

**SUPPLEMENTAL DIRECTOR'S REPORTS REGARDING
SUBCASE NOS. 01-09, 01-17 & 01-2050**

In Re SRBA
Twin Falls County Civil Case No. 39576

Report to the SRBA District Court

Prepared by the Idaho Department of Water Resources
Gary Spackman, Interim Director
Carter Fritschle, Manager, Adjudication Section

February 28, 2012

I. INTRODUCTION

In accordance with Idaho Code § 42-1412(4), Administrative Order 1, and the *Summary Judgment Schedule Order* issued by Special Master Dolan on February 3, 2012, the Director of the Idaho Department of Water Resources (“Department”) submits this Supplemental Director’s Report (“Report”) regarding subcase nos. 01-09, 01-17, and 01-2050, held by the Milner Irrigation District (“Milner”). This Report was prepared under the supervision of Gary Spackman, Interim Director, and Carter Fritschle, Manager, Adjudication Section. Michael Holliday, Water Rights Supervisor, Eastern Regional Office, in Idaho Falls, has knowledge of the information contained within the Report.

II. SUMMARY OF THE ISSUE

The issues before the Court involve elements recommended for subcase nos. 01-09, 01-17, and 01-2050. Milner contests the appropriateness of the Department’s recommendation limiting the place of use for 01-17 (135 cfs) to 8,114.4 acres, and the Department’s recommendation limiting 01-17 and 01-2050 (37 cfs) to a combined place of use of 9,033 acres. Secondly, during the preparation of this Report, it was determined that the recommended priority for 01-09 should be changed from April 1, 1939 to July 12, 1967, and that the recommended quantity should be changed from 121 cfs to 113 cfs. The Department, therefore, submits an amended recommendation with this Report for 01-09.

Because the water use under the subcases at issue was developed over time, the Report will not numerically discuss the subcases at issue, but rather, will discuss the chronological order in which water was put to beneficial use: 01-17 (November 14, 1916; 135 cfs; 8,114.4 acres), 01-2050 (October 25, 1939; 37 cfs; 9,033 acres), and 01-09 (July 12, 1967; 113 cfs; 13,335 acres).

III. FACTUAL AND PROCEDURAL BACKGROUND

On August 11, 1989, Milner filed claims in the SRBA for subcase nos. 01-17, 01-2050, and 01-09. On May 15, 2006, the Department recommended those claims to the SRBA District Court in the Director's Report for Basin 01, Part 1, Irrigation and Other Uses. On November 30, 2011, the Department filed an Amended Director's Report for 01-2050 with the Court.

A. Subcase No. 01-17

1. Department's May 15, 2006 Recommendation

Milner's most senior natural flow right, subcase no. 01-17, was recognized by the district court in the case of *Milner Low Lift Irrig. Dist. v. Crandall* (11th Jud. Dist., Twin Falls County, April 29, 1931). The subcase, however, was originally pursued as a permit before the Department. Milner's predecessor-in-interest, the Murtaugh Canal Company, sought a water right before the Department for 300 cfs from the Snake River.¹ The permit, numbered 12759, was filed on November 14, 1916, and was later renumbered 01-2029. Proof of completion of works under the permit was submitted by D.B. Moorman of the Murtaugh Canal Company, in which he stated that the maximum capacity of the canal was 135 cfs.² Proof of beneficial use was never submitted, and the permit was cancelled in 1974.³

Instead of pursuing this use through the Department, Milner instead availed itself of the district court. In the case of *Milner Low Lift Irrig. Dist. v. Crandall* (11th Jud. Dist., Twin Falls County, April 29, 1931),⁴ which was a "summary supplemental adjudication" brought pursuant

¹ A copy of the notice for publication is attached hereto as Attachment A.

² A copy of the deposition of holder is attached hereto as Attachment B.

³ A copy of the order of cancellation is attached hereto as Attachment C.

⁴ A copy of the referenced decree is attached hereto as Attachment D.

to Idaho Code § 42-1405,⁵ Milner was authorized to divert 135 cfs from the Snake River with a priority date of November 14, 1916. While a general land list was described, the court did not state how many acres were authorized to be irrigated.

In the SRBA, Milner claimed essentially the same elements as were recognized by the district court in *Crandall* and stated that the place of use for the right was within the Milner service area.

The Department subsequently recommended the use essentially as claimed, with a digital boundary that allowed irrigation to occur within Milner's 13,335-acre place of use.⁶ The recommendation recognized all 13,335 acres could be irrigated with water right nos. 45-463,⁷ 01-09, 01-17, and 01-2050. The recommendation limited, however, the number of acres within the total place of use that could be irrigated under 01-17: "This right is limited to the irrigation of 8114.4 acres within the place of use described above in a single irrigation season."

2. Objections and Responses to the Recommendation

Milner did not initially file an objection to the Department's recommendation for 01-17. On November 16, 2011, Milner filed a *Motion to File Late Objection/Supporting Points and Authorities*. The motion was subsequently granted by the Court on December 9, 2011. *Order*

⁵ Attached hereto as Attachment E is a copy of the *Findings of Fact* in the district court action entitled *Bradshaw v. Milner Low Lift Irrigation District* (11th Jud. Dist., Cassia County, July 27, 1961). The quotation and reference to Idaho Code § 42-1405 is located on page 10 of the attached document. The district court case was later appealed to the Idaho Supreme Court, resulting in a published opinion. *Bradshaw v. Milner Low Lift Irrigation District*, 85 Idaho 528, 381 P.2d 440 (1963). The Idaho Supreme Court decision is referenced in Milner's objections to 01-17 and 01-2050.

⁶ A copy of the Director's Report is attached hereto as Attachment F.

⁷ Subcase no. 45-463 was partially decreed by the Court on February 10, 2006. The right authorizes diversion of ground water for irrigation in the amount of 2.5 cfs with a priority of July 12, 1952.

Granting Motion to File Late Objection and Setting Response Deadline and Setting Status/Scheduling Conference.

In the objection, Milner objected to the place of use element and remarks section of the recommendation, stating as follows: “Limiting remark referencing 8,114.4 acres should be removed. Alternatively, the acreage in the remark should be increased to 9,468 acres.” The objection also stated: “Actual use of water right 1-17 on lands within the Milner Irrigation District, consistent with the holding by the Idaho Supreme Court in *Bradshaw v. Milner Low Lift Irr. Dist.*, 85 Idaho 528 (1963).”

Responses to Milner’s objection were filed by the Blackfoot Irrigation Company, Fremont Madison Irrigation District, the Ground Water Districts (“GWD”), the state of Idaho (“State”), and United Canal Company.

On February 1, 2012, the City of Pocatello (“Pocatello”) filed a *Motion to Participate*, which was granted by the Court on February 23, 2012. Also, on February 23, 2012, Pocatello filed a *Response* to the place of use element and remarks.

B. Subcase No. 01-2050

1. Amended Director’s Report

Milner’s second natural flow right, 01-2050, was licensed by the Department on July 15, 1950.⁸ The license authorized diversion of 37 cfs from the Snake River with a priority date of October 25, 1939. On the face of the license, the place of use was described as “Lands within the boundaries of the Milner Low Lift Irrigation District” Documents filed in support of the license—which include the application,⁹ published notice of the application,¹⁰ depositions of

⁸ A copy of the license is attached hereto as Attachment G.

⁹ A copy of the application is attached hereto as Attachment H.

holders,¹¹ depositions of witnesses,¹² and notice of completion of works¹³—stated that the right would be used to irrigate 9,033 acres. The report of the engineer stated: “approximately 9000 acres being irrigated.”¹⁴

In the SRBA, Milner claimed the same elements as were licensed and stated that the place of use for the right was within the Milner service area.

In its Amended Director’s Report, filed on November 30, 2011, the Department recommended the right with a digital boundary that allowed irrigation to occur within Milner’s 13,335-acre place of use.¹⁵ The recommendation recognized that all 13,335 acres could be irrigated with water right nos. 45-463, 01-09, 01-17, and 01-2050. The recommendation limited, however, the number of acres within the total place of use that could be irrigated under 01-2050 and 01-17: “Right nos. 1-17 and 1-2050 are limited to the irrigation of a combined total of 9033 acres in a single irrigation season.”

2. Objections and Responses to the Amended Director’s Report

Objections to the Amended Director’s Report were filed by the GWD on December 8, 2011. On December 9, 2011, an objection was filed by Milner. In its objection, Milner objected to the place of use element and remarks section of the recommendation, stating as follows: “Limiting remark referencing use of right in conjunction with water right 1-17 to 9,033 acres

¹⁰ A copy of the published notice of application is attached hereto as Attachment I.

¹¹ Copies of the depositions of holders are attached hereto as Attachment J.

¹² Copies of the depositions of witnesses are attached hereto as Attachment K.

¹³ A copy of the notice of completion of works is attached hereto as Attachment L.

¹⁴ A copy of the report of the engineer is attached hereto as Attachment M.

¹⁵ A copy of the Amended Director’s Report is attached hereto as Attachment N.

should be removed. Alternatively, the acreage in the remark should be increased to 9,468 acres.”

The objection also stated: “Actual use of water right 1-2050 on lands within the Milner Irrigation District, consistent with the holding by the Idaho Supreme Court in *Bradshaw v. Milner Low Lift Irr. Dist.*, 85 Idaho 528 (1963).”

On January 10, 2012, a response was filed by the State. On February 1, 2012, Pocatello filed a *Motion to Participate*, which was granted by the Court on February 23, 2012. Also, on February 23, 2012, Pocatello filed a *Response* to the place of use element and remarks.

C. Subcase No. 01-09

1. Department’s May 15, 2006 Recommendation

Subcase no. 01-09 was originally recognized by the district court in *Burley Irrigation District v. Henry Eagle* (Fifth Jud. Dist., Twin Falls County, July 10, 1968). In that case, which was a summary supplemental adjudication brought pursuant to Idaho Code § 42-1405, *see Memorandum Decision and Order on Challenge*, pages 12-13 (*Minidoka & Palisades Power Rights, Subcase Nos. 01-217 et al.*) (February 9, 2011); *Memorandum Decision and Order on Motion to Alter or Amend Judgment I.R.C.P. 59(e)*, pages 5-6 (*Minidoka & Palisades Power Rights, Subcase Nos. 01-217 et al.*) (May 17, 2011), Milner was authorized to divert 121 cfs from the Snake River with a priority date of April 1, 1939.¹⁶ While a general land list was described, the court did not state how many acres were authorized to be irrigated.

In the SRBA, Milner claimed essentially the same elements as were recognized by the district court in *Eagle* and stated that the place of use for the right was within the Milner service area.

¹⁶ An excerpted copy of the 1968 decision in *Eagle* is attached hereto as Attachment O.

The Department subsequently recommended the use essentially as claimed, with a digital boundary that allowed irrigation to occur within Milner's 13,335-acre place of use.¹⁷ The recommendation recognized all 13,335 acres could be irrigated with water right nos. 45-463, 01-09, 01-17, and 01-2050. The recommendation also included the following remark referencing the district court's 1968 decision in *Eagle*:

The delivery of water to this right may be subject to procedures described in the United States Bureau of Reclamation "space holder" contracts and the Burley Irrigation Dist. v. Eagle, Supplemental Decree (Idaho 5th Jud. Dist., July 10, 1968) and Aberdeen-Springfield Canal Co. v. Eagle, Supplemental Decree (Idaho 7th Jud. Dist., March 12, 1969) together with the natural-flow and storage deliveries as calculated by the Idaho Department of Water Resources.

2. Objections and Responses to the Recommendation

On October 3, 2006, Milner filed an objection to the remark referencing the district court's decision in *Eagle*. Numerous objections to the recommendation were filed and later withdrawn. Responses to Milner's objection were filed by the State and the United States Bureau of Reclamation. The responses have not been withdrawn.

3. Department's February 2012 Amended Recommendation

Attached hereto is an amended recommendation for 01-09, which amends the recommended priority date from April 1, 1939 to July 12, 1967, and the recommended quantity from 121 cfs to 113 cfs.¹⁸ The amendment to the priority date and quantity elements was necessary to account for the maximum natural flow diversion occurring prior to the mandatory permit statute for surface water. The ten acre tract was removed from the legal description of the point of diversion in order to reflect the Department's current standard. The remark referencing

¹⁷ A copy of the Director's Report is attached hereto as Attachment P.

¹⁸ A copy of the Amended Director's Report is attached hereto as Attachment Q.

the district court's 1968 decision in *Eagle* was also removed from the recommendation. The basis of the claim was changed from decreed to beneficial use.

IV. DISCUSSION

Milner points to the Idaho Supreme Court decision in *Bradshaw v. Milner Low Lift Irrigation District*, 85 Idaho 528, 381 P.2d 440 (1963) to support its position that the recommended place of use and combined use limitations for 01-17 and 01-2050 are incorrect. The Department's place of use recommendation and combined use limitations are consistent with the historical development of Milner's water use and are necessary to prevent enlargement. The Department's decision to amend its recommendation for 01-09 is necessary to account for the date when Milner put the water to beneficial use.

A. Basis for Subcase No. 01-17

The district court's decision in *Crandall* does not state the number of acres irrigated under subcase no. 01-17. This information can be discerned, however, from *Bradshaw*. There, the Court addressed annexation of new lands into the Milner Irrigation District, and documents Milner's growth, over time:

The defendant (respondent) Milner Low Lift Irrigation District was organized in 1921. At that time it acquired by purchase the water rights and the incomplete diversion and distribution system of the Murtaugh Canal Company. The purchase price ultimately agreed upon was \$486,864 to be paid in bonds of the district. At that time there were 8114.4 acres of land within the district. The purchase price was calculated upon a basis of \$60 per acre, which was determined, and decreed, to be the amount of benefits accruing to each acre, and to be the basis for the fixing of annual assessments.

Bradshaw at 533-34, 381 P.2d at 441-42 (emphasis added).

While *Bradshaw* does not say how many acres were irrigated prior to 1921, the case does establish that, by 1921, up to 8,114.4 acres could have been irrigated by Milner. Because the

priority date for subcase no. 01-17 is November 14, 1916, it is possible there were fewer acres irrigated in 1916 than were irrigated within the district by 1921. *See Attachment E* at 10-11 (“the District was the owner and entitled to the use of 135 c.f.s. of the waters of the Snake River with priority of November 14, 1916, for the irrigation of approximately 8,000 acres within the original boundaries of the District”) (emphasis added).

Despite not having specific information regarding the exact number of acres irrigated in 1916, it is reasonable to conclude, as supported by *Bradshaw*, that by 1916, the place of use for 01-17 was 8,114.4 acres. In order to ensure that irrigation under 01-17 would be limited to the number of acres developed under the right, it was necessary for the Department to limit the right to 8,114.4 acres.

B. Basis for Subcase No. 01-2050

Relative to the place of use for 01-2050, which bears a priority date of October 25, 1939, *Bradshaw* went on to describe events that occurred between 1921 and 1952:

During the years between its organization and 1952 the district acquired additional water rights, and certain lands were excluded and other lands were added by fourteen separate annexations, so that the total acreage within the district in 1952, prior to the annexation involved herein, had been increased to 9468 acres.

Bradshaw at 533-34, 381 P.2d at 441-42.

While *Bradshaw* establishes the number of acres that could have been irrigated by 1952, it does not state how many acres were irrigated as of March 9, 1940—the date proof of completion of works and beneficial use was made on permit no. 18919 (later renumbered to 01-2050). As established by the documents filed with the Department in support of 01-2050, the total number of acres irrigated by March 9, 1940 was 9,033. *Attachments G, H, I, J, K, & L*. In order to ensure that irrigation under 01-17 and 01-2050 would be limited to the number of acres

developed under the rights, it was necessary for the Department to limit the two rights when combined to 9,033 acres.

C. Basis for Subcase No. 01-09

The Department's original recommendation for 01-09, which was based on the district court's 1968 decision in *Eagle*, recognized Milner could divert 121 cfs, under a priority of April 1, 1939, for the irrigation of 13,335 acres. The original recommendation was in error, as Milner was not irrigating 13,335 acres by April 1, 1939, and was not diverting 293 cfs of natural flow by April 1, 1939.

The license file for 01-2050 demonstrates that Milner was irrigating 9,033 acres as of March 9, 1940. Under 01-2050 and 01-17, Milner was authorized to divert 172 cfs. Therefore, the Department's original recommendation to authorize irrigation of 13,335 acres and an additional 121 cfs under a more senior April 1, 1939 priority is not supportable.

As stated in *Bradshaw*, it was not until the October 23, 1952 annexation of 4,000 acres that Milner's 9,468-acre place of use was increased. *Bradshaw* at 533, 381 P.2d at 442. *Id.* *Bradshaw* states that other than 800 acres that could potentially be irrigated under Milner's existing rights, the annexed lands could not be irrigated "until an additional pumping unit has been installed and necessary laterals constructed. That water is not now available and will not be available . . . until the Palisades Reservoir is constructed and in operation" *Id.* at 536, 381 P.2d at 443.

Because of the 1968 summary supplemental decision in *Eagle*, Water District 01 has delivered 01-09 to Milner under an April 1, 1939 priority date. Water District 01 records do not, however, support natural flow delivery of the 121 cfs recognized by the district court in *Eagle* until July 8, 1971. From July 8, 1971 through July 14, 1971, the watermaster for Water District

01 delivered 298 cfs of natural flow to Milner.¹⁹ Because the watermaster would have been delivering water under 01-17 (135 cfs) and 01-2050 (37 cfs), the delivery under 01-09 was 126 cfs. Because of the May 20, 1971 mandatory permit statute for surface water, Idaho Code § 42-201, the Department cannot use this maximum natural flow diversion rate, which occurred in July 1971, as a basis for the diversion rate for 01-09.

The greatest natural flow diversion occurring prior to the mandatory permit statute took place on July 12, 1967. On that date, the watermaster for Water District 01 delivered 285 cfs of natural flow to Milner. *Attachments R & S*. Because the watermaster would have been delivering water under 01-17 (135 cfs) and 01-2050 (37 cfs), delivery under 01-09 was 113 cfs.

Since Milner did not divert 121 cfs under 01-09 prior to the mandatory permit statute, the greatest quantity the Department can recommend under 01-09 is 113 cfs. The earliest priority date the Department can recommend for the maximum natural flow diverted under 01-09 prior to the mandatory permit statute is July 12, 1967. Irrigation under 01-09 can occur on 13,335 acres. The amended recommendation, attached hereto as Attachment Q, is consistent with this description.

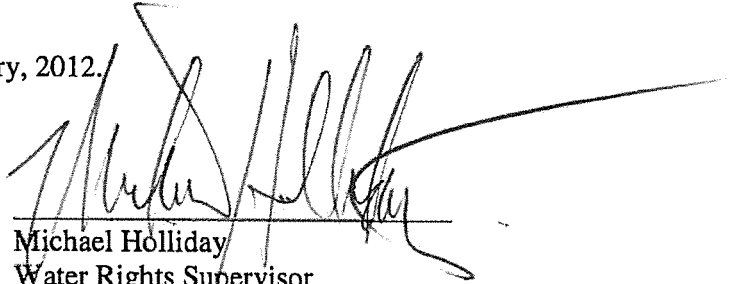
V. CONCLUSION

Consistent with the Idaho Supreme Court's decision in *Bradshaw*, the Department's recommendations for 01-17, 01-2050, and 01-09 in no way limit Milner from applying water to any lands within the district, be they original or annexed lands. The Department's recommendations do, however, recognize the priority dates and number of acres that were irrigated when water was put to beneficial use under each of the rights. The Department

¹⁹ A copy of a letter from W.C. Eagle, watermaster, to A.H. Nielson, attorney at law, dated February 15, 1966, is attached hereto as Attachment R. A copy of a letter from Arthur L. Larsen, watermaster, to R. Keith Higginson, director, dated April 22, 1974 is attached hereto as Attachment S.

respectfully requests that the water right descriptions discussed herein be recommended by the Court.

