

Albert P. Barker, ISB #2867
Sarah W. Higer, ISB # 8012
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RECEIVED
FEB 16 2011
DEPARTMENT OF
WATER RESOURCES

Attorneys for Mason Creek Ditch Company

**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,
) and 63-32580
)
) **AFFIDAVIT OF ALBERT P. BARKER IN**
) **SUPPORT OF MASON CREEK'S**
) **RESPONSE TO PIONEER'S MOTION TO**
) **DETERMINE ENFORCEABILITY OF**
) **SETTLEMENT AGREEMENT WITH**
) **MASON CREEK DITCH COMPANY**

ALBERT P. BARKER, being first duly sworn upon oath, deposes and states as follows:

1. I am an attorney in the firm Barker Rosholt & Simpson LLP providing legal representation to the Mason Creek Ditch Company in the above captioned matter. I am over the age of 18 and have knowledge of the documents and legal proceedings pertinent to this matter, and I make this affidavit based upon personal knowledge.

2. Attached hereto as Exhibit A is a true and correct copy of the Idaho Department of Water Resources Transfer File No. 29 from IDWR files.

**AFFIDAVIT OF ALBERT P. BARKER IN SUPPORT OF MASON CREEK'S RESPONSE
TO PIONEER IRRIGATION DISTRICT'S MOTION TO DETERMINE ENFORCEABILITY
OF SETTLEMENT AGREEMENT WITH MASON CREEK DITCH COMPANY**

3. Attached hereto as Exhibit B is a true and correct copy of excerpts from Pioneer Irrigation District's Response to Mason Creek Ditch Company's First Set of Discovery Requests.

4. Attached hereto as Exhibit C is a true and correct copy of a letter produced by Pioneer Irrigation District (No. PID000074) written by Walter Griffith to the State Engineer of Idaho, the Boise River Water Master and the Board of Directors of the Pioneer Irrigation District dated June 17, 1915.

5. Attached hereto as Exhibit D is a true and correct copy of a letter from the Secretary of Pioneer Irrigation District dated July 3, 1928 obtained from the Boise River Water Master files.

6. Attached hereto as Exhibit E is a true and correct copy of a document dated May 9, 1938 produced by Pioneer Irrigation District (No. PID000097) in discovery and filed with Pioneer's objections to Mason Creek's rights.

7. Attached hereto as Exhibit F is a true and correct copy of a document produced by Pioneer Irrigation District (No. PID000127) titled Statement by Turner and Welsh, dated May 29, 1940.

8. Attached hereto as Exhibit G is a true and correct copy of an excerpt of Pioneer Irrigation District board meeting minutes, produced by Pioneer Irrigation District (No. PID000316) and dated March 7, 2007.

9. Attached hereto as Exhibit H is a true and correct copy of the Idaho Department of Water Resources Transfer File No. 1038 from IDWR files.

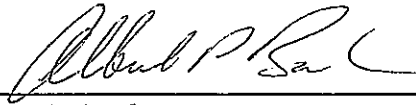
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///

Further, your affiant sayeth naught.

DATED this 15th day of February, 2011.

BARKER ROSHOLT & SIMPSON LLP



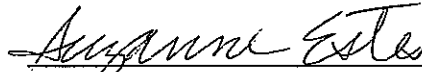
Albert P. Barker

Attorneys for Mason Creek Ditch Company

SUBSCRIBED AND SWORN to before me this 15th day of February, 2011.



(seal)



NOTARY PUBLIC FOR IDAHO

Residence: Boise, Idaho

My Commission Expires: June 1, 2012

CERTIFICATE OF SERVICE

I **HEREBY CERTIFY** that on this 15th day of February, 2011, I caused to be served a true and correct copy of the foregoing **AFFIDAVIT OF ALBERT P. BARKER IN SUPPORT OF MASON CREEK'S RESPONSE TO PIONEER IRRIGATION DISTRICT'S MOTION TO DETERMINE ENFORCEABILITY OF SETTLEMENT AGREEMENT WITH MASON CREEK DITCH COMPANY** by the method indicated below, and addressed to each of the following:

