

12-28

DEPARTMENT OF
WATER RESOURCES

Attorneys for Aberdeen-Springfield Canal Company

In Re SRBA)
Case No. 39576)

_____)

A. Subcase Nos. 01-23B, 01-297, 35-2543, 35-4246

AFFIDAVIT OF RANDALL C. BUDGE

STATE OF IDAHO)
County of Bannock)
ss:

1. My name is Randall C. Budge and I am now and have been at all times relevant a duly-licensed attorney in the State of Idaho holding Idaho State Bar License No. 1949 and member of the firm of Racine, Olson, Nye, Budge & Bailey, Chartered, attorneys of record for Claimant Aberdeen-Springfield Canal Company.

3. Attached hereto as **Exhibit 2** is a true and correct copy of the Order of Partial Decree issued to Sagewillow, Inc. on August 31, 2004.

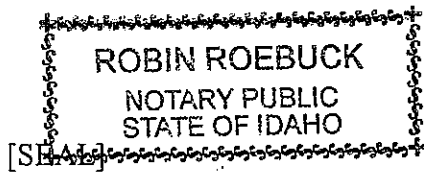
4. Attached hereto as **Exhibit 3** is a true and correct copy from the public record of the Idaho Department of Water Resources of the Finding of Fact and Conclusions of Law to the *Rexburg Irrigation Co., et al. v. Teton Irrigation Canal Co., et al.* (Sixth Jud. Dist. Fremont County, December 16, 1910) (commonly known as the "Rexburg Decree").

FURTHER, your Affiant saith not.

DATED this 27th day of December, 2010.


RANDALL C. BUDGE

Subscribed and sworn to before me, a Notary Public, this 27th day of December, 2010.




Notary Public for Idaho
Residing at Pocatello.
My commission expires 8/18/2012

EXHIBIT 1

State of Idaho License and Certificate of Water Right

Water License No. R-833Amount 2960 acre feet

Water District No. _____

Priority June 22, 1949THIS IS TO CERTIFY that L. R. HAWLEY

of Howe, Idaho, made application for a permit to appropriate the public waters of the State of Idaho, dated June 22, 1949; that Permit No. R-833 was issued under said application; that Certificate of Completion of works, with a ~~storage~~ capacity of 2960 acre feet, was issued thereunder on May 5, 1954, showing that said works were completed on the 28th day of July, 1951; and that on the 28th day of July, 1951,

L. R. HAWLEY

of Howe, State of Idaho, made proof to the satisfaction of the State Reclamation Engineer, of Idaho, of the right to use the waters of Little Lost River & Creek, for the purpose of Soil Root Zone Storage only

, under Use Permit No. R-833 of the Department of Reclamation, and that said right to the use of said waters has been perfected in accordance with the laws of Idaho, and is hereby confirmed by the State Reclamation Engineer of Idaho and entered of record in Volume

9 of Licenses at page 5258, on the 5th day of May, 1954;

The right hereby confirmed dates from June 22, 1949;
From Upper Spring Creek

The Point of Diversion is located in the NE 1/4 SW 1/4 Section 5, Twp. 7 N., Rge. 28 E., B.M. and from Little Lost River in the NW 1/4 NE 1/4 Section 12, Twp. 7 N., Range 27 E., B.M. in the 1/4 1/4 Sec. 1/4, Twp. 7 N., R. 28 E., B. M. County Bonneville

That the amount of water to which such right is entitled and hereby confirmed, for the purposes aforesaid, is limited to an amount actually needed and beneficially used for said purposes, and shall

not exceed 2960 acre feet per annum, equally divided between Upper Spring Creek and Little Lost River.

Description and location of:

Twp.	Range	Section	Forty-Acre Tract	No. Acres described in Permit	No. Acres Actually Irrigated
7 N.	28 E.	5	SE 1/4 SW 1/4	40	40
			SW 1/4 SE 1/4	40	40
			NE 1/4 NE 1/4	40	40
			NW 1/4 NE 1/4	40	40
			SE 1/4 NE 1/4	40	40
			NE 1/4 NE 1/4	40	40
			NW 1/4 NE 1/4	40	40
			SW 1/4 NE 1/4	40	40
			SE 1/4 NE 1/4	40	40
			NE 1/4 NE 1/4	40	40
			NW 1/4 NE 1/4	40	40
			SW 1/4 NE 1/4	40	40
		7	SE 1/4 SW 1/4	40	40
			SW 1/4 SE 1/4	40	40
			NE 1/4 NE 1/4	40	40
			NW 1/4 NE 1/4	40	40
			SE 1/4 NE 1/4	40	40
			NE 1/4 NE 1/4	40	40
			NW 1/4 NE 1/4	40	40
			SW 1/4 NE 1/4	40	40
			SE 1/4 NE 1/4	40	40
			NE 1/4 NE 1/4	40	40
			NW 1/4 NE 1/4	40	40
			SW 1/4 NE 1/4	40	40
			SE 1/4 NE 1/4	40	40
		8	SE 1/4 SW 1/4	40	40
			SW 1/4 SE 1/4	40	40
			NE 1/4 NE 1/4	40	40
			NW 1/4 NE 1/4	40	40
			SE 1/4 NE 1/4	40	40
			NE 1/4 NE 1/4	40	40
			NW 1/4 NE 1/4	40	40
			SW 1/4 NE 1/4	40	40
			SE 1/4 NE 1/4	40	40
			NE 1/4 NE 1/4	40	40
			NW 1/4 NE 1/4	40	40
			SW 1/4 NE 1/4	40	40
	17	17	SE 1/4 SW 1/4	40	40
			SW 1/4 SE 1/4	40	40
			NE 1/4 NE 1/4	40	40
			NW 1/4 NE 1/4	40	40
	18	18	SE 1/4 SW 1/4	40	40
			SW 1/4 SE 1/4	40	40
			NE 1/4 NE 1/4	40	40
			NW 1/4 NE 1/4	40	40
7 N.	27 E.	12	SE 1/4 SW 1/4	40	40
			SW 1/4 SE 1/4	40	40
			NE 1/4 NE 1/4	40	40
			NW 1/4 NE 1/4	40	40
			SE 1/4 NE 1/4	40	40
			NE 1/4 NE 1/4	40	40
			NW 1/4 NE 1/4	40	40
			SW 1/4 NE 1/4	40	40
			SE 1/4 NE 1/4	40	40
			NE 1/4 NE 1/4	40	40
			NW 1/4 NE 1/4	40	40
			SW 1/4 NE 1/4	40	40

2133

The right hereby confirmed dates from June 22
from Upper Spring Creek

, 1949 ;

The Point of Diversion is located in the NE $\frac{1}{4}$ SW $\frac{1}{4}$ Section 5, Twp. 7 N., Rge. 28 E., B.M. and from
Little Lost River in the NW $\frac{1}{4}$ NW $\frac{1}{4}$ Section 12, Twp. 7 N., Range 27 E., B.M.
in the $\frac{1}{4}$, Sec. $\frac{1}{4}$, Tp. $\frac{1}{4}$, R. $\frac{1}{4}$, B. M. County BUTTE

That the amount of water to which such right is entitled and hereby confirmed, for the purposes
aforesaid, is limited to an amount actually needed and beneficially used for said purposes, and shall

not exceed 2960 acre ~~cubic~~ feet per ~~year~~ annum, equally divided between Upper Spring Creek
and Little Lost River.

