

**AMENDED SUPPLEMENTAL DIRECTOR'S REPORT
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

March 29, 2012

I. INTRODUCTION

In accordance with Idaho Code § 42-1412(4), Administrative Order 1, Special Master Dolan's February 3, 2012 *Summary Judgment Schedule Order*, March 9, 2012 *Amended Summary Judgment Schedule Order*, and March 16, 2012 *Order Vacating Amended Summary Judgment Order and Setting Second Amended Summary Judgment Schedule*, the Director of the Idaho Department of Water Resources ("Department") submits this Amended Supplemental Director's Report ("Report") regarding subcase nos. 01-09, 01-17, and 01-2050, held by the Milner Irrigation District ("Milner"). The 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. This Report supersedes the February 29, 2012 *Supplemental Director's Report* filed in these subcases.

II. SUMMARY OF THE ISSUES

Milner's water use under the subcases at issue was developed over time; as such, the Report 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). The issues before the Court involve the recommended priority, quantity, and place of use. The Report will discuss the bases for the Amended Director's Report for 01-09, submitted on March 29, 2012.

III. FACTUAL AND PROCEDURAL BACKGROUND

The Department has recommended three natural flow water rights to Milner in the SRBA: 01-17, 01-2050, and 01-09. The recommended elements reflect development of Milner's system, over time, and recognize when water was put to beneficial use. This Report will first

address the priority and quantity elements for each recommendation. The Report will then address the place of use element for each recommendation.

A. Priority And Quantity Elements

1. 01-17 (Permit No. 12759)

Milner's most senior natural flow right, 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).¹ The subcase, however, was originally pursued as an application for permit before the Department, by a predecessor-in-interest to Milner, James B. Hayes. In that proceeding, Hayes sought a water right for 300 cfs from the Snake River. The application for permit was filed on November 14, 1916 and approved by the Director.² The permit was numbered 12759, and later renumbered 01-2029. The permit was later assigned from Hayes to D.B. Moorman, from Moorman to Murtaugh Canal Company, and then from Murtaugh Canal Company to Milner Low Lift Irrigation District.³

On October 14, 1922, 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 . . . at the main canal" was 135 cfs.⁴ The depositions of witnesses also stated the "maximum capacity" at the "main canal" was 135 cfs.⁵ The report of the engineer, dated May 16, 1923, said "capacity" was 135 cfs.⁶ The certificate of completion of works, dated July 12, 1923, stated, "works are adequate for diverting and conveying to the place of intended use 135 second feet of

¹ A copy of the district court's decision in *Crandall* is attached hereto as Attachment 1.

² Copies of the application and approval are attached hereto as Attachment 2.

³ A copy of a December 18, 1957 letter from Mark R. Kulp to A.H. Nielson explaining the assignments is attached hereto as Attachment 3.

⁴ A copy of the deposition of holder is attached hereto as Attachment 4.

⁵ Copies of the depositions of witnesses are attached hereto as Attachment 5.

⁶ A copy of the report of the engineer is attached hereto as Attachment 6.

the waters of Snake River”⁷ Proof of beneficial use was never submitted, and the permit was cancelled in 1974.⁸

Instead of pursuing this use through the Department, Milner 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), which was a “summary supplemental adjudication” brought pursuant to former Idaho Code § 42-1405,⁹ Milner was authorized to divert 135 cfs from the Snake River with a priority date of November 14, 1916.

In the SRBA, Milner claimed 135 cfs with a priority date of November 14, 1916. In the May 15, 2006 Director’s Report, the Department recommended the claimed elements.¹⁰ The basis for the recommendation for 01-17 is “decreed,” meaning the Department based its recommendation upon the district court’s decision in *Crandall*. The recommendation is supported by documents filed in permit no. 12759 (01-2029); specifically, the October 14, 1922 depositions of holder and witnesses, the May 16, 1923 report of the engineer, and the July 12, 1923 certificate of completion of works, which state that the capacity of Milner’s canal was 135 cfs.

⁷ A copy of the certificate of completion of works is attached hereto as Attachment 7.

⁸ A copy of the *Order to Show Cause* and *Order of Cancellation* are attached hereto as Attachment 8.

⁹ Attached hereto as Attachment 9 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.

¹⁰ A copy of the May 15, 2006 recommendation is attached hereto as Attachment 10. Note, the recommendation itself is dated May 11, 2006; however, the Director’s Report for Basin 01 was filed with the SRBA district court on May 15, 2006.

2. 01-2050 (Permit No. 18919)

On October 25, 1939, Milner applied for a second natural flow right with the Department. The application, which was approved for permit, sought 37 cfs from the Snake River.¹¹ The permit was originally numbered 18919, and was later renumbered 01-2050. Depositions of holder and witnesses were submitted on March 9, 1940 in support of the permit.

Regarding proof of completion of works, the deposition of holder¹² and depositions of witnesses¹³ explained that 37 cfs was diverted under the permit for the irrigation of 9,033 acres. Regarding proof of application of water to beneficial use, the depositions of witnesses explained that 172 cfs had been diverted by Milner and Milner's diversion "works will safely conduct" 172 cfs.¹⁴ The deposition of holder explained that 37 cfs was diverted under permit no. 18919 (currently recommended as 01-2050), 135 cfs was diverted under permit no. 12759 (currently recommended as 01-17), for a total diversion of 172 cfs.¹⁵

On June 7, 1940, the report of the engineer was filed.¹⁶ Referencing the May 16, 1923 report of the engineer submitted in regard to permit no. 12759 (currently recommended as 01-17), the June 7, 1940 report of the engineer stated the "prior plant capacity [was] 135 sec. ft. . . . which is now covered by [the] court decree [in *Crandall*]." *Attachment 16*. The June 7, 1940 report of the engineer went on to say that capacity had increased since the May 16, 1923 examination: "The present plant capacity is approximately 172 second feet." *Id.* (emphasis added). However, "a measurement by a hydrographer of water district #36 taken a few days

¹¹ Copies of the application and approval are attached hereto as Attachment 11.

¹² A copy of the deposition of holder regarding proof of completion of works is attached hereto as Attachment 12.

¹³ Copies of the depositions of witnesses regarding proof of completion of works are attached hereto as Attachment 13.

¹⁴ Copies of the depositions of witnesses regarding proof of completion of works are attached hereto as Attachment 14.

¹⁵ A copy of the deposition of holder regarding application of water to beneficial use is attached hereto as Attachment 15.

¹⁶ A copy of the report of the engineer is attached hereto as Attachment 16.

prior to this examination and recorded at the Milner dam office showed a discharge of 169 sec. ft. at head of main ditch.” *Id.* The report of the engineer also described the diversion works: “Intake canal from Milner Lake, concrete pumping station 68’ x 34’, 3-24” Allis Chalmers pumps [] to 500 HP motors, 500 R.P.M. 2200 Volt A.C.” *Id.*

On March 27, 1942, the Department issued a certificate of completion of works, stating: “said works are adequate for diverting and conveying to the place o[f] intended use 37.0 second feet of the waters of Snake River”¹⁷

On July 15, 1950, the Department licensed the permit.¹⁸ The license authorized diversion of 37 cfs from the Snake River with a priority date of October 25, 1939.

In the SRBA, Milner claimed the same elements as were licensed. In the November 30, 2011 Amended Director’s Report, the Department recommended 01-2050 as licensed.¹⁹ The recommended priority date is October 25, 1939 and the recommended quantity is 37 cfs. The recommendation is consistent with the license.

3. 01-09

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).²⁰ In that case, which was a summary supplemental adjudication brought pursuant to Idaho Code § 42-1405 (1948), *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 &*

¹⁷ A copy of the certificate of completion of works is attached hereto as Attachment 17.

¹⁸ A copy of the license is attached hereto as Attachment 18.

¹⁹ A copy of the amended director’s report is attached hereto as Attachment 19.

²⁰ An copy of the district court’s *Findings of Fact and Conclusions of Law* is attached hereto as Attachment 20. The 121 cfs award to Milner can be found on page 10.

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.

In the SRBA, Milner claimed the priority date and quantity that were recognized by the district court in *Eagle*. While the Department originally recommended the claimed elements, the Department cannot support its original recommendation. Below, the Department will explain the bases for its March 29, 2012 Amended Director's Report.²¹

The district court's decision in *Eagle* does not state why 121 cfs was awarded to Milner. It is likely that the 121 cfs is the sum of 01-2050 and two cancelled permits filed by Milner with the Department (21713 and 32798), as those priority dates were junior to Palisades reservoir (July 28, 1939):²²

Permit / Identification	Priority	Quantity
18919 / 01-2050	October 25, 1939	37 cfs
21713 / 01-2081	May 3, 1950	70 cfs
32798 / 01-2063	March 23, 1966	14 cfs
		121 cfs

While Milner was authorized to divert 135 cfs under 01-17, the district court's decision in *Eagle* to award an April 1, 1939 priority date for an additional 121 cfs ignores the licensed elements for 01-2050. Advancing priority for the cancelled permits—which will be discussed below and will document Milner's system in the 1950s and 1960s—ignores when Milner put the additional quantity to beneficial use. Even if the Department is incorrect that the 121 cfs awarded in *Eagle* is not based on 01-2050, 01-2081, and 01-2063, it will be shown below in sections A.4 and A.5 that Milner did not put the awarded quantity to beneficial use by April 1, 1939.

²¹ A copy of the amended director's report is attached hereto as Attachment 21.

²² See Attachment 20 at 3 (discussing priority of water uses relative to Palisades reservoir).

i. Permit No. 21713 (01-2081)

On May 3, 1950, Milner applied for a third natural flow right with the Department.²³ The application for permit, which was published and approved by the Department, sought 70 cfs from the Snake River.²⁴ The permit was originally numbered 21713, and was later renumbered 01-2081. Depositions of holder and witnesses, attesting to proof of completion of works, were submitted on April 27, 1956.

According to the deposition of holder, signed by Earl D. Sears, Secretary for Milner Irrigation District, “Since the irrigation season [of] 1950 and continuously since that time the said 70 second feet of water has been delivered and used on . . . 11,827 acres.”²⁵ Emphasis added. Sears stated further: “The pumps and diversion works of the Milner Low-Lift Irrigation District are capable of deliveries and have delivered 257 cu. ft. per second of the waters of the Snake River”²⁶ *Attachment 25* (emphasis added). According to the depositions of witnesses, “To my knowledge the system has the capacity to carry 203 cubic feet per second of the waters of Snake River. On May 3, 1950 and since that date the capacity has been increased so that since the 1st day of April 1953 said system has a capacity of distributing 257” cfs.²⁷ Emphasis added.

²³ Correspondence in the file, dated February 2, 1956, from A.H. Nielson to Mark R. Kulp, indicates Milner had inquired about obtaining a water right that was senior to Palisades reservoir. Attachment 22. In a response, dated February 13, 1956, Kulp explained to Nielson that water pursued under permit no. 21713 could not predate May 3, 1950, and would therefore be junior to Palisades reservoir. Attachment 23.

²⁴ Copies of the application and approval are attached hereto as Attachment 24.

²⁵ A copy of the deposition of holder is attached hereto as Attachment 25.

²⁶ The statement made by Sears is substantially consistent with Water District 01 diversion records. According to Water District 01, on July 8, 1954, Milner diverted 256 cfs. *See Attachment 32*. At the time, Milner was authorized to divert 135 cfs under 01-17, 37 cfs under 01-2050, and had a permit for 70 cfs under 01-2081, for a total diversion rate of 242 cfs. As will be discussed below, Milner would later file an application for permit for the additional 14 cfs (01-2063), to bring its total, authorized diversion rate to 256 cfs.

²⁷ Copies of the depositions of witnesses are attached hereto as Attachment 26.

On May 8, 1956, the report of the engineer was filed.²⁸ Consistent with the depositions, the report of the engineer found that Milner's pumping capacity had been increased since the June 7, 1940 report of the engineer, filed in relation to 01-2050. In the June 7, 1940 report of the engineer, Milner's diversion works consisted of three, 24-inch 500 horsepower pumps. *Attachment 16*. In the May 8, 1956 report of the engineer, numerous pumps had been added to the system, and horsepower increased. *Compare Attachment 27 with Attachment 16*. In a handwritten note on the second page of the May 8, 1956 report of the engineer, the pumping capacity was listed as 256 cfs, which, it was noted, was 84 cfs above the prior decree (01-17) and license (01-2050). However, because proof of beneficial use was never submitted, the permit was cancelled in 1974. *Attachment 8*.²⁹

ii. Permit No. 32798 (01-2063)

On March 23, 1966, Milner applied for a fourth natural flow right with the Department. The application for permit, which was published and approved by the Department, sought 14 cfs from the Snake River.³⁰ The permit was originally numbered 32798, and was later renumbered 01-2063. Depositions of holder and witnesses, attesting to proof of application of water to beneficial use and completion of works, were submitted on May 1, 1967.

According to the deposition of holder, signed by Earl D. Sears, manager of the Milner Irrigation District, the water applied for was first used on "July 9, 1964."³¹ The depositions of witnesses concurred.³² Sears further explained that the capacity of the system was "318 cfs," and

²⁸ A copy of the report of the engineer is attached hereto as Attachment 27.

²⁹ Because Milner diverts water from the Snake River at or above Milner dam, it is unclear why the *Order to Show Cause* and *Order of Cancellation* refer to permit no. 21713 as 02-2081, instead of 01-2081.

³⁰ Copies of the application and approval are attached hereto as Attachment 28.

³¹ A copy of the deposition of holder is attached hereto as Attachment 29.

³² Copies of the depositions of witnesses are attached hereto as Attachment 30. The deposition of witness, signed by Max Boley, stated he had first seen water diverted under the permit on July 9, 1967. It is assumed this was a typographical error, as Boley signed the document in March 1967.

could irrigate “13,524 acres.” *Attachment 29*. The depositions of witnesses concurred, but said they had “seen 270 c.f. per second of water being delivered to the system.” *Attachment 30*. In describing Milner’s other water rights, Sears referenced Milner’s 135 cfs water right (01-17), but made no mention of 01-2050, its licensed water right for 37 cfs. *Attachment 29*. Sears stated: “The District has made application in the suit against Henry Eagle for 121 s.f. . . .” *Id.*

On February 23, 1968, the report of the examiner was filed.³³ The report of the examiner found that Milner had “3675 horsepower capacity pumps.” *Attachment 31*; compare with *Attachment 16* (three, 24-inch 500 horsepower pumps). In a handwritten note on the second page, the examiner noted that the capacity of the system was 318 cfs. In a handwritten note on the first page, the examiner noted that the maximum, measured diversion rate was 301 cfs, occurring in 1964.

4. The Historical Record Does Not Support The Department’s Original Recommendation

In order of priority, the following table summarizes the Department’s current recommendations for 01-17 and 01-2050, and its original recommendation for 01-09:

Subcase No.	Priority	Quantity
01-17	November 14, 1916	135 cfs
01-09	April 1, 1939	121 cfs
01-2050	October 25, 1939	37 cfs
		293 cfs

As stated previously, the Department’s original recommendation for 01-09 was based on the district court’s decision in *Eagle*. As has been explained in this Report, Milner’s capacity to

³³ A copy of the report of the examiner is attached hereto as Attachment 31.

divert water increased over time. The following table, which is a summary of the reports of the engineer, shows that Milner did not have capacity to divert 256 cfs by April 1, 1939 (135 + 121), or 293 cfs by October 25, 1939 (135 + 121 + 37):

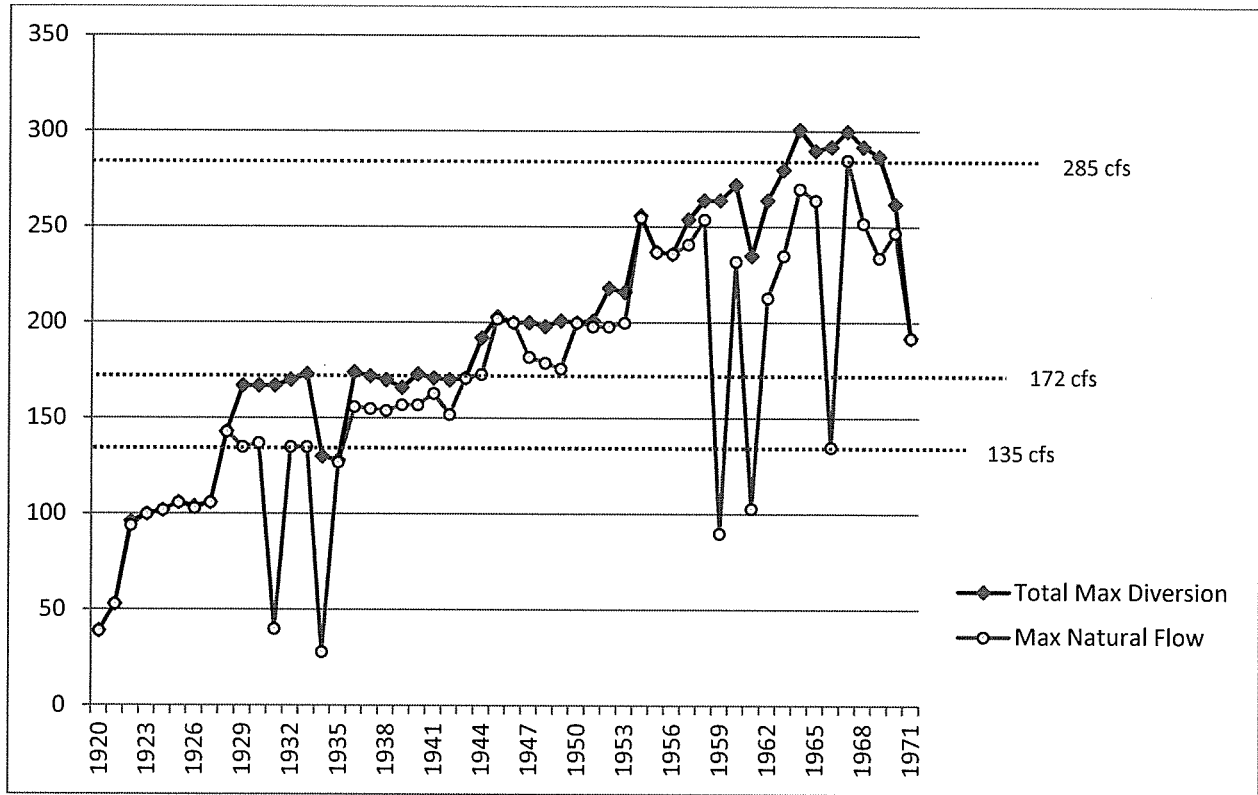
Identification / Permit	Priority	Report of Engineer	Maximum Capacity
01-17 (Permit No. 12759)	Nov. 14, 1916	May 16, 1923	135 cfs
01-2050 (Permit No. 18919)	Oct. 25, 1939	June 7, 1940	172 cfs
01-2081 (Permit No. 21713)	May 3, 1950	May 8, 1956	256 cfs
01-2063 (Permit No. 32798)	March 23, 1966	February 23, 1968	318 cfs

If the Department were to stand behind its original recommendation for 01-09 it would have to ignore facts established in licensing 01-2050 that the maximum amount of water that could have been put to beneficial use as of October 25, 1939 was 172 cfs. As will be shown below, it was not until 1945 that Milner diverted more than 172 cfs of natural flow.