Filed via Hand Delivery:

Clerk of the District Court
Snake River Basin Adjudication
P.O. Box 2707
Twin Falls, ID 83303-2707
Fax No. 208-736-2121

Served via U.S. Mail:

IDWR Document Depository
P.O. Box 83720
Boise, ID 83720-0098

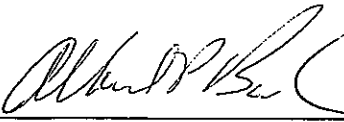
United States Department of Justice
Environment & Natural Resc Division
550 West Fort Street, MSC 033
Boise, ID 83724

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

Daniel V. Steenson
Jon C. Gould
P. O. Box 2773
Boise, ID 83701-2773
Attorneys for Franklin Ditch Company

Served via Facsimile and U.S. Mail:

Scott L. Campbell
Andrew J. Waldera
Moffatt Thomas, et al.
P. O. Box 829
Boise, ID 83701-0829
*Attorneys for Pioneer Irrigation
District*



Albert P. Barker

EXHIBIT

A

STATE OF IDAHO.

County of Boise } SS.P/D. TER. # 21, 8/26/1918
For 50 Lines 63-0179
To C.W. Co. D.R. Co., LTD.
Priority 6/1/1969.

63-0000 B

POOR ORIGINAL

A. F. Hughes being first duly sworn, upon his
oath deposes and says:

That he is the owner of a decreed water right appurtenant to the following described land to-wit:
All of that part of Lot 6, Sec. 14 T. 4 N. R. 2 N. B. M. which lies
North of the center of the present channel of Boise River, 50 acres
as evidenced by the decree dated January 18, 1906 day of January
in the cause entitled Fernero Cooperative Ditch Co. Plaintiff,
vs. Riverside Irrigation District, Ltd. Defendant, brought
in the district court of the Seventh Judicial District of the State of Idaho, or

That he is the owner and holder of Permit to appropriate the Public Waters of the State of Idaho
No. _____

That he intends to change the point of diversion, as described in said decree or permit, to the following
point: Headings of Canyon County Canal whose point of
diversion from the Boise River is 67.50 chains South of
the NE corner of Sec. 18 T. 4 N. R. 1 E. B. M.

That such change will be made for the following reasons, to-wit: This land was
formerly watered from the Caldwell High Line Canal on the
South side of Boise River but the channel of the
Boise River having changed this land lies north
of the Boise River and has to be watered from
the Canyon County Canal, said Canal diverting
water from the North bank of Boise River.

That no one will be injured by such change and that deponent will make such change at his own risk.

And further deponent saith not.

MICROFILMED

JUL 25 1958

Subscribed and sworn to before me this 26 day of August, 1918

Flora M. Brown
Notary P. L.

TFR. # 29, 8/26/1948
63-0179

[illegible]

MICROFILMED
JUL 25 1994

EXHIBIT

B

**Attorneys for Claimant and Objector
Pioneer Irrigation District**

**Scott L. Campbell, ISB No. 2251
Andrew J. Waldera, ISB No. 6608
Dylan B. Lawrence, ISB No. 7136
MOFFATT, THOMAS, BARRETT, ROCK &
FIELDS, CHARTERED
101 S. Capitol Blvd., 10th Floor
Post Office Box 829
Boise, Idaho 83701
Telephone (208) 345-2000
Facsimile (208) 385-5384
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**

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

**COMES NOW Pioneer Irrigation District, by and through undersigned counsel,
and answers and responds to Mason Creek Ditch Company's First Set of Interrogatories,
Requests for Admission and Requests for Production, as follows:**

Ditch Co. has historically not contributed to the payment of expenses associated with such efforts and lacks any specific authorization from Pioneer to convey the water right through Pioneer's system. Pioneer suspects that some of the water diverted under this right has historically been used on Pioneer lands. Pioneer's Highline Canal does not have sufficient operational capacity to convey all of the water rights which have been recommended with the Highline Canal as the point of diversion. Therefore, Pioneer believes all or a portion of this water right has been forfeited. The diversion rate exceeds a reasonable duty of water when combined with the recommendation for 63-32580 and Mason's potential claim to 63-33392.