Submitted this 28TH day of February, 2012.



Michael Holliday
Water Rights Supervisor

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that I served a true and correct copy of the following described document on the persons listed below by United States mail with the correct postage affixed thereto on this 28th day of February, 2012.

Document Served: SUPPLEMENTAL DIRECTOR'S REPORT REGARDING
WATER RIGHT NUMBERS 01-09, 01-17 & 01-2050

Persons Served:

Travis L. Thompson
113 Main Avenue W. Ste. 303
P.O. Box 485
Twin Falls, ID 83303-0485

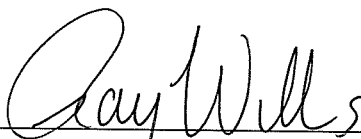
Candice M. McHugh
101 S. Capitol Blvd., Ste. 300
Boise, ID 83702

Michael C. Orr
Office of the Attorney General
P.O. Box 44449
Boise, ID 83711-4449

Sarah A. Klahn
White & Jankowski, LLP
Kittredge Building
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Denver, CO 80202

David W. Gehlert
U.S. Dept. of Justice
999 18th St., S. Terrace, Ste. 370
Denver, CO 80202

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322 E. Front Street
P.O. Box 83720-0098
Boise, ID 83720



Signature of Person Serving this Document

Attachment A

FORM 8

Notice for Publication

Notice is hereby given that at 10 A.M., on the 14th. day of October
1922, at Twin Falls, County of Twin Falls, State of Idaho,
before C.C. Siggins, Clerk of Dist. Court proof will be submitted of the completion of works
for the diversion of 300 cubic feet per second of the waters of Snake River
in accordance with the terms and conditions of a
certain permit heretofore issued by the State Engineer of the State of Idaho.

1. The name of the person or corporation holding said permit is Mortough Canal Company,
2. The postoffice address of each person or principal place of business of such corporation is
Twin Falls, County of Twin Falls, State of Idaho.
3. The number of such Permit is 12759, and the date set for the completion of such work is
February 5, 1922.
4. Said water is to be used for irrigation and domestic purposes.
5. Said works of diversion ~~will be~~ ^{were} fully completed on the date set for such completion, and the amount of water which said
works are capable of conducting to the place of intended use, in accordance with the plans accompanying the application for
such permit, is 300 cubic feet per second.
6. The amount of lands for which said water is available is 11,400 acres, particularly described as follows:
Land embraced in the Milner Low Lift Irrigation District, Twin Falls and
Cassia Counties, Idaho.

W. G. Swanson,

Commissioner of Reclamation.

12759

12759 - 27-105-112
10-a

Attachment B

Proof of Completion of Works

DEPOSITION OF HOLDER

Ques. 1. State your name, age, residence, occupation and postoffice address.

Ans. D. B. Moorman, Age 63 years, Twin Falls, Idaho.

Farmer, Twin Falls, Idaho.

Ques. 2. If acting in behalf of a corporation, state its name, principal place of business, your position with reference to same, and your authority for appearing in its behalf.

Ans. Mustang Canal Company, Twin Falls, Idaho. I am the Secretary

Treasurer and General Manager of said company/

I appear as such officer.

Ques. 3. State number and date of permit, amount of water you are authorized to divert, source, and point of diversion.

Ans. 12759, 160 ac. ft. Snake River. In Section

22 Twp 10 South, Range 21 East F. M.

Ques. 4. State purpose for which water is to be used, and, if for irrigation, state the number of acres and give description of the land you intend to reclaim.

Ans. Irrigation and domestic. 11, 200 acres in 10 and 11 South

and ranges 19, 20 and 21 E. B. M. See map on file. being the land embraced in the Milner Low Lift Irrigation District.

Ques. 5. State whether or not the water has been turned into your works of diversion, and, if so, when and to what extent.

Ans. Yes to the extent of 100 Sec. Ft. various amounts and at

various times during the last three years.

Ques. 6. State whether or not the works of diversion are fully completed, and whether or not they comply in all respects with the terms of the permit.

Ans. No. In as far as they have gone they do.

Ques. 7. If the works of diversion do not comply with all the terms of your permit, state fully those particulars in which there is any variance.

Ans. XXXXXXXX

Ques. 8. Give description of works, state dimensions and capacity of each part, and give cost of same.

Ans. Intake Canal from Snake river 15 ft. in width, and 6 ft deep.

Steel pipe 5 ft. in diameter and 1000 ft. in length. Canal 14 ft

width at bottom at head the end. maximum capacity 135 Sec.

ft. at the main canal. East Canal 25 Sec Ft.

D. B. Moorman

I hereby certify that the foregoing testimony was read to the above subscriber before its signing, that I believe him to be the person he represents himself to be, and that said testimony was subscribed and sworn to before me, in Twin Falls, Twin Falls County, Idaho.

State of Idaho, on this 14th day of

October 1922. A. D. 19

Slack of the District Court

12759

Attachment C

**STATE OF IDAHO
DEPARTMENT OF WATER ADMINISTRATION
STATE OFFICE**



Cecil D. Andrus
Governor

R. Keith Higgason
Director

614 State Street
Statehouse Annex 2
Boise, Idaho 83720
(208) 384-2215

Water Rights Administration
Water Resource Investigations
Dam and Reservoir Safety
Water Well Drilling
Waste Disposal Wells
Stream Channel Protection
Geothermal Resources

IN THE MATTER OF CANCELLATION OF PERMITS)
)
TO APPROPRIATE THE PUBLIC WATERS OF THE)
)
STATE OF IDAHO NO. 01-2029, 01-2063 & 02-2081)
)
IN THE NAME OF Milner Low Lift Irrigation District)
)

ORDER OF CANCELLATION

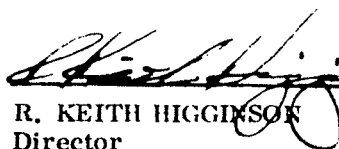
WHEREAS, the permit holder has failed to show proof that water has been diverted and beneficially used under the above numbered permits in addition to those rights previously decreed or licensed; and,

WHEREAS, on May 14, 1974, notice was sent to the holder of said permits to appear before the Director of the Department of Water Administration on or before June 15, 1974, to show cause why said permits should not be cancelled; and,

WHEREAS, the holder of said permits has failed to comply with the requirements of said permits and has not shown adequate cause why such permits should not be cancelled.

IT IS, THEREFORE, ORDERED and Permits No. 01-2029, 01-2063 & 02-2081 are hereby CANCELLED.

Dated this 18 day of June, 1974.


R. KEITH HIGGASON
Director

01-2029

Attachment D

01-H

Judgment Book No. 14, Page No. 433
IN THE DISTRICT COURT OF THE ELEVENTH JUDICIAL DISTRICT
OF THE STATE OF IDAHO, IN AND FOR TWIN FALLS COUNTY

MILNER LOW LIFT IRRIGATION DISTRICT,)
Plaintiff)
-vs-)
LYNN CRANDALL, Water Master in charge)
of distribution of the water from)
Snake River,)
Defendant)

DECREE

8111
DISTRICT COURT
Eleventh Judicial Dist
County of Twin Falls,
State of Idaho
Filed Apr. 30, 1931
/s/ Harry C. Parsons
Clerk
/s/ Frank J. Smith
Deputy Clerk
Entered Apr. 30, 1931

This cause came on duly to be heard in open court on the 17th day of April, 1931, before the Court sitting without a jury. J. L. Hodgins, Esq. appeared as counsel for the plaintiff; and there being no appearance for the defendant, his default was duly entered. Now, upon filing the Findings of Fact and Conclusions of Law herein, and the Court being fully advised in the premises;

01-0017 IT IS HEREBY ORDERED, ADJUDGED AND DECREED That the Milner Low Lift Irrigation District is entitled to the use of One Hundred Thirty-five (135) cubic feet per second of the waters of Snake River for the irrigation and cultivation of the following described land situate in the counties of Twin Falls and Cassia, State of Idaho, to-wit:

In Township Eleven (11) South, Range Nineteen (19) E, B. M.:

West Half of Northeast Quarter ($W\frac{1}{2} NE\frac{1}{4}$), and
Northwest Quarter of Southeast Quarter ($NW\frac{1}{4} SE\frac{1}{4}$), and
Southeast Quarter of Southeast Quarter ($SE\frac{1}{4} SE\frac{1}{4}$), of
Section Thirteen (13).

In Township Eleven (11) South, Range Twenty (20) E B M:

Sections Two (2), Three (3), Nine (9), Ten (10),
Eleven (11), Fifteen (15), Sixteen (16), Seventeen (17),
Nineteen (19), Twenty (20) and Twenty-one (21); North
Half ($N\frac{1}{2}$) of Section One (1);
South Half ($S\frac{1}{2}$) of Section Four (4);
South Half ($S\frac{1}{2}$) and Northeast Quarter ($NE\frac{1}{4}$) of
Section Eight (8);
Northwest Quarter ($NW\frac{1}{4}$) of Section Fourteen (14);

Northwest Quarter ($NW\frac{1}{4}$) of Section Twenty-two (22);
North Half ($N\frac{1}{2}$) of Section Twenty-eight (28);
North Half ($N\frac{1}{2}$) of Section Twenty-nine (29); and
North Half of Northeast Quarter ($N\frac{1}{2} NE\frac{1}{4}$) of
Section Thirty (30).

In Township Ten (10) South, Range Twenty (20) E B M;

Section Thirty-six (36); and
Northeast Quarter ($NE\frac{1}{4}$) and
South Half ($S\frac{1}{2}$) of Section Thirty-five (35).

In Township Ten (10) South, Range Twenty-one (21) E B M;

Sections Thirty-one (31) and Thirty-two (32);
South Half of Southwest Quarter ($S\frac{1}{2} SW\frac{1}{4}$) of
Section Twenty-nine (29); and
South Half ($S\frac{1}{2}$) of Section Thirty (30).

and for domestic purposes; and the right to the use of said amount of water
is hereby dedicated and made appurtenant to said above described lands, with
priority dating from the 14th day of November, 1916; and the same shall be
diverted in Lot Eight (8), Section Twenty-nine (29), Township Ten (10) South,
Range Twenty-one (21), E B M.

Dated this 29th day of April, 1931.

Wm. A. Babcock
District Judge.

mh

STATE OF IDAHO)
COUNTY OF TWIN FALLS) ss.

I hereby certify the foregoing to be a full, true and
correct copy of the original on file in the above
entitled action.

/s/ C. A. Bueles
Clerk of the District Court

/s/ Irene Sinema
Deputy

Attachment E

IN THE DISTRICT COURT OF THE ELEVENTH JUDICIAL DISTRICT OF
THE STATE OF IDAHO, IN AND FOR CASSIA COUNTY.

BERNARD G. BRADSHAW, et ux, et al.,

Plaintiffs and
Cross-Defendants,

vs.

MILNER LOW LIFT IRRIGATION DISTRICT,
a quasi-municipal corporation, et al.,

Defendants and
Cross-Plaintiffs.

Civil No. 6252

FINDINGS OF FACT

IN THE DISTRICT COURT OF
THE ELEVENTH JUDICIAL DISTRICT
No. 6252
1959 at _____
by _____
CASSIA COUNTY, IDAHO

This is an action brought by the plaintiffs for a declaration that when the annexation fee or assessment has been paid upon land annexed to the defendant, Milner Low Lift Irrigation District, under annexation preceeding orders of October, 1952, those who pay on the annexed land share equally with all other lands susceptible of irrigation from the works of the Irrigation District all water available for use therein; and also for an injunction against the District to restrain it from discriminating in the distribution of water as between the annexed lands and the lands which were within the District prior to October, 1952. By cross-complaint, the defendants seek to have the Board of Directors of the Milner Low Lift Irrigation District classify the lands within the District in accordance with Section 42-904, I. C., to the effect that water rights owned by the District, except Palisades Reservoir waters, be declared to be appurtenant to the lands within the district prior to October, 1952, and that if and when water is made available from Palisades Reservoir, such water be declared appurtenant to the lands annexed to the District in 1952, and the cost thereof the obligation of the annexed lands.

This cause came regularly on to be heard before the Honorable Sherman J. Bellwood (who having resigned, is now serving as Judge pro tempore by stipulation of the parties) on November 17, 1959, and the trial

1 was concluded on December 11, 1959. It was consolidated for trial
2 with the case of George E. Sargent and Mabel C. Sargent, husband
3 and wife, v. Max Boley, Julius Neumann and Edwin E. Brune, as
4 Directors of the Milner Low Lift Irrigation District, Case No. 6319
5 which was an action enjoining defendants from levying and collect-
6 ing alleged discriminatory assessments against their lands for
7 maintenance and operation of the District, and the case of R. H.
8 Seymour and Dorothy Seymour, husband and wife, et al, v. Milner Low
9 Lift Irrigation District, et al, Case No. 6556 being an action
10 brought by plaintiffs on a petition for alternative writ of mandate
11 to compel the District and its Board of Directors to accept payment
12 of or assess annexation fees for the delivery of water to some
13 1,768 acres of land annexed into the District under the annexation
14 proceeding of October, 1952, S. T. Lowe & Kales E. Lowe of Burley,
15 Idaho, appeared for and on behalf of plaintiffs in all three cases
16 and Nielson & Nielson of Burley, Idaho, and Parry, Robertson & Daly
17 of Twin Falls, Idaho, appeared for and on behalf of defendants.
18 Thereafter said cause was submitted to the Court on briefs for
19 decision. Plaintiffs' brief lodged May 31, 1960; defendants' brief
20 lodged December 6, 1960. Reply brief not received.

The Court being fully advised in the law and the facts
21 makes the following:

22 FINDINGS OF FACT *

23 I.

24 That the plaintiffs are the holders of title or evidence
25 of title to the real property situated in Cassia County, Idaho, and
26 described opposite their respective names as follows:

27
28 * Wherever used herein, the words "District" shall refer to the
29 defendant, Milner Low Lift Irrigation District; the words "old
30 lands" shall refer to lands within the District prior to October,
31 1952; and the words "new lands" shall refer to the annexed lands,
32 i.e., the lands annexed to the District in October, 1952.

PLAINTIFFS

REAL PROPERTY DESCRIPTION

Bernard C. Bradshaw and Mickey
Bradshaw, husband and wife,

The Northeast Quarter (NE $\frac{1}{4}$)
of Section Seven (7), Township
Eleven (11) South, Range Twenty-
One (21) East, Boise Meridian.

William A. Bradshaw and Marjorie
Bradshaw, husband and wife,

Northwest Quarter (NW $\frac{1}{4}$) of
Section Seven (7), Township
Eleven (11) South, Range Twenty-
One (21) East, Boise Meridian.

Justin Kleinkopf and Claribel
Kleinkopf, husband and wife,

North Half of the Northwest
Quarter (N $\frac{1}{2}$ NW $\frac{1}{4}$) of Section
Four (4), Township Eleven (11)
South; South Half of the South-
west Quarter (S $\frac{1}{2}$ SW $\frac{1}{4}$), and the
South Half of the Northwest
Quarter of the Southwest Quarter
(S $\frac{1}{2}$ NW $\frac{1}{4}$ SW $\frac{1}{4}$) in Section Thirty-
Three (33), Township Ten (10)
South, all in Range Twenty-One
(21) East, Boise Meridian.

Donald M. Murphy and Dorothy
Murphy, husband and wife,

South Half of the Northwest
Quarter (S $\frac{1}{2}$ NW $\frac{1}{4}$), Southwest
Quarter (SW $\frac{1}{4}$) and the South Half
of the Northeast Quarter (S $\frac{1}{2}$ NE $\frac{1}{4}$),
all in Section Four (4), Town-
ship Eleven (11) South, Range
Twenty-One (21) East, Boise
Meridian.

William G. Bradshaw and Christine
Bradshaw, husband and wife,

South Half of the Northwest
Quarter (S $\frac{1}{2}$ NW $\frac{1}{4}$) in Section Five
(5), Township Eleven (11) South,
Range Twenty-One (21) East, Boise
Meridian.

Mark Moorman and Lola H.
Moorman, husband and wife,

Southeast Quarter (SE $\frac{1}{4}$) of Sec-
tion Four (4); Northwest Quarter
of the Southwest Quarter (NW $\frac{1}{4}$ SW $\frac{1}{4}$)
of Section Three (3); West Half
of the Northwest Quarter of the
Northwest Quarter (W $\frac{1}{2}$ NW $\frac{1}{4}$ NW $\frac{1}{4}$)
in Section Five (5); Northeast
Quarter of the Northeast Quarter
(NE $\frac{1}{4}$ NE $\frac{1}{4}$) and the North Half of
the Southeast Quarter of the
Northeast Quarter (N $\frac{1}{2}$ SE $\frac{1}{4}$ NE $\frac{1}{4}$)
in Section Six (6), all in Town-
ship Eleven (11) South, Range
Twenty-One (21) East, Boise
Meridian.

Elver Tell and Opal Tell,
husband and wife,

East Half of the Southeast
Quarter (E $\frac{1}{2}$ SE $\frac{1}{4}$) and the North
Half of the Northeast Quarter
(N $\frac{1}{2}$ NE $\frac{1}{4}$) of Section Five (5),
Township Eleven (11) South, and
Twenty Seven (27) acres lying
south of the Canal or ditch across
the Southeast Quarter of the
Southeast Quarter (SE $\frac{1}{4}$ SE $\frac{1}{4}$) in
Section Thirty-Two (32), Township
Ten (10) South, all in Range
Twenty-One (21) East, Boise Meridian.

PLAINTIFFS

Elta M. Arnold, a widow,

Hubert Syverson and Kathryn
Syverson, husband and wife,

Joseph Henry Egbert and Ethel
Egbert, husband and wife,

Lex E. Kunau and Celia F.
Kunau, husband and wife,

William Baugh and Alice Baugh,
husband and wife,

Ellis Mathes and Mabel Mathes,
husband and wife,

John R. Olmstead, a bachelor,
and Ruth Brown, a spinster,
joint tenants,

George E. Sargent and Mabel
C. Sargent, husband and wife,

R. H. Seymour and Dorothy
Seymour, husband and wife,

REAL PROPERTY DESCRIPTION

Southwest Quarter of the North-
west Quarter (SW $\frac{1}{4}$ NW $\frac{1}{4}$) of Section
Three (3), Township Eleven (11)
South, Range Twenty-One (21) East,
Boise Meridian.

South Half of the Northeast
Quarter (S $\frac{1}{2}$ NE $\frac{1}{4}$), and the West
Half of the Southeast Quarter
(W $\frac{1}{2}$ SE $\frac{1}{4}$) of Section Five (5),
Township Eleven (11) South, Range
Twenty-One (21) East, Boise
Meridian.

