determining continuity of use).

3. If a five-year cessation in water use has occurred, determine if any of the statutory or common law defenses to forfeiture are present.
4. If a five-year cessation in water use has occurred, but the use has resumed, determine if any other water right holders are injured by such resumption.

When an agent is asked to present the basis for a forfeiture recommendation in court, the agent must be sure that the analysis described above has been fully conducted. The analysis should be fully documented in the claim file. Section III, below, describes the circumstances when this complete analysis is necessary.

III. PARTIAL FORFEITURE.

The agent must consider the following when making a partial forfeiture recommendation:

A. Irrigation Uses.

An irrigation use may be recommended as partially forfeited only if there is a reduction in the actual number of acres irrigated. Descriptive elements of a water right, standing alone, will not be recommended as forfeited except in the context of a limitation in the number of acres. When there is a recommendation of partial forfeiture based upon the number of acres irrigated, the diversion rate and volume may need to be adjusted down, depending upon the extent of the original diversion rate and volume.

B. Other Uses.

For all other uses, the agent should consult with their legal liaison and State Office staff if there is a potential partial forfeiture.

IV. CLEAR AND CONVINCING EVIDENCE OF FORFEITURE?

It is not possible to provide a general rule for what constitutes clear and convincing evidence of forfeiture. There is a range within which different fact-finders could find forfeiture. At one end of the range would be two photographs, five years apart which show that water was not used in either of those years. At the other end of the range would be physical evidence such as a parking lot or a diversion system with limited capacity that was in place for five or more years. In between is a host of possibilities with testimony from neighbors, watermaster records, electrical bills, assessors' records, crop records, and so on. The question is: when looked at most favorably for the water right holder, does the evidence clearly show that water was not used for five years?

The type and degree of evidence of forfeiture will determine how IDWR participates in subcase proceedings. In situations where IDWR has some evidence of forfeiture, the agent may recommend forfeiture, but should not expect IDWR to submit extensive evidence of this recommendation if challenged in a subcase. The forfeiture recommendation will be used to raise a presumption that water has not been used for a specifically identified five year period, and the claimant will have to specifically rebut this presumption with evidence showing continuity of use. Where IDWR has what it considers to be clear and convincing evidence of forfeiture, IDWR will enter the full basis for its recommendation in a Class II subcase context. Forfeiture cases should be discussed with the agent's legal liaison when the case management report to the SRBA District Court is being prepared to assess the strength of the recommendation.

The following examples provide guidance to the agent regarding situations in which it is appropriate to initially recommend forfeiture when considering evidence of non-use of water rights:

- ▶ Permanent physical features preventing use, such as parking lots or homes, are constructed after the right is established.
- ▶ Two photos greater than five years apart showing no use.
- ▶ A photo and field exam greater than five years apart showing no use.
- ▶ Anecdotal information from a neighbor of five consecutive years of non-use.

If the claimant presents evidence during the notice of error process that establishes continuity of use and disproves forfeiture, the preliminary recommendation will be changed. If not, the forfeiture recommendation will be issued to the SRBA District Court and the claimant will need to show continuity of use to the Court.

The following examples illustrate situations when forfeiture should not be recommended when considering evidence of non-use of water rights:

- ▶ Incidental acreage not irrigated due to the characteristics of the irrigation system, such as corners on land now irrigated with circles, but originally square.
- ▶ Water use resumed in good faith at time of field examination.
- ▶ Less than five percent (< 5%) discrepancy between claimed irrigation acres and irrigation determined by G.I.S. analysis.

In these situations third parties would have to allege and prove forfeiture if they disagree with IDWR's recommendation.

V. RECOMMENDING FORFEITURE IN THE SRBA.

12/14/2006

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

RIGHT NUMBER: 63-5239

NAME AND ADDRESS: FRANKLIN DITCH CO
C/O HELEN I LARSON
8500 JOPLIN RD
CALDWELL ID 83605

SOURCE: BACK SLOUGH

TRIBUTARY: BOISE RIVER

QUANTITY: 9.800 CFS

PRIORITY DATE: 04/01/1880

POINT OF

DIVERSION: T04N R02W S15 SESE Within CANYON County

T04N R02W S16 SESE Within CANYON County

PURPOSE AND
PERIOD OF USE:

<u>PURPOSE OF USE</u>	<u>PERIOD OF USE</u>	<u>QUANTITY</u>
IRRIGATION	3/15 11/15	9.800 CFS

The use of water for irrigation under this right may begin as early as March 1 and may continue to as late as November 15, provided other elements of the right are not exceeded. The use of water before March 15 under this remark is subordinate to all water rights having no subordinated early or late irrigation use and a priority date earlier than the date a partial decree is entered for this right.

