

Orr Affidavit

Exhibit 66

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DEPARTMENT OF
WATER RESOURCES

Letter from District Engineer Lynn Crandall
to B.E. Stoutemyer, District Counsel,
U.S Reclamation Service
(Sept. 8, 1939)

UNITED STATES
DEPARTMENT OF THE INTERIOR
GEOLOGICAL SURVEY

Idaho Falls, Idaho

Sept 8 1939

Mr. B.E. Stoutemyer
603 Post Office Bldg.
Portland, Oregon.

Dear Mr. Stoutemyer:

In reply to yours of the 5th inst. and one from Mr. Debler on the same subject, the matter of trying to solve the water problems on Snake River might well drive one to despair as he tries to evolve some plan of procedure that will meet with the approval of all concerned and yet be possible of execution.

Some time ago we sent out a circular letter to all canal companies on the river asking them how much storage they would desire in the proposed Grand Valley Reservoir on the assumption that they would be permitted to buy one-half of their present American Falls lease water and that the Grand Valley storage would cost \$4 per acre-ft. of space payable at the rate of 10¢ per acre-ft. per year.

The Replies so far received are as follows:

Requests for Storage in So. Fork reservoir
(acre-ft.)
A. For use under existing canals

Rigby Canal Co.	10,000	Aberdee-Springfield	255,000
Arnsberger Canal	700	Enterprise Canal Co.	20,000
Kite & Nord	400	Parsons Ditch	200
Island Irrig. Co.	10,000	Peoples Canal Co.	40,000
Bear Island	100	New Lava Side Co.	10,000
Dilts Irrig. Co.	1,000	Mattson-Craig	2,100
SNAKE RIVER VALLEY Irr. Dist.	50,000	Harrison Canal	40,200
Burgess Canal Co.	40,000	Liberty-Park Irr. Co.	2,000
Butte & Market Lake Canal Co.	40,000	Farmers Friend Irr. Co.	6,000
Reid Canal Co.	2,000	Present Fort Hall project	414,600(a)
Minidoka Irr. Dist.	50,000	Little Indian Project	23,400(a)
Burley Irr. Dist.	100,000(c)	Idaho Irrg. Dist.	25,000
Swan Valley Users	22,360	New Sweden Irr. Dist.	30,000
Martin Canal Co.	4,000	Sunnydell Irr. Dist.	6,000
Danski Ditch Co.	1,000	Progressive Irr. Dist.	11,000
Lenroot Canal Co.	10,000	Portneuf River Users	50,000(b)

Total on present projects 1,277,060

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(a) U.S.I.I.S. Project will require Congressional authorization.

(b) Will require diversion from Blackfoot River and Agreement with Indian Service

(c) Also wants 50,000 Am. Falls lease water

B. For use on New Lands.

Michaud Project for lands within Fort Hall Reservation
Power, Irr. Dist. for lands west of Michaud Project

630,000

420,000(d)

Total new lands

1,050,000

(d) Also wants 70,000 acre-ft Am. Falls lease water.

Other requests for storage will be made by existing projects not tabulated in the foregoing and if it should be deemed advisable to abandon the proposed Teton Reservoir the users on Henrys Fork and tributaries would probably desire 150,000 acre-ft. of space. Even if Teton Reservoir is built they should have some So. Fork storage for exchange as the Teton Reservoir priority would be valueless for storage in dry years. It is thus apparent that the full space in the proposed reservoir will be over subscribed by existing canals on the river, leaving no space available for new lands. The Bureau of Reclamation seems to feel that the So. Fork reservoir will not be feasible unless some water can be made available for storage therein each year, but in taking this position it misconstrues, in my opinion, what the Snake River water users have in mind in desiring the construction of the reservoir. Most of them now have an adequate supply for use in normal years and in such years probably not over 10% of the water in the reservoir would be withdrawn. What they want to do is to save the surplus water in the wet years and retain it for use in the dry years such as 1919, 1924, 1926, 1931 and 1934 and they are figuring on acquiring enough space to permit them to do this. These folks have lived here on Snake River for many years and know what dry years as well as wet ones are and what can be expected from the river. They know that even with all the alleged extravagant use of water on the stream, winter diversions, etc., there have been over 3,000,000 acre-ft. of surplus water spill to waste over Milner Dam during the past 4 years and that if the So. Fork Reservoir was in existence over a million acre-ft. of this wasted water would today be in the reservoir waiting to be used in future dry years. Nothing would contribute more to economical use of water on Snake River than for these people to own space in the proposed reservoir with the privilege of individual hold-over credit. Where can the Bureau find a better record of past payments on purchased stored water than here on Snake River?

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The users who bought space in Jackson Lake paid for it long ago; the various canals who bought half of American Falls space raised the money by private borrowing and paid the Government in full before construction even started. They will have paid off these private loans in full in three more years, many companies outside of the American Falls Dist. having already paid off in full.

Many of the canals have no outstanding debt at all at the present time and the average debt is very low. Under the Bureau's estimates and set-up the South Fork Reservoir would cost the irrigators \$4,000,000 which would be equalled by the increased crop returns in just one dry year. These are 500,000 acres under the canals now applying for water in the South Fork reservoir so the proposed obligation is \$8 per acre repayable at the rate of 20 cents per acre per year for 40 years. One additional sack of No. 2 spuds per acre would pay this.