Description and location of:

Twp.	Range	Section	Forty-Acre Tract	No. Acres described in Permit	No. Acres Actually Irrigated
7 N.	28 E.	5	SE $\frac{1}{4}$ SW $\frac{1}{4}$	40	40
			SW $\frac{1}{4}$ SE $\frac{1}{4}$	40	---
		7	NE $\frac{1}{4}$ NE $\frac{1}{4}$	40	---
			NW $\frac{1}{4}$ NE $\frac{1}{4}$	40	---
			SW $\frac{1}{4}$ NE $\frac{1}{4}$	40	40
			SE $\frac{1}{4}$ NE $\frac{1}{4}$	40	40
			NE $\frac{1}{4}$ NW $\frac{1}{4}$	40	---
			NW $\frac{1}{4}$ NW $\frac{1}{4}$	40	---
			SW $\frac{1}{4}$ NW $\frac{1}{4}$	40	40
			SE $\frac{1}{4}$ NW $\frac{1}{4}$	40	40
			NE $\frac{1}{4}$ SW $\frac{1}{4}$	40	40
			NW $\frac{1}{4}$ SW $\frac{1}{4}$	40	40
			SW $\frac{1}{4}$ SW $\frac{1}{4}$	40	40
			SE $\frac{1}{4}$ SW $\frac{1}{4}$	40	40
			NE $\frac{1}{4}$ SE $\frac{1}{4}$	40	40
			NW $\frac{1}{4}$ SE $\frac{1}{4}$	40	40
			SW $\frac{1}{4}$ SE $\frac{1}{4}$	40	40
			SE $\frac{1}{4}$ SE $\frac{1}{4}$	40	40
		8	W $\frac{1}{2}$ NE $\frac{1}{2}$	80	SW NE 40
			NE $\frac{1}{4}$ NW $\frac{1}{4}$	40	40
			SW $\frac{1}{4}$ NW $\frac{1}{4}$	80	80
			W $\frac{1}{2}$ SE $\frac{1}{2}$	160	160
			SW $\frac{1}{4}$ SE $\frac{1}{4}$	80	80
		17	SW $\frac{1}{4}$ SW $\frac{1}{4}$	40	40
		18	S $\frac{1}{2}$ NE $\frac{1}{2}$	80	80
			SE $\frac{1}{4}$ NW $\frac{1}{4}$	40	40
			N $\frac{1}{2}$ SE $\frac{1}{2}$	80	80
7 N.	27 E.	12	N $\frac{1}{2}$ NE $\frac{1}{2}$	80	---
			S $\frac{1}{2}$ NE $\frac{1}{2}$	80	80
			NE $\frac{1}{4}$ NW $\frac{1}{4}$	40	---
			SE $\frac{1}{4}$ NW $\frac{1}{4}$	40	40
			NE $\frac{1}{4}$ SW $\frac{1}{4}$	40	30
			SE $\frac{1}{4}$ SW $\frac{1}{4}$	40	---
			N $\frac{1}{2}$ SE $\frac{1}{2}$	80	80
			SW $\frac{1}{4}$ SE $\frac{1}{4}$	40	30
			SE $\frac{1}{4}$ SE $\frac{1}{4}$	40	40
		13	NE $\frac{1}{4}$ NE $\frac{1}{4}$	40	20
			NW $\frac{1}{4}$ NE $\frac{1}{4}$	40	---
			NE $\frac{1}{4}$ NW $\frac{1}{4}$	40	---
8 N.	27 E.	34	SW $\frac{1}{4}$ NE $\frac{1}{4}$	40	---
			SE $\frac{1}{4}$ NW $\frac{1}{4}$	40	---
			SW $\frac{1}{4}$	160	---
			W $\frac{1}{2}$ SE $\frac{1}{2}$	80	---
7 N.	28 E.	20	N $\frac{1}{2}$ NE $\frac{1}{2}$	40	---
			N $\frac{1}{2}$ NW $\frac{1}{2}$	80	---

Number of Acres Actually Irrigated

1480

2133

River &
age only

from

--	--	--	--	--	--

The right to the use of the water aforesaid hereby confirmed is restricted to the lands or place of use herein described, as provided by the laws of Idaho.

WITNESS the seal and signature of the State Reclamation Engineer, affixed at Boise, Idaho, this
5th day of May, 19 54 .

MARK R. KULE

State Reclamation Engineer.

(SEAL)

33 2133

EXHIBIT 2

2004 AUG 31 PM 4:32
TWIN FALLS DIST. SRBA
FILED IDAHO

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

In Re SRBA

Case No. 39576

ORDER OF PARTIAL DECREE

For Water Right: 33-02133

On July 30, 2004, a *Special Master's Report and Recommendation* was filed for water right 33-02133. No Challenges were filed to the *Special Master's Report and Recommendation* and the time for filing Challenges has now expired.

Pursuant to I.R.C.P. 53(e)(2) and *SRBA Administrative Order 1*, Section 13f, this Court has reviewed the Findings of Fact and Conclusions of Law contained in the *Special Master's Report and Recommendation* and wholly adopts them as its own.

Therefore, IT IS ORDERED that water right 33-02133 be decreed as set forth in the attached *Partial Decree Pursuant to I.R.C.P. 54(b)*.

DATED August 31, 2004.


JOHN M. MELANSON

Presiding Judge

Snake River Basin Adjudication

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)
) PARTIAL DECREE PURSUANT TO
) I.R.C.P. 54(b) FOR
Case No. 39576)
)
) Water Right 33-02133

2004 AUG 31 PM 4:32

DISTRICT COURT - SRBA
TWIN FALLS CO., IDAHO
FILED

NAME AND ADDRESS: SAGEWILLOW INC
C/O KENT FOSTER
HOLDEN KIDWELL HAHN & CRAPO
PO BOX 50110
IDAMO FALLS, ID 83405-0130

SOURCE: LITTLE LOST RIVER TRIBUTARY: SINKS
BIG SPRING CREEK TRIBUTARY: LITTLE LOST RIVER

QUANTITY: 9.88 CFS
2960.00 APY

PRIORITY DATE: 06/22/1949

POINT OF DIVERSION: T07N R27E S02 SWSSE Within Butte County
S12 NESHNW
R28E S05 NENWSH

PURPOSE AND PERIOD OF USE:	PURPOSE OF USE	PERIOD OF USE	QUANTITY
	Groundwater Recharge	11-01 TO 04-01	9.88 CFS
			2960.00 APY
	Irrigation		2960.00 APY

PLACE OF USE:	Irrigation	Within Butte County
T07N R27E S01	SWSH 2.0	
S12	NWNE 21.0	SWNE 40.0
	SENE 35.0	NENW 36.0
	NHNW 30.0	SKNW 6.9
	SENW 26.0	NESH 32.0
	SESW 30.0	NENE 40.0
	NWSE 32.0	SWSE 27.0
	SESE 39.0	
S13	NENE 32.0	NWNE 34.0
	NENW 2.1	
R28E S07	NENE 2.1	SWNE 35.0
	SENE 40.0	LOT 2 (SWNW) 35.0
	SENW 38.0	NESH 40.0
LOT 3	(NWSH) 39.0	LOT 4 (SWSH) 39.0
	SESW 40.0	NENE 40.0
	NWSE 40.0	SWSE 40.0
	SESE 40.0	
S08	NENW 5.0	NHNW 13.0
	SWNW 40.0	SENW 20.0
	NWSH 40.0	SWSH 32.0
S18	NENE 40.0	NWNE 40.0
	SWNE 40.0	SENE 40.0
	NENW 40.0	LOT 1 (NWNW) 39.0
LOT 2	(SWNW) 28.0	SENW 16.0
	NENE 34.0	NWSE 16.0
1436.1 Acres Total		

Groundwater Recharge	Within Butte County
T07N R27E S01	SWSH
S12	NWNE
	SENE
	NHNW
	SENW
	SWNE
	NENW
	SWNW
	NESH

SRBA Partial Decree Pursuant to I.R.C.P. 54(b) (continued)

PLACE OF USE (continued)

	SESW	NESE
	NWSE	SWSE
	SESE	
813	NENE	NWNE
	NENW	
R28E S07	NENE	SWNE
	SENE	LOT 2 (SWNW)
	SENW	NESW
LOT 3	(NWSW)	LOT 4 (SWSW)
	SESW	NESE
	NWSE	SWSE
	SESE	
808	NENW	NWNW
	SWNW	SESW
	NWGW	SWSW
818	NENE	NWNE
	SWNE	SENE
	NENW	LOT 1 (NWNW)
LOT 2	(SWNW)	SESW
	NESE	NWSE

USE OF THE RIGHTS LISTED BELOW IS LIMITED TO THE IRRIGATION OF A COMBINED TOTAL OF 3019.8 ACRES IN A SINGLE IRRIGATION SEASON. COMBINED RIGHT NOS.: 33-69, 33-70, 33-71, 33-72, 33-73, 33-74, 33-76, 33-78, 33-79, 33-80, 33-81, 33-82, 33-2057, 33-2083, 33-2086, 33-2091, 33-2133 and 33-7018.