That part of the Southeast Quarter
(SE $\frac{1}{4}$) of Section Seven (7), Town-
ship Eleven (11) South, Range
Twenty-One (21) East, Boise
Meridian, lying North and West of
the right of way of U. S. Idaho
Highway No. 30.

South Half (S $\frac{1}{2}$) and the South
Half of the Southeast Quarter of
the Northeast Quarter (S $\frac{1}{2}$ SE $\frac{1}{4}$ NE $\frac{1}{4}$)
of Section Six (6), Township
Eleven (11) South, Range Twenty-One
(21) East, Boise Meridian.

Northeast Quarter of the South-
west Quarter (NE $\frac{1}{4}$ SW $\frac{1}{4}$) of Section
Seven (7), Township Eleven (11)
South, Range Twenty-One (21) East,
Boise Meridian.

South Half of the Southwest
Quarter (S $\frac{1}{2}$ SW $\frac{1}{4}$) of Section Seven
(7), Township Eleven (11) South,
Range Twenty-One (21) East, Boise
Meridian.

Southeast Quarter (SE $\frac{1}{4}$) of Section
Twelve (12), Township Eleven (11)
South, Range Twenty (20) East,
Boise Meridian.

South Half of the Northeast
Quarter (S $\frac{1}{2}$ NE $\frac{1}{4}$) and East Half
of the Northwest Quarter (E $\frac{1}{2}$ NW $\frac{1}{4}$)
in Section Twelve (12), Township
Eleven (11) South, Range Twenty
(20) East, Boise Meridian.

North Half of the Northeast
Quarter (N $\frac{1}{2}$ NE $\frac{1}{4}$) of Section
Twelve (12), Township Eleven (11)
South, Range Twenty (20) East,
Boise Meridian.

1	PLAINTIFFS	REAL PROPERTY DESCRIPTION
2	Laura V. Hale, a spinster, and	All that part of the West Half
3	May A. Hale, a spinster, tenants	(W $\frac{1}{2}$) of Section Eight (8), Town-
4	in common,	ship Eleven (11) South, Range
5		Twenty-One (21) East, Boise
6		Meridian, located North of the
7		North right of way boundary of
8		U. S. Idaho Highway No. 30.
9	II.	
10	That the Milner Low Lift Irrigation District, one of the	
11	defendants, is a quasi-municipal corporation, organized and existing	
12	under and by virtue of the laws of the State of Idaho located in the	
13	Counties of Cassia and Twin Falls.	
14	III.	
15	That certain defendants, having refused to join as parties	
16	plaintiff, were joined as parties defendant under Section 5-313	
17	I. C. and are holders of title or evidence of title to the real	
18	property situated in Cassia County, Idaho, and described opposite	
19	their respective names as follows:	
20	NAMES	REAL PROPERTY DESCRIPTION
21	*Robert Ellis and Edna Mae	Southwest Quarter (SW $\frac{1}{4}$) of
22	Ellis, husband and wife,	Section Five (5), Township
23		Eleven (11) South, Range Twenty-
24		One (21) East, Boise Meridian.
25	Zelma Anderson, a widow,	That portion of the Northeast
26		Quarter (NE $\frac{1}{4}$) of Section Eight
27		(8), Township Eleven (11) South,
28		Range Twenty-One (21) East, Boise
29		Meridian, lying North and West
30		of the North boundary line of
31		the right of way of U. S. Idaho
32		Highway No. 30.
	Pacific Northwest Pipeline Co.,	Northwest Quarter of the South-
	a corporation,	west Quarter (NW $\frac{1}{4}$ SW $\frac{1}{4}$) of Section
		Seven (7), Township Eleven (11)
		South, Range Twenty-One (21) East,
		Boise Meridian.
	Lloyd Thompson and Ruth	West Half of the Northwest
	Thompson, husband and wife,	Quarter (W $\frac{1}{2}$ NW $\frac{1}{4}$) of Section
		Twelve (12), Township Eleven (11)
		South, Range Twenty (20) East,
		Boise Meridian; Northeast Quarter
		of the Northeast Quarter (NE $\frac{1}{4}$ NE $\frac{1}{4}$)
		of Section Eleven (11), Township
		Eleven (11) South, Range Twenty
		(20) East, Boise Meridian.

1	NAMES	REAL PROPERTY DESCRIPTION
2	*Edwin Brune and Margaret	All of the West Half of the North-
3	Brune, husband and wife,	east Quarter (W $\frac{1}{2}$ NE $\frac{1}{4}$), and the
4		South Half of the Northwest
5		Quarter (S $\frac{1}{2}$ NW $\frac{1}{4}$) of Section Six
6		(6), Township Eleven (11) South,
7		Range Twenty-One (21) East,
8		Boise Meridian, lying and being
9		South and East of the No. 2
10		Canal of the defendant, Milner
11		Low Lift Irrigation District.
12	*Lewlie W. Peterson and Ida	South Half of the Southeast
13	H. Peterson, husband and wife,	Quarter (S $\frac{1}{2}$ SE $\frac{1}{4}$) and the South-
14		west Quarter of the Southwest
15		Quarter (SW $\frac{1}{4}$ SW $\frac{1}{4}$) in Section One
16		(1), Township Eleven (11) South,
17		Range Twenty (20) East, Boise
18		Meridian; that portion of the
19		Southeast Quarter (SE $\frac{1}{4}$) of Section
20		Two (2), Township Eleven (11)
21		South, Range Twenty (20) East,
22		Boise Meridian, lying South and
23		East of the Main Canal of the
24		defendant, Milner Low Lift
25		Irrigation District.
26	*G. L. Rose and Ethel Rose,	North Half of the Southwest
27	husband and wife,	Quarter (N $\frac{1}{2}$ SW $\frac{1}{4}$) of Section
28		Twelve (12), Township Eleven
29		(11) South, Range Twenty (20)
30		East, Boise Meridian.
31	*J. R. Breeding and Mary	Southeast Quarter of the South-
32	Breeding, husband and wife,	west Quarter (SE $\frac{1}{4}$ SW $\frac{1}{4}$) of Section
33		Twelve (12), Township Eleven (11)
34		South, Range Twenty (20) East,
35		Boise Meridian.
36	*Earl D. Sears and Lorenn	Northeast Quarter of the North-
37	Sears, husband and wife,	west Quarter (NE $\frac{1}{4}$ NW $\frac{1}{4}$); West
38		Half of the Northeast Quarter
39		(W $\frac{1}{2}$ NE $\frac{1}{4}$); Northwest Quarter of
40		the Southeast Quarter (NW $\frac{1}{4}$ SE $\frac{1}{4}$),
41		and the Northeast Quarter of the
42		Southwest Quarter (NE $\frac{1}{4}$ SW $\frac{1}{4}$) in
43		Section Thirty-Three (33), Township
44		Ten (10) South, Range Twenty-One
45		(21) East, Boise Meridian.
46	*Edward L. Kirk and (Charlotte)	East Half of the Northwest
47	June Kirk, husband and wife,	Quarter of the Northwest Quarter
48		(E $\frac{1}{2}$ NW $\frac{1}{4}$ NW $\frac{1}{4}$), and that portion of
49		the Northeast Quarter of the
50		Northwest Quarter (NE $\frac{1}{4}$ NW $\frac{1}{4}$) lying
51		South and West of the intake ditch
52		of the defendant, Milner Low Lift
53		Irrigation District, extending
54		across the said forty-acre tract,
55		in Section Five (5), Township
56		Eleven (11) South, Range Twenty-
57		One (21) East, Boise Meridian.

NAMES	REAL PROPERTY DESCRIPTION
Nora Mcley and Warren L. Mcley, wife and husband,	South Half of the Southwest Quarter (S $\frac{1}{2}$ SW $\frac{1}{2}$) of Section Three (3), Township Eleven (11) South, Range Twenty-One (21) East, Boise Meridian.

IV.

That the real property described in Paragraphs I and III above aggregates approximately 4,000 acres and is located within the boundaries of the District by annexation proceedings in October, 1952, being the "new lands" or "annexed lands".

V.

That the other defendants, other than the District, are the holders of title or evidence of title to all lands located within the boundaries of the District prior to the annexation proceedings in October, 1952, comprising 9,468 acres, being the "old lands"; they are:

- *L. W. Blei and Esther Blei, husband and wife,
- *Orilla J. Boley, a widow,
- *Max Boley, a widower,
- *Robert L. Breeding, a bachelor,
- *Kenneth Briggs and Janet Briggs, husband and wife,
- *Clyde Barton, a bachelor,
- *Alvin Barton, a bachelor,
- *Clarence Barker and Essie Barker, husband and wife,
- *Russell Carlson and Volma Carlson, husband and wife,
- *Loyd C. Davis and Esther Davis, husband and wife,
- *Louis M. Denton and Iola Denton, husband and wife,
- *A. L. Egbert and Louise Egbert, husband and wife,
- *Parley M. Egbert and Sarah Egbert, husband and wife,
- *Carl Emerson and Edna Emerson, husband and wife,
- *Charles M. Fisher and Ina Fisher, husband and wife,
- *Charles L. Fisher and Patricia Fisher, husband and wife,
- *George W. Fuller and Geneva Fuller, husband and wife,
- *Opal Goodman, a widow,
- *Glendale Farms, Inc., an Idaho corporation,
- *George R. Hartley and Margaret Hartley, husband and wife,
- *August Hestbeck and Andrea Hestbeck, husband and wife,
- *June Kirkman and Zylpha Lincoln Kirkman, husband and wife,
- *J. David Koenig and Rebecca Koenig, husband and wife,
- *Alvin Konicek and Faye Konicek, husband and wife,
- *Emma Konicek, a widow,
- *Ernest Keke, a divorced man,
- *Edward L. Kirk and Charlotte June Kirk, husband and wife,
- *Roy A. Kirk and Lula O. Kirk, husband and wife,
- *Harold Menner and Geneva Menner, husband and wife,
- *Harry R. Musgrave and Florence Musgrave, husband and wife,
- *George Montes and Ethyle Montes, husband and wife,
- *E. W. Moorman and Pauline Moorman, husband and wife,
- *Ben C. Mottern and Christine Mottern, husband and wife,

1 *William R. McCoy and Bernice McCoy, husband and wife,
 2 *J. K. Neumann and Carol Neumann, husband and wife,
 3 *Dwane S. Perkins and Anna Perkins, husband and wife,
 4 *Stanley Leon Pickett and Jessie Pickett, husband and wife,
 5 *Helen B. Perrine, a widow,
 6 *Perry Papineau and Carrie Papineau, husband and wife, life tenants
 7 with remainder to Lloyd Hicks*
 8 *J. W. Poulton and Mary Poulton, husband and wife,
 9 *Archie Quessnell and Anna Quessnell, husband and wife,
 10 *Donald J. Roberts and Irene Roberts, husband and wife,
 11 *Elmer Rees and Melba Rees, husband and wife,
 12 *C. K. Sears and Maude Sears, husband and wife,
 13 *Valma M. Sturgeon, a widow,
 14 *R. H. Schaefer and Glenn Schaefer, husband and wife,
 15 *Jack Spann and Dorothy Spann, husband and wife,
 16 *C. J. Stewart and Thera Stewart, husband and wife,
 17 *C. V. True and Remaine True, husband and wife,
 18 *Twin Falls Bank & Trust Co., executor, estate of Jennie L.
 19 Sickafus,
 20 Jess Willhite and Alice I. Willhite, husband and wife,
 21 *Samuel F. Webb, a bachelor,
 22 *Audora Webb, a spinster,
 23 *Donald Webb and Verna Webb, husband and wife,
 24 *Blaine Webb and Goldie Webb, husband and wife,
 25 *Farnum Warr and Irene Warr, husband and wife,
 26 *Glen Briggs and Hazel Briggs, husband and wife.

VI.

16 That the defendants named in Paragraphs III and V above
 17 before whose name there appear *a filed appearances in this action
 18 by which said defendants have (a) ratified the actions of the Board
 19 of Directors of the District, and (b) adopted the pleadings filed
 20 by the defendant District as their own pleadings and have authorized
 21 the District to act in their place and stead in this action; and
 22 in addition to said defendants, one Lillie Menner has filed a like
 23 appearance. Also, defendant Pacific Northwest Pipeline Company, a
 24 corporation, has appeared in this action. The other named defend-
 25 ants did not file appearances.

VII.

26 That on November 14, 1916, James B. Hayes made application
 27 for 300 cubic feet per second of the waters of the Snake River to
 28 be used on lands in Cassia and Twin Falls Counties, Idaho, including
 29 lands within the present boundaries of the District; that pursuant
 30 to that application, Permit No. 12759 of the Department of Reclama-
 31 tion of the State of Idaho was issued to James B. Hayes; that on
 32 December 29, 1916, Hayes assigned the permit to L. B. Moorman, and

1 on August 24, 1919, Moorman assigned the permit to the Murtaugh
2 Canal Company, an Idaho corporation, formed, among other things, to
3 construct, own, operate, maintain, conduct, lease, buy or purchase
4 irrigation works, including ditches, canals, flumes, aqueducts,
5 siphons, reservoirs, reservoir capacity, dams, pumping works, power,
6 power plants and power lines, and also for the purpose of charging
7 and collecting from its stockholders and others entitled to the use
8 of water from or through its canal system, tolls, rentals, assess-
9 ments, maintenance charges and expenses for the delivery of water.

10 That under Permit No. 12759 water was pumped from Snake
11 River by the Murtaugh Canal Company during the irrigation season: of
12 for the purpose of testing the canals,
13 1920/~~and~~ and delivered to lands within the boundaries of what is
14 new Milner Low Lift Irrigation District, but not to any of the lands
15 annexed to the District in 1932; and that the water delivered to said
16 ^{not} lands was delivered on the basis of a sale, rental or distribution pur-
17 ant to the obligation of the Company to deliver water to its stock-
18 holders; that the lands to which the water was thus delivered were the
19 first lands within the boundaries of what is now the District to be
20 reclaimed; and that crops were produced upon such lands in said years.

21 VIII.

22 That on November 10, 1920, a petition for organization of
23 the District was presented to the Twin Falls County Board of Commis-
24 sioners; and on March 5, 1921, said Board of Commissioners ordered
25 that the petition be granted; and on June 7, 1921, the landowners of
26 the District adopted a resolution; and on July 11, 1921, the District
27 entered into an agreement with the Murtaugh Canal Company to purchase
28 the system then owned and controlled and under construction by the
29 Company; that on July 27, 1921, a bill of sale and quitclaim deed to
30 the system were issued to the District; that, thereafter, petition for
31 confirmation of proceedings was filed in the District Court of the
32 Eleventh Judicial District of the State of Idaho, in and for Twin
Falls County, pursuant to which findings of fact and conclusions of

1 law by District Judge T. Bailey Lee were filed; and on January 23,
2 1922, a decree in confirmation was filed in which the Milner Low Lift
3 Irrigation District organization proceedings were confirmed, confirm-
4 ing and approving the issuance of bonds and confirming also the bene-
5 fit assessment of \$60.00 per acre against the irrigable land then
6 within the District found by Judge T. Bailey Lee to be 8,114.4 acres;
7 and on February 2, 1922, the District and the Company entered into a
8 second agreement for the purchase of the system's water rights and
9 property of the Murtaugh Canal Company which contract cancelled and
10 superseded the contract dated June 11, 1921; and on February 10, 1922
11 the Murtaugh Canal Company assigned Permit No. 12759 to the District;
12 and thereafter a second quitclaim deed was issued to the District;
13 and on July 12, 1923, the Department of Reclamation of the State of
14 Idaho issued a completion of work certificate on said permit.

15 IX.

16 That the District acquired the property of the Murtaugh
17 Canal Company, a corporation organized and existing under the laws of
18 Idaho, for the purpose of completing the construction of the distri-
19 bution system thereof, and for the distribution and delivery of water
20 for the irrigation of lands susceptible of irrigation located within
21 the boundaries of the District.

22 X.

23 That on April 29, 1931, in the case entitled Milner Low
24 Lift Irrigation District, Plaintiff, vs. Lynn Grandall, Water Master,
25 brought in the District Court of the Eleventh Judicial District of
26 the State of Idaho, in and for Twin Falls County, an action brought
27 by the District against the water master under the authority of what
28 is now Section 42-1405, Idaho Code, known as the summary supplemental
29 adjudication statute, that findings of fact were made, together with
30 conclusions of law and a decree was entered, under which it was deter-
31 mined that the District was the owner and entitled to the use of 135
32 c.f.s. of the waters of Snake River with priority of November 14, 1914,

1 for the irrigation of approximately 8,000 acres within the original
2 boundaries of the District; all of said 8,000 acres was "old lands"
3 and did not include any part of the land later annexed to the District
4 or the "new lands"; that by the decree the water right was expressly
5 "dedicated and made appurtenant to" the land described in the decree;
6 the court in said action also found that since the appropriation of
7 the waters of Snake River, as described in the Findings of Fact, the
8 District and its predecessors in interest have continuously used said
9 amount of water whenever available for the irrigation of the lands
10 described in the Findings of Fact.

11 XI.

12 That subsequent to the organization of the District, but
13 prior to July 29, 1939, and since, the District has pumped from the
14 flow of Snake River amounts of water in excess of the 135 c.f.s.
15 above mentioned, and that this excess water has not yet been decreed
16 to the District; that the District has a potential right to the use
17 of 121 c.f.s. of the waters of Snake River ahead of the Palisades
18 priority (1939).

19 That any water pumped prior to 1933 in excess of the 135
20 c.f.s., mentioned above, which has been as much as 218 c.f.s. (1932
21 diversion - Pl. Ex. 2-J), was actually appropriated and applied to
22 beneficial use as irrigation water upon the old lands, but not upon
23 any of the new lands; and that the right to the excess water so pumped,
24 whatever its amount, has not been decreed, by reason of which it does
25 not constitute a firm or permanent water supply for the old lands of
26 the District.

27 XII.

28 That the District has made a filing for 37 c.f.s. of the
29 flow of Snake River, under filing date of October 25, 1939, Permit
30 No. 18919; that the District made a filing for 70 c.f.s. of the waters
31 of Snake River on May 3, 1950, under Permit No. 21713, which would be
32 included in and not in addition to the 121 c.f.s. referred to in
33

1 Paragraph XI; that prior to October 23, 1932, the District under Per-
2 mit No. G-2247, issued November 21, 1931, dug a well and produced
3 water therefrom, which said well now produces 125 inches of water.

4 That the total storage water now owned by the District in
5 American Falls Reservoir is 45,687 acre feet; and since 1936 the
6 District leased, annually from the United States, 15,000 acre feet of
7 reserve space of said reservoir, and in 1933 purchased 11,574 acre
8 feet of this reserve space, and continued to lease on an annual basis
9 3,332 acre feet through 1936.

10 ~~That~~ ^{Shah} the 11,574 acre feet above mentioned was purchased
11 along with, and in the same contract with, 27,500 acre feet of stor-
12 age in Palisades Reservoir subsequent to the annexation of 1932 and
13 that certain of the owners or holders of evidence of title to the
14 annexed lands and certain of the Old Land owners voted in approving
15 said contract of purchase, and the same was approved. That in and
16 during the year 1937 only 1,822 acre feet of storage in said American
17 Falls Reservoir was available for lease by the District; and that dur-
18 ing the year 1938 the District did not lease any of the storage in
19 American Falls Reservoir; that there has been allotted by the United
20 States Bureau of Reclamation to the District additional storage space
21 in Palisades Reservoir in the amount of 17,000 acre feet but no con-
22 tract for this space has been entered into or approved by the water
23 users; that it is doubtful that an election to authorize the board
24 of directors to enter into a contract for the purchase of said 17,000
25 acre feet of storage space would carry, if the cost thereof would be
26 borne proportionately by the owners of old lands.