5. The Department's March 29, 2012 Amended Director's Report For 01-09

The following graph shows Milner's maximum diversion rates from 1920 through May 20, 1971 (mandatory permit requirement for surface water), as recorded by Water District 01.³⁴ The blue line with diamond markers shows Milner's total maximum diversion rate for a given year. The red line with circle markers depicts Milner's maximum natural flow diversion rate for a given year.

³⁴ A copy of the data used to generate the graph is attached hereto as Attachment 32.



The Amended Director's Report for 01-09, *Attachment 21*, recommends 113 cfs with a priority date of July 12, 1967, the day Milner's greatest natural flow diversion occurred. When Milner's three natural flow water rights are in priority, Milner is authorized to divert 285 cfs. The 113 cfs recommended diversion rate for 01-09 is the difference between 285 cfs and 172 cfs (the combined diversion rate between 01-17 and 01-2050). The basis for the recommendation is beneficial use. The Department's current recommendations for Milner's natural flow water rights are summarized in the following table:

Subcase No.	Priority	Quantity
01-17	November 14, 1916	135 cfs
01-2050	October 25, 1939	37 cfs
01-09	July 12, 1967	113 cfs
		285 cfs

The Department's recommendations are based on the historical record, beneficial use, and the facts known to it as of the filing of this Report.

B. Place Of Use Element

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.

1. 01-17

The district court's decision in *Crandall* does not state the number of acres irrigated under 01-17. *Attachment 1*. This information can be discerned, however, from the Idaho Supreme Court's decision in *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 also Attachment 9* at 11 ("approximately 8000 acres within the original boundaries of the District . . .").

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.

2. 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 (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 11, 12, 13, 14, 15*. 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.

3. 01-09

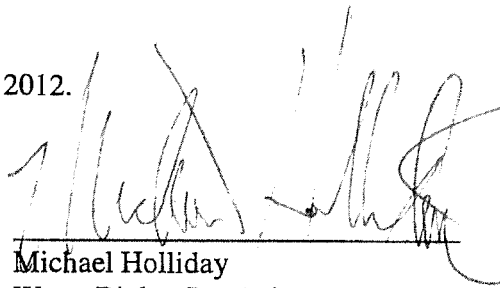
According to the deposition of holder filed in support of permit no. 32798 (01-2063), Milner could irrigate 13,524 acres. *Attachment 29*. The place of use for 01-09 was based on a

shapefile created by the Department, in cooperation with Milner, that determined the total number of acres was 13,335. The recommended place of use for 01-09 is 13,335 acres.

V. CONCLUSION

The Department's recommendations 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 respectfully requests that the water right descriptions discussed herein be recommended by the Court.

Submitted this 29TH day of March, 2012.



Michael Holliday
Water Rights Supervisor

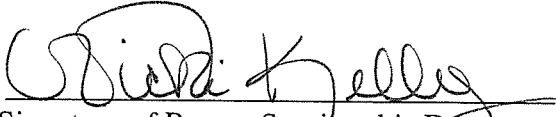
CERTIFICATE OF SERVICE

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 29th day of March, 2012.

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

Persons Served:

Travis L. Thompson Barker Rosholt & Simpson 113 Main Avenue W. Ste. 303 P.O. Box 485 Twin Falls, ID 83303-0485	Michael C. Orr Office of the Attorney General P.O. Box 44449 Boise, ID 83711-4449
Candice M. McHugh Racine Olson 101 S. Capitol Blvd., Ste. 300 Boise, ID 83702	Sarah A. Klahn Mitra M. Pemberton White & Jankowski, LLP Kittredge Building 511 16th Street, Ste. 500 Denver, CO 80202
David W. Gehlert U.S. Dept. of Justice 999 18 th St., S. Terrace, Ste. 370 Denver, CO 80202	Jerry R. Rigby Rigby Andrus Rigby 25 N. 2 nd E. P.O. Box 250 Rexburg, ID 83440-0250
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Signature of Person Serving this Document

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5. Permit No. 12759: Depositions of Witnesses, Proof of Completion of Works
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31. Permit No. 32798: Report of Examiner
32. Excel spreadsheet with Water District 01 maximum diversion data for Milner Irrigation District, 1920 through May 20, 1971

Attachment 1

01-A

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 GRANDALL, 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 2

Application No. 18141
Permit No. 12759

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

District No. 10-A.

1. Name of applicant: James B. Hays.
Postoffice address: Boise County: Ada State: Idaho.
 I. If applicant is a corporation, give
 (a) Date and place of incorporation:
 (b) The amount of capital stock:
 (c) The amount paid in:
 (d) Names and addresses of directors:
 II. The financial resources of the applicant are: (a) Cash on hand:
 (b) Treasury stock: (c) Bonds to be issued:
 (d) Other resources:
2. The quantity of water claimed is 300 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' W. 648 feet distant from the SE corner of Section 29, T. 10 S., R. 21 E.B.M. and is in the Lot 8, of Section 29, T. 10 S., R. 21 E.B.M. County of Twin Falls.
5. To be used for: Irrigation and domestic use.
 I. Irrigation and domestic use: (a) amount of land to be irrigated: _____ acres.
 (b) In the following legal subdivisions:
 II. Mining, milling, power, manufacturing, transportation or other purposes:
 (a) At what point:
 (b) Amount of power to be generated: H.P. under _____ ft. head
 (c) Is water to be returned to any stream? (d) If so, name stream and locate point of return:
6. Estimated cost of works: \$150,000.00
7. Description of works for diversion:
 I. Kind of works: Pumping plant and ditches.
 II. Dimensions of works:
 (a) Height of dam _____ feet, length of dam at top _____ feet,
 length of dam at bottom _____ feet, Material used in construction:
 (b) Capacity of reservoir _____ acres feet. (c) Size of headgate, width: _____ feet
 Height _____ feet. (d) Ditch: width at bottom 12' & 6 feet,
 width at water line 30' & 18' feet, depth of water 6' & 4 feet; diameter of pipe _____ inches; average grade per mile is 2 feet. Length of conduit is 45 miles, and it crosses the following quarter sections:
8. The time required for the completion of the construction of such work is five years.
9. Time required for the complete application of the water to the proposed use is six additional years.

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

JAMES B. HAYS, Applicant.
By J. M. Hays, Agent.

12759

Corrected application received Jan. 12, 1917.

Twp.	Range	Sec.	NW 1/4				SW 1/4				SE 1/4				Totals.
			NW 1/4	SW 1/4	SE 1/4	NE 1/4	NW 1/4	SW 1/4	SE 1/4	NE 1/4	NW 1/4	SW 1/4	SE 1/4		
11 S. 19 E.	1-	0-25-10-	0--	40-40-40-40-	40-40-30-25-40--	0-	0-	0-	0-					350	
	2-	20-	0-	0-	4--	0-	0-	0-	0--	0-	0-	0-	0-	24	
	5-	35-40-39-15--	40-18-19-40--	5-15-	0-	0--	0-	0-	0-	0-	0-	0-	237		
	7-	0-	0-30-	0--	5-10-20-40--	40-20-20-40--	5-37-	40-30-					337		
	11-	0-	0-	0-20-	0-	0-	0-	0-	0-	0-	0-10-		50		
	12-	0-15-10-	0--	40-30-40-40--	40-40-40-40--	0-30-37-	5-						407		
	13-	30-40-40-40--	40-40-35-40--	40-40-40-40--	30-40-40-20-								595		
	14-	15-	0-	0-	0--	0-	0-	0--	0-	0-	0-10-	0-10-30-	65		
	17-	0-	0-	0--	0-	5-20-	0--	0-30-35-	0--	0-	0-	0-	90		
	18-	40-40-40-40--	40-20-20-40--	40-20-20-40--	40-40-30--	40-							580		
	19-	40-40-40-40--	40-20-20-40--	40-20-20-40--	40-40-40-40--								560		
	20-	3-	0-35-35-	20-40-40-40--	40-40-40-40--	40-40-40-40--							533		
	21-	0-	0-35-30-	5-15-40-40--	40-40-40-40--	40-40-40-40--							485		
	22-	0-	0-	20-20-0-	0-20-25-	40-40-40-40--	40-40-30-30--						385		
	23-	40-40-40-40--	10-	0-20-35-	40-40-40-35-	40-40-10-15--							496		
	24-	40-40-40-40--	40-40-40-40--	40-40-40-40--	40-40-40-40--	40-40-40-40--							640		
	25-	40-40-40-40--	30-10-	0-15-	0-	0-	0-	0-35-25-	0-	0-			276		
	27-	0-	0-	0--	10-40-25-	0--	0-	0-	0--	0-	0-	0--	75		
	28-	40-40-40-40--	40-40-40-40--	40-40-40-40--	40-40-40-35-	20-40-20-	0--						555		
	29-	40-40-40-40--	40-40-40-40--	40-40-40-40--	40-40-40-40--	40-40-40-40--							640		
	30-	40-40-40-40--	40-40-54-20-34-	40-40-12-	40-40-40-40--								560.95		
	31-	10-30-	0-	0--	40-25-1-	5-10--	0-	0-	0-	0--	0-	0-	124.81		
	10 S. 19 E.	21-	40-30-	5-40--	5-	0-	0-	0-30-	2-30-40-	40-35-40-40--			377		
		22-	0-	0-	0--	0-20-40-20-	40-40-40-40--	0-20-40-25-					325		
		23-	0-	0-	0--	0-	0-	0--	5-10--	0-	0-30-	0--	45		
		26-	0-40-40-10--	40-40-30-40--	40-30-30-40--	20-40-40-30--							510		
		27-	38-20-	0-	0--	20-36-	0-	0-	0-	0--	0-	0-	114		
		28-	36-37-	0-	0--	38-40-	5-	0--	0-	0-	0--	0-	156		
		29-	25-	3-35-30--	0-	0-	5-20--	40-	40-20-	0-20-	0-	0--	278		
		30-	0-	0-	0--	0-	0-	0--	0-	0-	0-35-	0-14-40--	99		
		31-	40-40-40-40--	30-	0-12-40--	40-	9-10-40--	40-40-40-40--					519		
32-		0-	0-	0--	0-25-	5-	0--	0-	0-	0--	0-	30			
36-		40-40-40-40--	35-12-	0-22-	5-	0-	0-	0-	0-40-35-10-40--			348			
38-		0-	0-	0--	0-25-40-	5-25-	40-40-40-	0-	5-20-	0--		245			
39-		0-	0-	0--	0-	0-	0--	0-	0-15-	10-	0-40-20--	95			
40-		5-15-	0-	0--	5-	0-	0-	0-	0-	0-	0-	20			
11 S. 21 E. 10 S. 21 E.		25-	0-	0-	0--	0-	0-	0--	0-	0-25-30-	0-	0-	35-20--	151	
	26-	0-	0-	0--	0-	0-	0--	0-	0-25-30-	0-	0-	35-20--	151		
	27-	40-40-40-40--	40-40-40-40--	40-40-40-40--	40-40-35-35-	2-	0-					515			
	28-	40-40-40-40--	40-40-40-40--	40-40-40-40--	40-20-20-20-	0-	0-	0-	0--	0-		508			