RIGHTS 33-69, 33-70, 33-71, 33-72, 33-73, 33-74, 33-76, 33-78, 33-79, 33-80, 33-81 AND 33-82 OVERLAP 268 ACRES WITHIN THE 1483 ACRES AUTHORIZED UNDER RIGHTS 33-2057 AND 33-2083; AND OVERLAP 382 ACRES WITHIN THE 1436.1 ACRE PLACE OF USE DESCRIBED UNDER RIGHT 33-2133.

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

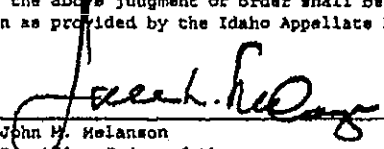
CONTINUED DIVERSION OF WATER UNDER THE RESUMED PORTIONS OF RIGHTS 33-2057 AND 33-2083 (301 ACRES), AND RIGHT 33-2091 (73 ACRES) ARE DEEMED MITIGATED BY, AND THEREFORE ARE EXPRESSLY CONTINGENT UPON, CONTINUED DIVERSION OF WINTER WATER USE UNDER RIGHT 33-2133 TO THE EXTENT WATER IS AVAILABLE FOR DIVERSION UNDER THAT WATER RIGHT.

RIGHT 33-2133 IS FOR NON-IRRIGATION SEASON DIVERSION OF THE ABOVE REFERENCED SOURCES FOR GROUND WATER RECHARGE PURPOSES TO PROVIDE WATER FOR MITIGATION AND SUB-IRRIGATION UNDER RIGHT 33-2133. PRIOR TO DIVERSION OF WATER UNDER TRANSFER NOS. 4221 THRU 4227, THE RIGHT HOLDER SHALL PROVIDE A MEANS OF MEASUREMENT AND LOCKABLE CONTROLLING WORKS FOR ALL AUTHORIZED POINTS OF DIVERSION. THE MEANS OF MEASUREMENT AND CONTROLLING WORKS MUST BE SUITABLE FOR CONTROL OF THE DIVERSIONS AND ACCEPTABLE TO THE WATERMASTER.

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. I.C. SECTION 42-1412(6).

RULE 54(b) CERTIFICATE

With respect to the issues determined by the above judgment or order, it is hereby CERTIFIED, in accordance with Rule 54(b), I.R.C.P., that the court has determined that there is no just reason for delay of the entry of a final judgment and that the court has and does hereby direct that the above judgment or order shall be a final judgment upon which execution may issue and an appeal may be taken as provided by the Idaho Appellate Rules.


John M. Melanson
Presiding Judge of the
Snake River Basin Adjudication.

2004 AUG 31 PM 02:00
DISTRICT COURT - SRBA
TWIN FALLS CO., IDAHO
FILED

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

CERTIFICATE OF MAILING

Water Right(s): 33-02133

CERTIFICATE OF MAILING

I certify that a true and correct copy of the PARTIAL DECREE was
PURSUANT TO I.R.C.P. 54(b) for WATER RIGHT 33-02133 was mailed
on August 31, 2004, with sufficient first-class postage prepaid with
to the following:

DIRECTOR OF IDWR
PO BOX 83720
BOISE, ID 83720-0098

~~SAGEWILLOW INC~~
SAGEWILLOW INC C/O KENT FOSTER
Represented by:
KENT W FOSTER
PO BOX 50130
IDAHO FALLS, ID 83405
Phone: 208-523-0620

BLAINE COUNTY CANAL COMPANY
MAYS LAND AND LIVESTOCK INC
Represented by:
MICHAEL C. CREAMER
PO BOX 2720
BOISE, ID 83701-2720
Phone: 208-388-1200

JULIE MURPHY
Chief Deputy Clerk

CERTIFICATE OF MAILING

PAGE 1
08/31/04

EXHIBIT 3

36-1
01-B & 23-A (Part)
01-B

REXBURG IRRIGATION CO., et al.

VS.

TETON IRRIGATION CANAL CO., et al.

FINDING OF FACT

AND

CONCLUSIONS OF LAW

01-B
FILE ~~205-A~~

SCANNED

MAR 16 2004

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

Herbure Irrigation Company, et al.,

PLAINTIFFS, Findings of fact

vs.

and

Teton Irrigation Canal Company, et al.,

Conclusions of law

DEFENDANTS.

1. That the following are corporations, organized and existing under the laws of the State of Idaho, and doing business therein, to-wit:

Blackfoot Irrigation Company.

Boom Creek Canal Company.

Burgess Canal & Irrigating Company.

Butler Inland Canal Company.

Butte & Market Lake Canal Company, Limited. The

Canyon Creek Canal & Irrigation Company.

Cedar Point Water Company.

Central Teton Canal Company.

Chester Canal & Irrigation Company, Limited.

Clark & Edwards Canal Company, Limited.

Conant Creek Canal Company.

Consolidated Farmers Canal Company.

Consolidated Feeder Canal Company.

Corbett Slough Ditch Company.

Danskin Ditch Company.

Dowey Canal Company.

East Branch Canal Company.

(Of Blackfoot Irrigation Company.)

East Line Canal Company.

(Of Snake River Valley Canal Company.)

Egin Irrigation Company.

Fall River Irrigation Company.

Farmers' Friend Canal Company, Limited. The

Farmers Own Ditch Company, Limited.

Farmers Progress Canal Company, Limited.

Grand Teton Canal Company.

Great Feeder Canal Company. The

Green Timber Ditch Company. The

Grove City Ditch Company, Limited.

Haden Canal Company.

Harrigfeld Canal & Irrigation Company.

Harrison Canal & Irrigating Company.

Highland Ranch Improvement Company, Limited. The

Idaho Canal & Improvement Company, Limited.

Idaho Power & Transportation Company.

Independent Canal Company.

Independent Irrigation Company, Limited.

Island Irrigation Company.

Inland Ward Canal Company.

Laballe Irrigation Company.

Last Chance Canal Company.

Leigh's Creek Canal Company.

Lonroot Canal Company. The
 Liberty Park Irrigation Company. The
 Little Feeder Canal Company.
 Long Island Irrigation Company.
 Lowder Canal Company.
 Lyman Irrigating (or "Irrigation") Company, sometimes
 known as the Lyman Town Irrigation Company.
 Marysville Canal & Improvement Company.
 - New Lavaside Ditch Company.
 North Highy Irrigation Company.
 Pack Saddle Reservoir Company.
 Parks & Lewisville Canal Company.
 Parsons Ditch Company.
 - Peoples Canal & Irrigating Company.
 Pine Creek Canal Company.
 Reid Canal Company.
 Rexburg Irrigation Company.
 Rexburg Milling Company.
 Highy Canal & Irrigating Company.
 X Riverside Ditch Company.
 Roxana Canal Company.
 Ruddy Irrigation Canal Company, Limited.
 Salem Irrigation Canal Company.
 Salem Union Canal Company, Limited. The
 Sidaway Irrigation & Manufacturing Company.
 Snake River Valley Canal Company.
 Spencer Haywood & Company, Limited.
 Square Top Grove Canal Company.