27 That the water under the decree, rights, and permits and
28 storage mentioned in Paragraphs XI and XII, except Palisades storage,
29 above has been made appurtenant to and beneficially used upon and has
30 reclaimed land in the District prior to the annexation of October, 1932.

31 XIII.

32 That from time to time between 1922 and October, 1932,

1 there have been various exclusions and annexations of small tracts of
2 lands within the District, the net effect of which has been to in-
3 crease the total acres within the District's boundaries from 8,114.4
4 acres, the amount of irrigable lands within the boundaries of the
5 District as found in the confirmation decree of January 23, 1922, to
6 9,468 acres as of October, 1952, being the "old lands"; that there has
7 been no annexation of land to the District which is at all comparable
8 to the October, 1952, annexation in the number of acres annexed or
9 in the circumstances of the annexations.

10 That the costs of the acquisition and construction of the
11 facilities of the District and for the acquisition of water rights
12 described in Paragraphs XI and XII, exclusive of Palisades storage,
13 and acquired prior to 1952 have been in part paid for by the owners
14 of the lands within the District prior to the 1952 annexation.

15 XV.

16 That after the year 1939, and prior to October 23, 1952,
17 there was some talk among the land owners in the District concerning
18 irrigating lands adjacent to the District; that during the period of
19 approximately 2 years prior to October 23, 1952, public meetings of
20 the then landowners were held in the District; that a committee was
21 appointed to study the annexation of said adjacent lands; that Edgar
22 Meerman, Earl Seare and Julius Neumann, either jointly or severally,
23 visited the homes of owners of the old lands and requested them to
24 vote in favor of the annexation of the new lands comprising 4,000 acres.

25 After 1939 and prior to October 23, 1952, and during the
26 time plans were being inaugurated for the construction of Palisades
27 Reservoir and Dam on the Snake River, the talk among the landowners
28 in the District above referred to concerned applying for water to be
29 stored in the Palisades Reservoir for the purpose of irrigating adja-
30 cent lands; that at least six public meetings were held in the Dis-
31 trict pursuant to call for the same by the Board of Directors of the
32 District, and to which meetings the owners of the old lands were

1 invited to discuss the matter of annexation of such adjacent lands,
2 which lands, if annexed, were to receive water from the Paliades
3 Reservoir; that such meetings were attended by both the owners of new
4 lands and old lands and by some or all of the members of the Board of
5 Directors then in office; that the committee which was appointed, was
6 appointed to work with Edgar Moerman, then President of the Board,
7 and Earl Sears, then and now Secretary of the Board, and was composed
8 of Charles L. Fisher, Glen Briggs, Julius E. Neumann and Robert Breed-
9 ing; that at such public meetings and during the visits to the homes
10 of the owners of the old lands, such owners were informed by Moerman,
11 Sears and Neumann, and others, that if the owners of the old lands
12 would vote in favor of such annexation then their water rights would
13 in no way be jeopardized and they would not be required to assume any
14 additional financial burden for operation and maintenance charges be-
15 cause of such an annexation, and all construction charges and costs
16 of acquiring the Paliades storage space would be paid by the owners
17 of the lands to be annexed and that the owners of the old lands would
18 be benefited by such annexation.

19 XVI.

20 That on August 3, 1932, a petition of annexation in accord-
21 ance with Chapter 10, Title 43, Idaho Code, was presented to a regular
22 meeting of the District's Board of Directors, which petition was
23 signed by the then holders of title or evidence of title to the new
24 lands, comprising about 4,000 acres, and which petition sought the
25 annexation of their lands to and incorporation within the boundaries
26 of the District.

27 The petition contains the following paragraph:

28 "That we, the undersigned, do hereby covenant and
29 agree to pay to the said Milner Low Lift Irrigation
30 District, at such time as the same may be assessed
31 against the said land by the said District, the sum
32 of \$100.00 per acre for the purpose of equaling the
amount we would have been required to pay such
District had the land been included in such District
at the time the same was originally formed and the
additional increased cost of putting water on the

1 "land. If such sum be not sufficient to pay such
2 increased cost, then we do hereby authorize and direct
3 the Board of Directors to make such additional assess-
4 ment or assessments as shall be sufficient to pay the
5 cost of putting the water on the land."

6 The petition also recites that it is presented "with the
7 expressed understanding and agreement that water is not now available
8 for more than" approximately 800 acres particularly described and
9 that water cannot be placed upon said land until an additional pump-
10 ing unit has been installed and necessary laterals have been con-
11 structed.

12 With respect to the balance of the lands described in the
13 petition, amounting to some 3,200 acres, it is recited "that water
14 is not now available and will not be available" for the same "until
15 the Palisades Reservoir is constructed and in operation, and if the
16 land last above described be annexed to the District, no demand will
17 be made upon the District for the irrigation thereof until water is
18 available therefor and the necessary pump or pumps and other diversion
19 equipment have been installed and placed in operation, and the neces-
20 sary canals and laterals constructed."

21 The prayer of the petition is:

22 "Wherefore, Your petitioners pray that the lands
23 above described be taken into and made a part of
24 the Milner Low Lift Irrigation District, under the
25 terms, conditions and provisions specified in this
26 petition, and that water be provided for the said
27 lands if and when the necessary irrigation works are
28 constructed and water is available therefor."

29 XVII.

30 That on September 2nd, 1952, at a regular meeting of the
31 Board of Directors of the District, one Lloyd C. Davis of Grandview,
32 Washington, appeared and served notice of objection to the granting
of the petition for annexation; that on September 5th, 1952, at an
adjournment of the September 2nd meeting, the Board of Directors
adopted a resolution to accept and approve the petition for annexa-
tion; that on September 5th, 1952, pursuant to Section 43-1008,
Idaho Code, the Board of Directors adopted a resolution calling for

1 an election of the owners or holders of evidence of title to all lands
2 within the District to determine the question whether the boundaries
3 of the District should be enlarged to include the new lands.

4 XVIII.

5 In accordance with one of the recitals above quoted from
6 the petition, Section 2 of the resolution provides that the approxi-
7 mately 800 acres above referred to:

8 "be annexed to the District on the expressed condition
9 that water is not now and will not be available for
10 the irrigation thereof until an additional pumping unit
11 has been installed and necessary laterals constructed
12 for the irrigation thereof and that no demand will be
13 made upon the District for water until such diversion
14 works are installed, constructed and completed."

15 With regard to the balance of the land, and the recital con-
16 cerning the same, it is provided in Section 3 of the resolution that
17 said land:

18 "be annexed to the District on the expressed condition
19 that water is not now available and will not be avail-
20 able for the irrigation thereof until the Palisades
21 Reservoir has been constructed and is in operation and
22 the necessary pump or pumps and other diversion equip-
23 ment have been installed and placed in operation and
24 necessary canals and laterals constructed, and that no
25 demand will be made upon the District for water for the
26 irrigation of the same, or any part thereof, until
27 water is available from Palisades Reservoir and the
28 necessary diversion works and laterals have been con-
29 structed."

30 Responsive to the paragraph first quoted above, Section 4
31 of the resolution is:

32 "That all of the above described land shall be annexed
to the Milner Low Lift Irrigation District on the
expressed condition that each and every land owner, or
their grantees, shall severally pay to the Milner Low
Lift Irrigation District the sum of One Hundred Dollars
(\$100.00) per acre, or such sum in excess thereof as
shall be necessary to procure and place water upon land
so annexed. The said sum of \$100.00 per acre, or any
sum in excess thereof, shall be levied and assessed
against the said land by the Board of Directors in one
assessment, or in assessments from time to time as the
Board of Directors shall deem right under the circum-
stances, and such assessment shall be paid by the land
owner or his grantees before and as a condition prece-
dent to the said land becoming entitled to receive any
water, unless the Board of Directors of said District
shall otherwise direct." (Underlining supplied).

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XIX.

That on October 7th, 1952, an election was held in the District on the question of annexation, and that a majority of the owners of the old lands voted for the annexation as follows: for annexation, 58; against annexation, 34.

XX.

That a majority of the owners of the old lands, relying upon the information given and representations made in the meetings and home visits above referred to, and upon the agreements contained in the annexation petition, were prevailed upon to vote in favor of the annexation of the new lands; that the information and representations above referred to were made to the owners of the old lands either on behalf of the owners of the new lands or with their knowledge and consent and without objection on their part; that a majority of the owners of the old lands would not have voted in favor of the annexation if such information, representations and agreements had not been given and made to them, as the owners of the new lands and the Board of Directors of the District knew; that the owners of the old lands voted at the election as they did only because of such information, representations and agreements; that the proposal to annex the "new lands" would have been defeated at the election except for such information, representations and agreements.

XXI.

That on October 10, 1952, at a special meeting of the Board of Directors to canvass the ballots, the Board found that 58 voted for the annexation and change of boundaries of the District, and 34 voted against the same, and on the same date the Board entered "that the boundaries of the Milner Low Lift Irrigation District be, and they are hereby, changed in accordance with the resolution of the Board of Directors of said District adopted on the 5th day of September, 1952." That on October 23, 1952, another order was made and entered by the Board of Directors changing the boundaries of the District in accord-

ance with the September 5th, 1952, resolution.

XXI.

That on June 24, 1953, the Board of Directors of the District adopted a resolution wherein and whereby it was determined that each petitioner, holder, owner, or his successor in interest of the land annexed to such District under the order of October 23d, 1952, should pay to the District the sum of \$125.00 per acre for each and every acre irrigated or becoming susceptible of irrigation from the works of the District as they then existed or might thereafter be changed or extended.

XXIII.

That the sum of \$125.00 per acre is ~~grossly~~ insufficient to pay (1) the cost of construction and equipment necessary to deliver water to the new lands; (2) the added power costs necessary to deliver water to the new lands; and (3) the cost of acquiring the rights to water for the irrigation of such new lands; that in order to furnish water from the facilities of the District to the new lands, it would be necessary for the District to expend funds over and above the amount per acre that the District is required to spend in placing water on the old lands; there is nothing in said resolution, or in the petition for annexation or in any understanding or agreement at any water users' meeting or meetings or otherwise, which precludes the Board of Directors from making assessments in addition to the \$125.00 per acre if the cost of construction and equipment necessary to deliver water to the annexed lands and the cost of acquiring the rights to water for the irrigation of the annexed lands should exceed \$125.00. The petition for annexation and the resolution of September 5, 1952, calling for the election, specifically provide for the making of such additional assessments. The majority of the members of the Board of Directors understood, at the time of the adoption of the June 2, 1953, resolution above referred to, that the Board of Directors could make such additional assessments upon the new lands

1 as are necessary to pay such costs when they are finally determined
2 and this was also the general understanding of the owners of new and
3 old lands. The final cost of extending the system of the District
4 is not yet known.

5 XXIV.

6 That subsequent to the annexation of October, 1952, the
7 plaintiffs and defendants named in Paragraphs I and III hereof, or
8 their predecessors, paid the assessment of \$125.00 per acre for approxi-
9 mately 2,359 acres of annexed lands, and that such lands have been
10 developed; that it was expressly understood and declared that the
11 development of some of the annexed lands would be delayed until Pali-
12 ades Reservoir water was made available and until the defendant
13 District should have completed the construction of works necessary for
14 the delivery of such water; that the assessment has not been paid for
15 approximately 1,628 acres of the annexed lands; that subsequent to the
16 payment of the assessment, above mentioned, water, furnished and de-
17 livered by the District, has been used upon the annexed lands upon
18 which the fee was paid and for the the production of crops and the
19 same was furnished and used upon said lands as the fees were paid and
20 the lands were developed; that on the 2,359 acres of land above men-
21 tioned, as the fees were paid, the Treasurer of the District on behalf
22 of the District, issued to the persons making such payments, receipts
23 for the same; that the annexation or assessment for about 738 acres of
24 the annexed land was paid by funds advanced by the Farmers Home Admin-
25 istration which required receipts in a form stating that under and by
26 virtue of such payments, the said lands became entitled to share
27 equally with all other lands within the District any and all water
28 available therein for irrigation use. That the Board of Directors of
29 the defendant District, however, advised the plaintiffs and the other
30 defendants who own or claim annexed lands that their right to receive
31 water from the District, after the payment of the annexation fee or
32 assessment, is subject and inferior to the rights of the owners of or

1 claimants to the old lands to receive water from the District.

2 XXV.

3 That during the years of 1953 through 1958 inclusive the
4 District delivered to those parts of the new land upon which the
5 annexation fee of \$125.00 per acre was paid, water for irrigation
6 purposes as follows:

7	1953-----	753 acres
8	1954-----	2,259 acres
9	1955-----	2,359 acres
10	1956-----	2,359 acres
11	1957-----	2,359 acres
12	1958-----	2,359 acres

13 That for all of the lands within the District there was an
14 average of approximately 5.1 acre feet per acre diverted from Snake
15 River during these years, and that the amount delivered to the land-
16 owners was approximately 75% of that amount.

17 XXVI.

18 Experience in the operation of the District since the
19 annexation in 1952 has shown that there is and will be a difference
20 in the cost of delivery of water to the new lands and that of the old
21 lands. Experience was necessary to determine the extent of this dif-
22 ference in cost. In 1957 after the District had the advantage of some
23 experience of the delivery of water to the new lands it was determined
24 that the difference in the cost of this delivery, allowing credits
25 for any benefit to the District as it existed prior to 1952, was
26 \$2.26 per acre and that difference was reflected in the assessment
27 made for operation and maintenance for the year 1958. For the years
28 1959 and 1960 the difference in assessment was \$2.46.

29 XXVII.

30 That the water delivered as described in Paragraph XXV,
31 above, was not pursuant to any water right which has been made appur-
32 tenant to the new lands pursuant to the annexation proceedings of

1 1952; and that said water was made available only on a year-to-year
2 basis until a permanent supply would be available from Palisades
3 Reservoir; and that such water was not delivered to such lands by
4 the District to be beneficially used with the ultimate purpose of
5 creating a permanent right in said lands to demand such water as an
6 appurtenance to the new lands; that there is not now appurtenant to
7 the new lands any permanent water right, and there will not be any
8 such right available during the year 1958, and the District will
9 never be able to secure, from the waters to be stored in the Palisades
10 Reservoir, a full or adequate water right for the new lands; that for
11 the year 1955, the District was compelled to lease additional water
12 other than the water received pursuant to the water rights described
13 in Paragraph XII above, to be used on the lands in the District;
14 that during the years 1954, 1956 and 1957, because of the above-normal
15 flow of Snake River, it was not necessary for the District to acquire
16 water other than that received under the aforementioned water rights,
17 but in any normal water year, those water rights will not be suffi-
18 cient to furnish water to the lands in the District.

19 XXVIII.

20 That based upon historical use, the duty of water in the
21 Milner Low Lift Irrigation District is 5.8 acre feet per acre
22 diverted at Snake River of which approximately 75% is delivered to
23 the land. Assuming Palisades Reservoir was in operation during the
24 historical period from 1920 to 1958, and assuming the District was
25 comprised of 13,468 acres (old lands and new lands) there would be
26 15 years during this period when less than 5.8 acre feet would be
27 available for diversion and 11 years when less than 5 acre feet would
28 be available with critical shortages occurring during the 1930-1934
29 period. If the figure 5.2 acre feet was used, which is the amount
30 that has been diverted during the past few years, there would be 13
31 years during this period when less than 5.2 acre feet would be avail-
32 able and 11 years when less than 5 acre feet would be available with

1 the same critical shortages occurring during the 1930-1934 period.

2 XXIX.

3 That the present water supply of the District is not suffi-
4 cient to adequately irrigate both the old and the new lands; that if
5 water is delivered on an equal basis to both the old and the new
6 lands in the future the water rights appurtenant to the old lands prior
7 to the annexation of the new lands will be diminished and jeopardized;
8 that to provide an adequate water supply for the new lands, it will
9 be necessary for the District to purchase sufficient storage space in
10 Palisades Reservoir to provide at least 5 acre feet of water per acre
11 that Palisades Reservoir is the only source of available water, of
12 which the space is only 1/3 firm; and that it would be necessary for
13 the District to acquire at least 60,000 acre feet of storage space to
14 supply adequately water for the 4,000 acres of new lands, and such
15 storage space will cost not less than \$7.75 per acre foot of storage
16 capacity, which would be paid by the owners of the new lands; that
17 60,000 acre feet of storage space in Palisades is not available to
18 the District; that not more than 44,500 acre feet of such storage
19 space is or will be available to the District.

20 XXX.

21 That if the Board of Directors cannot make additional assess-
22 ments on the new lands, the owners of old land will be required to
23 assume added financial burdens for operation and maintenance charges,
24 construction costs, and acquisition of additional water rights and
25 storage, all of which would be contrary to the information, repre-
26 sentations and agreements given and made to and with the owners of old
27 lands.

28 CONCLUSIONS OF LAW

29 I.

30 It is the duty of the Board of Directors of the Milner Low
31 Lift Irrigation District to classify the lands within the District in
32 accordance with the provisions of Section 42-904 of the Idaho Code

1 and to find and declare the water rights owned by the District, ex-
2 cept Palisades Reservoir water, are appurtenant to the lands within
3 the District prior to October, 1952, and the lands within the District
4 prior to 1952 are entitled to a prior right to the use of such waters.

5 II.

6 The water rights owned by the District, except Palisades
7 Reservoir waters, are appurtenant to the lands within the District
8 as it existed prior to October, 1952, and the District holds title to
9 such waters in trust for the owners of old land. That the unpaid
10 part of the costs of the acquisition and construction of the facili-
11 ties of the District and for the acquisition of the water rights des-
12 cribed in Paragraphs XI and XII, exclusive of Palisades storage, and
13 acquired prior to 1952 remain an obligation of the old lands.

14 III.

15 Any attempt to use the waters now appurtenant to the old
16 lands on new or annexed lands without just compensation to the old
17 land owners would constitute deprivation of property without due
18 process of law.

19 IV.

20 That if and when water is made available from Palisades
21 Reservoir such water shall be appurtenant to the lands annexed to the
22 District in 1952. That the cost of acquiring 27,500 acre feet of
23 storage space in Palisades Reservoir and, if purchased, the cost of
24 acquiring the additional 17,000 acre feet in Palisades Reservoir now
25 allotted but for which no contract has been entered into or approved,
26 would be an obligation to be assumed and paid for by the owners of
27 the new lands. That the cost of 11,574 acre feet of storage space in
28 American Falls Reservoir now under contract, should be an obligation
29 to be assumed and paid for by the owners of the old lands.

30 V.

31 The Board of Directors was without authority to state in
32 the receipts issued to new land owners from funds advanced by the

1 Farmers Home Administration to state in said receipts that under and
2 by virtue of such payments, the said lands became entitled to share
3 equally with all other lands within the District any and all water
4 available therein for irrigation use and that action by the then
5 Board of Directors was ultra vires.