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 $\frac{1}{4}$	
10 S. 20 E.		25-	0-0-0-0--	0-0-0-0--	0-0-0-0--	0-0-5-20--	0-0-0-0--	0-0-0-0--	0-0-0-0--	0-0-0-0--	0-0-0-0--	0-0-0-0--	0-0-0-0--	0-0-0-0--	0-0-0-0--	0-0-0-0--	0-0-0-0--	0-0-0-0--	75
		35-	0-0-0-5--	0-0-0-0--	0-0-0-0--	0-0-6-36--	0-0-0-0--	0-0-0-0--	0-0-0-0--	0-0-0-0--	0-0-0-0--	0-0-0-0--	0-0-0-0--	0-0-0-0--	0-0-0-0--	0-0-0-0--	0-0-0-0--	0-0-0-0--	185
		36-	40-40-40-40--	30-10-35-40--	40-40-40-40--	40-40-40-40--	40-40-40-40--	40-40-40-40--	40-40-40-40--	40-40-40-40--	40-40-40-40--	40-40-40-40--	40-40-40-40--	40-40-40-40--	40-40-40-40--	40-40-40-40--	40-40-40-40--	40-40-40-40--	596
11 S. 20 E.		1-	0-15-34-2--	36-40-2-40-40--	40-40-32-12--	15-32-0-0--	40-40-40-40--	40-40-40-40--	40-40-40-40--	40-40-40-40--	40-40-40-40--	40-40-40-40--	40-40-40-40--	40-40-40-40--	40-40-40-40--	40-40-40-40--	40-40-40-40--	40-40-40-40--	368.72
		2-	40-40-40-40--	40-40-40-40--	40-40-40-40--	40-40-40-40--	40-40-40-40--	40-40-40-40--	40-40-40-40--	40-40-40-40--	40-40-40-40--	40-40-40-40--	40-40-40-40--	40-40-40-40--	40-40-40-40--	40-40-40-40--	40-40-40-40--	40-40-40-40--	641.80
		3-	38-27-40-0--	8-0-14-35--	40-40-40-40--	40-40-40-40--	40-40-40-40--	40-40-40-40--	40-40-40-40--	40-40-40-40--	40-40-40-40--	40-40-40-40--	40-40-40-40--	40-40-40-40--	40-40-40-40--	40-40-40-40--	40-40-40-40--	40-40-40-40--	522.0
		4-	0-0-0-0--	0-0-0-0--	0-0-0-0--	0-0-20-35--	0-0-0-0--	0-0-0-0--	0-0-0-0--	0-0-0-0--	0-0-0-0--	0-0-0-0--	0-0-0-0--	0-0-0-0--	0-0-0-0--	0-0-0-0--	0-0-0-0--	0-0-0-0--	173
		8-	15-0-5-30--	0-0-0-0--	0-0-0-0--	0-0-0-16--	0-0-0-0--	0-0-0-0--	0-0-0-0--	0-0-0-0--	0-0-0-0--	0-0-0-0--	0-0-0-0--	0-0-0-0--	0-0-0-0--	0-0-0-0--	0-0-0-0--	0-0-0-0--	221.
		9-	40-40-40-40--	40-40-40-40--	40-40-40-40--	40-40-40-40--	40-40-40-40--	40-40-40-40--	40-40-40-40--	40-40-40-40--	40-40-40-40--	40-40-40-40--	40-40-40-40--	40-40-40-40--	40-40-40-40--	40-40-40-40--	40-40-40-40--	40-40-40-40--	640
		10-	40-40-40-40--	40-40-40-40--	40-40-40-40--	40-40-40-40--	40-40-40-40--	40-40-40-40--	40-40-40-40--	40-40-40-40--	40-40-40-40--	40-40-40-40--	40-40-40-40--	40-40-40-40--	40-40-40-40--	40-40-40-40--	40-40-40-40--	40-40-40-40--	640
		11-	40-40-32-18--	40-40-40-40--	40-40-40-40--	40-40-40-40--	40-40-40-40--	40-40-40-40--	40-40-40-40--	40-40-40-40--	40-40-40-40--	40-40-40-40--	40-40-40-40--	40-40-40-40--	40-40-40-40--	40-40-40-40--	40-40-40-40--	40-40-40-40--	567
		12-	0-0-0-0--	0-10-0-0--	0-0-0-0--	0-0-0-0--	0-0-0-0--	0-0-0-0--	0-0-0-0--	0-0-0-0--	0-0-0-0--	0-0-0-0--	0-0-0-0--	0-0-0-0--	0-0-0-0--	0-0-0-0--	0-0-0-0--	0-0-0-0--	10
		14-	30-40-39-8--	40-40-40-40--	37-40-40-20--	0-18-0-0--	0-0-0-0--	0-0-0-0--	0-0-0-0--	0-0-0-0--	0-0-0-0--	0-0-0-0--	0-0-0-0--	0-0-0-0--	0-0-0-0--	0-0-0-0--	0-0-0-0--	0-0-0-0--	432
		15-	40-40-40-40--	40-40-40-40--	40-40-40-40--	40-40-40-40--	40-40-40-40--	40-40-40-40--	40-40-40-40--	40-40-40-40--	40-40-40-40--	40-40-40-40--	40-40-40-40--	40-40-40-40--	40-40-40-40--	40-40-40-40--	40-40-40-40--	40-40-40-40--	640
		16-	40-40-40-40--	40-40-40-40--	40-40-40-40--	40-40-10-28--	40-40-40-40--	40-40-40-40--	40-40-40-40--	40-40-40-40--	40-40-40-40--	40-40-40-40--	40-40-40-40--	40-40-40-40--	40-40-40-40--	40-40-40-40--	40-40-40-40--	40-40-40-40--	596
		17-	40-34-38-37--	0-0-0-0--	0-0-0-0--	0-0-0-0--	0-0-0-0--	0-0-0-0--	0-0-0-0--	0-0-0-0--	0-0-0-0--	0-0-0-0--	0-0-0-0--	0-0-0-0--	0-0-0-0--	0-0-0-0--	0-0-0-0--	0-0-0-0--	151
		19-	18-20-40-40--	6-35-4-2-40--	40-47-37-7-40--	40-40-40-40--	40-40-40-40--	40-40-40-40--	40-40-40-40--	40-40-40-40--	40-40-40-40--	40-40-40-40--	40-40-40-40--	40-40-40-40--	40-40-40-40--	40-40-40-40--	40-40-40-40--	40-40-40-40--	641.12
		20-	52-5-34-40--	10-30-40-40--	40-40-40-40--	40-40-40-40--	40-40-40-40--	40-40-40-40--	40-40-40-40--	40-40-40-40--	40-40-40-40--	40-40-40-40--	40-40-40-40--	40-40-40-40--	40-40-40-40--	40-40-40-40--	40-40-40-40--	40-40-40-40--	553
		21-	40-40-40-40--	40-30-40-40--	40-40-40-40--	40-40-40-40--	40-40-40-40--	40-40-40-40--	40-40-40-40--	40-40-40-40--	40-40-40-40--	40-40-40-40--	40-40-40-40--	40-40-40-40--	40-40-40-40--	40-40-40-40--	40-40-40-40--	40-40-40-40--	630
		22-	40-40-40-40--	40-40-40-40--	15-40-40-0--	0-0-0-0--	0-0-0-0--	0-0-0-0--	0-0-0-0--	0-0-0-0--	0-0-0-0--	0-0-0-0--	0-0-0-0--	0-0-0-0--	0-0-0-0--	0-0-0-0--	0-0-0-0--	0-0-0-0--	415
		23-	0-0-0-0--	20-40-40-25--	4-8-0-0--	0-0-0-0--	0-0-0-0--	0-0-0-0--	0-0-0-0--	0-0-0-0--	0-0-0-0--	0-0-0-0--	0-0-0-0--	0-0-0-0--	0-0-0-0--	0-0-0-0--	0-0-0-0--	0-0-0-0--	137
		27-	0-0-0-0--	0-40-30-0--	0-18-12-0--	0-0-0-0--	0-0-0-0--	0-0-0-0--	0-0-0-0--	0-0-0-0--	0-0-0-0--	0-0-0-0--	0-0-0-0--	0-0-0-0--	0-0-0-0--	0-0-0-0--	0-0-0-0--	0-0-0-0--	100
		28-	40-40-40-40--	40-40-40-40--	40-40-20-16--	40-40-18-20--	40-40-40-40--	40-40-40-40--	40-40-40-40--	40-40-40-40--	40-40-40-40--	40-40-40-40--	40-40-40-40--	40-40-40-40--	40-40-40-40--	40-40-40-40--	40-40-40-40--	40-40-40-40--	564
		29-	40-40-40-40--	40-40-40-40--	40-40-40-40--	40-40-40-40--	40-40-40-40--	40-40-40-40--	40-40-40-40--	40-40-40-40--	40-40-40-40--	40-40-40-40--	40-40-40-40--	40-40-40-40--	40-40-40-40--	40-40-40-40--	40-40-40-40--	40-40-40-40--	632
		30-	40-40-40-40--	40-77-28-7-40--	40-47-20-35-40--	40-40-40-40--	40-40-40-40--	40-40-40-40--	40-40-40-40--	40-40-40-40--	40-40-40-40--	40-40-40-40--	40-40-40-40--	40-40-40-40--	40-40-40-40--	40-40-40-40--	40-40-40-40--	40-40-40-40--	788.04
		31-	30-30-0-0--	28-12-0-0--	0-0-0-0--	0-0-0-0--	0-0-0-0--	0-0-0-0--	0-0-0-0--	0-0-0-0--	0-0-0-0--	0-0-0-0--	0-0-0-0--	0-0-0-0--	0-0-0-0--	0-0-0-0--	0-0-0-0--	0-0-0-0--	100
		32-	0-10-0-0--	20-30-0-0--	0-0-0-0--	0-0-0-0--	0-0-0-0--	0-0-0-0--	0-0-0-0--	0-0-0-0--	0-0-0-0--	0-0-0-0--	0-0-0-0--	0-0-0-0--	0-0-0-0--	0-0-0-0--	0-0-0-0--	0-0-0-0--	60

Total number of acres to be irrigated - - - 23,536.44

15 (a) Is reservoir to be used? No.

This is a refiling of application No. 17909.

THIS INSTRUMENT, Made this 29th day of December, in the year of our Lord one thousand nine hundred and sixteen, between James B. Hays, of Boise, County of Ada, State of Idaho, the party of the first part, and D. B. Moorman, of Twin Falls, County of Twin Falls, State of Idaho, the party of the second part,

WITNESSETH, That the said party of the first part, for and in consideration of the sum of One DOLLARS, money of the United States of America, to him in hand paid by the said party of the second part, the receipt whereof is hereby acknowledged, does by these presents remise, release and forever QUITCLAIM, unto the said party of the second part, and to his heirs and assigns, all that certain lot, piece or parcel of real property, situate, lying and being in County of Twin Falls, State of Idaho, bounded and particularly described as follows, to-wit: All the right title and interest of first party in and to water permit application number 18141 filed in the office of the State Engineer of the State of Idaho, said permit being for irrigation and domestic use on lands in Twin Falls and Cassia Counties in the State of Idaho.

12759

Attachment 3

December 18, 1957

Nielson & Nielson
Attorneys At Law
P. O. Box 367
Burley, Idaho

Re: Milner Low Lift
Irrigation District

Attention: A. H. Nielson

Dear Mr. Nielson:

In reply to your letter of December 14, 1957 requesting to know the status of Permit No. 12759, which is as follows:

Applicant - James B. Hays
Source of Supply - Snake River
Amount - 300 cubic feet per second
Filed - November 14, 1916
Completion of Works Proof made - Jul 12, 1923
Beneficial Use Proof never made.

On December 29, 1916, James B. Hays assigned said permit to D. B. Moorman; on August 24, 1919, D. B. Moorman assigned said permit to Martough Canal Company; on February 10, 1922 the Martough Canal Company assigned said permit to the Milner Low Lift Irrigation District. Certificate of works proof was issued by this department for 135 cubic feet per second, this right being superseded by decree dated April 29, 1931 in the case entitled Milner Low Lift Irrigation District vs. Lynn Randall, Watermaster.

According to our records, the water rights for the Milner Low Lift Irrigation District is 135 cubic feet per second decreed water right, and 37 cubic feet per second licensed under Permit No. 18919 and a filing for 70 cubic feet per second under Permit No. 21713.

Hoping this answers your inquiry.

Very truly yours,

MARK R. KULP
State Reclamation Engineer
by

Roy W. Thompson
Office Manager

RWT:lw

12759

Attachment 4

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 Sec. ft. Snake River, 1st 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. sec. 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 of Canal 25 Sec Ft.

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

Clerk of the District Court.

12759

Attachment 5

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

PERMIT NO. 12759

Proof of Completion of Works

DEPOSITION OF WITNESS

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

Ans. E. V. Berg - 43 yrs Twin Falls, Idaho
Civil Engineer

Ques. 2. Are you acquainted with Mortgage Canfield ^{the} holder of Permit No. 12759 authorizing the diversion of 200 ¹⁰⁰ second-feet of the waters of Snake River at Wilner, Ida. for irrigation purposes? How long have you known him, and where does he reside?

Ans. D. B. Myerson resides in Twin Falls. Have known him for 14 years.

Ques. 3. Have you read or heard read said Permit No. 12759, 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. Land on T. 11 S. R. 19 E.; T. 11 S. R. 20 E.; T. 10 S. R. 20 E.
T. 10 S. R. 21 E. Rolling, dry brush land, 11,200 acres.
One second foot for 50 acres.

Ques. 5. Are the works of diversion fully completed and of sufficient capacity to convey the entire amount of water set out in the permit from point of diversion to place of use?

Ans. No

Ques. 6. Describe the works of diversion as they now exist, and give your estimate of their capacity.

Ans. Snake Canal from Snake River, 3 feet
diameter steel pipe 1000 ft. in length. Canal
14 ft. wide on bottom at head to 5 ft. width
bottom at end. Maximum Capacity, 135 ^{max. limit} sec. ft.
Est. Cap. 75 sec. ft.

(Sign here.)

E. V. Berg

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 14th day of

June 1917

[Signature]

[Signature]

To be sworn to by two Witnesses, in the presence of the court, before the court.

PERMIT NO. 12759

Proof of Completion of Works

DEPOSITION OF WITNESS

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

Ans. G. H. Self 41 years Twin Falls, Idaho
Blacksmith

Ques. 2. Are you acquainted with Montague Randall D. Brownman, the holder of Permit No. 12759, authorizing the diversion of 3.00 second-feet of the waters of Snake River at Twin Falls for irrigation purposes? How long have you known him, and where does he reside?

Ans. D. B. Brownman lives in Twin Falls knowing him for 4 years

Ques. 3. Have you read or heard read said Permit No. 12759, 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. Land in T11S R19E. T11S R20E. T10SR. 20E..
T10SR 21E. Sage Brush land 11200 acres
One second foot for 50 acres

Ques. 5. Are the works of diversion fully completed and of sufficient capacity to convey the entire amount of water set out in the permit from point of diversion to place of use?

Ans. No

Ques. 6. Describe the works of diversion as they now exist, and give your estimate of their capacity.

Ans. Intake Canal from Snake River 5 ft dia steel
pipe 1000 ft in length the Canal 14 ft wide at bottom at head
to 5 ft wide on bottom at end Maximum Capacity
Main Canal 135 Sec ft East Canal 25 Sec ft

(Sign here.)

G. H. Self

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 Twin Falls County
Idaho State of Idaho, on this 14th day of
October A. D. 1911

John L. Quinn
Clerk of the District Court

12759

Attachment 6

137-21. Y

In Water District No. 10-A

1. State name of applicant and number of permit: **Martough Canal Company - Permit 12750**
2. State source of water supply: **Snake River - 300 sec.ft.**
3. Location of point of diversion: **Lat 8, Sec. 29, Twp. 10 S., R. 21 E., S.M.**

1. Describe works as they exist, giving dimensions and capacities of same. Works consist of 3, 24 inch centrifugal pumps direct connected to 500 HP. 500 A.P.M. 2300. A.C. motors. Capacity of pumps 20,250 gal. P.M. each. Machinery is properly housed in concrete bldg. 68'x34' and equipped with necessary switchboard and controlling apparatus. 5 Outside transformers 1000 K.V.A. each, lightning conductors and rods etc. also provided. Water is pumped from Miffler Lake ~~then~~ ^{thru} an intake canal 30' by 10' thru a 60" steel pipe to the distribution canal system. Capacity 135 m.c. ft.

5. State whether or not water has been turned into works of diversion:

Yes

6. Give exact location 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): **Land embraced in the Milner Low Lift Irrigation Dist., Twin Falls and**

[illegible]

REPORT OF ENGINEER

8. How many parties conduct water in this system? *Only this permit holder*

9. Give names and amount of each right:

10. What large stream would the water here appropriated finally reach? *Columbia*

11. Describe the various tributaries en route, from point of diversion to the principal drainage stream:

Remarks:

This examination was made on the

16th day of *May*

1918

(Signed)

Geo. B. Carter

Examiner.

12759

Attachment 7

Proof of Completion of Works made October 14, 1922.
 Certificate of Completion of Works issued July 12, 1923.

Permit No. 12759

CERTIFICATE OF COMPLETION OF WORKS

To All Whom It May Concern:

This is to certify that Milner Low Lift Irrigation District of Twin Falls, County of Twin Falls, and State of Idaho, the holder of Permit No. 12759, issued upon Application No. 18141, bearing date of priority of November 14, 1910, authorizing the diversion of 300 second feet of the waters of Snake River, County of Twin Falls, State of Idaho, for irrigation and domestic purposes, has fully complied with the provisions of the laws of the State of Idaho relating to the proof of completion of the works of diversion set out and described in said Permit; that said works are adequate for diverting and conveying to the place of intended use 135 second feet of the waters of Snake River; that the point of diversion of said waters is in Lot 8, Section 29, Township 10 South, Range 21 East, N. E., and that the lands proposed to be irrigated by the use of said water are described as follows, to-wit: 11,212.10 acres described in the attached list.

Witness my hand this 12th day of July, A. D. 1923.

W. G. SWENDESEN,
 Commissioner of Reclamation

By: Geo. H. Carter,
 Assistant.

Twp. Rge. Sec.	NE ¹				NW ¹				SW ¹				SE ¹				Totals
	NE ¹	NW ¹	SW ¹	SE ¹	NE ¹	NW ¹	SW ¹	SE ¹	NE ¹	NW ¹	SW ¹	SE ¹	NE ¹	NW ¹	SW ¹	SE ¹	
11 S.19 E. 13	26	10	40	40									31	40	40	21	248.00
24	31	40	40	40	28		26.3	3					40	34	3	40	325.30
25				40									40				80.00
11 S.20 E. 1					6	14.2	20.6										39.1
																	79.90
2	40 ⁷	240 ⁴	40	40	40 ³⁶	36 ²	40	40	40	40	40	40	17 ⁶	21 ²	21 ³		636.92
3	36 ¹	24 ¹	40	40	4		25 ¹	38 ³⁶	40	40	40	40	40	40	40	40	527.66
4									3		186 ³⁷	7	29 ⁶	12 ⁷	40	40	181.40
8	15		10	30 ²					10		18		40	31 ⁸	40	40	235.00
9	39 ²	40	40	35 ³	40	40	40	40	40	40	40	40	40	40	40	40	626.6
10	16 ⁷	17			26 ⁶	40	10	5	34 ³	40	40	40	40	40	37 ⁴	40	627.10
11		8.15			40	16 ⁷				40	40						144.85
14					40	40	40	40									160.00
15	40	40	40	40	40	40	40	40	40	40	40	40	40	40	40	40	640.00
16	40	40	40	40	40	40	40	40	40	40	40	40	40	40	40	40	640.00
17	40	40	40	35	3		15						20	10			203.00
18	Lot 2 30 A.				Lot 4-17 A.												47.00
19	24 ¹	20 ¹	40	40	21		40		40		39		40	40	40	40	669.78
	L-1 33 A.				L-2 77.81 A.				L-3 77.37 A.				L-4 57.3 A.				
20	30	26 ¹	640	40	54	16 ²	40	40	40	40	40	40	40	40	40	40	557.91
21	36 ⁸	40	22 ²	32 ²	40	25	40	40	38 ⁴	40	36 ⁹	40			15.9		627.5
22							14										14
28		27.4			9 ²	10											47.5
29	13 ⁶	25 ⁸			14 ²	25 ⁰											79.40
30	24 ¹	33	40		40		40		40				40				489.00
					L-1 77.5 A.				L-2 77.5 A.				L-3 77.5 A.				

Attachment 8

BEFORE THE DEPARTMENT OF WATER ADMINISTRATION
OF THE
STATE OF IDAHO

IN THE MATTER OF Permits No. 01-2029,)
01-2063 & 02-2081 in the name of MILNER)
LOW LIFT IRRIGATION DISTRICT)

ORDER TO SHOW CAUSE

Application for Permit No. 01-2029 was originally filed on November 14, 1916, and sought a permit to appropriate 300 second feet of water from the Snake River for irrigation purposes. On July 12, 1923, a Certificate of Completion of Works was issued to the Milner Low Lift Irrigation District, indicating that works had been constructed sufficient to divert 135 second feet of water from the Snake River for irrigation purposes. No proof of beneficial use of the water was subsequently submitted, probably due to the fact that this right was included in a decree of the district court.

Application for Permit 02-2081 was filed on May 3, 1950, for a permit to appropriate 70 second feet of water from the Snake River for irrigation purposes. Proof of beneficial use of the water was submitted on April 27, 1956, but no license confirming the right has been issued by the Department.

Application for Permit 01-2063 was filed on April 26, 1966, seeking a permit to appropriate 14 second feet of water from the Snake River for irrigation purposes. Proof of beneficial use of the water was submitted on May 3, 1967, but no license has been issued confirming the water right.