INTERROGATORY NO. 3: Please describe, with specificity, each factual and legal basis for Pioneer Irrigation District's claim to the water now identified by water right no. 63-179A.

ANSWER TO INTERROGATORY NO. 3: The water right is diverted, conveyed, and delivered to the water users comprising the Mason Creek Ditch Co. through Pioneer's Highline Canal. Pioneer has performed all of the operation, maintenance, and repair of the Highline Canal. Mason Creek Ditch Co. has historically not contributed to the payment of expenses associated with such efforts and lacks any specific authorization from Pioneer to convey the water right through Pioneer's system. Pioneer suspects that some of the water diverted under this right has historically been used on Pioneer lands.

INTERROGATORY NO. 4: Please describe, with specificity, each factual and legal basis for Pioneer Irrigation District's objection to water right no. 63-32580 claimed by Mason Creek Ditch Company from Mason Creek.

ANSWER TO INTERROGATORY NO. 4: Pioneer's investigations into the factual and legal issues relevant to the recommendation of water right 63-32580 are ongoing, and

Mason's requests to the extent they request the production of privileged documents and information not required by Rule 26(b)(5)(A).

**IV.
RESPONSES TO REQUESTS FOR ADMISSION**

REQUEST FOR ADMISSION NO. 1: Please admit that the Mason Creek Ditch Company was decreed 1860 inches of water in the "Stewart Decree," and that Exhibit B is a true and correct copy of paragraph XLIII from the Stewart Decree decreeing that water right to the Mason Creek Ditch Company.

RESPONSE TO REQUEST FOR ADMISSION NO. 1: Pioneer admits the allegation in Request for Admission No. 1, with the qualification that Exhibit "B" is of poor quality and is not entirely legible; therefore, Pioneer cannot definitively confirm that Exhibit "B" is a true and correct copy of the Stewart Decree.

REQUEST FOR ADMISSION NO. 2: Please admit that Pioneer Irrigation District's claim to water right number 63-179A is for the same water right decreed to the Mason Creek Ditch Company in paragraph XLIII of the Stewart Decree.

RESPONSE TO REQUEST FOR ADMISSION NO. 2: Pioneer admits the allegation in Request for Admission No. 2.

DATED this 9th day of September, 2010.

MOFFATT, THOMAS, BARRETT, ROCK &
FIELDS, CHARTERED

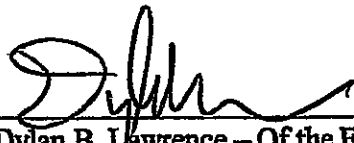
By 
Dylan B. Lawrence – Of the Firm
Attorneys for Pioneer Irrigation District

EXHIBIT C

Caldwell, Idaho, June 17th, 1915.

To the State Engineer, of the State of Idaho,

The Water Master on the Boise River, and

The Board of Directors, of the Pioneer Irrigation District.

Dear Sirs:-

~~For and in behalf of the land owners and water users,~~
~~and owners of those certain water rights,~~ known as the Franklin Ditch
Company's Rights, the Mason Creek Ditch Company's Rights, and the Right
of the Caldwell Canal, ~~now the Caldwell Highline Canal,~~ being rights
designated as Rights No. 24, No. 26, No. 27, and No. 90, of that
certain decree, made and entered on the 18th day of January, 1906, in
the District Court of the Seventh Judicial District, of the State of
Idaho, in and for Canyon County, in that certain case known as the
Boise River Priority Case, wherein the Farmer's Co-operative Ditch
Company, a corporation, is plaintiff, and the Riverside Irrigating
District, Limited, a corporation and others, are defendants, your
attention is called to the fact, and you and each of you are hereby
notified, ~~that it is your duty to cease the waters diverted from the~~
~~Boise River under the said above mentioned Rights, to be diverted~~
~~through the said Caldwell Highline Canal, for use on the lands under~~
~~the flow of the said Canal.~~ You are further notified that you are now,
and for some time past have been, causing said waters under said Right
No. 90, and others of said waters, to be diverted through the Phyllis
Canal, for use upon lands other than the lands above mentioned, and
depriving said lands of their said rights. And you are hereby further
notified that you are now, and for some time past have been, depriving
said lands under the flow of the said Caldwell Highline Canal of the
use of the waters from Boise River to which they are rightfully
entitled, and are causing said lands, and the crops growing thereon,
and the owners of said lands great and irreparable injury and damage,
for all of which you and each of you will be held to a strict
accountability.