6 VI.

7 Plaintiffs cannot now compel the present Board of Directors
8 of said District to perform contrary to the information, representa-
9 tion, and agreements which were given and made to the old land owners
10 for the purpose of obtaining their favorable vote on the annexation
11 proposal prior to the election in September, 1952; and that the Board
12 of Directors is bound by such information, representation and agree-
13 ments.

14 VII.

15 That by reason of the information, representations and
16 agreements given and made to the owners of the old lands:

17 (1) Plaintiffs cannot now compel the present
18 Board of Directors to perform contrary to such in-
19 formation, representations and agreements;

20 (2) The owners of the new lands have waived
21 any right they might have to equality of water rights
22 within the District;

23 (3) The Board of Directors of the District have
24 waived any right it may have had to make such water
25 rights equal.

26 (4) Both the owners of the new lands and the
27 Board of Directors are bound by the information, repre-
28 sentations, and agreements given and made to the owners
29 of the old lands at and prior to the time of the
30 annexation proceedings;

31 (5) The owners of new lands and the Board of
32 Directors are now estopped from insisting upon either

1 equality of such water rights or equality of O & M
2 assessments; and

3 (6) It is the obligation and duty of the Board
4 of Directors to carry out the representations and
5 agreements made to the old land owners prior to the
6 1952 annexation proceedings.

7 VIII.

8 The defendants have not waived their rights to assert the
9 affirmative defense or cross-claim herein and are not estopped or
10 barred from asserting the same.

11 IX.

12 It is the duty and obligation of the present Board of Dir-
13 ectors to make any assessment or assessments upon the new lands
14 necessary over and above the \$125.00 assessed in June, 1953, to
15 complete construction and purchase equipment and pay the cost of the
16 water which will be made available from Palisades Reservoir for use
17 on the annexed lands.

18 X.

19 The present Board of Directors are under no obligation to
20 accept assessment fees for land not now irrigated until it is
21 assured that an adequate water supply from Palisades Reservoir or
22 from some other source has been obtained and is available.

23 Let judgment be entered accordingly.

24 Dated July 27, 1961.

25 Herman J. Woodward
26 District Judge
27 Pro Tempore.
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Attachment F

05/11/2006

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

RIGHT NUMBER: 1-17

NAME AND ADDRESS: MILNER IRRIGATION DIST
5294 E 3610 N
MURTAUGH ID 83344

SOURCE: SNAKE RIVER

TRIBUTARY: COLUMBIA RIVER

QUANTITY: 135.000 CFS

PRIORITY DATE: 11/14/1916

POINT OF
DIVERSION: T10S R21E S29 NESESE Within TWIN FALLS County

PURPOSE AND
PERIOD OF USE:

<u>PURPOSE OF USE</u>	<u>PERIOD OF USE</u>	<u>QUANTITY</u>
IRRIGATION	3/15 11/15	135.000 CFS

PLACE OF USE:

13335 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.

Place of use is within the boundary of Milner Irrigation District pursuant to Section 43-323, Idaho Code.

This right is limited to the irrigation of 8114.4 acres within the place of use described above in a single irrigation season.

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 - Decreed

Right includes accomplished change in place of use pursuant to Section 42-1425, Idaho Code.

Water is delivered through Milner Irrigation pumps.

Right includes accomplished change in point of diversion pursuant to Section 42-1425, Idaho Code.

Attachment G

01-2000

Attachment H

7. 1 39
11-7-39 to 11-21-39
Dec. 11 39

APPLICATION FOR PERMIT
TO APPROPRIATE THE PUBLIC WATERS OF THE STATE OF IDAHO

N^o 18919

01-2050

Application No. 26294
Permit No. 18919
District No.

1. Name of Applicant: MILNER LOW LIFT IRRIGATION DISTRICT
Postoffice address: Murtaugh County: Twin Falls State: Idaho
I. If applicant is a corporation, give:
(a) Date and place of incorporation: Milner Low Lift Irrigation District was organized April 15, 1921
(b) Amount of capital stock: Assets- \$501,665.82
(c) Amount paid in:
(d) Names and addresses of directors: Edgar W. Moorman, Murtaugh, Idaho; Loyd C. Davis, Murtaugh, Idaho;
A. L. Egbert, Murtaugh, Idaho
- II. The financial resources of the applicant are:
(a) Cash on hand:
(b) Treasury stock:
(c) Bonds to be issued:
(d) Other resources:
2. Quantity of water claimed: 37 cubic feet per second.
3. Source of water supply: Snake River which is a tributary of
4. Location of point of diversion: N. 21° 55' West 612 feet distant from the Section corner common
28-29-32-33
to corner of Sections / , T. 10 S., R. 21 E., B. M., and is the in the SE $\frac{1}{4}$ or SW $\frac{1}{4}$
of Section 29 , T. 10 S., R. 21 E., B. M., County of Twin Falls
5. Water is to be used for: Irrigation
6. If for mining, milling, power or manufacturing purposes, give:
(a) Point of use of water: feet distant from corner of Section
T. , R. , B. M., in the of Section , T. , R. , B. M.
(b) Amount of power generated: H. P., under feet head.
(c) Water is to be returned to at a point feet
distant from the corner of Section , T. , R. , B. M., in the
of Section , T. , R. , B. M.
7. Estimated cost of works: \$ 400,000.00
8. Kind of works: Canal and laterals, steel pipe, flume, 3 electrically operated pumping plants,
consisting of pumps, meters, and transformers.
9. Height of dam feet; length of dam at top feet; length of dam at bottom No dam required
by our district. Water to be pumped direct from river above Milner
feet; material used in dam:
10. Size of headgate: Width 12 feet; height 5 feet.
11. Ditch: Width at bottom 12 feet; width at water line 26 feet; depth of water 3 $\frac{1}{2}$
feet; dimensions of flume:
Diameter of pipe 60 inches; length of conduit 22 miles.
Average grade per mile 2 feet.
12. The time required for the completion of such work is 6 months years.
13. The time required for the complete application of the water to the proposed use is one additional years.
14. The land to be irrigated is described in the following tabulation: See remarks.

15. (a) Is reservoir to be used? If so, fill in (b) and (c) below.
 (b) Name of Reservoir and number of Storage Permit:
 (c) Date of filing of Application for Storage Permit and Name of Applicant:

BE IT KNOWN THAT The undersigned hereby makes application for permit to appropriate the public waters of the State of Idaho as herein set forth.

MILNER LOW LIFT IRRIGATION DISTRICT Applicant.

By Edgar W. Mooreman, Agent.
 President

Date of first receipt at Department of Reclamation: Oct. 25, 1939. 10:30 A.M.

Returned to applicant for correction: October 26, 1939

Corrected application received: October 31, 1939

APPROVAL OF COMMISSIONER OF RECLAMATION

The number of this permit is 18919

Recorded in Book 69 Page 18919 Approved December 20, 1939

This is to certify that I have examined the within application for a permit to appropriate the public waters of the State of Idaho, and hereby approve the same, subject to the following limitations and conditions:

Bond in the sum of \$ 1,000 to be filed on or before February 18, 1940

Work to begin on or before and to continue diligently and uninterruptedly to completion, unless temporarily interrupted by circumstances over which permit holder has no control.

One-fifth of the work above specified to be completed on or before March 20, 1940

The whole of said work to be completed on or before June 20, 1940 -

Beneficial use of water appropriated in accordance herewith, to be made on or before June 20, 1941

Witness my hand this 20th day of December, 1939

JAMES SPOFFORD

Commissioner of Reclamation.

IN TESTIMONY WHEREOF, We C. A. BOTTOLFSEN Governor of the State of Idaho, and GEO. H. CURTIS Secretary of State of the State of Idaho, have caused this instrument to be executed in the name of the State of Idaho, and have caused the Great Seal of the State of Idaho to be hereunto affixed, this 20th day of December 19 39

Countersigned:

STATE OF IDAHO

(SEAL

By GEO. H. CURTIS Secretary of State.

By C. A. BOTTOLFSEN Governor.

Remarks:

14.

Twp.	Range	Sec.	NE $\frac{1}{4}$				NW $\frac{1}{4}$				SW $\frac{1}{4}$				SE $\frac{1}{4}$				Totals
			NE $\frac{1}{4}$	NW $\frac{1}{4}$	SW $\frac{1}{4}$	SE $\frac{1}{4}$	NE $\frac{1}{4}$	NW $\frac{1}{4}$	SW $\frac{1}{4}$	SE $\frac{1}{4}$	NE $\frac{1}{4}$	NW $\frac{1}{4}$	SW $\frac{1}{4}$	SE $\frac{1}{4}$	NE $\frac{1}{4}$	NW $\frac{1}{4}$	SW $\frac{1}{4}$	SE $\frac{1}{4}$	
11 S.	20 E.	28	25				8												33
		21	35	21	9	40	5	27	40	38	30	37	33			10			325
10 S.	20 E.	36	25	30	40	36	15	25	40	30	30	38	38	35	38	40	40		500
10 S.	21 E.	31	32	32	39	39	32	32	42	25	22	38	40	26	40	35	28	24	526
11 S.	20 E.	2	40	40	40	40	30	20	39	40	39	40	40	40	18	21	21		508
		19	11	11	10	40	38	77	82	40	37	57	40	40	40	39	37	30	599
		9	39	40	40	39	40	36	40	40	40	40	40	40	40	28	37	40	629
		10	40	39	40	40	39	40	38	37	35	40	40	40	40	39	40	38	625
		12																	11
		13					35												35
		15	40	39	40	15	39	40	39	39	39	39	38	35	40	35	40		597
		14	36	40	24		40	40	7	35		11	7		1				240
		20	22	10	28	40					40	20		40	40	40	40		480
		1	40	38	40	28	34	30	39	20					10	11			288
		29	13	25			14	25											77
11 S.	19 E.	24	17	40	40	27	25		20					38	39	1	15		262
		13	40	40										40	39	16			175
11 S.	20 E.	16	37	40	40	38	40	40	36	40	40	36	2	32	39	40	15	35	550
		22	40	40			40	40											160
		3	30	10	40	40			8	37	40	27	40	40	40	40	40	40	472
		4							13	35	21	7	40	38					154
		11	33	39	31	27	39	38	40	40	36	38	40	40	31	37	40	40	562
		8	4						8	40	25	40	40						194
10 S.	21 E.	32	32	30	31		19	22	38	35	40	40	25	32	18	35	33	10	440
		30											33	26	5	39	40		143
10 S.	20 E.	35											32	35	15	40	40		162
11 S.	21 E.	6					40	40											80
11 S.	20 E.	17	40	30	33	30			4										137
10 S.	21 E.	29											26	15					41
11 S.	20 E.	30	10	28															38

Total Number of Acres to be Irrigated -9,033

Attachment I

STATE OF IDAHO
DEPARTMENT OF RECLAMATION
NOTICE OF APPLICATION TO
APPROPRIATE WATER IN AC-
CORDANCE WITH THE PRO-
VISIONS OF CHAPTER 145,

1935 SESSION LAWS

NOTICE IS HEREBY GIVEN,
That on the 25th day of October,
1939, The Milner Low Lift Irrigation
District, of Murtaugh, Twin Falls
County, Idaho, made Application
No. 26294 to appropriate Thirty-
seven (37) cubic feet per second of
the waters of Snake River, for irri-
gation purposes.

That the point of diversion is
located North 21° 55' West 612 feet
distant from the section corner com-
mon to Sections 28, 29, 32 and 33,
Township 10 South, Range 21 East,
B. M., and is in the SE¼ of SE¼
of Section 29, Township 10 South,
Range 21 East, B. M.

That the lands to be irrigated under
said application consist of 9,
033 acres situated in the following
legal subdivisions:

W¼ NE¼, W¼ SE¼, SE¼ SE¼
Section 13, E¼, E¼NW¼ Section
24; Twp. 11 South, Range 19 E.,
B. M.
SE¼ SW¼, SE¼ Sec. 35,
NE¼, NE¼NW¼, S¼NW¼, S¼
Section 36; Twp. 10 South, Range
20 E., B. M.
N¼, N¼SE¼, Sec. 1, N¼, SW¼,
N¼SE¼, SW¼ SE¼, Sec. 2, NE¼,
S¼NW¼, S¼ Sec. 3, S¼SW¼,
SE¼ Sec. 4, E¼NE¼, SE¼SW¼,
SE¼ Sec. 8, All Secs. 9 & 10, NW¼
NE¼, S¼NE¼, NW¼, S¼ Sec. 11,
SW¼SW¼ Sec. 12, NW¼NW¼ Sec.
13, N¼NE¼, SW¼NE¼, NW¼,
W¼SW¼, NE¼SE¼ Sec. 14, All
Secs. 15 & 16, NE¼, SE¼NW¼ Sec.
17, NE¼, W¼NW¼, SE¼NW¼, S¼
Sec. 19, NE¼, S¼NW¼, S¼ Sec. 20,
NW¼NE¼, S¼NE¼, W¼, SW¼
SE¼ Sec. 21, N¼N¼ Sec. 22, NW¼
NE¼, NW¼NW¼, Sec. 28, N¼N¼
Sec. 29, N¼NE¼, Sec. 30, Twp. 11
South, Range 20 E., B. M.
S¼SW¼ Sec. 29, S¼SW¼, NW¼
SE¼, S¼SE¼ Sec. 30, All Sec. 31,
¼NE¼, SW¼NE¼, NW¼, S¼ Sec.
32, Twp. 10 South, Range 21 E., B. M.
N¼NW¼ Sec. 6, Twp. 11 South,
Range 21 E., B. M.

That any protests against the ap-
proval of this application must be
filed in the Department of Recla-
mation within Forty (40) days from
the date of this Notice; such protest
shall state the name and address of
the protestant and shall clearly set
forth his objections to the approval
of the said application.

Dated this 1st day of November,
1939.

JAMES SPOFFORD,
Commissioner of Reclamation
Date of first publication: Nov. 7,
Date of last publication: Nov. 21,
1939.

Last date for protest: December
11, 1939.

SERVICE of the foregoing, by
copy, is hereby admitted this 2nd
day of November, 1939.

MILNER LOW LIFT
IRRIGATION DISTRICT
Applicant.

By EDGAR W. MOORMAN,
President.

Pub. Times Nov. 7, 14, 21, 1939.

AFFIDAVIT OF PUBLICATION

STATE OF IDAHO,
COUNTY OF TWIN FALLS, ss.

Nº 298

I, Lisa Maloney, being first duly sworn upon
oath depose and say that I am Municipal Clerk of the IDAHO EVENING
TIMES, published daily, except Sunday, at Twin Falls, Idaho, and do solemnly
swear that a copy of the notice or advertisement, as per clipping attached, was published
in the regular and entire issue of said newspaper, and not in any supplement thereof,
for 3 consecutive Tuesdays, commencing with the
issue dated Nov. 7, 1939, and ending with the issue
dated Nov. 21, 1939.

And I do further certify that said newspaper has been published as a daily paper,
except Sunday, under said name and in said city and county, continuously and unin-
terruptedly during a period of more than twelve consecutive months prior to the first
publication of said notice or advertisement.

And I further certify that pursuant to Section 58-109 I. C. A., 1932, as added
thereto by Chapter 154, Idaho 1933 Session Laws, Thursday of each week has been
designated as the day on which legal notices required by law or by order of any court
of competent jurisdiction within the State of Idaho, to be published weekly, will be
published; and that at the head of the editorial column of said paper, and in each
issue thereof, Thursday is announced as the day on which said legal notices will be
published.

Subscribed and sworn to before me this 21st day
of November, 1939.

Josephine Groves
Notary Public in and for the County of Twin Falls,
State of Idaho, residing at Twin Falls, Idaho

18919

Attachment J

PERMIT NO. 18919

Proof of Completion of Works

DEPOSITION OF HOLDER

✓Ques. 1. State your name, residence, occupation and postoffice address.

Ans. Lloyd C. Davis, Murtaugh, Idaho, farmer, Murtaugh, Idaho.

✓Ques. 2. If acting in behalf of a corporation, state its name, principal place of business, your position with reference to same, and your authority for appearing in its behalf.

Ans. Milner Low Lift Irrigation District, Murtaugh, Idaho.

Secretary.

✓Ques. 3. State number and date of permit, amount of water you are authorized to divert, source, and point of diversion.

Ans. No. 18919, Date Dec. 20, 1939, 37 Cubic ft. per second; source

Snake River. Point of diversion North 21° 56' West 612 Ft.

distant from Sec. corner common to Secs. 28-29-32-33, T 10S R 21 E. B. M. and is in the SE 1/4 of SE 1/4 of Sec. 29 T 10S R 21 E. B. M., Twin Falls County.

✓Ques. 4. State purpose for which water is to be used, and, if for irrigation, state the number of acres and give description of the land you intend to reclaim.

Ans. For irrigation--9033 acres, described as follows:

W 1/2 NE 1/4, W 1/2 SE 1/4, SE 1/4 SE 1/4 Section 13, E 1/2, E 1/2 NW 1/4 Section 24;
Two. 11 South, Range 19 E., B. M.
SE 1/4 SW 1/4, SE 1/4 Section 35, NE 1/4, NE 1/4 NW 1/4, S 1/2 NW 1/4, S 1/2 Section
36; Two. 10 South, Range 20 E., B. M.
N 1/2, N 1/2 SE 1/4, Section 1, N 1/2 SW 1/4, N 1/2 SE 1/4, SW 1/4 SE 1/4 Section 2,
NE 1/4, S 1/2 NW 1/4, Section 3, S 1/2 SW 1/4, SE 1/4 Section 4, E 1/2 NE 1/4, SE 1/4
SW 1/4, SE 1/4 Section 8, All Sections 9 and 10, NW 1/4 NE 1/4, S 1/2 NE 1/4,
NW 1/4, S 1/2 Section 11, SW 1/4 SW 1/4 Section 12, NW 1/4 NW 1/4 Section 13, N 1/2
NE 1/4, SW 1/4 NE 1/4, NW 1/4, W 1/2 SW 1/4, NE 1/4 SE 1/4, Section 14, All Sections 15
and 16, NE 1/4, SE 1/4 NW 1/4, Section 17, NE 1/4, W 1/2 NW 1/4, SE 1/4 NW 1/4, S 1/2
Section 19, NE 1/4, S 1/2 NW 1/4, S 1/2 Section 20, NW 1/4 NE 1/4, S 1/2 NE 1/4, W 1/2,
SW 1/4 SE 1/4 Section 21, N 1/2 N 1/2 Section 22, NW 1/4 NE 1/4, NW 1/4 NW 1/4 Section
28, N 1/2 N 1/2 Section 29, N 1/2 NE 1/4 Section 30; Two. 11 South, Range 20
E., B. M.
S 1/2 SW 1/4 Section 29, S 1/2 SW 1/4, NW 1/4 SE 1/4, S 1/2 SE 1/4, Section 30, All
Section 31, N 1/2 NE 1/4, SW 1/4 NE 1/4, NW 1/4, S 1/2 Section 32, Township 10
South, Range 21 E., B. M.
N 1/2 NW 1/4 Section 6, Two. 11 South, Range 21 East, B. M.

✓Ques. 8. Give description of works, state dimensions and capacity of each part, and give cost of same.

Ans. Canal and laterals, steel pipe, flume, 3 electrically operated
pumping plants consisting of pumps, motors, and transformers.
Headgate 12 ft. wide 5 ft. high. Ditch 12 ft. wide at bottom 26 ft.
wide at water line. Water 3 1/2 ft. in depth. Diameter of pipes 60 inches.
Length of conduit 22 miles. Cost \$400,000.00.