Information available to this office indicates that the Milner Low Lift Irrigation District has diverted a maximum quantity of 298 second feet of water during periods when they were not withdrawing water from storage. It appears evident, therefore, that the maximum "natural" flow water rights of the district cannot exceed that amount. The district has decreed and licensed natural flow water rights for a total of 293 second feet as follows:

Number	Amount	Priority	Right Established By & Remarks
01-0017	135 cfs	11/11/1916	Decree - Milner Low Lift vs. Lynn Crandall
01-0009	121 cfs	4/01/1939	Decree - Burley Irrigation District vs. Henry Eagle
01-2050	37 cfs	10/25/1939	License - Lands within Milner Low Lift Irrigation District

It appears, therefore, that licenses cannot be issued under Permits No. 01-2029, 01-2063 & 02-2081, due to the inability of the permit holder to show proof that they have diverted and beneficially used water under these permits, in addition to those rights previously decreed or licensed.

IT IS THEREFORE ORDERED and the Milner Low Lift Irrigation District is hereby required to show cause, in writing, on or before June 15, 1974, as to why Permits No. 01-2029, 01-2063 and 02-2081 should not be cancelled and removed from the records of this Department.

Dated this 14 day of May, 1974.


R. KEITH HIGGINSON
Director

STATE OF IDAHO
DEPARTMENT OF WATER ADMINISTRATION
STATE OFFICE



Cecil D. Andrus
Governor
R. Keith Higginson
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 HIGGINSON
Director

01-2029

Attachment 9

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,

Civil No. 6252

FINDINGS OF FACT

MILNER LOW LIFT IRRIGATION DISTRICT,
a quasimunicipal corporation, et al.,

Defendants and
Cross-Plaintiffs.

IN THE DISTRICT COURT OF
THE ELEVENTH JUDICIAL DISTRICT
STATE OF IDAHO
CASSIA COUNTY, IDAHO
JAN 10 1960
JAMES H. BELLWOOD
JUDGE

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.

	<u>PLAINTIFFS</u>	<u>REAL PROPERTY DESCRIPTION</u>
1		
2	Bernard C. Bradshaw and Mickey	The Northeast Quarter (NE $\frac{1}{4}$)
3	Bradshaw, husband and wife,	of Section Seven (7), Township
4		Eleven (11) South, Range Twenty-
5	William A. Bradshaw and Marjorie	One (21) East, Boise Meridian.
6	Bradshaw, husband and wife,	
7		Northwest Quarter (NW $\frac{1}{4}$) of
8	Justin Kleinkopf and Claribel	Section Seven (7), Township
9	Kleinkopf, husband and wife,	Eleven (11) South, Range Twenty-
10		One (21) East, Boise Meridian.
11		North Half of the Northwest
12		Quarter (N $\frac{1}{2}$ NW $\frac{1}{4}$) of Section
13	Donald M. Murphy and Dorothy	Four (4), Township Eleven (11)
14	Murphy, husband and wife,	South; South Half of the South-
15		west Quarter (S $\frac{1}{2}$ SW $\frac{1}{4}$), and the
16		South Half of the Northwest
17		Quarter of the Southwest Quarter
18	William G. Bradshaw and Christine	(S $\frac{1}{2}$ NW $\frac{1}{4}$ SW $\frac{1}{4}$) in Section Thirty-
19	Bradshaw, husband and wife,	Three (33), Township Ten (10)
20		South, all in Range Twenty-One
21	Mark Moorman and Lola H.	(21) East, Boise Meridian.
22	Moorman, husband and wife,	
23		South Half of the Northwest
24		Quarter (S $\frac{1}{2}$ NW $\frac{1}{4}$), Southwest
25		Quarter (SW $\frac{1}{4}$) and the South Half
26		of the Northeast Quarter (S $\frac{1}{2}$ NE $\frac{1}{4}$),
27		all in Section Four (4), Town-
28		ship Eleven (11) South, Range
29	Elver Tell and Opal Tell,	Twenty-One (21) East, Boise
30	husband and wife,	Meridian.
31		South Half of the Northwest
32		Quarter (S $\frac{1}{2}$ NW $\frac{1}{4}$) in Section Five
		(5), Township Eleven (11) South,
		Range Twenty-One (21) East, Boise
		Meridian.
		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 (N $\frac{1}{2}$ 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.
		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 R. Kunau and Celia P.
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 May A. Hale, a spinster, tenants in common,	All that part of the West Half (W $\frac{1}{2}$) of Section Eight (8), Town- ship Eleven (11) South, Range Twenty-One (21) East, Boise Meridian, located North of the North right of way boundary of U. S. Idaho Highway No. 30.
6	II.	
7	That the Milner Low Lift Irrigation District, one of the defendants, is a quasi-municipal corporation, organized and existing under and by virtue of the laws of the State of Idaho located in the Counties of Cassia and Twin Falls.	
11	III.	
12	That certain defendants, having refused to join as parties plaintiff, were joined as parties defendant under Section 5-313 I. C. and are holders of title or evidence of title to the real property situated in Cassia County, Idaho, and described opposite their respective names as follows:	
17	NAMES	REAL PROPERTY DESCRIPTION
18	*Robert Ellis and Edna Mae Ellis, husband and wife,	Southwest Quarter (SW $\frac{1}{4}$) of Section Five (5), Township Eleven (11) South, Range Twenty- One (21) East, Boise Meridian.
20	Zelma Anderson, a widow,	That portion of the Northeast Quarter (NE $\frac{1}{4}$) of Section Eight (8), Township Eleven (11) South, Range Twenty-One (21) East, Boise Meridian, lying North and West of the North boundary line of the right of way of U. S. Idaho Highway No. 30.
25	Pacific Northwest Pipeline Co., a corporation,	Northwest Quarter of the South- 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.
28	Lloyd Thompson and Ruth Thompson, husband and wife,	West Half of the Northwest 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 Brune, husband and wife,	All of the West Half of the North-east Quarter ($\frac{1}{2}$ NE $\frac{1}{4}$), and the South Half of the Northwest Quarter ($\frac{1}{2}$ NW $\frac{1}{4}$) of Section Six (6), Township Eleven (11) South, Range Twenty-One (21) East, Boise Meridian, lying and being South and East of the No. 2 Canal of the defendant, Milner Low Lift Irrigation District.
3	*Leslie W. Peterson and Ida H. Peterson, husband and wife,	South Half of the Southeast Quarter ($\frac{1}{2}$ SE $\frac{1}{4}$) and the Southwest Quarter of the Southwest Quarter ($\frac{1}{2}$ SW $\frac{1}{4}$) in Section One (1), Township Eleven (11) South, Range Twenty (20) East, Boise Meridian; that portion of the Southeast Quarter ($\frac{1}{2}$ SE $\frac{1}{4}$) of Section Two (2), Township Eleven (11) South, Range Twenty (20) East, Boise Meridian, lying South and East of the Main Canal of the defendant, Milner Low Lift Irrigation District.
4	*G. L. Rose and Ethel Rose, husband and wife,	North Half of the Southwest Quarter ($\frac{1}{2}$ SW $\frac{1}{4}$) of Section Twelve (12), Township Eleven (11) South, Range Twenty (20) East, Boise Meridian.
5	*J. R. Breeding and Mary Breeding, husband and wife,	Southeast Quarter of the Southwest Quarter ($\frac{1}{2}$ SE $\frac{1}{4}$ SW $\frac{1}{4}$) of Section Twelve (12), Township Eleven (11) South, Range Twenty (20) East, Boise Meridian.
6	*Earl D. Sears and Lorenn Sears, husband and wife,	Northeast Quarter of the Northwest Quarter ($\frac{1}{2}$ NE $\frac{1}{4}$ NW $\frac{1}{4}$); West Half of the Northeast Quarter ($\frac{1}{2}$ NE $\frac{1}{4}$); Northwest Quarter of the Southeast Quarter ($\frac{1}{2}$ NW $\frac{1}{4}$ SE $\frac{1}{4}$), and the Northeast Quarter of the Southwest Quarter ($\frac{1}{2}$ NE $\frac{1}{4}$ SW $\frac{1}{4}$) in Section Thirty-Three (33), Township Ten (10) South, Range Twenty-One (21) East, Boise Meridian.
7	*Edward L. Kirk and (Charlotte) June Kirk, husband and wife,	East Half of the Northwest Quarter of the Northwest Quarter ($\frac{1}{2}$ NE $\frac{1}{4}$ NW $\frac{1}{4}$ NW $\frac{1}{4}$), and that portion of the Northeast Quarter of the Northwest Quarter ($\frac{1}{2}$ NE $\frac{1}{4}$ NW $\frac{1}{4}$) lying South and West of the intake ditch of the defendant, Milner Low Lift Irrigation District, extending across the said forty-acre tract, in Section Five (5), Township Eleven (11) South, Range Twenty-One (21) East, Boise Meridian.

1	<u>NAMES</u>	<u>REAL PROPERTY DESCRIPTION</u>
2	Nora McLeay and Warren L.	South Half of the Southwest
3	McLeay, wife and husband,	Quarter (S $\frac{1}{2}$ SW $\frac{1}{2}$) of Section
4		Three (3), Township Eleven (11)
5		South, Range Twenty-One (21)
6		East, Boise Meridian.
7	IV.	
8	That the real property described in Paragraphs I and III	
9	above aggregates approximately 4,000 acres and is located within	
10	the boundaries of the District by annexation proceedings in October	
11	1952, being the "new lands" or "annexed lands".	
12	V.	
13	That the other defendants, other than the District, are	
14	the holders of title or evidence of title to all lands located	
15	within the boundaries of the District prior to the annexation pro-	
16	ceedings in October, 1952, comprising 9,468 acres, being the "old	
17	lands"; they are:	
18	*L. W. Blei and Esther Blei, husband and wife,	
19	*Orilla J. Boley, a widow,	
20	*Max Boley, a widower,	
21	*Robert L. Breeding, a bachelor,	
22	*Kenneth Briggs and Janet Briggs, husband and wife,	
23	*Clyde Barton, a bachelor,	
24	*Alvin Barton, a bachelor,	
25	*Clarence Barker and Essie Barker, husband and wife,	
26	*Russell Carlson and Velma Carlson, husband and wife,	
27	*Loyd C. Davis and Esther Davis, husband and wife,	
28	*Louis M. Denton and Iola Denton, husband and wife,	
29	*A. L. Egbert and Louise Egbert, husband and wife,	
30	*Parley M. Egbert and Sarah Egbert, husband and wife,	
31	*Carl Emerson and Edna Emerson, husband and wife,	
32	*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 Koke, 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 E. McCoy and Bernice McCoy, husband and wife,
 2 *J. E. 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. E. Sears and Maude Sears, husband and wife,
 13 *Velma 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 *Eudora 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 as 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/~~was delivered~~ 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 1952; and that the water delivered to said
16 lands ^{not} was delivered on the basis of a sale, rental or distribution pur-
17 suit 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 Mortaugh Canal Company which contract cancelled and
10 superseded the contract dated June 11, 1921; and on February 10, 1922,
11 the Mortaugh 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 Mortaugh
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 1953 in excess of the 135
20 c.f.s., mentioned above, which has been as much as 218 c.f.s. (1952
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

1 Paragraph XI; that prior to October 23, 1952, the District under Per-
2 mit No. G-2247, issued November 21, 1951, 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 1953 purchased 11,574 acre
8 feet of this reserve space, and continued to lease on an annual basis
9 3,332 acre feet through 1956.

10 ~~Then~~ ^{That} 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 1952 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 1957 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 1958 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, 1952.

31 XIII.

32 That from time to time between 1922 and October, 1952,

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, 1932, being the "old lands"; that there had
7 been no annexation of land to the District which is at all comparable
8 to the October, 1932, 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 1932 have been in part paid for by the owners
14 of the lands within the District prior to the 1932 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, 1932, 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, Karl Sears 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 Palisades
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 Braed-
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 Palisades 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 5, 1952, 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-
ment or assessments as shall be sufficient to pay the
cost of putting the water on the land."

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

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

19 The prayer of the petition is:

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

25 XVII.

26 That on September 2nd, 1952, at a regular meeting of the
27 Board of Directors of the District, one Lloyd C. Davis of Grandview,
28 Washington, appeared and served notice of objection to the granting
29 of the petition for annexation; that on September 5th, 1952, at an
30 adjournment of the September 2nd meeting, the Board of Directors
31 adopted a resolution to accept and approve the petition for annexa-
32 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." (Underscoring 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-

1 ance with the September 5th, 1952, resolution.

2 XXII.

3 That on June 2d, 1953, the Board of Directors of the Dis-
4 trict adopted a resolution wherein and whereby it was determined that
5 each petitioner, holder, owner, or his successor in interest of the
6 land annexed to such District under the order of October 23d, 1952,
7 should pay to the District the sum of \$125.00 per acre for each and
8 every acre irrigated or becoming susceptible of irrigation from the
9 works of the District as they then existed or might thereafter be
10 changed or extended.

11 XXIII.

12 That the sum of \$125.00 per acre is ~~insufficient~~ insufficient to
13 pay (1) the cost of construction and equipment necessary to deliver
14 water to the new lands; (2) the added power costs necessary to deliver
15 water to the new lands; and (3) the cost of acquiring the rights to
16 water for the irrigation of such new lands; that in order to furnish
17 water from the facilities of the District to the new lands, it would
18 be necessary for the District to expend funds over and above the
19 amount per acre that the District is required to spend in placing wa-
20 ter on the old lands; there is nothing in said resolution, or in the
21 petition for annexation or in any understanding or agreement at any
22 water users' meeting or meetings or otherwise, which precludes the Bo-
23 ard of Directors from making assessments in addition to the \$125.00
24 per acre if the cost of construction and equipment necessary to
25 deliver water to the annexed lands and the cost of acquiring the
26 rights to water for the irrigation of the annexed lands should exceed
27 \$125.00. The petition for annexation and the resolution of September
28 5, 1952, calling for the election, specifically provide for the
29 making of such additional assessments. The majority of the members
30 of the Board of Directors understood, at the time of the adoption of
31 the June 2, 1953, resolution above referred to, that the Board of
32 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 758 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-----	755 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.

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XVIII.

That based upon historical use, the duty of water in the
Milner Low Lift Irrigation District is 5.8 acre feet per acre
diverted at Snake River of which approximately 75% is delivered to
the land. Assuming Palisades Reservoir was in operation during the
historical period from 1920 to 1958, and assuming the District was
comprised of 13,468 acres (old lands and new lands) there would be
13 years during this period when less than 5.8 acre feet would be
available for diversion and 11 years when less than 5 acre feet would
be available with critical shortages occurring during the 1930-1934
period. If the figure 5.2 acre feet was used, which is the amount
that has been diverted during the past few years, there would be 13
years during this period when less than 5.2 acre feet would be avail-
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 H. Woodward
26 District Judge
27 Pro Tempore.
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Attachment 10

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 11

7. 1 1939
11-7-39 to 11-21-39
Dec. 11 1939

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

N^o 18919

01-2050

FOUR

Application No. 26294
Permit No. 18919
District No.

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19
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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 the in the SE $\frac{1}{4}$ of SE $\frac{1}{4}$
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 appropriate 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.	23	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	45	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	58	77	32	40	57	57	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						11
		13					35												35
		15	40	39	40	15	39	40	39	39	39	39	39	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	40	40	40		480
		1	40	38	40	26	34	30	39	20				10	11				298
		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	40	472
		4												13	35	21	7	40	154
		11		33	39	31	39	38	40	40	36	38	40	40	31	37	40	40	562
		8	4			27								8	40	25	40	40	184
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 12

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° 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.
✓ 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 $\frac{1}{2}$ 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.

✓ 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 $\frac{1}{2}$ 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.

Harry Benoit

Notary Public.

My Commission expires June 21, 1943 Residing at Twin Falls, Idaho.

18919

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.

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. In the fall of 1939 172 cubic ft. per second.

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. Yes

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. _____

✓ 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.

Harry Periot

Notary Public.

My Commission expires June 21, 1943.

Residing at Twin Falls, Idaho.

18919

Attachment 13

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 $\frac{1}{4}$, 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 $\frac{1}{4}$ 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 10 1940

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

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. 21⁰ 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?

Ques. 4. Are the works of diversion fully completed and of sufficient capacity to convey the entire amount of water set out in the permit from point of diversion to place of use?

Ans. Yes

✓Ques. 6. Describe the works of diversion as they now exist, and give your estimate of their capacity.

Ans. Canal and laterals, steel pipe, flume, 3 electrically operated pumping plants consisting of pumps, motors, and transformers.
Capacity, 172 cubic ft. or second.

(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 14 1940

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

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?