Respectfully,

Walter H. Haggard

EXHIBIT D

OFFICE OF
PIONEER IRRIGATION DISTRICT
CANYON AND ADA COUNTIES, IDAHO

CALDWELL, IDAHO. July 3, 1928.

Mr. William Welch,
Watermaster, Boise River,
Boise, Idaho.

WATER DISTRICT 12A

Dear Sir,-

File No. 12A

As you are aware the water decreed to this District and drawn at the Phyllis Canal is insufficient to provide a sufficient head for proper irrigation of the lands under that canal.

As you are also aware this District is under contract to carry thru its Caldwell Canal the water decreed to the Franklin Ditch Co under decrees Nos 34 and 77, and to the Mason Creek Ditch Co under decree No 46, amounting to 4010 inches.

Owing to the fact that a large amount of water is frequently supplied to these ditches by this District which is developed by drain ditches within the District there are times when all of the water is not needed by these ditch companies.

In view of these facts I am asked by our Board of Directors to request that if it is possible for you to do so you make temporary transfer to the Phyllis Canal of such surplus water of these rights mentioned when it is not needed by these companies.

Very truly yours,

Fred L. Evans

Secretary.

EXHIBIT E

FIVE MILE--MASON CREEK--HIGHLIGHT

May 9, 1958

Years ago when Pioneer Irrigation District took over the Mason Creek Ditch Company and Franklin Ditch Company it enlarged the ditch those companies had been using and called it the Caldwell Highlight. In return for rights-of-way of Franklin Ditch Company and Mason Creek Ditch Company, P.I.D. agreed to carry their decreed water from the river through the Highlight ditch which P.I.D. had enlarged and make no assessments against the lands of those two ditch companies. Turner thinks there is a contract covering this. The Highlight probably had no water until P.I.D. made this trade with the Franklin and Mason Creek Companies.

The Highlight picks up Five Mile Drain water at a point about one mile South and East of the Franklin school, and picks up the Mason Creek Drain water at a point approximately two miles West of where the Five Mile water is picked up. P.I.D.'s contract with Canyon Hill Irrigation District covers this Mason Creek pickup.

Pioneer dries Five Mile Drain, dumps water into the Highlight, and when there isn't sufficient water below for the Franklin and Mason Creek rights P.I.D. diverts over its canal sufficient water to supply the shortage.

These Franklin and Mason Creek rights comprise about 750 to 800 acres.

Mason Creek Ditch Company picks up the water diverted over the Highlight at a point about $\frac{1}{2}$ miles below the point where Highlight crosses Five Mile Drain.

The Mason Creek Company and Mrs. J. P. Wells use the same diversion structure.

As to Highlight water, P.I.D. has nothing decreed in its name. Its Highlight water is decreed as follows:

To Franklin Ditch Company (Rights Nos. 34 and 77).

To Mason Creek Ditch Company (Right No. 46).

EXHIBIT

F

May 29, 1949

STATEMENT BY TURNER AND WELSH

Franklin Ditch Company contract

Agreement between that company and Idaho and Oregon Land Improvement Company, dated October 2, 1883, covers 1350 inches of water, but Turner thinks there are now 2150 inches involved.

In the Stewart decree the Franklin Ditch Company has the following rights:

Right No. 34, 6/1/66 770 inches
Right No. 77, 10/29/80 1380 inches.

We should investigate as to how the water above the 1350 inches was taken over by P. I. D.