(Sign here.)

Lloyd C. Davis

I hereby certify that the foregoing testimony was read to the above subscriber before its signing, that I believe him to be the person he represents himself to be, and that said testimony was subscribed and sworn to before me, in Twin Falls

County of Twin Falls, State of Idaho, on this 9th
 day of March, A. D. 1940.

My Commission expires June 21, 1943.

Harry Benoit
 Notary Public.
 Residing at Twin Falls, Idaho.

NOT 12

18919

STATE OF IDAHO
DEPARTMENT OF RECLAMATION
BOISE, IDAHO

Permit No. 18919

Proof of Application of Water to Beneficial Use

Deposition of Holder

✓ Ques. 1. State your name, residence, occupation and postoffice address.

Ans. Lloyd C. Davis, Murtaugh, Idaho, farmer, Murtaugh, Idaho.

✓ Ques. 2. If acting in behalf of corporation, state its name, principal place of business (if a foreign corporation, give name of postoffice of statutory agent), your position with reference to same, and your authority for appearing in its behalf.

Ans. Secretary, Milner Low Lift Irrigation District.

✓ Ques. 3. State number and date of permit, and date of priority you propose to establish under the permit.

Ans. Permit No. 18919, dated Dec. 20, 1939--date of priority Oct. 25, 1939.

✓ Ques. 4. State source of water supply and give exact location of point of diversion.

Ans. Snake River. Point of diversion: North 21° 55' West 612 ft. distant from Sec. corner common to Secs. 28-29-32-33 T. 10S R. 21 E. B. M., and is in SE $\frac{1}{4}$ SE $\frac{1}{4}$ Sec. 29 T. 10S R. 21 E. B. M., County of Twin Falls

✓ Ques. 5. Describe your works of diversion, and state amount of water they are capable of conveying from point of diversion to place of use, and give name of canal or ditch or other works by which water is conducted to such place of use.

Ans. Canal and laterals, steel pipe, flume, 3 electrically operated pumping plants consisting of pumps, motors, and transformers. Capable of conveying from point of diversion to place of use 172 cubic ft. per second. Water conducted through Milner Low Lift Irrigation District main canal and canals No. 2 and 3.

✓ Ques. 6. State for what purpose water is used and describe place of use. (If for irrigation, name each subdivision in which used, and number of acres in each subdivision that have actually been irrigated with said water.) State whether cultivated or natural meadow land and the nature of all improvements which have been made as a direct result of said use.

Ans. Used for irrigation purposes--cultivated land. Improvements--land cultivated, homes, barns, buildings and other improvements.

There are 9033 acres of land, described as follows:

W $\frac{1}{2}$ NE $\frac{1}{4}$, W $\frac{1}{2}$ SE $\frac{1}{4}$, SE $\frac{1}{4}$ SE $\frac{1}{4}$ Section 13, E $\frac{1}{2}$, E $\frac{1}{2}$ NW $\frac{1}{4}$ Section 24; Twp. 11 South, Range 19 E., B. M.
SE $\frac{1}{4}$ SW $\frac{1}{4}$, SE $\frac{1}{4}$ Section 35, NE $\frac{1}{4}$, NE $\frac{1}{4}$ NW $\frac{1}{4}$, S $\frac{1}{2}$ NW $\frac{1}{4}$, S $\frac{1}{2}$ Section 36; Twp. 10 South, Range 20 E., B. M.
N $\frac{1}{2}$, N $\frac{1}{2}$ SE $\frac{1}{4}$, Section 1, N $\frac{1}{2}$ SW $\frac{1}{4}$, N $\frac{1}{2}$ SE $\frac{1}{4}$, SW $\frac{1}{4}$ SE $\frac{1}{4}$ Section 2, NE $\frac{1}{4}$, S $\frac{1}{2}$ NW $\frac{1}{4}$, S $\frac{1}{2}$ Section 3, S $\frac{1}{2}$ SW $\frac{1}{4}$, SE $\frac{1}{4}$ Section 4, E $\frac{1}{2}$ NE $\frac{1}{4}$, SE $\frac{1}{4}$ SW $\frac{1}{4}$, SE $\frac{1}{4}$ Section 8, All Sections 9 and 10, NW $\frac{1}{4}$ NE $\frac{1}{4}$, S $\frac{1}{2}$ NE $\frac{1}{4}$, NW $\frac{1}{4}$, S $\frac{1}{2}$ Section 11, SW $\frac{1}{4}$ SW $\frac{1}{4}$ Section 12, NW $\frac{1}{4}$ NW $\frac{1}{4}$ Section 13, N $\frac{1}{2}$ NE $\frac{1}{4}$, SW $\frac{1}{4}$ NE $\frac{1}{4}$, NW $\frac{1}{4}$, W $\frac{1}{2}$ SW $\frac{1}{4}$, NE $\frac{1}{4}$ SE $\frac{1}{4}$, Section 14, All Sections 15 and 16, NE $\frac{1}{4}$, SE $\frac{1}{4}$ NW $\frac{1}{4}$, Section 17, NE $\frac{1}{4}$, W $\frac{1}{2}$ NW $\frac{1}{4}$, SE $\frac{1}{4}$ NW $\frac{1}{4}$, S $\frac{1}{2}$ Section 19, NE $\frac{1}{4}$, S $\frac{1}{2}$ NW $\frac{1}{4}$, S $\frac{1}{2}$ Section 20, NW $\frac{1}{4}$ NE $\frac{1}{4}$, S $\frac{1}{2}$ NE $\frac{1}{4}$, W $\frac{1}{2}$, SW $\frac{1}{4}$ SE $\frac{1}{4}$ Section 21, N $\frac{1}{2}$ N $\frac{1}{2}$ Section 22, NW $\frac{1}{4}$ NE $\frac{1}{4}$, NW $\frac{1}{4}$ NW $\frac{1}{4}$ Section 28, N $\frac{1}{2}$ N $\frac{1}{2}$ Section 29, N $\frac{1}{2}$ NE $\frac{1}{4}$ Section 30; Twp. 11 South, Range 20 E., B. M.
S $\frac{1}{2}$ SW $\frac{1}{4}$ Section 29, S $\frac{1}{2}$ SW $\frac{1}{4}$, NW $\frac{1}{4}$ SE $\frac{1}{4}$, S $\frac{1}{2}$ SE $\frac{1}{4}$, Section 30, All Section 31, N $\frac{1}{2}$ NE $\frac{1}{4}$, SW $\frac{1}{4}$ NE $\frac{1}{4}$, NW $\frac{1}{4}$, S $\frac{1}{2}$ Section 32, Township 10 South, Range 21 E., B. M.
N $\frac{1}{2}$ NW $\frac{1}{4}$ Section 6, Twp. 11 South, Range 21 East., B. M.

18919

Attachment K

STATE OF IDAHO
DEPARTMENT OF RECLAMATION
BOISE, IDAHO

PERMIT NO. 18919

Proof of Application of Water to Beneficial Use

Deposition of Witness

The deposition of two witnesses, on this form, taken separately, required in each case.

✓ Ques. 1. State your name, age, residence, occupation and postoffice address.

Ans. G. W. Moates, Murtaugh, Idaho, farmer.

✓ Ques. 2. Are you acquainted with Milner Low Lift Irrigation District, the holder of Permit No. 18919? How long have you known him and where does he reside?

✓ Ans. I have been familiar with said irrigation district for over ten years, which district's address is Murtaugh, Idaho.

✓ Ques. 3. Have you read or heard read said Permit No. 18919, and are you familiar with its provisions and conditions?

Ans. Yes

✓ Ques. 4. State source of water supply, place of diversion, and describe works for conveying water from point of diversion to place of use.

Ans. Snake River. Point of diversion North 21°55' West 612 Ft. distant from Sec. corner common to Secs. 28-29-32-33 T 10S R 21 E. B. M. and is in the SE $\frac{1}{4}$ of SE $\frac{1}{4}$ of Sec. 29 T 10S R 21 E. B. M. Twin Falls County Works: Canal and laterals, steel pipe, flume, 3 electrically operated pumping plants consisting of pumps, motors, and transformers.

✓ Ques. 5. How many second feet of water do you estimate said works will safely conduct to place of use, and how much water have you seen being so conveyed?

Ans. 172 cubic ft. per second. 172 cubic ft. per second.

✓ Ques. 6. State for what purpose water is used and at what place. (If for irrigation, give each sub-division in which water has been used and number of acres irrigated in each subdivision.) State whether cultivated or natural meadow land and the nature of all improvement which have been made as a direct result of said use.

Ans. Used for irrigation purposes--cultivated land. Improvements--land cultivated, homes, barns, buildings and other improvements.

There are 9033 acres of land described as follows:

N $\frac{1}{2}$ NE $\frac{1}{4}$, N $\frac{1}{2}$ SE $\frac{1}{4}$, SE $\frac{1}{4}$ SE $\frac{1}{4}$ Section 13, E $\frac{1}{2}$, E $\frac{1}{2}$ NW $\frac{1}{4}$ Section 24; Twp. 11 South, Range 19 E., B. M.
SE $\frac{1}{4}$ SW $\frac{1}{4}$, SE $\frac{1}{4}$ Section 25, NE $\frac{1}{4}$, NE $\frac{1}{4}$ NW $\frac{1}{4}$, S $\frac{1}{2}$ NW $\frac{1}{4}$, S $\frac{1}{2}$ Section 36; Twp. 10 South, Range 20 E., B. M.
N $\frac{1}{2}$, N $\frac{1}{2}$ SE $\frac{1}{4}$, Section 1, N $\frac{1}{2}$ SW $\frac{1}{4}$, N $\frac{1}{2}$ SE $\frac{1}{4}$, SW $\frac{1}{4}$ SE $\frac{1}{4}$ Section 2, NE $\frac{1}{4}$, S $\frac{1}{2}$ NW $\frac{1}{4}$, S $\frac{1}{2}$ Section 3, S $\frac{1}{2}$ SW $\frac{1}{4}$, SE $\frac{1}{4}$ Section 4, N $\frac{1}{2}$ NE $\frac{1}{4}$, SE $\frac{1}{4}$ SW $\frac{1}{4}$, SE $\frac{1}{4}$ Section 9, All Sections 9 and 10, NW $\frac{1}{4}$ NE $\frac{1}{4}$, S $\frac{1}{2}$ NE $\frac{1}{4}$, NW $\frac{1}{4}$, S $\frac{1}{2}$ Section 11, SW $\frac{1}{4}$ SW $\frac{1}{4}$ Section 12, NW $\frac{1}{4}$ NW $\frac{1}{4}$ Section 13, N $\frac{1}{2}$ NE $\frac{1}{4}$, SW $\frac{1}{4}$ NE $\frac{1}{4}$, NW $\frac{1}{4}$, N $\frac{1}{2}$ SW $\frac{1}{4}$, NE $\frac{1}{4}$ SE $\frac{1}{4}$, Section 14, All Sections 15 and 16, NE $\frac{1}{4}$, SE $\frac{1}{4}$ NW $\frac{1}{4}$, Section 17, NE $\frac{1}{4}$, N $\frac{1}{2}$ NW $\frac{1}{4}$, SE $\frac{1}{4}$ NW $\frac{1}{4}$, S $\frac{1}{2}$ Section 18, NE $\frac{1}{4}$, S $\frac{1}{2}$ NE $\frac{1}{4}$, S $\frac{1}{2}$ Section 20, NW $\frac{1}{4}$ NE $\frac{1}{4}$, S $\frac{1}{2}$ NE $\frac{1}{4}$, S $\frac{1}{2}$ SW $\frac{1}{4}$ SE $\frac{1}{4}$ Section 21, N $\frac{1}{2}$ N $\frac{1}{2}$ Section 22, NW $\frac{1}{4}$ NE $\frac{1}{4}$, NW $\frac{1}{4}$ NW $\frac{1}{4}$ Section 23, N $\frac{1}{2}$ N $\frac{1}{2}$ Section 24, N $\frac{1}{2}$ NE $\frac{1}{4}$ Section 25; Twp. 11 South, Range 20 E., B. M.
S $\frac{1}{2}$ SW $\frac{1}{4}$ Section 29, S $\frac{1}{2}$ SW $\frac{1}{4}$, NW $\frac{1}{4}$ SE $\frac{1}{4}$, S $\frac{1}{2}$ SE $\frac{1}{4}$, Section 30, All Section 31, N $\frac{1}{2}$ NE $\frac{1}{4}$, SW $\frac{1}{4}$ NE $\frac{1}{4}$, NW $\frac{1}{4}$, S $\frac{1}{2}$ Section 32, Township 10 South, Range 21 E., B. M.
N $\frac{1}{2}$ NW $\frac{1}{4}$ Section 3, Twp. 11 South, Range 21 East., B. M.

18919

The Depositions of two Witnesses, in this form, taken separately, required in each case.

Permit No. 18919

Proof of Completion of Works**DEPOSITION OF WITNESS**

Ques. 1. State your name, residence, occupation and postoffice address.

Ans. C. V. Samples, Murtaugh, Idaho, farm laborer.

Ques. 2. Are you acquainted with Milner Low Lift Irrigation District, the holder of Permit No. 18919, authorizing the diversion of 37 second-feet of the waters of Snake River at N. 21° 55' W. 612 ft. distant from Sec. corner common Secs. 28-29-32-33 T 10S R 21 E, B.M. T.F. County for irrigation purposes? How long have you known him, and where does he reside?

I have been familiar with said irrigation district for over ten years, which district's address is Murtaugh, Idaho.

Ques. 3. Have you read or heard read said Permit No. 18919, and are you familiar with its terms and conditions?

Ans. Yes.

Ques. 4. (If for irrigation purposes). Are you acquainted with the land proposed to be irrigated under said permit? If so, describe same, state its character, and give your estimate of the amount of water required for its profitable cultivation.

Ans. Yes. Amount of water required 172 cubic ft. per second.

9033 acres of cultivated land, described as follows:

W $\frac{1}{2}$ NE $\frac{1}{4}$, W $\frac{1}{2}$ SE $\frac{1}{4}$ Section 13, E $\frac{1}{2}$, E $\frac{1}{2}$ NW $\frac{1}{4}$ Section 24; Township 11 South, Range 19 E., B. M.
 SE $\frac{1}{4}$ SW $\frac{1}{4}$, SE $\frac{1}{4}$ Section 35, NE $\frac{1}{4}$, NE $\frac{1}{4}$ NW $\frac{1}{4}$, S $\frac{1}{2}$ NW $\frac{1}{4}$, S $\frac{1}{2}$ Section 36; Twp. 10 South, Range 20 E., B. M.
 N $\frac{1}{2}$, N $\frac{1}{2}$ SE $\frac{1}{4}$, Section 1, N $\frac{1}{2}$ SW $\frac{1}{4}$, N $\frac{1}{2}$ SE $\frac{1}{4}$, SW $\frac{1}{4}$ SE $\frac{1}{4}$ Section 2, NE $\frac{1}{4}$, S $\frac{1}{2}$ NW $\frac{1}{4}$, S $\frac{1}{2}$ Section 3, S $\frac{1}{2}$ SW $\frac{1}{4}$, SE $\frac{1}{4}$ Section 4, E $\frac{1}{2}$ NE $\frac{1}{4}$, SE $\frac{1}{4}$ SW $\frac{1}{4}$, SE $\frac{1}{4}$ Section 8, All Sections 9 and 10, NW $\frac{1}{4}$ NE $\frac{1}{4}$, S $\frac{1}{2}$ NE $\frac{1}{4}$, NW $\frac{1}{4}$, S $\frac{1}{2}$ Section 11, SW $\frac{1}{4}$ SW $\frac{1}{4}$ Section 12, NW $\frac{1}{4}$ NW $\frac{1}{4}$ Section 13, N $\frac{1}{2}$ NE $\frac{1}{4}$, SW $\frac{1}{4}$ NE $\frac{1}{4}$, NW $\frac{1}{4}$, W $\frac{1}{2}$ SW $\frac{1}{4}$, NE $\frac{1}{4}$ SE $\frac{1}{4}$, Section 14, All Sections 15 and 16, NE $\frac{1}{4}$, SE $\frac{1}{4}$ NW $\frac{1}{4}$, Section 17, NE $\frac{1}{4}$, W $\frac{1}{2}$ NW $\frac{1}{4}$, SE $\frac{1}{4}$ NW $\frac{1}{4}$, S $\frac{1}{2}$ Section 19, NE $\frac{1}{4}$, S $\frac{1}{2}$ NW $\frac{1}{4}$, S $\frac{1}{2}$ Section 20, NW $\frac{1}{4}$ NE $\frac{1}{4}$, S $\frac{1}{2}$ NE $\frac{1}{4}$, W $\frac{1}{2}$, SW $\frac{1}{4}$ SE $\frac{1}{4}$ Section 21, N $\frac{1}{2}$ N $\frac{1}{2}$ Section 22, NW $\frac{1}{4}$ NE $\frac{1}{4}$, NW $\frac{1}{4}$ NW $\frac{1}{4}$ Section 28, N $\frac{1}{2}$ N $\frac{1}{2}$ Section 29, N $\frac{1}{2}$ NE $\frac{1}{4}$ Section 30; Twp. 11 South, Range 20 E., B. M.
 S $\frac{1}{2}$ SW $\frac{1}{4}$ Section 29, S $\frac{1}{2}$ SW $\frac{1}{4}$, NW $\frac{1}{4}$ SE $\frac{1}{4}$, S $\frac{1}{2}$ SE $\frac{1}{4}$, Section 30, All Section 31, N $\frac{1}{2}$ NE $\frac{1}{4}$, SW $\frac{1}{4}$ NE $\frac{1}{4}$, NW $\frac{1}{4}$, S $\frac{1}{2}$ Section 32, Township 10 South, Range 21 E., B. M.
 N $\frac{1}{2}$ NW $\frac{1}{4}$ Section 6, Twp. 11 South, Range 21 East, B. M.

(Sign here.)

C. V. Samples

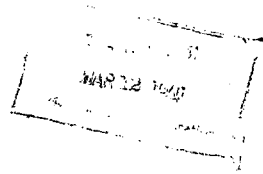
I hereby certify that the foregoing testimony was read to the above subscriber before its signing, that I believe him to be the person he represents himself to be, and that said testimony was subscribed and sworn to before me, at my office in Twin Falls County of Twin Falls, State of Idaho, on this 9th day of March, A. D. 1940.

MAR 12 1940

Harry Benoit
 Notary Public,
 Residing at Twin Falls, Idaho.

18919

STATE OF IDAHO
DEPARTMENT OF RECLAMATION
BOISE, IDAHO



PERMIT NO. 18919-----

Proof of Application of Water to Beneficial Use

Deposition of Witness

The deposition of two witnesses, on this form, taken separately, required in each case.

✓ Ques. 1. State your name, age, residence, occupation and postoffice address.

Ans. C. V. Samples, Murtaugh, Idaho, farm laborer.

✓ Ques. 2. Are you acquainted with Milner Low Lift Irrigation District, the holder of Permit No. 18919? How long have you known him and where does he reside?

Ans. I have been familiar with said irrigation district for over ten years, which district's address is Murtaugh, Idaho.

✓ Ques. 3. Have you read or heard read said Permit No. 18919, and are you familiar with its provisions and conditions?