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 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:

W¹/₂ NE¹/₄, W¹/₂ SE¹/₄, SE¹/₄ SE¹/₄ Section 13, E¹/₂, E¹/₂ NW¹/₄ Section 24; Township 11 South, Range 19 T., B. M.
SE¹/₄ SW¹/₄, SE¹/₄ Section 35, NE¹/₄, NE¹/₄ NW¹/₄, S¹/₂ NW¹/₄, S¹/₂ Section 36; Twp. 10 South, Range 20 E., B. M.
N¹/₂, N¹/₂ SE¹/₄, Section 1, N¹/₂ SW¹/₄, N¹/₂ SE¹/₄, SW¹/₄ SE¹/₄ Section 2, NE¹/₄, S¹/₂ NW¹/₄, S¹/₂ Section 3, S¹/₂ SW¹/₄, SE¹/₄ Section 4, E¹/₂ NE¹/₄, SE¹/₄ SW¹/₄, SE¹/₄ Section 8, All Sections 9 and 10, NW¹/₄ NE¹/₄, S¹/₂ NE¹/₄, NW¹/₄, S¹/₂ Section 11, SW¹/₄ SW¹/₄ Section 12, NW¹/₄ NW¹/₄ Section 13, N¹/₂ NE¹/₄, SW¹/₄ NE¹/₄, NW¹/₄, W¹/₂ SW¹/₄, NE¹/₄ SE¹/₄, Section 14, All Sections 15 and 16, NE¹/₄, S¹/₂ NW¹/₄, Section 17, NE¹/₄, W¹/₂ NW¹/₄, SE¹/₄ NW¹/₄, S¹/₂ Section 19, NE¹/₄, S¹/₂ NW¹/₄, S¹/₂ Section 20, NW¹/₄ NE¹/₄, S¹/₂ NE¹/₄, W¹/₂, SW¹/₄ SE¹/₄ Section 21, N¹/₂ N¹/₂ Section 22, NW¹/₄ NE¹/₄, NW¹/₄ NW¹/₄ Section 28, N¹/₂ N¹/₂ Section 29, N¹/₂ NE¹/₄ Section 30; Twp. 11 South, Range 20 E., B. M.
S¹/₂ SW¹/₄ Section 29, S¹/₂ SW¹/₄, NW¹/₄ SE¹/₄, S¹/₂ SE¹/₄, Section 30, All Section 31, N¹/₂ NE¹/₄, SW¹/₄ NE¹/₄, NW¹/₄, S¹/₂ Section 32, Township 10 South, Range 21 E., B. M.
N¹/₂ NW¹/₄ Section 5, 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. 1940.

Notary Public,
Residing at Twin Falls, Idaho.

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

✓ Ques. 5. Are the works of diversion fully completed and of sufficient capacity to convey the entire amount of water set out in the permit from point of diversion to place of use?

Ans. Yes

✓ Ques. 6. Describe the works of diversion as they now exist, and give your estimate of their capacity.

Ans. Canal and laterals, steel pipe, flume, 3 electrically operated pumping plants consisting of pumps, motors, and transformers.
Capacity, 172 cubic ft. per second.

(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. 1940.

Harry Benoit
Notary Public
Residing at Twin Falls, Idaho.

18919

Attachment 14

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 Sen. 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.

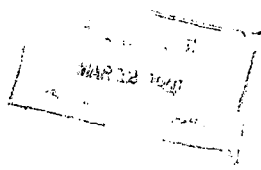
Ans. Used for irrigation purposes--cultivated land. Improvements--land cultivated, homes, barns, buildings and other improvements.

There are 9033 acres of land, described as follows:

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, W $\frac{1}{2}$ 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, W $\frac{1}{2}$ 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 $\frac{1}{4}$, 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 $\frac{1}{4}$, 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 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 $\frac{1}{2}$ SE $\frac{1}{4}$, 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

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 21⁰55' 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 SE¹/₄ of SE¹/₄ 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.

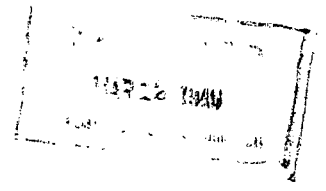
There are 9033 acres of land, described as follows:

NE¹/₄ NE¹/₄, NE¹/₄ SE¹/₄, SE¹/₄ SE¹/₄ Section 13, NE¹/₄, NE¹/₄ NW¹/₄ Section 24; Twp. 11 South, Range 19 E., B. M. SE¹/₄ SW¹/₄, SE¹/₄ Section 35, NE¹/₄, NE¹/₄ NW¹/₄, SE¹/₄ NW¹/₄, SE¹/₄ Section 36; Twp. 10 South, Range 20 E., B. M. NE¹/₄, NE¹/₄ SE¹/₄, Section 1, NE¹/₄ SW¹/₄, NE¹/₄ SE¹/₄, SW¹/₄ SE¹/₄ Section 2, NE¹/₄, SE¹/₄ NW¹/₄, SE¹/₄ Section 3, SE¹/₄ SW¹/₄, SE¹/₄ Section 4, NE¹/₄ NE¹/₄, SE¹/₄ SW¹/₄, SE¹/₄ Section 8, All Sections 9 and 10, NW¹/₄ NE¹/₄, SE¹/₄ NE¹/₄, NW¹/₄, SE¹/₄ Section 11, SW¹/₄ SW¹/₄ Section 12, NW¹/₄ NW¹/₄ Section 13, NE¹/₄ NE¹/₄, SW¹/₄ NE¹/₄, NW¹/₄, SE¹/₄ SW¹/₄, NE¹/₄ SE¹/₄, Section 14, All Sections 15 and 16, NE¹/₄, SE¹/₄ NW¹/₄, Section 17, NE¹/₄, SE¹/₄ NW¹/₄, SE¹/₄ NW¹/₄, SE¹/₄ Section 19, NE¹/₄, SE¹/₄ NW¹/₄, SE¹/₄ Section 20, NW¹/₄ NE¹/₄, SE¹/₄ NE¹/₄, NW¹/₄ SE¹/₄ SE¹/₄ Section 21, NE¹/₄ NW¹/₄ Section 22, NW¹/₄ NE¹/₄, NW¹/₄ NW¹/₄ Section 23, NE¹/₄ NW¹/₄ Section 29, NE¹/₄ NE¹/₄ Section 30; Twp. 11 South, Range 20 E., B. M. SE¹/₄ SW¹/₄ Section 29, SE¹/₄ SW¹/₄, NW¹/₄ SE¹/₄, SE¹/₄ SE¹/₄, Section 30, All Section 31, NE¹/₄ NE¹/₄, SW¹/₄ NE¹/₄, NW¹/₄, SE¹/₄ Section 32, Township 10 South, Range 21 E., B. M. NW¹/₄ NW¹/₄ Section 8, Twp. 11 South, Range 21 East., B. M.

18919

Attachment 15

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.

Ques. 7. If for other than for irrigation purposes; state how applied, amount of horse power generated, etc.

Ans.

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 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 61° 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

✓ Ques. 8. What is the minimum amount of water required for the purpose specified above?
Ans. 172 cubic ft. per second.

Ques. 9. If you are not the person or representative of the corporation to whom above mentioned permit was originally issued, please state how ownership was acquired by present holder.

Ans.

✓ Ques. 10. State when, how, in what amount and to what extent the water diverted under above mentioned permit has been used.

Ans. 172 cubic ft. per second in fall of 1939, 37 cubic ft. per second under permit and 135 cubic ft. per second under priority right was diverted.

✓ Ques. 11. State when, how, in what amount and to what extent waters other than those diverted under the above mentioned permit have been diverted and applied to beneficial use upon the lands herein described. Give full particulars regarding such other appropriations and rights claimed thereunder.

Ans. 135 cubic ft. per second other than permit have been diverted and applied to beneficial use upon said lands. Said 135 cubic ft. per second is under a priority right and the source of which is the Snake River and the same is diverted at the point of diversion described in the permit. Also have American Falls Reservoir paid up right and lease right.

(Sign)

Lloyd C. Davis

I hereby certify that the foregoing testimony was read to the above subscribed 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.

Harry Benoit
Notary Public

Residing at Twin Falls, Idaho

My commission expires June 21, 1943.

Attachment 16

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 68x34', 3-24" Ellis Chalmers pumps I.C. to 500 H.P. motor, 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 irriga-

tion): 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 $\frac{1}{2}$ 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 $\frac{1}{2}$ SE $\frac{1}{4}$ Sec. 1; NE $\frac{1}{4}$ SW $\frac{1}{4}$, NE $\frac{1}{2}$ 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 $\frac{1}{2}$ 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 $\frac{1}{4}$, S $\frac{1}{2}$ 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 $\frac{1}{4}$ Sec. 22; NW $\frac{1}{4}$ NE $\frac{1}{4}$, NW $\frac{1}{4}$ NW $\frac{1}{4}$ Sec. 28; NE $\frac{1}{4}$ Sec. 29; 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 No. 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

18919

(Signed)

Gretchen Holman
Examiner.

Attachment 17

PERMIT NO. 18919

CERTIFICATE OF COMPLETION OF WORKS.

TO ALL WHOM IT MAY CONCERN:

This is to certify that Milner Low Lift Irrigation District of Murtaugh, County of Twin Falls, and State of Idaho the holder of Permit No. 18919, issued upon application No. 26294 bearing date of priority of Oct. 25, 1939, authorizing the diversion of 37.0 second feet of the waters of Snake River, County of Twin Falls, State of Idaho, for irrigation purposes, has fully complied with the provisions of the laws of the State of Idaho relating to the proof of completion of the works of diversion set out and described in said permit; that said works are adequate for diverting and conveying to the place o intended use 37.0 second feet of the waters of Snake River, that the point of diversion of said waters SE $\frac{1}{4}$ SE $\frac{1}{4}$, Sec. 29, Twp. 10 S., Rge. 21, E.B.M., and that the lands proposed to be irrigated by the use of said water are described as follows, to-wit: NW $\frac{1}{4}$ NE $\frac{1}{4}$, NW $\frac{1}{4}$ NW $\frac{1}{4}$, Sec. 28, 11 S., 20 E.; NW $\frac{1}{4}$ NE $\frac{1}{4}$, S $\frac{1}{2}$ NE $\frac{1}{4}$, NW $\frac{1}{4}$, SW $\frac{1}{4}$, SW $\frac{1}{4}$ SE $\frac{1}{4}$, Sec. 21, 11S, 20E; All of 36 except NW $\frac{1}{4}$ NW $\frac{1}{4}$, 10 S, 20 E; All of 31, 10 S, 21 E; All of 2 except SE $\frac{1}{4}$ SE $\frac{1}{4}$, all of 19 except NE $\frac{1}{4}$ NW $\frac{1}{4}$, all of 9, all of 10, SW $\frac{1}{4}$ SW $\frac{1}{4}$ of 12, NW $\frac{1}{4}$ NW $\frac{1}{4}$ of 13, all of 15, 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 $\frac{1}{4}$, Sec. 14, all of 20 except N $\frac{1}{2}$ NW $\frac{1}{4}$, NE $\frac{1}{4}$, NW $\frac{1}{4}$, N $\frac{1}{2}$ SE $\frac{1}{4}$, Sec. 1, N $\frac{1}{2}$ NW $\frac{1}{4}$, Sec. 29, 11 S, 20 E; NE $\frac{1}{4}$, E $\frac{1}{2}$ NW $\frac{1}{4}$, SE $\frac{1}{4}$, Sec. 24; 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, 11 S, 19E; all of 16, N $\frac{1}{2}$ NE $\frac{1}{4}$, N $\frac{1}{2}$ NW $\frac{1}{4}$, Sec. 22; all of 3 except N $\frac{1}{2}$ NW $\frac{1}{4}$, S $\frac{1}{2}$ SW $\frac{1}{4}$, SE $\frac{1}{4}$, Sec. 4, all of 11 except NE $\frac{1}{4}$ NE $\frac{1}{4}$, E $\frac{1}{2}$ NE $\frac{1}{4}$, SE $\frac{1}{4}$ SW $\frac{1}{4}$, SE $\frac{1}{4}$, Sec 8, 11 S., 20 E; all of 32 except SE $\frac{1}{4}$ NE $\frac{1}{4}$, 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; 10 S, 21 E; SE $\frac{1}{4}$ SW $\frac{1}{4}$, SE $\frac{1}{4}$, Sec. 35, 10 S, 20 E; N $\frac{1}{2}$ NW $\frac{1}{4}$, Sec. 6, 11 S, 21 E; NE $\frac{1}{4}$, SE $\frac{1}{4}$ NW $\frac{1}{4}$, Sec. 17, 11 S, 20 E; S $\frac{1}{2}$ SW $\frac{1}{4}$, Sec. 29, 11 S, 21 E; N $\frac{1}{2}$ NE $\frac{1}{4}$, Sec. 30, 11 S, 20 E.B.M.

Witness my hand this 27th day of March, 1942.

N $\frac{1}{2}$ NE $\frac{1}{4}$

E. V. BERG, Commissioner of Reclamation.

Completion made: March 9, 1940
 Certificate issued: March 27, 1942.

LICENSE ISSUED FOR 37.0 SEC. FT.

p. 4611

Attachment 18

State of Idaho
License and Certificate of Water Right

Water License No. 18919

Amount 37 second feet

Water District No. _____

Priority October 25, 1939

THIS IS TO CERTIFY that **MILNER LOW LIFT IRRIGATION DISTRICT**
of Martaugh, Idaho, made application for a permit to appropriate the
public waters of the State of Idaho, dated October 25, 1939; that Permit No. 18919
was issued under said application; that Certificate of Completion of works, with a carrying capacity of
37 second feet, was issued thereunder on March 27, 1942, showing that said works
were completed on the 9th day of March, 1940; and that on the 9th
day of March, 1940,

MILNER LOW LIFT IRRIGATION DISTRICT

of Martaugh, State of Idaho, made proof to the satisfaction of the
Commissioner of Reclamation of Idaho, of the right to use the waters of Snake River
a tributary of _____, for the purpose of irrigation
under Use Permit No. 18919 of the Department of Reclamation
and that said right to the use of said waters has been perfected in accordance with the laws of Idaho,
and is hereby confirmed by the State Reclamation Engineer of Idaho and entered of record in Volume
8 of Licenses at page 4611, on the 15th day of July, 1950;
The right hereby confirmed dates from October 25, 1939;

The Point of Diversion is located
in the SE 1/4 SE 1/4, Sec. 29, Tp. 10 S., R. 21 E., B. M. Twin Falls County.

That the amount of water to which such right is entitled and hereby confirmed, for the purposes
aforesaid, is limited to an amount actually needed and beneficially used for said purposes, and shall
not exceed 37 cubic feet per second.

Description and location of use:

Twp.	Range	Sec.	Forty-acre Tract	No. Acres Described in Permit	No. Acres Actually Irrigated
Lands within the boundaries of the Milner Low Lift Irrigation District, located in Township 11 S., Range 19 E., B.M.; Townships 10 and 11 S., Range 20 E., B.M.; and Townships 10 and 11 S., Range 21 E., B.M.					

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

WITNESS the seal and signature of the State Reclamation Engineer, affixed at Boise, Idaho, this
15th day of July, 1950.

MARK R. KULP
State Reclamation Engineer

(SEAL)

61-2050

Attachment 19

DISTRICT COURT - SRBA
Fifth Judicial District
County of Twin Falls - State of Idaho

NOV 30 2011

AMENDED DIRECTOR'S REPORT

Subcase No. 01-2050

Clerk

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

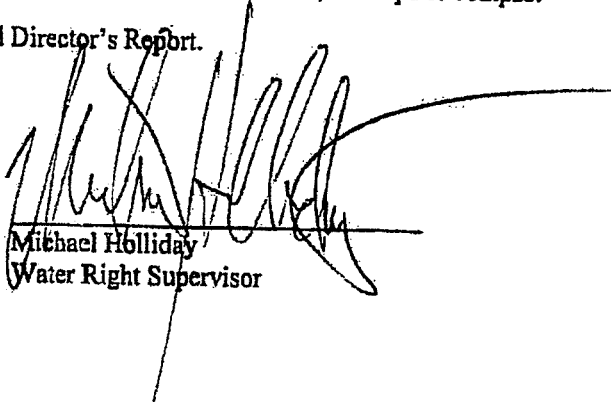
November 30, 2011

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 SREA 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

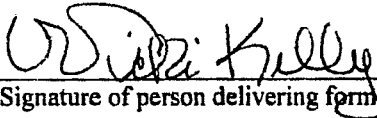
USDI BUREAU OF RECLAMATION

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 20

Department of Reclamation

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,

DISTRICT COURT
Plaintiffs, **FINDINGS OF FACT**
Fifth Judicial District
County of Twin Falls, State of Idaho

vs.

AND

HENRY EAGLE, Watermaster, Water, **CONCLUSIONS OF LAW**
District No. 36, State of Idaho, By **LANCASTER**
Clerk

Defendant, *[Signature]*
Deputy Clerk

This matter having come on regularly before the Court and it
appearing that the defendant has filed herein a disclaimer of any interest
adverse to the plaintiffs and proof having been submitted in the form of a
Stipulation by all of the plaintiffs and the Court, being fully advised in the
premises, makes and enters the following:

FINDINGS OF FACT

I.

(a) The priority of the right to use waters of the Snake River and
its tributaries with points of diversion at or upstream from Milner Dam
have been determined by decrees of Courts of competent jurisdiction (including
but not limited to the decree in the case entitled Twin Falls Canal Company
v. Charles N. Foster, et al, entered in the District Court of the Fourth
Judicial District Court of the State of Idaho, in and for the County of Twin
Falls on June 20, 1913, hereafter called "Foster Decree") and thereafter
numerous parties have acquired rights to the use of the waters of said
Snake River and its tributaries with points of diversion at Milner Dam or
above.

(b) The parties Plaintiff herein are persons who have so acquired
such water rights and that they have brought this action under and pursuant to
provisions of Idaho Code Section 42-1405.

II.

All the parties Plaintiff herein have accepted as binding upon them

MAY 13 1996

1 the provisions of all prior decrees which have been entered with respect to the
2 waters of Snake River and its tributaries above Milner Dam, including, parti-
3 cularly, but not limited to (1) The Foster decree mentioned in the preceding
4 paragraph ; (2) The decree entered in the District Court of the Sixth Judicial
5 District of the State of Idaho in and for the County of Fremont in the case
6 entitled Rexburg Irrigation Company, et al, vs. Teton Irrigation Canal Company,
7 et al, filed December 16, 1910, (hereinafter "Rexburg Decree"); and (3) The
8 decree entered in that certain case entitled Woodville Canal Company vs. Clark
9 and Edwards Canal and Irrigation Company, et al, in the District Court of the
10 United States for the District of Idaho, Eastern Division, on June 25, 1929,
11 (hereinafter "Woodville Decree") and all other prior valid decrees of such water.