The majority of Franklin water is all taken out of Highline canal north of Franklin road. Nine points of diversion above Franklin road to the headgate and six below.

John says Franklin rights are cut the same as other rights except that when the latest Franklin right would be entitled to be cut entirely off P. I. D. continues to deliver to Franklin the same percentage as to its other users. This has been the practice for a number of years. But he is not sure P. I. D. would be required to do that under its Franklin contract.

Welsh says there is a possibility that when this contract was made the Franklin water was the only water in the ditch and the only water referred to.

At the time P. I. D. transferred right No. 90 from Highline to Phyllis there was a hearing before the State Engineer. P. I. D. was represented by Highline users and Welsh thinks there is some testimony in that file as to these rights. Right No. 90 was given to P. I. D. for Highline canal and that right was later than the date of this contract and had a priority of 1884.

EXHIBIT G

LOST RIVER SUBDIVISION: Mr. Justin Martin and Brian McCall of Farwest appeared before the Board along with Marty Goldsmith, owner of the project. They stated plans were submitted on December 15, 2006, however neither Pioneer personnel nor the District's Engineer have record of receiving those plans.

Mr. Martin requested permission to bore utility crossings under the Phyllis Canal without a 404 Permit in place, stating Mr. Martinez of the Army Corp of Engineers has told them they do not need a 404 Permit. A request for an extension of the March 15th deadline was also made. Their initial request was for an extension of time to April 10th. The Board was definitely opposed to such an extension, stating that April 1st is the absolute latest date on which work must be completed.

Plans were approved on March 2, 2007. There are revisions which must be made to the subdivision plat, per Scott Campbell's office. License Agreement is ready to go except for the 404 Permit, and a legal description of the easement.

A personal guarantee was made by Marty Goldsmith for any damages which might arise from the proposed bores. It was the consensus of the Board to extend the completion deadline to April 1, 2007, and absolutely no later, and they must obtain a letter of Waiver or a 404 Permit.

MASON CREEK DITCH COMPANY: Mr. John McEvoy, President of Mason Creek Ditch Co., and Mr. Marty Galvin, a wateruser within Mason Creek Ditch Co., appeared before the Board. Because there is acreage within their Ditch Co. which is not being irrigated any longer, they are wanting to put some water into the Water Bank. They requested Pioneer take less water out of the river and pick up more water further down out of Mason Creek.

Attorney Campbell explained to the gentlemen that Pioneer and Black Canyon Irrigation Districts are experiencing huge changes in the drainage system due to development taking place, and for other reasons as well. It was the consensus of the Board to table this matter until Pioneer can consider the potential consequences down the line. It may be that Pioneer would be violating the contract they currently have with Mason Creek Ditch Company, and also the storage water contracts with the Bureau of Reclamation. To make changes as requested by Mr. McEvoy and Mr. Galvin may very well require amendments to said contracts.

DAKOTA CROSSING: TJ Angstman, Principal Developer; and Steve Lynn who is with Liquid Realty, Inc., appeared before the Board, as well as Lupe Rodriguez and Scott Short, representatives of the Bureau of Reclamation.

Due to an incorrect survey being made, the pressurized irrigation line was installed on Pioneer's easement. Fault has been admitted, and said line will be removed. However, it is being requested of Pioneer to allow them to place the pressurized irrigation line within the easement along the Wilson Creek Drain by approximately 3 feet. It was stated they have spoken with a representative of the Army Corp. of Engineers, and they do not have any problem with said proposal.

EXHIBIT H

STATE OF IDAHO

DEPARTMENT OF RECLAMATION

Boise, Idaho
October 9, 1964

Re: Transfer of Water Right
Consumers Water Corporation

Idaho Daily Statesman,
Boise, Idaho.

Gentlemen:

Enclosed you will find notice for publication, once a week for two consecutive weeks prior to October 28, 1964 the date set for hearing; the expense of the publication is to be paid by the applicant Consumers Water Corporation of 114 First National Bank Bldg., Boise, Idaho to whom you should furnish proof of publication on or prior to the date set for hearing.