Squirrel Creek Irrigation & Canal Company.
 St. Anthony Railroad Company.
 St. Anthony Union Canal Company. The
 Sunny Dell Irrigation Canal Company. The
 Taylor & Goshen Canal Company, Limited.
 Teton Irrigation (or Irrigating) & Manufacturing Company.
 Teton Island Canal Company.
 Texas Slough Irrigating Canal Company. The
 Trege Ditch Company.
 Twin Grove Canal & Irrigation Company.
 Twin Groves Irrigation Company.
 * Watson Slough Ditch Company.
 * Watson Slough Irrigation Company.
 Woaryrick Ditch Company.
 West Branch Canal Company.
 (Of Blackfoot Irrigation Company.)
 West Branch Canal Company.
 (Of Snake River Valley Canal Company.)
 West Labelle Irrigating Company.
 Wilford Irrigation and Manufacturing Company.
 Wood Live Stock Company, Limited.
 Woodville Canal Company.
 Wyoming & Darby Ranch Canal Company, Limited.
 Yellowstone Land & Cattle Company.
 Yellowstone Power & Irrigation Company.

2. That the American Falls Canal & Power Company and the Island
 Park Land & Cattle Company are corporations, organized and existing
 under the laws of the State of Utah, and are doing business in the

State of Idaho, having complied with the Constitution and Statutory regulations of the State of Idaho with reference to the regulation of foreign corporations.

3. That Spencer Clawson & Company is a corporation, organized and existing under the laws of the State of Rhode Island, and is doing business in the State of Idaho, having complied with the Constitution and Statutory regulations of the State of Idaho with reference to the regulation of foreign corporations.

4. That the St. Anthony Light & Power Company is a corporation, organized and existing under the laws of the State of Montana, and is doing business in the State of Idaho, having complied with the Constitution and statutory regulations of the State of Idaho with reference to the regulation of foreign corporations.

5. That the City of Idaho Falls and the City of Rexburg are municipal corporations, organized and existing under the laws of the State of Idaho.

6. That the New Sweden Irrigation District is an irrigation district corporation, organized and existing under the laws of the State of Idaho.

7. That the Anderson Canal Company is an unincorporated association, composed of the following named members;

Anderson, A. S.

Goodwin, Hannah M.

Hart, John W.

Hay, J. D.

Raymond, V. S. and S. V.

8. That the Baker & Dixon Ditch Company is an unincorporated association, composed of the following named members;

Daniels, James

Dixon, James S.

Nielson, Mary E.

Weeks, Hiram J.

Williams, George

9. That the Big Bend Canal Company is an unincorporated association, the names of the members of said association not being given in the pleadings of said company.

10. That the Dilts & Labelle Ditch Company is an unincorporated association, the names of the members of said association not being given in the pleadings of said company.

11. That the Enterprise Canal Company is an unincorporated association, composed of the following named members;

Beckstrand, Charley

Brown, A. W.

Brown, Edwin H.

Brown, F. L.

Burtonshaw, William

Chase, Isaac

Cleverly, George F.

Cleverly, John H.

Cole, Charles

Cooper, I. E.

Cooper, I. L.

Crowley, S. D.

Davis, Jonathan, Jr.

Davis, Jonathan, Jr.

Downs, John

Downs, Mary

Egan, Erastus H.

Ellis, Willie

Harris, F. E.

Haskins, H. F.

Howard, John S.

Howard, Thomas

Huffaker, W. B.

Irwin, James

Irwin, Robert

Lindholm, Alma

Lipsey, W. A.

Lovell, Edmond

Lovell, John F.

Lovell, Leah Ellen

Martin, Charles

Mattson, Charlon

Miskins, J. R.

Moore, Willard

Morgan, Edward

Morgan, James

Peterson, G. W.

Richards, Willard

Richie, Benjamin

Richie, Jabez

Richie, John

Richie, Mary G.

Syst, Frank

Simmons, W. G.

Strecker, C. A.

Tolley, Joseph F. and W. F.

Weaverling, Daniel J.

Webster, J. D.

Waitfle, Charles

Wheeler, Levi

Williams, Thomas E.

Woolfley, Rudolph

Young, Andrew

Young, Joseph

12. That the Farmers' Friend Canal Company is an unincorporated association, composed of the following named persons:

Andrews, Heber and Robert

Andrews, Robert

Barnes, Robert

Barnes, Thomas H.

Barrett, C. H.

Barrett, E. C.

Bass, O. C.

Briggs, B. J.

Brown, Albert W.

Brown, Edward

Brown, F. L.

Buck, James

Buck, John H.

Burkenshaw, Benjamin

Burkenshaw, Thomas

Bush, Brothers.

Pindiga, G.

Carlyle, Claude
Clogg, William
Cleverly, Harbert
Cleverly, James and Mary Ann
Cleverly, William
Colos, Alvin
Colos & Dodge
Colos, Henry
Colos, Reuben
Colos, Thomas
Cook, T. S.
Davies, W. J.
Davis, D. P.
Davis, Parley J.
Dwyer, Mrs. M. F.
Egan, Brastus, H.
Egan, Horace
Ferguson, Albert
Fillmore, J. H.
Harmon, Mrs. Charles
Heath, James H.
Heath, William A.
Howard, John S.
Howard, Thomas
Huffaker, L. A.
Huffaker, F. D.
Huffaker, W. R.
Jackson, Alva H.

Jennan, Mela H.
Johnson, John
Jordan, F. W.
Jordan, James H.
Jordan, Robert L.
Judd, Sanford, W.
Lee, O. S., Jr.
Lee, O. S., Sr.
Mann, Mary and W. C.
Martin, G. G.
Miller, Ephraim
Miller, Margret
Miller, Mary
Miller, Robert
Moore, Willard and John T.
Murphy, James
Nelson, J. O.
Nelson, Joseph
Nelson, Peter J.
Newman, A. W.
Newman, John H.
Newman, Mrs. John
Nowlin, Jahez, Sr.
Park, Andrew
Pehrson, Mils
Peterson, Otto
Poll, William
Richards, William

Richies, Elizabeth
Richies, Mrs. Mary C.
Richies, William
Ririe, David
Riter, Philip
Robinson, Amos
Robinson, Joe S.
Robinson, S. T.
Roone, Albert
Sermon, Robert
Short, Oscar
Shurtliff, Mrs.
Simmons, A. B.
Simmons, Eli
Simmons, George
Smith, George
Smith, Robert
Storer, Sarah
Streoper, C. A.
Wagstaff, Arthur
Wagstaff, Arthur J.
Weiffle, Charles
White, Janie Coles
Wolney, Abe
Wolsey, Samuel
Woolf, John

13. That the Good Luck Canal Company is an unincorporated association, composed of the following named persons;

Higley, Mary S.

Clark, J. P. L.

Gulliford, S. X.

Hansen, John

Romrell, Alfred

Romrell, Joseph

14. That the Hill Ditch Company is an unincorporated association, composed of Alexander P. Hamilton and the Sugar City Townsite Company, successor to Willard Eicks.

15. That the Lowder Canal Company is a corporation, organized and existing under the laws of the State of Idaho, and doing business there in, and is the successor of the Lowder Canal Company, an unincorporated association composed of the following named persons, parties to this action;

Cahoon, H. H.

Christensen, J. P.

Denning, Emma J.

Denning, James H.

Gunderson, Andrew

Gunderson, J. G.

Jennings, Edwin

Jennings, Jasper

Larsen, Hols

Moss, H. R.

Moss, H. T.

Scotts, Myrum

Teoples, Henry

Top, Nels
Wright, Robert
Widlan, Peter

16. That the North Salem Agricultural & Milling Canal Company is an unincorporated association, composed of the following named persons;

Anderson, Gelia
Anderson, Lena, Administratrix of the Estate of
Oscar H. Anderson, Deceased.
Anderson, Mrs. Hogan
Belnap, A. W.
Dille, A. G.
Fullmer, H. D.
Hegsted, Victor C.
Horn, John E.
Javery, William J.
Mortensen, James B.
Nolan, Carrie, Widow of Addison D. Nolan, Deceased.
Osman, Oscar.

17. That the Pincock-Byington Ditch Company is an unincorporated association, composed of the following named persons;

Bird, Martin L.
Garner, Asa
Garner, Frederick W.
Pincock, George A.

18. That the Pioneer Ditch Company is an unincorporated association, composed of the following named persons;

Bigler, Mark S.