PLACE OF USE:

2056 ACRES TOTAL

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

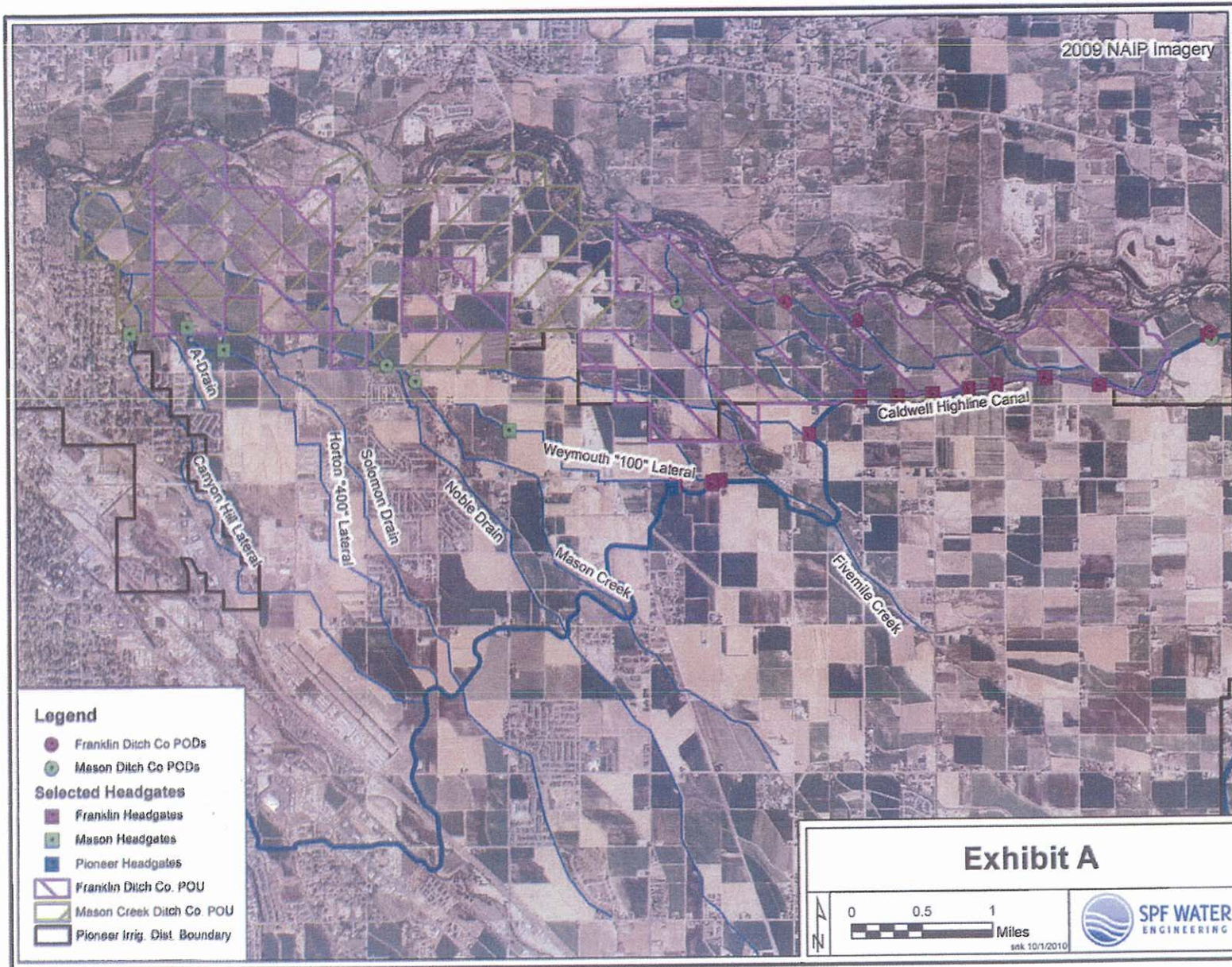
This right when combined with Right Nos. 63-1668 and 63-1678 can be used to irrigate up to 2056 acres within the boundary of the Franklin Ditch Company.

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

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

EXPLANATORY MATERIAL: BASIS OF CLAIM - Beneficial Use

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