12
13 III.

14 (a) Defendant, Henry Eagle, is now and has been at all times since
15 March 3, 1959, the duly qualified and acting Watermaster of Water District
16 No. 36 of the State of Idaho; said District being duly created and existing under
17 the laws of the State of Idaho for the purpose of distributing the waters within its
18 boundaries, including all of the waters referred to and affected by this action.

19 (b) All of the lands of the parties Plaintiff hereinafter described
20 are located within the boundaries of, and irrigated by the waters of Snake River
21 and its tributaries within, said Water District No. 36.

22
23 IV.

24 Proper and sufficient notice of the pendency and purpose of the
25 above-entitled action was published in newspapers having general circulation in
26 the counties of Power, Cassia, Minidoka, Twin Falls, Jerome, Blaine, Gooding,
27 Lincoln and Elmore, Idaho, and that all provisions of Idaho Code Section
28 42-1405 relating to notice and publication of notice have been complied with.

29
30 V.

31 The Plaintiffs herein comprise all persons diverting water from,
32 and claiming or asserting rights to divert water from, the Snake River and its
tributaries above Milner Dam and within the boundaries of said Water District

RECORDED
MAY 13 1996

1 No. 36, according to the records and files of defendant Henry Eagle; and
2 comprise, collectively, all presently known parties who are or will be affected
3 by the entry of the Decree entered herein.

4
5 VI.

6 (a) Plaintiffs herein have over a period of many years, cooperated,
7 planned and worked for a common, fair, equitable and just plan designed to
8 result in the most efficient, fair and complete beneficial use of all the waters of
9 the Snake River and its tributaries.

10 (b) Such cooperative planning and adjustment of rights, then,
11 present and future, became and was particularly necessary prior to, and in
12 connection with the planning for the Palisades Reservoir, the securing of
13 Congressional authorization and appropriation for said reservoir and the irri-
14 gation projects related thereto and authorized in connection therewith, including
15 particularly, but not limited to, the irrigation project, known as the Minidoka
16 North Side Extension, hereinafter particularly described as being owned and
17 operated by the A & B Irrigation District.

18 (c) In connection with the establishment of the water rights for
19 said Palisades Reservoir, it was particularly necessary for the parties
20 Plaintiff to agree among themselves, and avoid extensive, expensive and delaying
21 litigation by so agreeing upon a common priority date for those persons who
22 were using, or were making plans to construct projects and perfect rights to
23 use, the so-called "Flood Water Rights," being those waters of the river which
24 were only available during periods of high flow; and which the parties Plaintiff
25 had been using to the best of their ability and to the extent of their irrigation
26 works, or were planning to use as projects were constructed; and that the
27 parties Plaintiff did at such time agree on a common priority date of April 1,
28 1939, for such rights, which said agreement has been acted upon by all of the
29 parties Plaintiff hereto continuously, and deliveries have been made in
30 accordance therewith by defendant Henry Eagle.

31 (d) It was also known and agreed that as a result of the construction
32 of Palisades Reservoir, it would be to the best interests of all water users to

1 enter into contracts for the exchange of certain rights between those holding
2 rights in Jackson Lake Reservoir and those holding rights in American Falls in
3 order to reduce river transmission losses and to permit more effective river
4 regulation by permitting the use of waters so far as possible by those having
5 diversions closest to the respective reservoirs.

6 (e) It was also known and agreed that the parties Plaintiff would
7 and they did, enter into specific contracts with the Bureau of Reclamation with
8 respect to their storage rights in Palisades Reservoir, Jackson Lake Reservoir,
9 Island Park Reservoir, Grassy Lake Reservoir, Lake Walcott Reservoir, and
10 American Falls Reservoir and with respect to the acknowledgment and award of
11 certain priorities as hereinafter more specifically set forth.

12 (f) It was necessary to agree that additional projects authorized
13 by the Congress of the United States as an integral part of the Palisades
14 Reservoir legislation would have their proportionate rights in said so-called
15 flood water rights with said priority date of April 1, 1939, and that said
16 legislation was achieved, and said projects were authorized and constructed, and
17 have been developed, on the basis of such understanding as to their water
18 rights; and that such projects have used water from the Snake River under such
19 claimed priority date as promptly as they were able to do so, dependent upon
20 the construction of their facilities.

21 (g) It was also known and agreed that it was necessary that the
22 parties Plaintiff achieve a solution of the controversy as to the respective rights
23 of American Falls Reservoir District No. 2 and the other owners of space in
24 American Falls Reservoir which had been left unsettled by the Woodville
25 Decree; and that such settlement has been achieved between the parties Plaintiff
26 and the Bureau of Reclamation by provisions in the contracts as hereinafter more
27 specifically set out.

28 (h) As a necessary condition to the authorization, financing, and
29 construction of the Palisades Reservoir, it was decided that there should be
30 certain savings of winter water to be accomplished by cessation of winter
31 deliveries and with accompanying added storage privileges for the users
32 ceasing such diversion and that this would be needed to be accomplished by

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1 proper contracts with the Bureau of Reclamation, which contracts have been
2 executed.

3 (i) It was further known that it would be necessary to have proper
4 contract provisions to afford the best and most economical use of the waters of
5 the river for storage, both temporary and permanent in the various reservoirs
6 and for mutually compatible, beneficial and non-conflicting uses for power and
7 irrigation, and contract provisions designed to accomplish these purposes have
8 been agreed upon and incorporated into contracts.

9 (j) All of the individual contracts entered into between parties
10 Plaintiff and the Bureau of Reclamation, Department of the Interior, United
11 States of America, were and are designed to be mutually binding upon all
12 parties entering similar contracts, and to be construed together in effect as one
13 overall contract with respect to the common paragraphs therein relating to
14 savings of winter water and accompanying special storage rights; consent to
15 exchanges of American Falls and Jackson Lake storage rights and to the
16 redefinition of those storage rights; temporary storage and exchange of water
17 and releases for power production; and consent to the priority of certain
18 existing and future water rights at Island Park Reservoir and American Falls
19 Reservoir and future reservoirs to be constructed.

20 (k) Since the execution of the Palisades contracts, the operation
21 of the dams, diversion and distribution works of the parties Plaintiff and of the
22 Bureau of Reclamation, Department of the Interior, United States of America
23 has conformed to the general scheme or plan set out herein and has recognized
24 the priorities set out herein.

25 VII.

26 All of the lands described in the Decree, and to which water is
27 therein decreed to be appurtenant, are arid in character and will not produce
28 ordinary agricultural crops without the application of irrigation water; and
29 all of said lands require and need, in addition to all rights presently
30 appurtenant to them, additional water in the amounts set out in the Conclusions
31 of Law; and all of said water has been, can and will be applied to beneficial
32 use in producing agricultural crops thereon.

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VIII.

All of the water rights decreed to the lands described in the Decree herein are and shall be in addition to and supplemental to all other existing water rights appurtenant to said lands; and such additional water rights shall not in any way change, alter, vary, or diminish any and all other water rights possessed or owned by the parties hereto or appurtenant to the said lands.

IX.

All of the parties to this action to whom water rights are decreed have constructed, operated, and now control and maintain all necessary diversion dams, canals, laterals and distribution systems adequate to divert and distribute to the proper lands all of the waters decreed to them, in addition to all other water rights owned by the said parties.

X.

All of the supplemental waters decreed are required for and will be beneficially used for the production of agricultural crops and associated domestic uses upon the lands to which they are decreed and have been used and will be beneficially used in such manner and such supplemental waters shall not be transferrable to any lands other than those lands described in the Decree.

XI.

Some of the rights decreed have been acquired by or decreed to the parties Plaintiff in other proceedings or by other methods, and it is the desire of the parties Plaintiff hereto that all of such rights be enumerated and decreed in this action, in which all parties in interest in waters of Snake River above Milner Dam are parties.

It will greatly aid and assist all responsible State officials, Watermasters and other officials in handling, managing and distributing the waters of the Snake River and its tributaries above Milner Dam to have those rights enumerated and listed in one decree as is intended to be accomplished by this action.

[Handwritten signature]

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XII.

The award of the so-called flood water rights to parties Plaintiff to this action claiming them with a uniform priority date of April 1, 1939, will not injure or impair the rights of any other parties and is intended to be a valid and binding settlement of all the claims of the right, title, and interest of the various parties Plaintiff herein and to the said waters.

XIII.

(a) The contracts entered between various of the parties Plaintiff and the United States of America, Bureau of Reclamation, in connection with the Palisades and other projects, as amended and modified, were intended to be, and should be, binding upon all persons claiming rights to the use of the waters of Snake River and its tributaries above Milner Dam; and although the provisions of said contracts provide the basis of a common plan for the administration of the waters of Snake River, certain paragraphs of said contracts, common to all types of contracts with the various parties Plaintiff, contain the major areas of agreement.

Typical examples of the common paragraphs setting forth the major areas of agreement are attached to the Decree herein. A typical example of the common paragraph relating to "Saving of Winter Water; Special Storage Right" is thereto attached as Exhibit A. A typical example of the paragraph relating to "Permanent Exchange of the American Falls and Jackson Lake Storage Rights and Redefinition of Storage Rights" is thereto attached as Exhibit B. A typical paragraph relating to "Temporary Storage and Exchange of Water; Release of Jackson Lake and Palisades for Power Production" is thereto attached as Exhibit C. A typical paragraph relating to "Priority of Certain Existing and Future Water Rights" is thereto attached as Exhibit D.

(b) During the negotiation of the contracts entered between the various parties Plaintiff and the United States of America, Bureau of Reclamation, referred to immediately above, it was necessary to make special arrangements with the Minidoka Irrigation District for the purpose of effecting annual exchanges of water, as well as fixing the carry-over rights of said

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1 district in connection with Jackson Lake storage. Since the majority of the
2 contracts referred to immediately above had already been executed, and because
3 the contract finally executed by the United States of America, Bureau of
4 Reclamation, and the Minidoka Irrigation District, setting forth these special
5 arrangements required agreement and confirmation by all of the various parties
6 Plaintiff, it was then necessary that each contract be amended and supplemented
7 so as to confirm these appropriate provisions of the Minidoka Irrigation District's
8 contract. The contracts as amended and supplemented provide the basis of a
9 common plan for the orderly administration of the waters of the Snake River
10 above Milner Dam. The pertinent paragraphs of the contract entered by the
11 United States of America, Bureau of Reclamation, and the Minidoka Irrigation
12 District, the contents of which paragraphs were confirmed by all other various
13 parties Plaintiff in amendatory and supplemental contracts, are attached to the
14 Decree herein as Exhibit E.

15 (c) In addition to the contracts entered between the various parties
16 Plaintiff and the United States of America, Bureau of Reclamation, referred to
17 above, a Memorandum of Agreement between the Bureau of Reclamation and the
18 Bureau of Indian Affairs was executed, setting forth special provisions relating
19 to the water supply for the Michaud Division of the Fort Hall Indian Reservation,
20 Idaho; by which Memorandum of Agreement, the Bureau of Indian Affairs agreed
21 to be bound by those common provisions of the contracts of the various parties
22 Plaintiff so that the Snake River above Milner Dam could be successfully and
23 efficiently administered. The most pertinent paragraphs of this Memorandum
24 of Agreement are attached to the Decree herein as Exhibit F.

25 Based on the foregoing Findings of Fact, the Court makes and
26 enters the following:

27 CONCLUSIONS OF LAW

28 I.

29 The following parties are entitled to divert and use the waters of
30 the Snake River in the amounts and with the priority dates listed, which water
31 shall be diverted at the point and be appurtenant to the lands described in the
32 Decree made and entered of even date herewith:

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1 A. TWIN FALLS CANAL COMPANY

2 Twin Falls Canal Company shall have the right to divert and use
3 600 cubic feet per second (being the right recognized in paragraph 6 of the
4 Woodville Decree) with a priority date of December 22, 1915.

5 B. NORTH SIDE CANAL COMPANY

6 North Side Canal Company shall have the right to divert and use
7 300 cubic feet per second (being the right recognized in paragraph 6 of the
8 Woodville Decree) with a priority date of December 23, 1915.

9 C. NORTH SIDE CANAL COMPANY

10 North Side Canal Company shall have the right to divert and use
11 1260 cubic feet per second (being the right recognized in paragraph 7 of the
12 Woodville Decree) with a priority date of August 6, 1920.

13 D. AMERICAN FALLS RESERVOIR DISTRICT NO. 2

14 American Falls Reservoir District No. 2 is entitled to have the
15 right to divert as natural flow during each irrigation season under water
16 license No. 15134, having a March 30, 1921, priority, as follows: From May 1
17 of each irrigation season continuing during that season so long as there is
18 natural flow available for that priority, the first 1,700 cubic feet per second of
19 flow to be available one-half (1/2) to American Falls Reservoir District No. 2
20 and one-half (1/2) to American Falls Reservoir, except that in any year in
21 which American Falls Reservoir is full to capacity on April 30 or fills after that
22 date, taking into account any water that may be temporarily stored to its credit
23 in upstream reservoirs, all water diverted by American Falls Reservoir
24 District No. 2 within the maximum of 1,700 cubic feet per second during the
25 year prior to the initial storage draft on American Falls Reservoir after the
26 reservoir finally fills in that year shall be considered as natural flow under
27 water license No. 15134. Nothing herein shall prevent American Falls
28 Reservoir District No. 2 from diverting water under said license prior to
29 May 1 of a given irrigation season but all such diversions shall be charged as
30 storage in the event the reservoir is not full on April 30 of that season or does
31 not fill after April 30 of that season.

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1 Water available at American Falls Reservoir for the March 30,
2 1921, priority under water license No. 15134, other than that to be available to
3 American Falls Reservoir District No. 2 as above provided, to be available for
4 storage in American Falls Reservoir.

5
6 II.

7 The following parties are entitled to divert and use, pro rata, the
8 waters of the Snake River in the amounts listed, with the same priority date of
9 April 1, 1939, which water shall be diverted at the point and be appurtenant to
10 the lands described in the Decree made and entered of even date herewith:

11 A. BURLEY IRRIGATION DISTRICT

12 The Burley Irrigation District shall have the right to divert and use
13 163.4 cubic feet per second.

14 B. MINIDOKA IRRIGATION DISTRICT

15 The Minidoka Irrigation District shall have the right to divert and
16 use 266.60 cubic feet per second.

17 C. MILNER LOW-LIFT IRRIGATION DISTRICT

18 The Milner Low-Lift Irrigation District shall have the right to
19 divert and use 121.00 cubic feet per second.

20 D. TWIN FALLS CANAL COMPANY

21 The Twin Falls Canal Company shall have the right to divert and
22 use 180 cubic feet per second.

23 E. CLARENCE TILLEY

24 Clarence Tilley shall have the right to divert and use 7.0 cubic
25 feet per second.

26 F. WILLIAM KENDALL

27 William Kendall shall have the right to divert and use 4.00 cubic
28 feet per second.

29 G. FALLS IRRIGATION DISTRICT

30 The Falls Irrigation District shall have the right to divert and use
31 125.00 cubic feet per second.

32 H. A & B IRRIGATION DISTRICT

The A & B Irrigation District shall have the right to divert and use
267.00 cubic feet per second.

MAY 13 1936

1 I. OTIS ORTON

2 Otis Orton shall have the right to divert and use 4.00 cubic
3 feet per second.

4 III.

5 The contracts between the individual parties and the United States
6 of America, Bureau of Reclamation, and the Memorandum of Agreement between
7 the Bureau of Indian Affairs and the Bureau of Reclamation are valid and binding
8 upon the parties thereto, and constitute a scheme or plan for the administration
9 of the Snake River and as such, are binding upon all persons claiming rights to
10 the use of the waters of the Snake River and its tributaries above Milner Dam.

11 IV.

12 Let Decree be entered accordingly.

13 Done this 10th day of July, 1968.

14
15 S/ Theron W Ward
16 District Judge

17
18 State of Idaho :
19 County of Twin Falls } ss.

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

22 M. A. LANCASTER

23 Clerk of the District Court

24 Quinn Wilson
25 Deputy

MAY 13 1996

Attachment 21

AMENDED DIRECTOR'S REPORT

Subcase No. 01-9

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

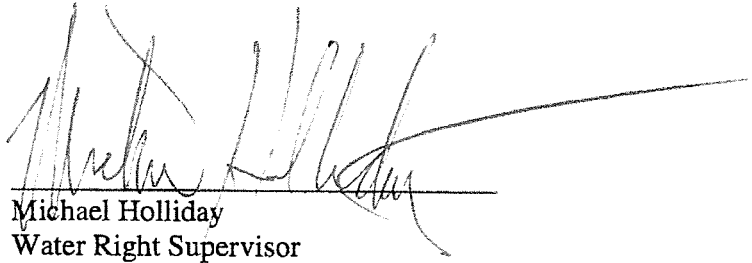
March 28, 2012

DESCRIPTIVE SUMMARY

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

DISCUSSION

Pursuant to the *Order Vacating Amended Summary Judgment Order and Setting Second Amended Summary Judgment Schedule* issued by Special Master Dolan on March 16, 2012, the Interim Director submits the attached Amended Director's Report for filing with the Court. Please note that no maps or compact discs are being provided, as no changes have been made to the digital boundary.