Birch, Mary K., Administratrix of the Estate of
Thomas Birch, Deceased.

Clark, W. P. C.

Orme, Karmel W.

Rice, J. C.

Schwendiman, Magdalena

19. That the Swan Valley Irrigation Company, Limited, is an unincorporated association, composed of the following named persons:

Bithell, Haber

Butler, J. H.

Butler, Joseph W.

Butler, Mary A.

Fisher, I. M.

Martin, Hugh C., Jr.

Martin, Mrs. Hugh C.

McElbreen, John

Simpkins, David

Staten, John E.

Zitlan, Paul

20. That the Wolf Ditch Company is an unincorporated association composed of the following named persons:

Darley, Thomas T.

Garner, John A.

Hueff, Robert K.

Pincock, James H.

Pincock, John R.

Roylance, Alma

Sanders, David A.

Whitney, John K.

21. That the Texas Feeder & Canal Company is an unincorporated association composed of two corporations, to wit: The Texas Slough Irrigation Company and the Liberty Park Irrigation Company, who are associated together for the purpose of distributing the waters belonging to the said corporations among the various stockholders thereof.

22. That Seely Brothers is a partnership, composed of A. H. Seely, George Seely, and O. T. Seely.

23. That Siddoway-Briggs & Company is a partnership, composed of James Siddoway and James Briggs.

24. That Thompson & Egbert is a partnership, composed of _____ Thompson and _____ Egbert.

25. That the following named persons, who are parties to this action, have been duly and regularly served with process in this action, and have wholly failed to enter any appearance herein, or to offer any proof as to any right which they may have in and to the use of the waters of Snake River or its tributaries:

Albert, E. W.

Allen, I. F. and Hyrum

Anderson, Christian

Armon Canal Company

Barker, William

Basalt Water Company

Bates, John

Beckhardt, E. F.
Blackfoot Light & Water Company.
Black Springs Ditch Company.
Booth, J. W.
Bowers, W. R.
Burgess Felix Ditch Company.
Burnard, John
Burson, Mr.
Campbell, James
Castle, John
Cedar Point Water Company.
Center Ditch Irrigating Company
Cheney, David
Christensen, Noah
Cook, James K.
Gordon, George E.
Coxson, S. G.
Davidson, J. K.
Driggs, D. C.
Driggs, Leland M.
Dunbrack, Boyd
Eagle Hook & Willow Creek Water Company.
Elliott, James
Ellis, T. R.
Egbert, B.
Fairview Canal Company.
Farmer, A. B.
Fawson, Alma

01-B

Feighner, David
Fenton, Palmer
Ferguson, W. H.
Foug, William
Forbush, Mrs. O.
Poster, Mrs. S
Freesell, John
Garfield, Ida
Garmon, Arthur
Garner, Mary A.
Garner, George
Garner, O.
Garner, K.
Gibbs, W. E.
Gordon, George H.
Gray, Fred
Green, W. W.
Grube, Perry
Hansen, E. F.
Hansen, H. J.
Harris, Mike
Healey, H. H.
Heaps, Thomas
Hendrickson, D.
Henninger, H. P.
Hillside Canal Company
Hillside Eastern Extension Canal Company
Homer, Mrs. M.
Hulse, S.

Humble, Anthony
Hunting, James
Idaho Land & Canal Company
Jackson, C.
Jacobs, D. B.
Jacobson, Oliver
Jacobson, J.
Jenkins, H. E.
Johnson, Alonzo
Johnson, Hans P.
Johnson, Jacob
Jones, R.
Kite & Ward Canal Company.
Kellion, James
Lamereaux, R. C.
Larson, John
Lewis, Evan
McDonald, W. H.
Moore, J. T.
Morgan, Eric.
Morris, W. H.
Moss, H. T.
Mount Salem Agricultural & Irrigation Company.
Murray, J. A.
Murray, Ellis
Nickell, William
Olson, H. P.
Ormon, Robert H.
Oswald, J.

Parker, C. J.
Parkinson, Sam
Parsons, K. J.
Pearson, Millian
Pease, John D.
Penfold, J. Z.
Peterson, H.
Priest, Ed.
Poverty Flat Canal
Poverty Flat Irrigation Company
Reid, Frank
Reimunn, Gotfried
Rigby Milling Company
Ripley, John
Ripley, Mrs. Lottie
Robinson, W. F. & Co.
Ross, Albert
Russell, James
Salt, Ernest
Shaw, J.
Shalley Water Company
Sherwood, J.
Smith, Octavius
Smith, Samuel
Snake River Water Company
Soranson, Henry
South Rigby Canal Company
Stamp, Henry
Stevens, Charles
Stuart, George

Stuart, James G.

Stuart, Thomas

Taylor Canal Company

Taylor, H. E.

Terry, J. A.

Thomas, James H.

Thomas, W. H.

Tolman, George

Trout, J. P.

Turner, E. J.

Tuttle, Reuben

Tyler, Joseph, Sr.

Vann, C. E.

Walker, M. H.

Walton, Joel

Walton, Rebecca

West, Alexander

Wheeler, L. J.

Willey, John A.

Willey, John A., Jr.

Wilson, J. R.

Wreck, C.

Wyant, M. V.

York, W. F.

Young, J. R.

Young, J. W.

26. That the following named persons, who are parties to this action have appeared herein, either in person or by their respective attorneys and filed their answers and cross complaints, but have failed to offer or submit any proof in support thereof:

Anderson, Orson H.

Ashcraft, Samuel

Аннотация, в. 1.

Balter, Wlear

Ballantyne, Martha J. (See Z. Ballantyne)

Baugh, Samuel

Baugh, Clara

Brough, William

Rig Bend Canal Company

Arledge, G. D.

Eush, B. J.

Bush, Mrs. B. J.

Butt, John

Campbell, John

Carlson, Charles

Chubbuck, Walter E.

Cummings, Edgar A.

Davis, Homer S.

Dudley, Brigham

Yall River Irrigation & Manufacturing Company.

Ferguson, J. O.

Ferguson, John T.

Fitzgerald, Thomas H.

Garwood, Charles M.

Giffen, A. W.

Hainline, Thomas
Halsey, William A.
Harder, August
Harrison, J. R.
Harne, H. J.
Hawn, George T.
Hanson, J. B.
Hills, James A.
Hochman, J. M.
Holden, Z. H.
Hoyt, George W.
Hudson, J. S.
Huskinson, John
Jensen, James
Johnson, Gust.
Johnson, Hulan
Lawrence, A. T.
Martin, Charles G.
McPherson, David
Mullins, J. R.
Mullins, Nellie
Mullins, Patrick
Mullins, W. J.
Murphey, Homer E.
Nelson, Jacob B.
Nickerson, Robert
Pinkerton, J. K.
Plank, Leida J.
Prossett, James.

Price, William
Rhoads, LeRoy
Sautter, George
Stephens, Amuel R.
Stone, Andrew
Stumbaugh, John
Sullivan, Thomas F.
Sutter, George
Taylor, _____
Thomas, James H.
Tilton, George W.
Vail, H. J.
Wilson, W. S.
Winger, Fritz,
Wuthrien, Parolina.

27. That the following named persons, who are parties to this action derive the water for the irrigation of their respective lands herein-after described in these findings, either through what is known as the Idaho Canal, the Farmers Progress Canal, the Great Western Canal or other canals, either under contract or by annual rental, and that the amounts of water used by them are included in the appropriations and diversions made under these various canals by the companies or persons owning the same, and that their right to use the same is based upon the appropriations originally made by the said companies respectively, to-wit:-

Arave, David E.
Arave, Reber
Allen, Darinus K.

Allen, Eliza B.
Anderson, A. A.
Anderson, C.
Armstrong, Robert
Bauman, Herman
Bach, A. W.
Behrensmeier, Grace P. and H. R. Plank
Beasley, S. J.
Boguin, J. W.
Benton, C. E.
Blom, Jacob
Bormoi, Herman
Buck, W. S.
Garrier, Annie E.
Chaffin, John R.
Chaffin, J. R.
Christensen, B. J.
Clark, John
Clow, F. T.
Cox, S. L.
Curley, Bowen
DeCoster, Julian R.
Edinger, Antone
Akanger, L. H.
Empy, Alfred
Everett, Edward
Fackler, Mary J.
Farnsworth, Joseph
Fielding, Joseph.