Ans. Yes

✓ Ques. 4. State source of water supply, place of diversion, and describe works for conveying water from point of diversion to place of use.

Ans. Snake River. Point of diversion North 21°55' West 612 Ft. distant from Sec. corner common to Secs. 28-29-32-33 T 10S R 21 E. B.M. and is in the SE $\frac{1}{4}$ of SE $\frac{1}{4}$ of Sec. 29 T 10S R 21 E. B.M., Twin Falls County. Works: Canal and laterals, steel pipe, flume, 3 electrically operated pumping plants consisting of pumps, motors, and transformers.

✓ Ques. 5. How many second feet of water do you estimate said works will safely conduct to place of use, and how much water have you seen being so conveyed?

Ans. 172 cubic ft. per second. 172 cubic ft. per second.

✓ Ques. 6. State for what purpose water is used and at what place. (If for irrigation, give each sub-division in which water has been used and number of acres irrigated in each subdivision.) State whether cultivated or natural meadow land and the nature of all improvement which have been made as a direct result of said use.

Ans. Used for irrigation purposes--cultivated land. Improvements--land cultivated, homes, barns, buildings and other improvements.

There are 9033 acres of land described as follows:

N $\frac{1}{2}$ NE $\frac{1}{4}$, N $\frac{1}{2}$ SE $\frac{1}{4}$, SE $\frac{1}{4}$ SE $\frac{1}{4}$ Section 13, E $\frac{1}{2}$, E $\frac{1}{2}$ NW $\frac{1}{4}$ Section 24;
Twp. 11 South, Range 19 E., B. M.
SE $\frac{1}{4}$ SW $\frac{1}{4}$, SE $\frac{1}{4}$ Section 35, NE $\frac{1}{4}$, NE $\frac{1}{4}$ NW $\frac{1}{4}$, S $\frac{1}{2}$ NW $\frac{1}{4}$, S $\frac{1}{2}$ Section 36; Twp. 10 South, Range 20 E., B. M.
N $\frac{1}{2}$, N $\frac{1}{2}$ SE $\frac{1}{4}$, Section 1, N $\frac{1}{2}$ SW $\frac{1}{4}$, N $\frac{1}{2}$ SE $\frac{1}{4}$, SW $\frac{1}{4}$ SE $\frac{1}{4}$ Section 2,
NE $\frac{1}{4}$, S $\frac{1}{2}$ NE $\frac{1}{4}$, S $\frac{1}{2}$ Section 3, S $\frac{1}{2}$ SW $\frac{1}{4}$, SE $\frac{1}{4}$ Section 4, E $\frac{1}{2}$ NE $\frac{1}{4}$, SE $\frac{1}{4}$
SW $\frac{1}{4}$, SE $\frac{1}{4}$ Section 5, All Sections 9 and 10, NW $\frac{1}{4}$ NE $\frac{1}{4}$, S $\frac{1}{2}$ NE $\frac{1}{4}$,
NW $\frac{1}{4}$, S $\frac{1}{2}$ Section 11, SW $\frac{1}{4}$ SW $\frac{1}{4}$ Section 12, NW $\frac{1}{4}$ NW $\frac{1}{4}$ Section 13,
N $\frac{1}{2}$ NE $\frac{1}{4}$, SW $\frac{1}{4}$ NE $\frac{1}{4}$, NW $\frac{1}{4}$, N $\frac{1}{2}$ SW $\frac{1}{4}$, NE $\frac{1}{4}$ SE $\frac{1}{4}$, Section 14, All Sections
15 and 16, NE $\frac{1}{4}$, SE $\frac{1}{4}$ NW $\frac{1}{4}$, Section 17, NE $\frac{1}{4}$, N $\frac{1}{2}$ NW $\frac{1}{4}$, SE $\frac{1}{4}$ NW $\frac{1}{4}$, S $\frac{1}{2}$
Section 19, NE $\frac{1}{4}$, S $\frac{1}{2}$ NW $\frac{1}{4}$, S $\frac{1}{2}$ Section 20, NW $\frac{1}{4}$ NE $\frac{1}{4}$, S $\frac{1}{2}$ NE $\frac{1}{4}$, N $\frac{1}{2}$,
SW $\frac{1}{4}$ SE $\frac{1}{4}$ Section 21, N $\frac{1}{2}$ N $\frac{1}{2}$ Section 22, NW $\frac{1}{4}$ NE $\frac{1}{4}$, NW $\frac{1}{4}$ NW $\frac{1}{4}$ Section 23,
N $\frac{1}{2}$ N $\frac{1}{2}$ Section 29, N $\frac{1}{2}$ NE $\frac{1}{4}$ Section 30; Twp. 11 South, Range 20
E., B. M.
S $\frac{1}{2}$ SW $\frac{1}{4}$ Section 29, S $\frac{1}{2}$ SW $\frac{1}{4}$, NW $\frac{1}{4}$ SE $\frac{1}{4}$, S $\frac{1}{2}$ SE $\frac{1}{4}$, Section 30,
All Section 31, N $\frac{1}{2}$ NE $\frac{1}{4}$, SW $\frac{1}{4}$ NE $\frac{1}{4}$, NW $\frac{1}{4}$, S $\frac{1}{2}$ Section 32, Township
10 South, Range 21 E., B. M.
N $\frac{1}{2}$ NW $\frac{1}{4}$ Section 3, Twp. 11 South, Range 21 East., B. M.

18919

The Depositions of two Witnesses, in this form, taken separately, required in each case.

Permit No. 18919

Proof of Completion of Works**DEPOSITION OF WITNESS**

✓ Ques. 1. State your name, residence, occupation and postoffice address.

Ans. G. W. Moates, Murtaugh, Idaho, farmer.

✓ Ques. 2. Are you acquainted with Milner Low Lift Irrigation District, the holder of Permit No. 18919, authorizing the diversion of .37 second-feet of the waters of Snake River, at N. 21° 55' W. 612 ft. distant from Sec. corner common Secs. 28-29-32-33 T 10S R 21 E. B. M., T. F. County for irrigation purposes? How long have you known him, and where does he reside?

I have been familiar with said irrigation district for over ten years, which district's address is Murtaugh, Idaho.

✓ Ques. 3. Have you read or heard read said Permit No. 18919, and are you familiar with its terms and conditions?

Ans. Yes.

✓ Ques. 4. (If for irrigation purposes). Are you acquainted with the land proposed to be irrigated under said permit? If so, describe same, state its character, and give your estimate of the amount of water required for its profitable cultivation.

Ans. Yes. Amount of water required 172 cubic ft. per second.

9033 acres of cultivated land, described as follows:

W $\frac{1}{2}$ NE $\frac{1}{4}$, W $\frac{1}{2}$ SE $\frac{1}{4}$, SE $\frac{1}{4}$ SE $\frac{1}{4}$ Section 13, E $\frac{1}{2}$, E $\frac{1}{2}$ NW $\frac{1}{4}$ Section 24; Township 11 South, Range 19 E., B. M.
SE $\frac{1}{4}$ SW $\frac{1}{4}$, SE $\frac{1}{4}$ Section 35, NE $\frac{1}{4}$, NE $\frac{1}{4}$ NW $\frac{1}{4}$, S $\frac{1}{2}$ NW $\frac{1}{4}$, S $\frac{1}{2}$ Section 36; Twp. 10 South, Range 20 E., B. M.
N $\frac{1}{2}$, N $\frac{1}{2}$ SE $\frac{1}{4}$, Section 1, N $\frac{1}{2}$ SW $\frac{1}{4}$, N $\frac{1}{2}$ SE $\frac{1}{4}$, SW $\frac{1}{4}$ SW $\frac{1}{4}$ Section 2, NE $\frac{1}{4}$, S $\frac{1}{2}$ NW $\frac{1}{4}$, S $\frac{1}{2}$ Section 3, S $\frac{1}{2}$ SW $\frac{1}{4}$, SE $\frac{1}{4}$ Section 4, E $\frac{1}{2}$ NE $\frac{1}{4}$, SE $\frac{1}{4}$ SW $\frac{1}{4}$, SE $\frac{1}{4}$ Section 8, All Sections 9 and 10, NW $\frac{1}{4}$ NE $\frac{1}{4}$, S $\frac{1}{2}$ NE $\frac{1}{4}$, NW $\frac{1}{4}$, S $\frac{1}{2}$ Section 11, SW $\frac{1}{4}$ SW $\frac{1}{4}$ Section 12, NW $\frac{1}{4}$ NW $\frac{1}{4}$ Section 13, N $\frac{1}{2}$ NE $\frac{1}{4}$, SW $\frac{1}{4}$ NE $\frac{1}{4}$, NW $\frac{1}{4}$, W $\frac{1}{2}$ SW $\frac{1}{4}$, NE $\frac{1}{4}$ SE $\frac{1}{4}$, Section 14, All Sections 15 and 16, NE $\frac{1}{4}$, SE $\frac{1}{4}$ NW $\frac{1}{4}$, Section 17, NE $\frac{1}{4}$, W $\frac{1}{2}$ NW $\frac{1}{4}$, SE $\frac{1}{4}$ NW $\frac{1}{4}$, S $\frac{1}{2}$ Section 19, NE $\frac{1}{4}$, S $\frac{1}{2}$ NW $\frac{1}{4}$, S $\frac{1}{2}$ Section 20, NW $\frac{1}{4}$ NE $\frac{1}{4}$, S $\frac{1}{2}$ NE $\frac{1}{4}$, W $\frac{1}{2}$, SW $\frac{1}{4}$ SE $\frac{1}{4}$ Section 21, N $\frac{1}{2}$ N $\frac{1}{2}$ Section 22, NW $\frac{1}{4}$ NE $\frac{1}{4}$, NW $\frac{1}{4}$ NW $\frac{1}{4}$ Section 23, N $\frac{1}{2}$ N $\frac{1}{2}$ Section 29, N $\frac{1}{2}$ NE $\frac{1}{4}$ Section 30; Twp. 11 South, Range 20 E., B. M.
S $\frac{1}{2}$ SW $\frac{1}{4}$ Section 29, S $\frac{1}{2}$ SW $\frac{1}{4}$, NW $\frac{1}{4}$ SE $\frac{1}{4}$, S $\frac{1}{2}$ SE $\frac{1}{4}$, Section 30, All Section 31, N $\frac{1}{2}$ NE $\frac{1}{4}$, SW $\frac{1}{4}$ NE $\frac{1}{4}$, NW $\frac{1}{4}$, S $\frac{1}{2}$ Section 32, Township 10 South, Range 21 E., B. M.
N $\frac{1}{2}$ NW $\frac{1}{4}$ Section 6, Twp. 11 South, Range 21 East, B. M.

(Sign here.)

G. W. Moates

I hereby certify that the foregoing testimony was read to the above subscriber before its signing, that I believe him to be the person he represents himself to be, and that said testimony was subscribed and sworn to before me, at my office in Twin Falls

County of Twin Falls, State of Idaho, on this 9th

day of March, A. D. 1942.

Notary Public
Residing at Twin Falls, Idaho.

18919

Attachment L

[illegible][illegible]

4. The place where said water is used is 9033 acres in the following

[illegible]

JAMES SPENCER

1891A

Attachment M

STATE OF IDAHO
DEPARTMENT OF RECLAMATION
BOISE, IDAHO

REPORT OF ENGINEER

Permit No. 18919

This proof is for Completion of Works & Beneficial Use In Water District No. _____

1. Name of applicant Milner Low Lift Irrigation District, Murtaugh, Idaho

2. Source of water supply Snake River

3. Location of point of diversion: Is in the SE $\frac{1}{4}$ SE $\frac{1}{4}$ of Section 29

T. 10 S. R. 21 E. County of Twin Falls

4. Describe works as they exist, giving dimensions and capacities of same: Intake Canal from Milner Lake, Concrete pumping station 68'x34', 3-24" Atlas Chambers pumps D.C. to 500 H.P. motors 500 R.P.M. 2200 Volt A.C. Plant discharge is via 60" steel pipe to main canal

5. Water is used for: Irrigation

6. State whether or not water has been turned into works of diversion: yes, Approximately 9000 acres being irrigated

7. List legal subdivisions of lands to be irrigated. If proof is for beneficial use, give exact number of acres under cultivation in each forty-acre tract. (Describe manner and place of use if for other than irrigation)

W $\frac{1}{2}$ NE $\frac{1}{4}$, W $\frac{1}{2}$ SE $\frac{1}{4}$, SE $\frac{1}{4}$ SE $\frac{1}{4}$ Sec. 13; E $\frac{1}{2}$, E $\frac{1}{2}$ NW $\frac{1}{4}$ Sec. 24; T. 11 S., R. 19 E., B.M. SE $\frac{1}{4}$ SW $\frac{1}{4}$, SE $\frac{1}{4}$ Sec. 35; NE $\frac{1}{4}$, NE $\frac{1}{4}$ NW $\frac{1}{4}$, S $\frac{1}{2}$ NW $\frac{1}{4}$, S $\frac{1}{2}$ Sec. 36; T. 10 S., R. 20 E., B.M. NE $\frac{1}{4}$, NE $\frac{1}{4}$ SE $\frac{1}{4}$ Sec. 1; NE $\frac{1}{4}$ SW $\frac{1}{4}$, NE $\frac{1}{4}$ SE $\frac{1}{4}$ Sec. 2; NE $\frac{1}{4}$, S $\frac{1}{2}$ NW $\frac{1}{4}$, S $\frac{1}{2}$ Sec. 3; S $\frac{1}{2}$ SW $\frac{1}{4}$, SE $\frac{1}{4}$ Sec. 4; E $\frac{1}{2}$ NE $\frac{1}{4}$, SE $\frac{1}{4}$ SW $\frac{1}{4}$, SE $\frac{1}{4}$ Sec. 8; All Secs. 9 & 10; NW $\frac{1}{4}$ NE $\frac{1}{4}$, S $\frac{1}{2}$ NE $\frac{1}{4}$, NW $\frac{1}{4}$, S $\frac{1}{2}$ Sec. 11; SW $\frac{1}{4}$ SW $\frac{1}{4}$ Sec. 12; NW $\frac{1}{4}$ NW $\frac{1}{4}$ Sec. 13; NE $\frac{1}{4}$ NE $\frac{1}{4}$, SW $\frac{1}{4}$ NE $\frac{1}{4}$, NW $\frac{1}{4}$, W $\frac{1}{2}$ SW $\frac{1}{4}$, NE $\frac{1}{4}$ SE $\frac{1}{4}$ Sec. 14; All Secs. 15 & 16; NE $\frac{1}{4}$, SE $\frac{1}{4}$ NW $\frac{1}{4}$ Sec. 17; NE $\frac{1}{4}$, W $\frac{1}{2}$ NW $\frac{1}{4}$, SE $\frac{1}{4}$ NW $\frac{1}{4}$, E $\frac{1}{2}$ Sec. 19; NE $\frac{1}{4}$, S $\frac{1}{2}$ NW $\frac{1}{4}$, S $\frac{1}{2}$ Sec. 20; NW $\frac{1}{4}$ NE $\frac{1}{4}$, S $\frac{1}{2}$ NE $\frac{1}{4}$, W $\frac{1}{2}$, SW $\frac{1}{4}$ SE $\frac{1}{4}$ Sec. 21; NE $\frac{1}{4}$ NE $\frac{1}{4}$ Sec. 22; NW $\frac{1}{4}$ NE $\frac{1}{4}$, NW $\frac{1}{4}$ NW $\frac{1}{4}$ Sec. 28; NE $\frac{1}{4}$ NE $\frac{1}{4}$ Sec. 29; NE $\frac{1}{4}$ NE $\frac{1}{4}$ Sec. 30; T. 11 S., R. 20 E., B.M. S $\frac{1}{2}$ SW $\frac{1}{4}$ Sec. 29; S $\frac{1}{2}$ SW $\frac{1}{4}$, NW $\frac{1}{4}$ SE $\frac{1}{4}$, S $\frac{1}{2}$ SE $\frac{1}{4}$ Sec. 30; All Sec. 31; NE $\frac{1}{4}$ NE $\frac{1}{4}$, SW $\frac{1}{4}$ NE $\frac{1}{4}$, NW $\frac{1}{4}$, S $\frac{1}{2}$ Sec. 32; T. 10 S., R. 21 E., B.M. NE $\frac{1}{4}$ NW $\frac{1}{4}$ Sec. 6, T. 11 S., R. 21 E., B.M.

(Submit map on attached plat, showing location and details of above description.)

8. What large stream would the water here appropriated finally reach? Columbia River

Remarks: A former "Completion of Works" report (Per-12759) gave a plant capacity of 135 Sec. Ft. which figure is now covered by Court decree. The present plant capacity is approximately 172 Sec. Ft.

Note: - A measurement by a Hydrographer of water District #36 taken a few days prior to this examination and recorded at the Milner dam office showed a discharge of 169 Sec. Ft. at head of main ditch

This examination was made on the 7th day of June, 1940

(Signed)

Frederick J. Johnson
Examiner.

18919

Attachment N

11-30

AMENDED DIRECTOR'S REPORT

Subcase No. 01-2050

In Re SRBA

Twin Falls County Civil Case No. 39576

Report to the SRBA District Court

Prepared by the Idaho Department of Water Resources
Gary Spackman, Interim Director
Carter Fritschle, Manager, Adjudication Section

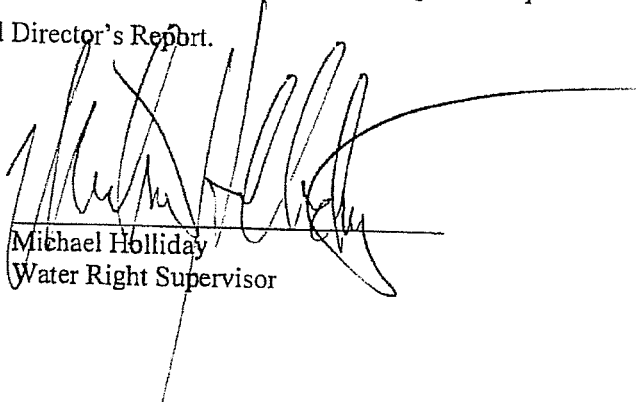
November 30, 2011

DESCRIPTIVE SUMMARY

This is an Amended Director's Report submitted by the Director of the Idaho Department of Water Resources.

DISCUSSION

Pursuant to the discussions during the November 10, 2011, status conference, the Director submits the attached Amended Director's Report for filing with the Court. Please note that the Amended Director's Report reflects no changes to the digital boundary contained within the original Director's Report currently on file with this Court. Therefore, no maps or compact disks are being provided with this Amended Director's Report.



Michael Holliday
Water Right Supervisor

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

RIGHT NUMBER: 1-2050

NAME AND ADDRESS:

MILNER IRRIGATION DIST
5294 E 3610 N
MURTAUGH ID 83344

SOURCE:

Source:
SNAKE RIVER

Tributary:
COLUMBIA RIVER

QUANTITY: 37.000 CFS

PRIORITY DATE: 10/25/1939

POINT OF DIVERSION:

T10S R21E S29 SESE
Within TWIN FALLS County

PURPOSE AND
PERIOD OF USE:

Purpose of use:	Period of use:	Quantity:
IRRIGATION	3/15 11/15	37.000 CFS

PLACE OF USE:

13335 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.

Right nos. 1-17 and 1-2050 are limited to the irrigation of a combined total of 9033 acres in a single irrigation season.