Michael Holliday
Water Right Supervisor

3/28/2012

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: 113.000 CFS

PRIORITY DATE: 07/12/1967

POINT OF
DIVERSION:

T10S R21E S29 SESE Within TWIN FALLS County

PURPOSE AND
PERIOD OF USE:

<u>PURPOSE OF USE</u>	<u>PERIOD OF USE</u>	<u>QUANTITY</u>
IRRIGATION	03/15 11/15	113.000 CFS

PLACE OF USE:

13335 ACRES TOTAL

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

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.

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:

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

EXPLANATORY MATERIAL: BASIS OF CLAIM - Beneficial Use

Water is delivered through Milner Irrigation pumps.

CERTIFICATE OF SERVICE

I certify that on 3/29/12, 2012, 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:

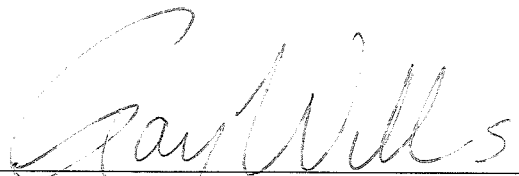
1. Original to:

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:

Travis L. Thompson Barker Rosholt & Simpson 113 Main Avenue W. Ste. 303 P.O. Box 485 Twin Falls, ID 83303-0485	Michael C. Orr Office of the Attorney General P.O. Box 44449 Boise, ID 83711-4449
Candice M. McHugh Racine Olson 101 S. Capitol Blvd., Ste. 300 Boise, ID 83702	Sarah A. Klahn Mitra M. Pemberton White & Jankowski, LLP Kittredge Building 511 16th Street, Ste. 500 Denver, CO 80202
David W. Gehlert U.S. Dept. of Justice 999 18 th St., S. Terrace, Ste. 370 Denver, CO 80202	Jerry R. Rigby Rigby Andrus Rigby 25 N. 2 nd E. P.O. Box 250 Rexburg, ID 83440-0250
IDWR Document Repository 322 E. Front Street P.O. Box 83720-0098 Boise, ID 83720	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 22

NIELSON & NIELSON
ATTORNEYS AND COUNSELORS AT LAW

BURLEY, IDAHO
February 2, 1956

A. H. NIELSON
N. H. NIELSON

Mr. Mark R. Kulp
State Reclamation Engineer
State of Idaho
Boise, Idaho

Dear Mr. Kulp:

While in Boise some two weeks ago I discussed with you Permit No. 21713, application for which was made by the Milner Low-Lift Irrigation District for 70 cubic feet per second of the waters of Snake River.

I explained to you that Lynn Crandall had notified this district that they would obtain 122 cubic feet per second of the flow of Snake River ahead of the Palisades right. In our conversation you suggested that the District continue with its application.

In checking with the District I have found that the application for permit totals 3,726.82 acres. This included all the lands in the new annexation to the irrigation district made in 1952. Actually water under this permit has been used only to irrigate 2,359 acres and the additional water has been used to irrigate the old lands of the irrigation district which do not have a sufficient water right to total one inch to the acre.

It is contemplated by the District that when Palisades water is available that the balance of the 3,726.82 acres will receive water and will be brought under cultivation. It appears to us that the District is in this position and would like your advice regarding it.

Would your Department allow an amendment to the application to allow the old lands of the irrigation district to be included in the application and to eliminate from the application the excess of acreage over 2,359 acres. The water in the new application and all the water rights belonging to the District would not make an inch to the acre covering the old lands and the portion of the new lands totaling 2,359 acres described in Permit No. 21713. Or would it be your suggestion that the District apply for an extension of time until Palisades water is available when the district would feel itself justified in permitting the owners of the 1,367.82 acres to pay their money with an understanding that they would receive a sufficient water right to adequately irrigate their lands?

-2-

Mr. Mark R. Kulp
Boise, Idaho

February 2, 1956

It may be that we have not given you sufficient history of the matter for your determination. If we have not, we will be pleased to give to you what additional information you desire to enable you to give us your suggestions. Thank you.

Very truly yours,

HARLSON & HARLSON

By *A. H. Nielson*

A. H. Nielson

ARM/rg

Attachment 23

February 13, 1956

RE: Permit No. 21713

Hosmer, Nielson & Nielson
Attorneys at Law
Burley, Idaho

ATTENTION: Mr. A. H. Nielson

Dear Mr. Nielson:

In reviewing the status of water rights and permits of the Milner Low Lift Irrigation District it appears that the District has a decreed right of 135 cubic feet per second with a priority of November 14, 1916, which decree was supported by Permit No. 12759 and superseded Permit No. 12759.

The District also has a license right for 37 cubic feet per second under Permit No. 18919 with a priority date of October 25, 1939. The 37 cubic feet per second was derived from the pump capacity of 172 cubic feet per second as of June 1940, when examination was made and the existing decree of 135 cubic feet per second.

Permit No. 21713 is held for cancellation as no proofs of completion of works were made by September 29, 1955, when they were due. No right under this Permit can be prior to the Palisade right as any right under Permit No. 21713 would have a priority not earlier than May 3, 1950. The decreed right of 135 cubic feet per second is ahead of the Palisades permit of July 28, 1939 and the license right of 37 cubic feet per second under Permit No. 18919 with priority of October 25, 1939, is a little later.

From the watermasters records we note that deliveries indicated pumping capacity was adequate in 1955 to comply with completion of works proof and if proofs of completion of works are made promptly we can reinstate the Permit. If the permit is reinstated it can be amended to apply to the whole of the District lands and proofs made to bring the total appropriations to one inch per acre for all the land irrigated within the District.

We would suggest that you make proofs of completion of works for the full 70 cubic feet per second to keep the permit in good standing and then decide on amendments. No extension of time can be given for completion of works but proof of application to beneficial use is not due until 1961.

Very truly yours,

MARK R. KULP
State Reclamation Engineer

K:hll

275

Attachment 24

Aug. 10 1950
Aug. 17-21 1950
Sept. 18 1950

APPLICATION FOR PERMIT
To Appropriate the Public Waters of the State of Idaho

APPLICATION No. 29185
PERMIT No. 21713
DISTRICT No.

CANCELLED pursuant to sec. 24-4011
Idaho Code Annotated, by order of
State Reclamation Engineer

DEC 27 1955
dated
State: Idaho

1. Name of Applicant: MILNER LOW LIFT IRRIGATION DISTRICT

Postoffice address: Murtaugh

County: Twin Falls

I. If applicant is a corporation, give:

- (a) Date and place of incorporation: Organized in 1971
(b) Amount of capital stock:
(c) Amount paid in:
(d) Names and addresses of directors: Edgar W. Moorman, August Hostbeck and Russell Carlson, all of Murtaugh, Idaho

II. The financial resources of the applicant are:

- (a) Cash on hand: \$17,886.53
(b) Treasury stock:
(c) Bonds to be issued:
(d) Other resources:

2. Quantity of water claimed: Seventy (70)

cubic feet per second.

3. Source of water supply: Snake River

which is a tributary of

4. Location of point of diversion: 300

feet distant from the Southeast

corner of Section 29, T. 10 S., R. 21 E., B.M., and is in the SE $\frac{1}{4}$ 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 and domestic use

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: \$ 175,000.00

8. Kind of works: Canals and laterals, steel penstock, and pumping plant.

9. Height of dam feet; length of dam at top feet; length of dam at bottom
feet; material used in dam:

10. Size of headgate: Width feet; height 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 feet.

12. The time required for the completion of such work is Five (5) years.

13. The time required for the complete application of the water to the proposed use is Six (6) additional years.

14. The land to be irrigated is described in the following tabulation: See remarks.

15. Existing water rights and/or valid permits appurtenant to the lands to be irrigated are: None (New lands)

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

By **Edgar W. Moorman** *Agent.*
President.

Corrected application received: August 14, 1950

and J. D. "CY" PRICE, Secretary of State of the State of Idaho, have caused this instrument to be executed in the name of the State of Idaho, and caused the Great Seal of the State of Idaho to be hereunto affixed, this 29th day of September, 1950.

Countersigned: STATE OF IDAHO

(SEAL) By J. D. "CY" PRICE, Secretary of State. By C. A. ROBINS, Governor.

14.

Twp.	Range	Sec.	NE¼				NW¼				SW¼				SE¼				Totals
			NE¼	NW¼	SW¼	SE¼	NE¼	NW¼	SW¼	SE¼	NE¼	NW¼	SW¼	SE¼	NE¼	NW¼	SW¼	SE¼	
11 S.	20 E.	1																	
		12	40	40	40	40	40	40	40	40	40	40	40	40	40	40	40	299	
		2					40	40	40	40	40	40	29	40	40	40	40	629	
		13	40	7	1	9									22	19	19	40	100
11 S.	21 E.	5	40	40	40	40	40	40	40	40	40	40	40	40	40	40	40	57	
		6	40	40	40	40	40	40	40	40	40	40	40	40	40	40	40	640	
		8	12.89	37	4.53		40	40	40	27.32	40	40	40	40	40	40	40	560	
		7	40	40	40	40	40	40	40	40	40	40	40	40	40	40	40	714.64	
10 S.	21 E.	4					40	40	40	40	40	40	40	40	40	40	40	507.21	
		33					40	40	40	40	40	40	40	40	40	40	40	320	
							40	40	40	40	40	40	40	40	40	40	40	320	
Total Number of Acres to be Irrigated -																	3,726.82		

Attachment 25

Proof of Completion of Works

DEPOSITION OF HOLDER

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

Ans. Karl D. Sears, Milner, Idaho, Secretary and Member of Board of Directors, Milner Low-Lift Irrigation District, Milner, 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. Secretary and member of Board of Directors of the Milner Low-Lift Irrigation District, a quasi-municipal corporation of Milner, Idaho, and acting at the request of the Board of Directors.

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

Ans. Permit No. 21713, date of permit, May 3, 1950, 70 cu. ft. per second of the waters of Snake River, which said water is diverted at Milner Dam on Snake River in Cassia County, Idaho.

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. Water used for irrigation on 11,827 acres, all as described in the application for amendment to Permit No. 21713, now on file with the Reclamation Department at Boise, Idaho.

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. Since the irrigation season 1950 and continuously since that time the said 70 second feet of water has been delivered and used on the above described land.

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. Yes.

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. Not any variance.

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

Ans. The pumps and diversion works of the Milner Low-Lift Irrigation District are capable of delivering and have delivered 257 cu. ft. per second of the waters of Snake River; that the cost of the said installations is the sum of \$

(Sign here.)

Karl D. Sears

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 _____ Burley _____,

County of _____ Cassia _____, State of Idaho, on this _____ 27th _____ day of _____ April _____ A. D. 19 50 _____

[Signature]

Notary Public.

My Commission expires February 28, 1954.

Attachment 26

PERMIT No. 21713

Proof of Completion of Works

DEPOSITION OF WITNESS

In compliance with Sec. 5594, Compiled Statutes of Idaho.

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

Ans. John L. Brog, 1850 Schodde Avenue, Burley, Idaho, electrician and manager
of the Rural Electric Company of Rupert, Idaho.

Ques. 2. Are you acquainted with Milner Low-Lift Irrigation, the
holder of Permit No. 21713, authorizing the diversion of 70 second-feet of the waters
of Snake River, at Milner Dam, Cassia/
County, Idaho
for irrigation purposes? How long have you known him, and where does he reside?

Ans. Yes, I have known the said Irrigation District and of its operation for
more than years.

Ques. 3. Have you read or heard read said Permit No. 21713, 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, I am acquainted with the lands that include 11,827 acres, all of which is
susceptible to irrigation and in my opinion would require at least one inch of water
to the acre for the proper irrigation of the same.

Ques. 5. Are the works of diversion fully completed and of sufficient capacity to convey the
entire amount of water set out in the permit from point of diversion to place of use? If so, when
were they so completed?

Ans. Yes, May 3, 1950.

Ques. 6. Describe the works of diversion as they existed on the date stated in answer to Question
5, and give your estimate of their capacity on that date.

The diversion works of the Milner Low-Lift Irrigation District consist of the
pumps, the boosting stations, the laterals all so constructed that water can be
carried to the 11,827 acres described in Permit No. 21713. To my knowledge the
system has the capacity to carry 203 cubic feet per second of the waters of Snake
River. On May 3, 1950, and since that date the capacity has been increased so that since
the 1st day of April, 1953, said system has a capacity of distributing 257 acre
feet of water to the lands mentioned in Permit No. 21713.

(Sign here.)

John L. Brog

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 Burley, County of
Cassia, State of Idaho, on this 27th day of
April, A. D. 1956.

My Commission expires February 28, 1956.

Notary Public

Notary Public

PERMIT NO. 21713

Proof of Completion of Works

DEPOSITION OF WITNESS

In compliance with Sec. 5594, Compiled Statutes of Idaho.

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

Ans. Orland Bateman, 415 West Main, Burley, Idaho, accountant, Box 598,
Burley, Idaho.

Ques. 2. Are you acquainted with Milner Low-Lift Irrigation District, the holder of Permit No. 21713 authorizing the diversion of 70 second-feet of the waters of Snake River County, Idaho, at Milner Dam, Cassia/ for irrigation purposes? How long have you known him, and where does he reside?

Ans. Yes, I have known the said Irrigation District and of its operation for more than years.

Ques. 3. Have you read or heard read said Permit No. 21713, 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, I am acquainted with the lands that include 11,827 acres, all of which is susceptible to irrigation and in my opinion would require at least one inch of water to the acre for the proper irrigation of the same.

Ques. 5. Are the works of diversion fully completed and of sufficient capacity to convey the entire amount of water set out in the permit from point of diversion to place of use? If so, when were they so completed?

Ans. Yes, May 3, 1950.

Ques. 6. Describe the works of diversion as they existed on the date stated in answer to Question 5. and give your estimate of their capacity on that date.

Ans. The diversion works of the Milner Low-Lift Irrigation District consist of the pumps, the boosting stations, the laterals all so constructed that water can be carried to the 11,827 acres described in Permit No. 21713. To my knowledge the system has the capacity to carry 203 cubic feet per second of the waters of Snake River. On May 3, 1950, and since that date the capacity has been increased so that since the 1st day of April, 1953 said system has a capacity of distributing 257 acre feet of water to the lands mentioned in Permit No. 21713.

(Sign here.) Orland Bateman

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 Burley, County of Cassia, State of Idaho, on this 27th day of April, A. D. 1954.

My Commission expires February 20, 1958

Notary Public.

Attachment 27

STATE OF IDAHO
DEPARTMENT OF RECLAMATION
BOISE, IDAHO
REPORT OF ENGINEER

Permit No. 21713

This proof is for Completion of Works

In Water District No. _____

1. Name of applicant Milner Low Lift (Earl D. Bearn, Sec. & Member of Board)
2. Source of water supply: Snake River
3. Location of point of diversion: Is in the _____
300 feet distant from the SE corner of Sec. 29, Twp. 10 S., Rge. 21 E., B.M. and is in
_____ of Section 29
T. 10 S. R. 21 E. _____
T. 10 S. R. 21 E. _____
4. Describe works as they exist, giving dimensions and capacities of same: _____

This water is a direct flow right from the Snake River and is delivered through the regular Milner Low Lift System.

The first lift is 67½ feet from Snake River through two 60" diameter pipes 1040 feet long. The following turbines and pumps are in Plant #1:

Pump #1, 500 hp G. E. horizontal induction motor connected to an Allis-Chalmers Centrifugal pump size 24; Pump #2, 500 hp Allis-Chalmers horizontal motor, serial No. 10839 and an Allis-Chalmers centrifugal pump serial no. 2266; Pump #3, Allis-Chalmers horizontal motor 500 hp serial no. 108365, Allis-Chalmers centrifugal pump No. 2267; Pump #4, 250 hp horizontal G. E. motor, serial No. 505460 connected to an 18" Worthington centrifugal pump serial no. 812901 W; Pump #5, 600 hp Allis-Chalmers motor, serial No. 144927 connected to an Allis-Chalmers centrifugal pump, serial No. 37497; Pump #6, 500 hp Allis-Chalmers horizontal motor, serial No. 115246, Allis-Chalmers centrifugal pump, serial no. 57806.

These larger pumps are all 24". The motors, though listed at 500 horse power, have been rewound so as to have natural capacity of 600 horse power.

These are all enclosed in a large concrete pump house size 36' by 72' by 24' high. There is a short intake canal 24' wide by 11' deep extending from the Snake River to the intakes in the pump house.

There are a series of additional lifts to higher elevations throughout the project as follows:

Plant No. 2, Plant # 2A, Plant # 2B, Plant #3, Plant #3A, Southeast Plant, Spann Plant, Northeast Plant.

There are 135 second feet of decreed rights with priority of November 14, 1916, Decree No. 8111. There are 37 second feet under License No. 18919, priority of October 25, 1939. This Permit is for 70 second feet with priority of September 29, 1950.

At the East Plant there is a 75 horizontal U. S. vertical motor, No. 965181 and a Peerless Turbine Pump No. 163348.

At Plant No. 2, the following pumps and motors are located:
One A.C. horizontal motor, 250 hp connected to a A.C. centrifugal pump, serial No. 58328. One G. E. horizontal 150 hp motor, serial No. 5085784 connected to a Worthington centrifugal 16" pump, 60 hp. A. C. horizontal motor connected to an A. C. centrifugal pump, serial No. 47981. 200 hp A. C. horizontal motor connected to an A. C. centrifugal pump, serial No. 56985.