Forbush, S.
Fowers, F. J.
Glanzman Brothers.
Grow, William
Gustafsson, Fred
Hanks, R. K.
Hansen, Lars
Hanson, R. E.
Harris, J. E.
Higham, Joseph W.
Hochstrasser, Joseph
Hochstrasser, R. W.
Hoff, Rasmus
Holmberg, P.
Holmes, Wilvar
Horman, F. J.
Jannings, J. E.
Johnson, Charles
Johnson, Gustav
Johnson, J. E.
Kelley, George
Kelley, J. E.
Knowles, Henry S.
LaChapelle, Joseph
Lacy, Celesta
Larson, A. N. W.
Lawrence, Elzada A.
Lindholm Brothers
Lofguin, A. G.

Luffin, George E.
Lyle, W. S.
Madison, Louis
Madsen, H. L.
Martin, Simon
McMullin, E. G.
Metcalf, W. B.
Mitchell, James
Mitchell, William
Moaine, H. P., et al;
Moedl, Xavier
Muhlfeit, Paul
Mulberry, William
Mulliner, R. B.
Neilson, Eph
Nord, Nels O.
Norton, J. F.
Norton, Lee
Norton, R. W.
Olson, Nels D.
Payne, A. R.
Opedal, L.
Osella, L.
Payne, R. D.
Payne, J. H.
Plank H. H. and Grace F. Beahrensmeyer.
Pack, A. D.
Person, John G.
Person, E. T.
Pierson E. J.

01-B

Peterson, G. A.
Peterson, John
Peterson, Olof
Price, H. J.
Price, Rhoda
Price, T. H.
Priest, J. H.
Priest, W. E.
Rainsdon, F. A.
Ramsey, W. E.
Reed, Charles E.
Ritchie, John J.
Ricks, Ernest
Rogers, W. A.
Sattstrom Brothers
Scott, A. V.
Senter, John A.
Seyfert, John E.
Smith, James A.
Southwick, J. W.
Squibb, Joseph
Stoddard Brothers
Sutherland, C. H.
Swank, H. C.
Tanner, Peter
Tarr, J. H.
Thurlin, John J.
Trowbridge, H. H.
Vance, James B.
Vance, L. A.

Wadsworth, A.
Wadsworth, Ed.
White, O. A.
Whitlatch, W. E.
Wilson, H. M.
Wilson, Thomas C.
Witt, Chris. J.
Woodhouse, Wilford.
Yaw, F. D.
York, Charles

28. With reference to The Great Feeder Canal Company the following facts are found;

(a) The following corporations, associations and persons join in their cross-complaints in said action, and are represented by the same attorneys, Messrs. Standard & Terrell, to-wit:- Parks & Lewisville Irrigation Company, a corporation; Burgess Canal & Irrigating Company, a corporation; Rigby Canal & Irrigating Company, a corporation; Clark & Edwards Canal and Irrigating Company, a corporation; Harrison Canal & Irrigating Company, a corporation; Post Labelle Irrigating Company, a Corporation; North Rigby Irrigating Company, a corporation; Ruddy Irrigation Company, a corporation; Labelle Irrigating Company; James O. Nord, Frederick Hatfield, E. M. Parsons, Stephen J. Summers; William Summers, Soren Nelson; Howard Streaper; G. J. Mattson, and the Great Feeder Canal Company, a corporation.

(b) That the said The Great Feeder Canal Company was organized as a corporation, under the laws of the State of Idaho, in the year 1894 for the purpose of appropriating, diverting, conveying, distributing and disposing of the waters from the South Fork of Snake River, that said waters might be used for agricultural and domestic purposes; and

that ever since said time said corporation has existed and now exists.

(c) That prior to the year 1894 the aforesaid corporations, associations and persons, except The Great Feeder Canal Company, joining in the said cross complaint, and also the Idaho Canal & Improvement Company, a corporation organized and existing under the laws of the State of Idaho, whose rights to the waters of Snake River have been herein found and determined, had appropriated and diverted large amounts of water from what is known as the "Old" or "Dry Bed" channel of the South Fork of Snake River, in Fremont County, State of Idaho, and had used the water so appropriated by them and each of them, respectively, for agricultural, domestic and other useful and beneficial purposes, upon lands lying adjacent to and under the respective canals and ditches of said corporations, associations and persons, situated in Fremont and Bingham Counties, in said State of Idaho.

(d) That prior to the year 1894 there was ample water flowing in said "Dry Bed" channel to supply the amounts of water therefor, appropriated by said persons, corporations and associations, but that during the Spring flood (which occurs annually on said South Fork of Snake River) of 1894, the waters of said stream sought the main channel thereof, to the extent that the waters which had previously flowed in said "Dry Bed" channel were greatly reduced in volume, so that they would not reach the headgates of the canals and ditches of said appropriators to the extent of their several appropriations, and it became and was necessary for all of said appropriators to resort to and adopt some means by which the waters of said "Dry Bed" channel, which had been diverted therefrom by said flood, could be restored and conveyed back through said "Dry Bed" channel, and the only means by which said waters could be restored was by constructing a canal from said South Fork of Snake River to said "Dry Bed" channel.

(e) That owing to the numerous persons, corporations and associations taking water from said "Dry Bed" channel, as aforesaid, and in order to have the proper organization for carrying out the scheme of building said canal, and that the work could be done in a businesslike way and could be facilitated thereby, the said persons, corporations and associations joined in organizing the said corporation, The Great Feeder Canal Company; that the said The Great Feeder Canal Company was not organized for profit, but for the purpose of constructing the canal aforesaid, and dams necessary for the diversion of the waters aforesaid, and for carrying said waters to the shareholders of said company to the head-gates of their respective canals and ditches, for agricultural and other useful and beneficial purposes.

(f) That at the time of the organization of the said The Great Feeder Canal Company, a corporation it was the understanding and agreement had among its promoters and those subscribing stock therein, which included all the aforesaid other cross complainants mentioned herein, and the Idaho Canal & Improvement Company, aforesaid, that the work of constructing said canal and dams should be done by all the parties appropriating and diverting water from said "Dry Bed" channel, and that the stock subscribed for by them, respectively, should be paid for in labor performed by the individuals and individual members of the corporations, associations and persons subscribing for said stock, and by assessments similarly imposed, for money necessary to purchase the material used in the said works.

(g) That for the purpose of making the diversion and appropriation of the waters, as aforesaid, through the Great Feeder Canal, as aforesaid a committee selected by and for and on behalf of said Great Feeder Canal Company on the 9th day of January, 1895, posted a notice in writing in a conspicuous place at the point of the intended diversion of the waters

from the said South Fork of Snake River, claiming that the Great Feeder Canal Company would divert 110,000 inches of water, measured under a four inch pressure, from the said South Fork channel, which said notice duly described the point of intended diversion and duly stated the purposes for which said water was claimed and the locality of its intended use, the general course, length and terminus of said canal by which said water was to be diverted and in all other respects said notice was in the form and set forth matters required by the statutes of Idaho, relative to the appropriation of water; that thereafter, within the time proscribed by the statutes, the said committee caused a copy of said notice to be recorded in the office of the County Recorder of Fremont County, Idaho, the County in which said point of diversion was located; that thereafter, and during the Spring of 1895 and in time for use for the irrigating season of said year, the said canal and dam were completed, and the waters were actually diverted through said canal in the amount of 112,540 inches measured under a four inch pressure, of the waters of said South Fork of Snake River, and the same were conveyed to the headgates of the respective canals, which formerly took and which then took water from said "Dry Bed" channel, and thence through said canals to and upon the lands for which said water was intended to be used, and ever since said date said waters have been actually and continuously used upon said lands through each and every irrigation season for the purpose of irrigating the lands for which said waters were appropriated, and for domestic purposes.