Please acknowledge receipt of this notice and furnish this office with a copy or tear-sheet of the first publication.**

Very truly yours,

CARL E. TAPPAN
State Reclamation Engineer
By

ROBERT W. HAMILTON
Supervisor of Water Distribution

** If the first copy is not received in this office for checking purposes and errors appear in subsequent issues, it is possible that re-publication of corrected copy will be at your own expense.

Encl.

RECEIVED

NOTICE OF PROPOSED TRANSFER OF WATER RIGHT

Notice is hereby given that Consumers Water Corporation of
Boise, Idaho has applied to the State Reclamation Engineer of the
State of Idaho for a certificate authorizing it to change the point of diversion
and/or place of use of the waters of Boise River as follows:
Amount: 21.735 cubic feet per second. Priority: May 1, 1866
Point of diversion: NE $\frac{1}{4}$ SE $\frac{1}{4}$, Section 24, Township 3 N. Range 2 E., B.M.
Place of Use: Town lots & agricultural lands under Walling Ditch

To Be Transferred To
Point of Diversion: NW $\frac{1}{4}$ NW $\frac{1}{4}$, Sec. 24, Township 4 N., Range 1 W. B. M., and
SE $\frac{1}{4}$ SE $\frac{1}{4}$, Section 13, Township 4 N., Range 2 W., B.M.
Place of Use: Lands now served by Pioneer Irrigation District, (Canyon County)

And that on the 28th day of October, 19 64, at 10:00 o'clock A. M.
at Room 107 Statehouse, Boise, Idaho, before the State Reclamation Engineer,
or his authorized agent, the opportunity will be given to any and all persons to
appear and present, for his consideration any reason or reasons why a certificate
should not be issued authorizing such transfer.

CARL E. TAPPAN
State Reclamation Engineer

Form 20

Application For Transfer of Water Right

STATE OF IDAHO

County of Ada

ss.

G. S. Taylor

being first duly sworn, deposes and says:

That his name is G. S. Taylor; that he is of lawful age, a citizen of the United States and of the State of Idaho, and that his postoffice address is 414 First National Bank Bldg., Boise, Idaho President of Consumers Water Corp., a corporation, which is the owner that he is the owner and using a certain water right, bearing date of priority of May 1, 1918 for 2500 inches ~~substantially~~ amount of the waters of the Boise River (Right #30) Johnson County of Ada, State of Idaho, decreed to Joseph Perreault and Richard by decree of Judge George H. Stewart of the Third Judicial District of the State of Idaho, in and for the county of Canyon, in the case of Earners Cooperative Ditch Co. at al vs. Riverside Irrig. Dist. Ltd., said decree bearing date of January 18, 1906 (or obtained by virtue of License No. _____, issued by the State Department of Reclamation of the State of Idaho, dated _____, 19____, bearing date of _____, 19____) for the purpose of irrigating the following described lands situate, lying and being in Water District No. 12-A in the County of Ada and State of Idaho, to-wit: Upon the town lots and agricultural lands lying under what is known as the Walling Ditch, or Consumers Canal; what said Consumers Water Corporation owns lands under said ditch and to which such water has been made appertenant; that said G. S. Taylor and is the person (or representative of the corporation) to whom such right so issued, or has become the owner thereof in the following manner, i.e. by mesne conveyances

as per abstract of title of said water right hereto attached and made a part of this statement;

That said waters are now diverted from said stream in the NE 1/4 of the SE 1/4 of Section 24, Township 3 N, Range 2 E, B. M., and conducted to the above described lands through the Consumers Canal, above mentioned as per map herewith and of this affidavit made a part.

CHANGE IN PLACE OF USE. 21,715

That affiant and petitioner desires to abandon the use of 1085 3/4 inches ~~substantially~~ amount of said water upon the above described land, and to convey and use same upon the following tract, situate, lying and being in the County of Canyon and Ada and State of Idaho, to-wit: The lands now being served by the Pioneer Irrigation District located in the environs of Caldwell.

That reasons for desiring to make such transfer are as follows: more adequate devotion to be official use.