Pump house is a concrete block building 28' by 90' by 20' high, with a concrete floor.

At the Southeast Plant there is a 15 hp U. S. vertical motor, serial No. 904998 connected to a Peerless Turbine Pump, serial No. 163563.

There is no pump house, no protection.

At Unit No. 2A there is a 20 hp U. S. vertical motor, serial No. 924706 connected to a Peerless pump hydrofoil. There was a concrete platform 12' by 12' but no well house, no protection.

At Unit No. 2B located near a small substation the following motors and pumps are located: 100 hp U. S. vertical motor, serial No. 904305 connected to a Peerless turbine 14" pump; 75 hp U. S. vertical motor, serial No. 934891 connected to a Peerless turbine 12" pump.

At the Northeast Plant there are the following: 20 hp U. S. vertical motor, serial No. 979029 connected to a Peerless turbine pump, No. 163350; 20 hp A. C. horizontal motor connected to an A. C. centrifugal pump.

At the Spann Unit there is a 15 hp U. S. vertical motor connected to a Peerless turbine pump.

Apparently more land was included originally under this filing than appears feasible at present because additional waters from the Palisades Reservoir in sufficient quantities have never yet been obtained.

5. Water is used for: Irrigation and Domestic

6. State whether or not water has been turned into works of diversion:

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 other than irrigation):

All assessed lands included under the Milner Low Lift Irrigation District,
making a total of 11, 827 acres.

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

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

Remarks:

135 ac = decree right

37 ac = license #18919

172 ac

253 ac = purchase copy

172 ac = copy above

decree & license

This examination was made on the

8

day of May

1918

(Signed) E. F. Thompson

1918

Attachment 28

327

M. E. Milner
Atty. at law,
Barley, Idaho

**Application For Permit
To appropriate the Public Waters of the State of Idaho**

APPLICATION No. 40967
PERMIT No. 32798
DISTRICT No.

1. Name of Applicant: Milner Low Lift Irrigation District

Postoffice address: Murtaugh

County: Twin Falls & / State: Cassia Idaho

I. If applicant is a corporation, give:

(a) Date and place of incorporation:

(b) Amount of capital stock:

(c) Amount paid in:

(d) Names and addresses of directors: (The applicant is a quasi-municipal corporation of the State of Idaho)

II. The financial resources of the applicant are:

(a) Cash on hand:

(b) Treasury stock:

(c) Bond to be issued:

(d) Other resources:

2. Quantity of water claimed: 14

cubic feet per second.

3. Source of water supply: Snake River

which is a tributary of

4. Location of point of diversion:

Water pumped from the Snake River and Milner Dam, the pumping being located in
~~section 29, T. 10 S., R. 21, B. M., County of Twin Falls, Idaho~~ ~~the SE 1/4~~
of section 29, T. 10 S., R. 21, B. M., County of Twin Falls, Idaho

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 of

, 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: \$1,068,582.51 already expended on transportation facilities

8. Kind of works: Sumps, pumps, canal, etc.

9. Height of dam

feet; length of dam at top

feet; length of dam at bottom

feet; material used in dam:

10. Size of headgate: Width

feet; height

feet.

11. Ditch: Width at bottom

feet; width at water line

feet; depth of water

feet;

dimensions of flume:

Diameter of pipe

inches; length of conduit

miles.

Average grade per mile

feet.

12. The time required for the completion of such work is 1 yr. years.

13. The time required for the complete application of the water to the proposed use is no

additional years.

14. The land to be irrigated is described in the following tabulation: See remarks.

15. Existing water rights and/or valid permits appurtenant to the lands to be irrigated are: 135 second feet of Snake Ri, priority November 13, 1960; 121 second feet, priority April 1, 1939, which right is generally agreed upon but not yet confirmed, also, storage rights in American Falls Reservoir and Palis Dam and Reservoir

16. (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:

s/ Milner Low Lift Irrig. Dist. *Applicant.*

Agent,

Corrected application received:

The number of this permit is 32798
Recorded in Book 114 Page 32798 Approved March 28, 1966
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 \$ to be filed on or before
Work to begin on or before May 28, 1966 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 Sept. 28, 1966
The whole of said work to be completed on or before March 28, 1967
Beneficial use of water appropriated in accordance herewith, to be made on or before March 28, 1967

■/ CARL E. TAPPAN
State Reclamation Engineer.

day of .. March .., 1966
 Countersigned:

(SEAL) By s/ LOUIS E. CLAPP Secretary of State. By s/ W. E. DREVLON Acting Governor.

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 $\frac{1}{4}$	
			Lands within the Milner Low Lift Irrigation District				
			ACRES FOR 14 SEC. F1. LICENSE PAGE NO. 32798.				

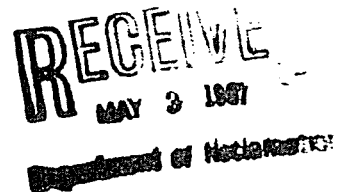
Attachment 29

STATE OF IDAHO
DEPARTMENT OF RECLAMATION

Boise, Idaho

Permit No. 32798

* * * * *



PROOF OF APPLICATION OF WATER TO BENEFICIAL USE
and Completion of Works

DEPOSITION OF HOLDER

Ques. 1. State your name, residence occupation and postoffice address: My name is Earl D. Sears, I reside at Murtaugh, RFD, Idaho.

Ques. 2. If acting in behalf of corporation, state its name, principal place of business (if foreign corporation, give name of postoffice of statutory agent), your position with reference to same, and your authority for appearing in its behalf: I am the manager of the Milner Low Lift Irrigation District, a quasi-municipal corporation of the State of Idaho, the address of the organization is Murtaugh, Idaho, and I have been directed by the Board to make this deposition.

Ques. 3. State number, approval date of permit, and date of priority: No. 32798
Approval date, March 28, 1966, date of priority, July 9, 1964.

Ques. 4. State source of water supply: Snake River
Give location of point of diversion, showing subdivision, section, township and range
pump is located in SE 1/4 Sec. 29, Twp. 10S, Rge. 21, E.B.M. Twin Falls County, Idaho

Ques. 5. Describe your works of diversion: pump, diversion ditches and canals
; state amount of water they are capable of conveying from point of diversion to place of use: 318 s.f.; Give name of canal or ditch or other works by which water is conducted to such place of use: all conducted in the Milner Low Lift Irrigation District System
; if a well, state depth of well none; depth and size of casing _____; depth to water _____; if pump is used, state discharge of pump: _____; tell how it was measured or determined _____
; if sprinkler irrigation, give number and size of nozzles and operating pressure: no sprinkler system used by the District

Ques. 6. State for what purpose water is used: irrigation
(If for irrigation, name each subdivision in which used and number of acres in each subdivision that have actually been irrigated with said water:
the water is used on 13,524 acres in confines of the Milner Low Lift Irrigation District,
which said district lands are located in the Counties of Twin Falls and Cassia, Idaho

32798

State nature of all improvements which have been made as a direct result of said use:
The landowners within the district are able to raise better crops from the use of this water.

Ques. 6-a: If this is a ground water permit, give name and address of person that drilled the well: _____

Ques. 7. If for other than irrigation purposes, show full legal description of place of use and state purpose for which water is used:

Ques. 8: If you are not the person or representative of the corporation to whom above mentioned permit was originally issued, please state how ownership was acquired by present holder: The Milner Low Lift Irrigation District was the applicant for the permit

Ques. 9: State when and in what amount the water diverted under above mentioned permit has been first used: July 9, 1964 - Time used since first use:
The water has actually been used in the years 1960, 1963, 1964 and 1965.

Ques. 10. Describe all other water rights appurtenant to same place of use: The district has 135 s. f. with date of priority November 14, 1916. The District has made application in the suit against Henry Eagle for 121 s.f., there is storage in American Falls reservoir of 45,687 acre feet storage and storage in Palisades Dam & Reservoir of 44,500, in addition the district has a well which pumps 125 inches.

(sign) Earl L. Seare

I hereby certify that the foregoing testimony was read to the above subscribed, 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

Burley, County of Cassia
State of Idaho, on this 1st day of May, A. D. 19 67.

My commission expires: 2-20-70

[Signature]
Notary Public for the State of Idaho
Reading at Burley, Idaho

32798

Attachment 30

STATE OF IDAHO
DEPARTMENT OF RECLAMATION
Boise, Idaho

Permit No. _____

* * * * *

RECEIVED
MAY 9 1965
Department of Reclamation

PROOF OF APPLICATION OF WATER TO BENEFICIAL USE

and Completion of Works

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:

My name is Max Boley, I reside at Murtaugh, Idaho, I am

I am a director of the Milner Low Lift Irrigation District and a farmer and 60 years of age.

Ques. 2 Are you acquainted with Milner Low Lift Irrigation District, the holder of
Permit No. 32798? How long have you known him and where does he reside?

For 14 years I have been acquainted with the affairs of the Milner Low Lift Irrigation District

Ques. 3. Have you read or heard said Permit No. 32798 read, and are you familiar
with its provisions and conditions: Yes yes No. _____

Ques. 4. State source of water supply: from the Snake River

Give location of place of diversion, showing subdivision, section, township and range
SE1/4SE1/4, Sec. 29, Twp. 10 S. Rge 21, E.B.M., Twin Falls County, Idaho

Describe works for conveying water to place of use: Water is pumped from the Snake River
into the system of the Milner Low Lift Irrigation District and from there distributed
to the landowners in the District.

Ques. 5. How many second feet of water do you estimate said works will safely conduct
to place of use: 318 c.f. How much water have you seen being so
conveyed? I have seen 270 c.f. per second of water being delivered to the system

Ques. 6 If for irrigation, show number of acres irrigated in each subdivision, giving
full legal description:

There is 13,524 acres of land in the counties of Twin Falls and Cassia, Idaho,
in the Milner Low Lift Irrigation District where the water is used.

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Ques. 7. If for other than irrigation purposes, show full legal description of place of use, and state purpose for which water is used.

Ques. 8. (If for irrigation) state character of land that has been reclaimed, and give your estimate of the amount of water required for its profitable cultivation.

It has added to the water rights and the lands are more productive because of the additional water.

Ques. 9. Have you any ownership interest in the works, water or lands above mentioned? If so, in what way and to what extent? I am a director of the Milner Low Lift Irrigation District, but I have no personal interest in the water right.

Ques. 10. When did you first see this water used? July 9, 1967

Other times you have seen such use: The water was not used in any short water year, but as I remember the water was used during the years 1960, 1962, 1963, 1964, and '65.

(Signed):

May Boley

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

Burley, County of Cassia, State of Idaho, on this 18th day of March, A. D. 19 67

[Signature]
Notary Public for the State of Idaho
Residing Burley, Idaho

My commission expires 2-20-70

32798

STATE OF IDAHO
DEPARTMENT OF RECLAMATION
Boise, Idaho

Permit No. 32798

* * * * *

RECEIVED
MAY 8 1965
Department of Reclamation

PROOF OF APPLICATION OF WATER TO BENEFICIAL USE

and Completion of Works

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:

My name is Edwin E. Brune. I am 49 years of age. I reside at Murtough, Idaho. I am a
farmer and a director of the Milner Low Lift Irrigation District.

Ques. 2 Are you acquainted with Milner Low Lift Irrigation District, the holder of

Permit No. 32798? How long have you known him and where does he reside?
I have known about the affairs of the Milner Low Lift Irrigation District for 14 years,

Ques. 3. Have you read or heard said Permit No. 32798 read, and are you familiar
with its provisions and conditions: Yes yes No. _____

Ques. 4. State source of water supply: Water is pumped from the Snake River

Give location of place of diversion, showing subdivision, section, township and range
SE1/4SE1/4, Sec. 29, Twp. 10 S. Rge 21, E.B.M. Twin Falls County, Idaho

Describe works for conveying water to place of use: Water is pumped into the system of
Milner Low Lift Irrigation District and distributed to the landowners within the
District.

Ques. 5. How many second feet of water do you estimate said works will safely conduct
to place of use: 318 s.f. How much water have you seen being so
conveyed? I have seen 270 C.f. per second of water being delivered to the sytem

Ques. 6 If for irrigation, show number of acres irrigated in each subdivision, giving
full legal description:
Water to be used on the 13,524 acres of the Milner Low Lift Irrigation District located
in the counties of Twin Falls and Cassia, Idaho,

32798

Ques. 7. If for other than irrigation purposes, show full legal description of place of use, and state purpose for which water is used.

Ques. 8. (If for irrigation) state character of land that has been reclaimed, and give your estimate of the amount of water required for its profitable cultivation.

The land was more productive because of the use of the water. It has added to the water rights.

Ques. 9. Have you any ownership interest in the works, water or lands above mentioned?

If so, in what way and to what extent? I have no personal interest in the water right except I am the Director of the Milner Low Lift Irrigation District.

Ques. 10. When did you first see this water used? July 9, 1964

Other times you have seen such use: According to my best recollection, during the years from 1960 through 1961, 1962, 1963, 1964 and 1965, water was used. I believe that the year 1961 the water was not used. In any short water year the water was not used, but I am giving this according to my best recollection.

(Signed):

Erwin E. Bruner

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 Burley,

Idaho, County of Cassia, State of Idaho, on this 1st day of May, A. D. 19 67

Bl. Miller

Notary Public for the State of Idaho

Residing Burley, Idaho

My commission expires 2-20-70

32798

Attachment 31

STATE OF IDAHO
DEPARTMENT OF RECLAMATION
BOISE, IDAHO
REPORT OF EXAMINER

Permit No. 32798

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

1. Name of applicant: Milner Low Lift Irrigation District

2. Source of water supply: Snake River

3. Location of point of diversion: Is in the SE 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:

As of the proof date the system consisted of two 60" penstocks fed by 3625 horsepower capacity pumps. The pumps are combined in various ways to regulate flow. There are 3-500 H.P.; 1-600 H.P.; 1-600 H.P.; 1-300 H.P. centrifugal A.C. pumps and a 200 H.P. & a 75 H.P. turbine pumps.

5. Water is used for: Irrigation

6. State whether or not water has been turned into works of diversion: yes

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 other than irrigation):

Lands within the Milner Low Lift Irrigation District, Cassia and Twin Falls Counties

(13,524 acres)

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

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

Remarks:

Other rights: 135 cfs decreed
37 cfs decreed - 1891
87 cfs

76 cfs eligible for c.u. 21713

Snake River Watermaster reports indicate a maximum diversion rate of 301 cfs as of 1961

This examination was made on the 22nd

day of February 1966
Don Wether

When the Live Irrigation System
Hurtough, Idaho *Proposed diversion of Snake River*
Permit No. 32798 *Q-318 c.f.s.* *Capl D. Soars, Mgr.*
RFB
Hurtough, Idaho

Examination for Comp. of Works & Beneficial Use

County Twin Falls

Quantity: 14.0 c.f.s.
Sec. 29 T. 10 S. R. 21 E.

Source: Snake River

P.D.: SE1/4 Sec. 29, T. 10 S., R. 21 E., B.M.

Use: Irrigation

Extension:

Protect:

Completion of Works:

Other Rights: 256 c.f.s. of Snake River plus storage

Filed: March 23, 1966

Date: March 28, 1967

Made: May 1, 1967

Priority: April 26, 1966

INSTRUCTIONS TO EXAMINERS

1. Always carefully note the location of the point of diversion and accurately plat same.
2. When proof is for beneficial use, carefully check up the number of acres actually irrigated in each forty and accurately plat same.
3. Make a map showing the correct location of streams and ditches, and the irrigated lands, and any adjacent permanent landmarks, such as towns, lakes, large streams and public roads.
4. If any unusual conditions are discovered, make plain statement of them under remarks.
5. Always see the holder, if possible, and go over the whole ground with him and make your report only upon actual existing facts and conditions.
6. Give general characteristics of soils, topography, and crops raised.

32798

Attachment 32

Year	Total Max Diversion	Max Natural Flow	Date
1920	39	39	26-Jun
1921	53	53	26-Jun
1922	96	94	7-Jul
1923	100	100	6-Jul
1924	102	102	23-May
1925	106	106	12-Jul
1926	104	103	28-May
1927	106	106	21-Jun
1928	143	143	10-Jun
1929	167	135	3-Jul
1930	167	137	29-Jun
1931	167	40	20-Apr
1932	170	135	16-Jun
1933	173	135	6-Jun
1934	130	28	1-Apr
1935	128	127	30-May
1936	174	156	10-May
1937	172	155	10-May
1938	170	154	13-Jul
1939	166	157	7-May
1940	173	157	9-Jun
1941	171	163	6-May
1942	170	152	27-May
1943	171	171	17-Jul
1944	192	173	5-Jul
1945	203	202	9-Jul
1946	200	200	8-May
1947	200	182	30-Apr
1948	198	179	10-Jun
1949	201	176	17-May
1950	200	200	18-Jul
1951	201	198	7-Jul
1952	218	198	5-Jun
1953	216	200	17-May
1954	256	255	8-Jul
1955	237	237	27-May
1956	236	236	25-May
1957	254	241	1-Jul
1958	264	254	20-May
1959	264	90	25-Sep

Year	Total Max Diversion	Max Natural Flow	Date
1960	272	232	27-May
1961	235	103	13-Sep
1962	264	213	8-May
1963	280	235	1-Jun
1964	301	270	23-May
1965	290	264	7-Jun
1966	292	135	8-Jul
1967	300	285	26-Jun
1968	292	252	10-May
1969	287	234	4-Jun
1970	262	247	12-Jul
1971	192	192	20-May