That said Great Feeder Canal and headgates, dams and other diverting works, were built at great cost of labor and material, to wit: - Seventy-five thousand Dollars (\$75,000.00); and that said labor and material were necessary in the construction of the same.

Regarding the construction of the works aforesaid, The Great Feeder Canal Company had regular and special meetings of its stockholders and directors and kept books of their said meetings and their proceedings, and kept books of account in which were entered credits to the individuals, companies, corporations and associations for labor and material furnished by them, respectively, in the construction of said works and in the completion of said works; that the said The Great Feeder Canal Company caused to be issued to said individuals, corporations and associations aforesaid, certificates of stock according to and in proportion to the credits shown on the books of said company, to be due to said individuals, corporations and associations respectively, and in addition to the stock issued for such credits, and in order that all the waters flowing in said Great Feeder Canal should be under the control and management of said The Great Feeder Canal Company, the said corporation also caused certificates of its capital stock to be issued to said persons, corporations and associations for the amount of water they and each of them respectively had appropriated and diverted from said "Dry Bed" channel, prior to the building of the said Great Feeder Canal, and also for such additional water rights as each of said individuals, companies, corporations and associations had acquired by reason of labor performed and money expended by them respectively, in the construction of the diverting works of said Great Feeder Canal aforesaid, in the proportion of one share of stock for each five inches of the water, measured under a four inch pressure, so appropriated by them respectively, as aforesaid.

(h) That all the stockholders of said company are farmers, and corporations and associations composed of farmers, all of whom take water through said Great Feeder Canal, and all of said stockholders have at all times acquiesced in and consented to the management and control of said waters flowing in said canal since the same was built, to the extent

and for the purpose that said waters might be delivered at the headgates of the respective canals of said stockholders; and the said The Great Feeder Canal Company has exercised no further control of said waters than diverting the same into the said the Great Feeder Canal, and delivering same to the said headgates of said stockholders, and the control has been and now is under the management of said The Great Feeder Canal Company, and the waters aforesaid have been, and at the time of the hearing of said cause were, distributed to the said stockholders at their respective headgates by the Water Master of the said The Great Feeder Canal Company.

That there are no other stockholders of said The Great Feeder Canal Company than the aforesaid cross complainants, and the Idaho Canal & Improvement Company, a corporation, aforesaid.

(i) That the headgate of the Great Feeder Canal, at which the waters aforesaid are diverted, is situated on the left or South Bank of said South Fork of Snake River, at a point near the Southeast corner of section thirty-six (36) in township four (4) North, of Range forty (40) East of Boise Meridian, in Fremont County, Idaho, and said canal runs in a westerly direction for about one mile to the "Old" or "Dry Bed" channel; and along the said "Dry Bed" channel for about twelve miles in the same direction to the northwest quarter of section nine (9), Township four (4) North, of Range thirty nine (39) East of Boise Meridian, and said canal is about one hundred feet wide and about eight feet in depth, and has a fall of about twenty feet per mile.

(j) That it is found herein that the aforesaid cross complainants and the said Idaho Canal & Improvement Company are entitled to the use of the waters of said South Fork of Snake River, in the following amounts, and their rights to the appropriation of same to date as follows;

West LaBelle Irrigating Company, 3500 inches, from June 1st, 1885.

Parks & Lewisville Canal Company, 1000 inches from June 1st, 1885.

1000 inches from June 1st, 1884; 5000 inches from June 1st, 1885; 12000 inches from June 1st, 1885.

Burgess Canal Company, 500 inches from June 10th, 1886; 500 inches from June 10th, 1887; 19,000 inches from June 10th, 1888; 12,000 inches from June 10th, 1890; 5000 inches from June 1st, 1895.

Rigby Canal Company, 500 inches from June 15th, 1885; 500 inches from June 1st, 1886; 1000 inches from June 15th, 1887; 5000 inches from June 15th, 1888.

Clark & Edwards Canal Company, 3500 inches from February 27th, 1885.

Harrison Canal & Irrigation Company, 11000 inches from July 12th, 1890; 5500 inches from January 9th, 1895.

North Rigby Canal Company, 2500 inches from June 10th, 1885.

Ruddy Irrigation Company, 1500 inches from June 1st, 1889; 700 inches from June 1st, 1900; 1800 inches from June 1st, 1905.

Dilts & LaBelle Ditch Company, 1400 inches from June 1st, 1884.

James O. Nord, 240 inches from June 1st, 1890.

Fred Hatfield, 150 inches from June 1st, 1890.

Stephen J. Summers, William Summers and Loren Nelson, 670 inches from June 10th, 1885.

Howard Streeper, 300 inches, from June 2nd, 1884.

B. C. Mattson and C. J. Mattson, 1000 inches from April 30th, 1900.

Idaho Canal & Improvement Company, 27,000 inches from August 13, 1888; 35,000 inches from Dec. 1, 1890; and 30,000 inches from May 1, 1904.

29. That the Little Feeder Canal Company, a corporation on or about the month of May, 1901, diverted from the South Fork of the Snake River

into what is known as the "Old" or "Dry Bed" channel, a large quantity of water; for the purpose of supplying the needs of other canals through which appropriations of water had been theretofore made; that the Little Feeder Canal Company had no lands of its own upon which the water so diverted was intended to be used, and that said diversion was for the purpose merely of increasing the supply of water flowing in the "Old" or "Dry Bed" of the South Fork of the Snake River, to supply appropriations that had already been made by appropriators through the Rigby Irrigation Company's canal, the Parks & Lewisville Canal Company's canal, the North Rigby Irrigation Company's canal, the Kent Labelle Irrigation Company's canal, and other canals.

30. That Hoody Creek flows a large volume of water into the Beton River during the early months of each season, but that in the low water season the quantity of water flowing therein decreases to such an extent as to be insufficient to supply the needs of the various parties who have appropriated water therefrom, and it has been the practice of the various appropriators of waters from said stream to use, during the high water season, large quantities of water, in excess of one inch per acre, on their respective lands, for the purpose of filling up the soil and holding the moisture therein, for producing crops during the low water or dry season, and that it is impracticable and impossible for them to successfully cultivate their respective lands without the use of such large quantities of water during the high water season; that they use amounts of water in excess of one inch per acre on said lands until on or about the 20th day of June in each and every year; and that after on or about the 20th day of June, in one year, the amount of water used by each of them respectively is reduced to one inch per acre on their respective lands, and such use of large amounts of water tends to

the most conservative and economical use of the waters flowing in Moody Creek, and is productive of the most beneficial use of the waters of said stream; that the amount of water used by them in excess of one inch per acre is an additional one inch per acre, and that the use thereof does not interfere with or deprive any of the other users of the waters of the Snake River or its tributaries of the right decreed to them herein.

31. That the section of country in Fremont County known as the Egin Bench, which is watered by the Egin Canal, the St. Anthony Union Canal, the Independent Canal, the East Chance Canal and the Tavey Canal; and the section of country on the South side of the North Fork of the Snake River opposite the Egin Bench, watered by the Farmers' Friend Canal, the Fall River Canal, the Salem Union Canal, and the Canal of the North Salem Agricultural & Milling Canal Company; and the section of the country along the lower portion of the Teton River, watered by the Rexburg Irrigation Company's Canal, the Teton Irrigation & Manufacturing Company's canal, the Rexburg City Canal, the Salem Irrigation Company's canal, the Teton Island Canal Company's canal, the Siddoway Irrigation & Manufacturing Company's canal, the Woodmansee-Johnston ditch, the Stewart and Walters ditch, the Eckersell canal, the Hill ditch, the Stewart ditch, the Minnock-Hyington ditch, the Nelson-Jacobs ditch, the McDerwick & Howe ditch, the Wolf ditch, the Wilford Irrigation Company's canal, the Pioneer ditch Company's canal, and the Good Luck ditch Company's canal; has a gravel formation differing in character from the majority of the lands watered by the Snake River and its tributaries; that for the proper irrigation of the lands included in these sections of country it is necessary and that it has been the practice of the parties using water upon these lands, to use large quantities of water during the spring months, or the high water

season in the Snake River, for the purpose of filling up the soil with water, and that their irrigating is done by sub-irrigating the lands and much filling up of the soil; that it is impracticable to irrigate these lands by the common methods of flowing the water over the top of the soil and that if these parties are deprived of the right to fill up the soil with water in those sections, their lands will be much deteriorated and depreciated in value, and it will be impossible for them to produce profitable crops thereon; that they use excessive amounts of the high water of the Snake River and its tributaries until on or about the first day of July of each year, at which time the soil becomes saturated with water and that after that date they are enabled to keep the supply of water up by the use of an amount of at least one inch per acre for the balance of the irrigating season, delivered upon the land.