That he intends to divert and convey said 1265 3/4 inches ~~amount~~ of water to the tract of land last above described in the following manner and as per map accompanying this application:
Diverted from the Boise River at the Phyllis Canal headgate in NW 1/4, Sect. 24, T4N, R1W, B. 1. and thence through the Phyllis Canal; and also
diverted from the Boise River at the Miline Canal headgate in the SE 1/4 SE 1/4 Sect. 13, T4N, R2W, B. 1. and thence through the Miline Canal.

Note—If this water right has heretofore been carried jointly in a ditch with other water, affiant should secure written consent of other owners or users to removal from its original carrier and file such consent with this affidavit.

CHANGE IN POINT OF DIVERSION

That affiant desires to change the point of diversion of said waters from the point above described to a point located in ^{and NW 1/4 NW 1/4} SE 1/4 of SE 1/4 of Section 13, Twp. 4N, Rge. 1W (Phyllis) and thereafter conduct same to the above described land through the Phyllis & Miline ditches as per map appended.

That his reasons for desiring to make such change are as follows: more adequate diversion to beneficial use.

Petitioner asserts that no one will be injured by such transfer, or change in point of diversion, and that the change will be made at petitioner's own risk.

WHEREFORE, Affiant and Petitioner prays that the State Reclamation Engineer of the State of Idaho issue to him the proper certificate authorizing such change in point of diversion and/or place of use, in accordance with the provisions of Sections 42-108 and 42-222 of the Idaho Code.

Consueers Water Corporation

Applicant.

Subscribed and sworn to before me this 29 day of June, 1954

James H. Smith
Notary Public.

APPLICANT WILL ANSWER THE FOLLOWING QUESTIONS:

From what stream is the water diverted? Boise River
Where is the diversion point located? NE 1/4 of SE 1/4 of Sect. 24, Twp. 3N, Rge. 2E, B. 1.
Through what ditch is it now conducted? Consueers Canal
How much land is now irrigated by the water sought to be transferred? Approximately 350 Acres
Give the description: Water is primarily used for lawns in Boise City.

What is the total amount of water in inches, or second feet, dedicated to said land?.....

What kind of crops are being raised? lawns and gardens.....

How much water per acre is now required to irrigate said land? approximately 3 inches per acre

What will be the effect on the land now irrigated, if the use of water on it is discontinued?.....

no injurious effect because land can be irrigated more efficiently.....

from existing Boise Water Corporation services and private wells.

Give location of new point of diversion, if change is to be made described previously

Through what ditch will it be conducted after transfer? Phyllis and Wilma canals

How much water will be required per acre to irrigate the land to which this water is transferred?.....

one inch per acre

Do you claim any other water right for the land from which you seek to abandon the use of this water?

If so, give amount, date and source no

Is there any other water right for the land to which you seek to make this transfer? If so, give amount,

DECREE	NO.	AMOUNT	DATE
Stewart	90	58.10cfs	6/17/1884
"	117	200.00	9/1/1890
"	135	56.34	4/1/1904
Bryant		306.58	4/1/1906
"		54.50	4/1/1908

Consumers Water Corporation
Signed [Signature]
Applicant.

Stewart	34	15.40	6/1/1866
"	46	37.20	6/1/1869
"	77	27.60	10/29/1880

54,000 acres

STATE OF IDAHO,

County of Ada

ss.

I, _____, Watermaster of Boise River

Water District No. 12-A, County of Ada, State of Idaho, whose postoffice address

is _____, have read or heard read the foregoing affidavit and petition

of Consumers Water Corporation, and, of my own knowledge, believe the same to be true

as to all matters therein alleged, and that no one will be injured by the transfer prayed to be authorized;

and I hereby endorse my approval of said petition, and request that the State Reclamation Engineer

issue the certificate of transfer as petitioned; or ~~(do not approve of the issuance of the certificate of~~

~~transfer prayed for)~~ for the following reasons:.....

Watermaster, District No. 12-A

Daniel L. Musselman

Dated at Boise, Idaho, this 8th day of October, 1964