Place of use is within the boundary of Milner Irrigation District pursuant to Section 43-323, Idaho Code.

Use of the rights listed below is limited to the irrigation of a combined total of 13,335 acres in a single irrigation season. Combined Right Nos.: 45-463, 1-9, 1-17, and 1-2050.

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

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 - License

Water is delivered through Milner Irrigation pumps.

CERTIFICATE OF SERVICE

I certify that on Nov. 30TH, 2011, I served the original and/or copies of this form, including all attachments, to the following persons by delivering the original and/or copies, as follows:

1. Original to:

Clerk of the District Court
Snake River Basin Adjudication
253 Third Avenue North
P.O. Box 2707
Twin Falls, Idaho 83303-2707

☐ Overnight Mail
☒ Regular Mail
☐ Hand-Delivered
☒ Facsimile

2. Copies to:

MILNER IRRIGATION DISTRICT

Represented by:
BARKER, ROSHOLT & SIMPSON LLP
113 MAIN AVE W, STE 303
P.OBOX 485
TWIN FALLS, ID 83303-0485

STATE OF IDAHO

Represented by:
NATURAL RESOURCES DIVISION CHIEF
STATE OF IDAHO
ATTORNEY GENERAL'S OFFICE
P.O. BOX 44449
BOISE, ID 83711-4449

CAREY VALLEY GROUND WATER DISTRICT

Represented by:
RANDALL C. BUDGE
201 E. CENTER, STE. A2
P.O. BOX 1391
POCATELLO, ID 83204-1391

MILNER IRRIGATION DISTRICT

Represented by:
TRAVIS L. THOMPSON
113 MAIN AVE. W., STE. 303
P.O. BOX 485
TWIN FALLS, ID 83303-0485

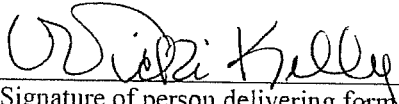
USDI BUREAU OF RECLAMATION

Represented by:
US DEPARTMENT OF JUSTICE
ENVIRONMENT & NATURAL RESOURCES
550 WEST FORT STREET, MSC 033
BOISE, ID 83724

DIRECTOR OF IDWR
P.O. BOX 83720
BOISE, ID 83720-0098

CASSIA COUNTY COURTHOUSE
1459 OVERLAND AVE.
BURLEY, ID 83318

TWIN FALLS COUNTY COURTHOUSE
427 SHOSHONE ST. N.
P.O. BOX 126
TWIN FALLS, ID 83301



Signature of person delivering form

Attachment O

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

BURLEY IRRIGATION DISTRICT, et al,)
Plaintiffs,)

vs.

DISTRICT COURT SUPPLEMENTAL DECREE

HENRY EAGLE, Watermaster, Water Fifth Judicial District
District No. 36, State of Idaho,)

FILED JUL 10 1968
Defendant
By H. A. LANCASTER
Clerk

Quill
Deputy Clerk

This matter having come on regularly before the Court and the
Court having made and entered its Findings of Fact and Conclusions of Law
herein directing that Decree be entered accordingly and good cause appearing
therefor,

IT IS HEREBY ORDERED, ADJUDGED AND DECREED as follows:

1. That the rights hereinafter decreed shall be supplemental to
the decrees entered in the cases of Woodville Canal Co. v. Clark & Edwards
Canal & Irrigation Company, et al, in the District Court of the United States
for the District of Idaho, Eastern Division, on June 25, 1929, Twin Falls Canal
Company v. Charles N. Foster, et al, in the District Court of the Fifth
Judicial District of the State of Idaho, in and for the County of Twin Falls, on
June 20, 1913, Rexburg Irrigation Company, et al. v. Teton Irrigation Canal
Company, et al, in the District Court of the Sixth Judicial District of the State
of Idaho, in and for the County of Fremont, on December 13, 1910, and said
Decrees and the Findings of Fact and Conclusions of Law upon which they are
based are binding upon all plaintiffs herein.

2. That the parties hereinafter named have the right to divert and
use, for irrigation and other purposes, the waters of the Snake River, in the
amounts and with the priority dates listed, which water shall be diverted at
the point and be appurtenant to the lands described herein:

1. A. Twin Falls Canal Company.

327 1157 600 cubic feet per second (being the right recognized in paragraph 1.3

2 That land lying South of the Snake River, County of Cassia,
3 State of Idaho, in Sections Two (2), Three (3), Eight (8),
4 Nine (9), Ten (10), Eleven (11), Sixteen (16), Seventeen
5 (17), Eighteen (18), Nineteen (19), Twenty (20), Twenty-
6 one (21), Twenty-nine (29), Thirty (30), and Thirty-one
7 (31), Township Nine (9) South, Range Twenty-five (25),
8 East Boise Meridian; Sections Twenty-five (25), and Thirty-
9 six (36), Township Nine (9) South, Range Twenty-four (24)
10 East, Boise Meridian; Sections One (1), Two (2), Eleven
11 (11), Twelve (12), Fourteen (14), Fifteen (15), Twenty-two
12 (22) and Twenty-three (23), Township Ten (10) South,
13 Range Twenty-four (24) East, Boise Meridian.

14 That land lying North and West of the Snake River, County
15 of Minidoka, State of Idaho, in Sections Twenty-eight (28),
16 Twenty-nine (29), Thirty (30), Thirty-one (31), Thirty-two
17 (32), Thirty-three (33), Thirty-four (34) and Thirty-five
18 (35), Township Eight (8) South, Range Twenty-five (25)
19 East, Boise Meridian; Sections Two (2), Three (3), Four (4),
20 Five (5), Six (6), Seven (7), Eight (8), Nine (9), Eighteen
21 (18), and Nineteen (19), Township Nine (9) South, Range
22 Twenty-five (25) East, Boise Meridian; Sections Twenty-
23 five (25), Thirty-two (32), Thirty-three (33), Thirty-four
24 (34), Thirty-five (35) and Thirty-six (36), Township Eight
25 (8) South, Range Twenty-four (24) East, Boise Meridian;
26 all Sections lying North and West of the Snake River in —
27 Township Nine (9) South, Range Twenty-four (24) East,
28 Boise Meridian; all Sections lying North and West of
29 Snake River in Township Ten (10) South, Range Twenty-four
30 (24) East, Boise Meridian; all Sections except Three (3),
31 Five (5) and Six (6), Township Nine (9) South, Range Twenty-
32 three (23) East, Boise Meridian; all Sections lying North of —
the Snake River in Township Ten (10) South, Range Twenty-
three (23) East, Boise Meridian; Sections Twelve (12),
Thirteen (13), Fourteen (14), Twenty-three (23), Twenty-
four (24), Twenty-five (25), Twenty-six (26), Twenty-
seven (27), Twenty-eight (28), Thirty-four (34), Thirty-
five (35), and Thirty-six (36), Township Nine (9) South,
Range Twenty-two (22) East, Boise Meridian; and Sections
One (1), Two (2), Three (3), Ten (10), Eleven (11), Twelve
(12), Thirteen (13), Fourteen (14), Fifteen (15), Twenty-
three (23), and Twenty-four (24), Township Ten (10) South,
Range Twenty-two (22) East, Boise Meridian, lying North
of the Snake River.

01 6008

37 113 C. Milner Low-Lift Irrigation District.

121.00 cubic feet of water per second.

Point of Diversion:

The Southeast Quarter of the Southeast Quarter (SE 1/4
SE 1/4) of Section Twenty-nine (29), Township Ten (10)
South, Range Twenty-one (21) East Boise Meridian.

Lands to Which Appurtenant

Township 10 South, Range 21, E.B.M.:
Section 29: That part of the S 1/2 lying south of the
Milner Lake and Twin Falls canal.

2 south and east of the Twin Falls canal.

3 Township 10 South, Range 20, E.B.M.:
4 Section 35: That part of the S 1/2 of Section 35 lying
5 south and east of the Twin Falls canal.

6 Township 10 South, Range 20, E.B.M.:
7 Section 36: All of Section 36 lying south and east of
8 Twin Falls canal, except the U. P. Railroad right-of-way.

9 Township 10 South, Range 21, E.B.M.:
10 Section 31: All of Section 31, except U. P. Railroad
11 right-of-way.

12 Township 10 South, Range 21, E.B.M.:
13 Section 32: All of Section 32, except U. P. Railroad
14 right-of-way and Bean Growers Whse. Association
15 property.

16 Township 10 South, Range 21, E.B.M.:
17 Section 33: The NW 1/4, W 1/2 of the NE 1/4, SW 1/4,
18 NW 1/4 of the SE 1/4.

19 Township 11 South, Range 20, E.B.M.:
20 Section 5: That part of the SE 1/4 SE 1/4 lying south-
21 east of Twin Falls canal.

22 Township 11 South, Range 20, E.B.M.:
23 Section 4: That part of the S 1/2 lying south and east
24 of Twin Falls canal.

25 Township 11 South, Range 20, E.B.M.:
26 Section 3: That part lying south and east of Twin Falls
27 canal.

28 Township 11 South, Range 20, E.B.M.:
29 Section 2: That part lying south and east of Twin Falls
30 canal.

31 Township 11 South, Range 20, E.B.M.:
32 Section 1: All of Section 1 except the N 1/2 of the
SW 1/4 and the SE 1/4 of the SW 1/4.

Township 11 South, Range 21, E.B.M.:
Section 6: All of Section 6.

Township 11 South, Range 21, E.B.M.:
Section 5: All of Section 5.

Township 11 South, Range 21, E.B.M.:
Section 4: All of Section 4, except the N 1/2 of the NE 1/4.

Township 11 South, Range 21, E.B.M.:
Section 3: S 1/2 of the SW 1/4, NW 1/4 of the SW 1/4,
SW 19 A. of the SW 1/4 of the NW 1/4.

Township 11 South, Range 20, E.B.M.:
Section 8: That part south and east of Twin Falls canal.

Township 11 South, Range 20, E.B.M.:
Section 9: All of Section 9.

2 Township 11 South, Range 20, E.B.M.:
Section 11: All of Section 11.

3 Township 11 South, Range 20, E.B.M.:
Section 12: All of Section 12.

4 Township 11 South, Range 21, E.B.M.:
5 Section 7: That part of Section 7 lying north of U. S.
6 Highway 30.

7 Township 11 South, Range 21, E.B.M.:
8 Section 8: That part of Section 8 lying northwest of
U. S. Highway 30.

9 Township 11 South, Range 19, E.B.M.:
10 Section 13: 10 Acres southeast of Murtaugh Lake and
6 Acres north and west of Murtaugh Lake of the SE 1/4
of the SE 1/4, W 1/2 of the SE 1/4, W 1/2 of the NE 1/4.

11 Township 11 South, Range 20, E.B.M.:
12 Section 17: That part of the SE 1/4 lying south and east
of Murtaugh Lake.

13 Township 11 South, Range 20, E.B.M.:
14 Section 16: That part of Section 16 lying north and east
of Murtaugh Lake.

15 Township 11 South, Range 20, E.B.M.:
16 Section 15: All of Section 15.

17 Township 11 South, Range 20, E.B.M.:
18 Section 14: NW 1/4, that part of the NE 1/4 lying north
and west of Milner Low Lift No. 3 canal, that part of
19 the SW 1/4 lying west and below Milner Low Lift No. 3
canal.

20 Township 11 South, Range 20, E.B.M.:
21 Section 13: That part of the NW 1/4 lying north and
west and below Milner Low Lift No. 3 canal.

22 Township 11 South, Range 19, E.B.M.:
23 Section 24: That part lying north and east and below
Milner Low Lift main canal, excepting that part of the
24 Murtaugh Lake in the E 1/2 of the NE 1/4.

25 Township 11 South, Range 20, E.B.M.:
26 Section 19: That part lying north and below Milner
Low Lift main canal, and that part lying south of
Murtaugh Lake.

27 Township 11 South, Range 20, E.B.M.:
28 Section 20: That part lying south of Murtaugh Lake.

29 Township 11 South, Range 20, E.B.M.:
30 Section 21: That part lying north and west and below
Milner Low Lift main canal, and that part of the NW 1/4
of the NW 1/4 lying south and east of Murtaugh Lake.

31 Township 11 South, Range 20, E.B.M.:
32 Section 22: N 1/2 of the NW 1/4, N 1/2 of the NE 1/4.

Township 11 South, Range 20, E. B. M.:
Section 29: That part of the N 1/2 of the NW 1/4, and
that part of the N 1/2 of the NE 1/4 lying north and
below Milner Low Lift main canal.

Township 11 South, Range 20, E. B. M.:
Section 28: That part of the N 1/2 of the NW 1/4, and
that part of the NE 1/4 lying north and below Milner
Low Lift main canal.

~~01 0010~~
~~37 1100~~ D. Twin Falls Canal Company.

180.0 cubic feet of water per second.

Point of Diversion

At Milner Dam on the South side of Snake River (in the
Northeast Quarter of the Southeast Quarter (NE 1/4
SE 1/4) of Section Twenty-nine (29), Township Ten
(10) South, Range Twenty-one (21) E. B. M.

Lands to Which Appurtenant

The lands described in detail in Paragraph XIII (a)
foregoing.

~~01 0011~~
~~37 1100~~ E. Clarence Tilley.

7.00 cubic feet of water per second.

Point of Diversion

Southeast corner of the Southwest Quarter of the North-
west Quarter (SW 1/4 NW 1/4), Section Twelve (12),
Township Eight (8) South, Range Thirty (30) E. B. M.

Lands to Which Appurtenant

Tax No. 18, described as commencing at a point 83 rods
and 1.5 feet West of the Northeast Corner of the North-
east Quarter of Section Fourteen, Township Eight South,
Range Thirty East of the Boise Meridian, thence running
West along the North line of said Section Fourteen 22
rods and 12 feet, thence South 20 rods, thence East 22
rods and 12 feet, thence North 20 rods, more or less, to
the North line of said Section Fourteen, and place of
beginning.

Tax No. 6, described as beginning at a point 20 feet
North of the Southeast Corner of Lot 4, Section Eleven,
Township Eight South, Range Thirty East of the Boise
Meridian, thence running West parrallel to the South line
440 feet, thence North 1074 feet, to the South line of
Snake River, thence North 71° 37' East along South line
of River 464 feet to the East line of Lot 4, thence North
75° 54' East 657 feet, thence South 1400 feet to the South
line of Lot 3, thence West 637 feet, thence North 20 feet
to the place of beginning.

NW NE - 14
8S - 30E

NESW
NWSW
SW NW
8S - 30E

2 that the pertinent paragraphs of the contract entered into by
3 the United States of America, Bureau of Reclamation, and the Minidoka
4 Irrigation District, the contents of which paragraphs were confirmed by
5 all other parties Plaintiff in amendatory and supplemental contracts, a
6 copy of which pertinent paragraphs is attached hereto as Exhibit E and
7 by this reference made a part hereof as though set out in full herein, is
8 hereby ratified, confirmed and approved.

9 7. That the Memorandum of Agreement between the Bureau of
10 Reclamation and the Bureau of Indian Affairs, a copy of the pertinent
11 provisions of which is attached hereto as Exhibit F and by this reference
12 made a part hereof as though set out in full herein, is hereby ratified,
13 confirmed and Approved.

14 Done this 10th day of July, 1968.

15 S. Theron Ward
16 District Judge

17
18 State of Idaho)
19 County of Twin Falls) ss.
20 I hereby certify the foregoing to be a full, true and correct
21 copy of the original on file in the aforesaid office.
22 H. A. LANCASTER
23 Clerk of the District Court
24 Phillip W. Welch
25
26
27
28
29
30
31
32

Attachment P

05/11/2006

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

RIGHT NUMBER: 1-9
NAME AND ADDRESS: MILNER IRRIGATION DIST
5294 E 3610 N
MURTAUGH ID 83344
SOURCE: SNAKE RIVER TRIBUTARY: COLUMBIA RIVER
QUANTITY: 121.000 CFS
PRIORITY DATE: 04/01/1939
POINT OF
DIVERSION: T10S R21E S29 NESESE Within TWIN FALLS County
PURPOSE AND
PERIOD OF USE:

<u>PURPOSE OF USE</u>	<u>PERIOD OF USE</u>	<u>QUANTITY</u>
IRRIGATION	3/15 11/15	121.000 CFS

PLACE OF USE:

13335 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.

Place of use is within the boundary of Milner Irrigation District pursuant to Section 43-323, Idaho Code.

Use of the rights listed below is limited to the irrigation of a combined total of 13,335 acres in a single irrigation season. Combined Right Nos.: 45-463, 1-9, 1-17, and 1-2050.

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

The delivery of water to this right may be subject to procedures described in the United States Bureau of Reclamation "space holder" contracts and the Burley Irrigation Dist. v. Eagle, Supplemental Decree (Idaho 5th Jud. Dist., July 10, 1968) and Aberdeen-Springfield Canal Co. v. Eagle, Supplemental Decree (Idaho 7th Jud. Dist., March 12, 1969) together with the natural-flow and storage deliveries as calculated by the Idaho Department of Water Resources.

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 - Decreed

Water is delivered through Milner Irrigation pumps.

Attachment Q

Attachment R

February 15, 1966

Mr. A. H. Nielson
Attorney at Law
Burley, Idaho

Dear Mr. Nielson:

Following our telephone conversation I have examined the record of diversions by the Milner Low Lift Canal.

The maximum diversion of record was 301 cfs on June 16-18, 1964. However, this was all storage water. July 9, 1964, was the last day that they were drawing no storage. Their diversion on that day was 270 cfs. The present decree of the Milner Low Lift is for 133 cfs of November 14, 1916 priority. In addition, there is an action pending to award them 121 cfs of April 1, 1939 priority. This would total 256 cfs or 14 cfs less than the natural flow they were using on July 9, 1964. I think this is the greatest amount of natural flow that they have ever used.

I would think that a filing for an additional decree would be limited to the amount of 14 cfs. I doubt if the Reclamation office would permit a filing on the 45 cfs which is the difference between the 256 cfs decree and the 301 cfs maximum of record.

Very truly yours,

H. C. Eagle
Watermaster

01-2039

Attachment S

STATE OF IDAHO
DEPARTMENT OF WATER ADMINISTRATION
WATER DISTRICT NO. 1
P.O. Box 1099
Idaho Falls, Idaho 83401
522-5404

RECEIVED *ext*



ARTHUR L. LARSON
Watermaster

April 22, 1974

Mr. R. Keith Higginson, Director
Idaho Department of Water Administration
Statehouse - Annex 2
Boise, Idaho 83707

Dear Keith:

Enclosed is a print of the letter from Eagle to Nielsen, which may throw some light on the 1966 decree of 14.0 cfs for the Milner Low Lift. Since then, as indicated on the tabulation below, the 270 cfs has been exceeded several times, up to 298 cfs July 8-14, 1971.

<u>Year</u>	<u>Maximum Total Diversion (cfs)</u>	<u>Maximum Diversion Natural flow (cfs)</u>	<u>Date</u>
1973	299	256	5/23-25
1972	280	271	6/7
1971	300	298	7/8-14
1970	262	247	6/26-27
1969	287	234	5/10
1968	292	252	6/4
1967	300	285	7/12
1966	292	135	Many days
1965	290	264	5/20
1964	301	270	7/9

Sincerely yours,

Art Larson
Arthur L. Larson

Enclosure

61-2050