That there is a great deal of seepage and loss of water along the course of these canals, and in order to divert the amount of one inch per acre upon the lands under these canals it is necessary to allow a greater amount of water than one inch per acre to flow into the heads of the said canals, in order to deliver the amount of one inch per acre upon the lands.

That the use of such large quantities of water during the high water season tends to hold back or conserve the supply or amount of water flowing in the Snake River and its tributaries, for use by lower claimants along the said stream during the low water period, or the month of July, August and September; that the water used by these parties in this manner manifests its return to the Snake River by the breaking out of large streams of water in the form of springs, along the banks of the North Fork of the Snake River and other streams, which begin to flow and are increased in size gradually as the land in those sections becomes filled up; that these springs continue to flow large streams of water after the

irrigating season in each year, when they gradually break and dry up during the winter months, and remain in that condition until after the irrigating season has commenced in the succeeding year.

That the parties irrigating from the various canals above described commence their use of the waters of the Snake River and its tributaries as soon in the beginning of each year as it is practicable to run water in their respective canals, in some seasons as early as the month of February; that they use said water to the capacity of their respective canals until about the first day of July in year year and at a season of the year when such use does not interfere with or tend to deprive any other user of the waters of said stream from obtaining the amount of water to which he is entitled under the Findings and Decree in this action.

32. That the following named plaintiffs and defendants, claimants, of the use of water in this action, respectively, are the owners, in the possession, and entitled to the possession of the following described tracts of land, to-wit:

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Acuff, J. H.	A tract of land lying adjacent to the NW ¹ of SW ¹ and Lots 3 and 4, Sec. 15, NE ¹ of SE ¹ of Sec. 16, and NW ¹ of SE ¹ of sec. 16, T. 3 S., R. 34 E., S. R., containing 160 acres.
Adams, E. O.	S ¹ of NE ¹ and NE ¹ of SE ¹ , Sec. 12, T. 5 N. R. 44 E. R. H., containing 160 acres.
Adams, Lot	S ¹ of NE ¹ , NE ¹ of SE ¹ and SE ¹ of NE ¹ of Sec. 2, T. 3 S. E. 34 E. R. H., containing 160 acres.
Allen, Amos	NE ¹ Sec. 15, T. 4 N. R. 45 E. E. H.
Allen, Charles A.	NW ¹ Sec 15, T. 5 N. R. 45 E. E. H.
Allen, Darius H.	E ¹ of SE ¹ of Sec. 21, and NW ¹ of sec. 27, T. 1 N. R. 37, S. B. H., containing 240 acres.
Allen, Eliza B.	SE ¹ of NE ¹ Sec. 22 and NE ¹ of NE ¹ Sec. 23, T. 1 E. R. 37 S. B. H., containing 160 acres.

Carman, M. D.	60 inches	May 1, 1892	Deer Creek
Cearsley, H. C.	240 inches	June 1, 1890	Spring Creek
Cearlsay, John H	60 inches	June 1, 1884	Spring Creek
Yellowstone Land & Cattle Company.	150 inches	June 24, 1902	Squirrel Creek
Yellowstone Land & Cattle Company	250 inches	July 1, 1903	Squirrel Creek
Young, Andrew			Enterprise Canal Company,
Young, Eva H, widow of Eugene H Young, deceased.	100 inches	June 1, 1893	Warm Creek
Young, Joseph			Enterprise Canal Company
Young, Oscar B			See Richard Windmill et al.
Young, W. J., Jr			The Sunny Dell Irrigation Canal Company,
Young, Zilpha R			The Sunny Dell Irrigation Canal Company,
Zimmerman, Zuel	30 inches	June 1, 1897	South Leigh Creek
Zimmerman, Zuel	130 inches	June 1, 1898	South Leigh Creek
Zitlan, Peter			Lowder Canal Company
Zitlan, Paul			Swan Valley Irrigation Company, Limited,

AS CONCLUSIONS OF LAW

from the foregoing facts, the Court finds and holds;

1. That the various plaintiffs and defendants, claimants to the use of the waters of the Snake River and its tributaries, in the Counties of Fremont and Bingham, State of Idaho are entitled to the use

of a continuous flow of such waters, to the amounts and as of the dates set forth in said Findings, for the various purposes as therein enumerated.

2. As a conclusion of law from Finding No. 25, that none of the parties mentioned and described in Finding No. 25, are entitled to the right to the use of any of the waters of the Snake River or its tributaries, prior to the first day of January, 1906.

3. As a conclusion of law from Finding No. 26, that the respective parties named therein are not entitled to the right to the use of any of the waters of the Snake River or its tributaries, prior to the first day of January, 1906.

4. As a conclusion of law from Finding No. 27, that the parties named in such Finding are none of them entitled to any distinct or separate right to the use of the waters of Snake River; but that they have such rights under the respective canals from which they use water, as their respective contracts or customary rental use entitles them to, which said rights are not found upon or determined in this action.

5. That the Great Feeder Canal Company is entitled to divert through its headgates aforesaid, 112,540 inches of water measured under a four inch pressure, or 2250.8 cubic feet per second of time, of the waters of the South Fork of Snake River, for the purposes that said waters may be delivered by it, the said Great Feeder Canal Company, to the persons, associations and corporations taking water from the Great Feeder Canal Company, at the respective headgates, of said persons, associations and corporations, and that the diversion and delivery of said waters shall be under the control and management of said Great Feeder Canal.

Company, to the extent and for the purpose that said waters may be delivered to said persons, association and corporations, respectively.

That the right of the Great Feeder Canal Company, to divert and convey the waters aforesaid, through its canal aforesaid, shall date from and be governed by the time fixed in the Findings as the dates of the appropriation of said waters by said persons, associations and corporations respectively.

6. As a conclusion of law from Finding No. 29, the Court finds and holds that the Little Feeder Canal Company, Limited, is entitled to divert water from the South Fork of the Snake River, at the head of its canal to the Old Dry Bed of the South Fork of the Snake River, in sufficient quantities up to the capacity of its canal for the purpose of supplying an increased amount of water to run in the Old Dry Bed, for the use of the appropriators taking water from the Old Dry Bed below the point where the said Little Feeder Canal Company, Limited, throws its water into the Old Dry Bed; its right thereto to date from May 1, 1901.

7. As a conclusion of law from Finding No. 30, the Court finds and holds that the various users of water from the stream known as Moody Creek are entitled to the use of two inches of water per acre on their respective lands, until the 20th day of June in each year, when their right should be decreased to the various amounts herein decreed to them as of a continuous flow.

8. As a conclusion of law from Finding No. 31, the Court finds and holds that the parties owning water rights in and taking water from the canals mentioned in said Finding No. 31, in addition to the amount of water decreed to them herein as a continuous flow, are entitled to run

their respective canals to their present full carrying capacity, from the month of February in each year until the first day of July in each year; their right to the same to date from the same time respectively as their decreed rights to a continuous flow herein; but after the first day of July of each and every year they are entitled to use only such amounts as have been herein decreed to them as a continuous flow.

Respectfully submitted,

F. J. Cowen,

Referee.

Note:

Before these are adopted, I desire to submit some proposed changes in reference to the Great Feeder and Little Feeder systems.

F. J. Cowen,

Referee.