You state that the Chief Engineer reports that the Grand Valley Reservoir is not feasible unless definite arrangements can be made to save at least 250,000 acre ft. per year of water now being wasted. If water now being wasted by unnecessary use could be saved to that amount it would probably be necessary that such saved water accrue to reservoirs in order of priority of right, - 1st to fill American Falls; 2nd, fill Island Park; and 3rd, fill Grassy Lake, before any of the saved water would become available for Grand Valley.

In the dry years the saved water would all be absorbed before reaching the Grand Valley priority. We might better face the fact, as the users here on the river do, that in years of extreme drought there won't be any water to store in a new reservoir and that in such years it must rely upon holdover from preceding years. This is unavoidable it seems to me in this final step in irrigation development on a river where the normal flow is fully appropriated, the firm storage is all developed, and all that remains is to catch the wet year surplus and hold it for the dry years.

Let us consider this question of so-called wasteful use of water on Snake River. It falls into two parts, - 1st. - excessive diversions and 2nd, - winter use.

Excessive Diversions.

When I became watermaster on the river in 1930, I, with mistaken zeal and a liking for statistics, started the practice of including in our annual reports a tabulation showing seasonal diversions, acreage irrigated, and diversions in acre feet per acre for each canal on the river. It developed that these figures in many cases showed a large acre-ft. per acre diversion, far in excess of the amounts used in some other localities, and these figures have really been responsible, I think, for the charge so frequently heard regarding excessive use of water on Snake River. There are a number of things to be considered in this connection, however; one is the loss in many miles of canals

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from point of river diversion to the land; on the Twin Falls No. Side Project for example there are a thousand miles of canals operated by the Canal Co. besides hundreds of miles of settlers laterals. On a number of the larger projects, deliveries to the farmer are only 60% of the water diverted, and on an average throughout the district canal losses to the farmers headquates probably are 35% of diversions, with additional losses in the farm ditches. Our canal measuring stations are located at the heads of the canals and, particularly during the flood water season, substantial amounts of water are spilled through wasteways back into the river below the measuring point and should not really be charged against the canal as it is picked up further downstream.

Most of the canals with very heavy diversions are in "sub" districts where the water used to raise the ground water for sub irrigation and drains through spring creeks back into the river. Immediately following the flood period for example with 16,000 sec.-ft at Heise we can fill 23,000 sec.-ft. or more of diversions by downstream canals from Heise to Milner without drawing storage from American Falls. The rights were awarded by Court decrees and can not be now disturbed by persons who were parties to the decree. There is no practical way whereby the canals desiring to acquire So. Fork storage can compel these canals to reduce their diversions below the amount awarded by court decree. The Bureau of Reclamation has been on Snake River for over 30 years and its Minidoka Project today diverts more water per acre than the average diversion by all canals from Heise to Milner including those that divert excessively. In 1938 the Minidoka project diverted 7.0 acre-ft per acre irrigated, being 7.6 on the No. Side and 6.4 on the So. Side, compared to an average of 6.4 in the entire Snake River area. There are just as many borrow pits full of water on the Minidoka project as elsewhere. The Bureau has enlarged the South Side Minidoka Canal and pumps until that project now during the peak months draws more water even than its decree, the excess being charged to storage. The Govt. was a party to the Woodville decree and in 1929 in that decree agreed to the amounts of water awarded in previous decrees and to the award of new flood water rights of over 2,000 sec.-ft. to various upper valley canals in addition to their old decrees. Even a few years ago it voiced no objection to the Fremont-Madison District's allotment of Island Park storage to canals serving the Egin Bench which are already among the heaviest users of water on the stream. I don't mention these facts as any criticism of the Bureau's policy because it had to deal with the situation as it existed, with facts and not theories, but it does seem a little unfair that the Bureau today says to the Snake River water users they they must take steps to compel these canals to reduce their diversions or it won't approve the So. Fork reservoir, when for many years it not only acquiesced in but contributed to the situation of which it now complains.

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In 1938 there were 30 canals on the river from Heise to Milner that diverted more water per acre than the Minidoka No. Side project. These canals however irrigated only 94,475 acres or 10% of the area served by all the canals and nearly all of them served areas where the water table is tributary to the river. A number of small canals with large diversions per acre in our annual tabulations give an entirely erroneous impression of excessive use if applied to the area as a whole.

Winter Use.

This matter can best be discussed by sections;

Twin Falls Project.— Owing to quality of groundwater the domestic requirements can not be supplied from wells. The only possible method of eliminating winter diversions would be to pump water from springs on the north side of river above Shoshone Falls and distribute same by pipe line over the project which would probably cost a considerable sum of money. About 148,000 acre-ft. of water is now diverted from Nov. 16 to Mar. 31 each winter. The Company has a fairly adequate supply of storage even in dry years and would doubtless give up entirely any American Falls lease water rather than agree to cease winter diversions. As far as I can see there is little present hope of eliminating winter use on this project.

No. Side Twin Falls Project.— This project diverts about 142,000 acre-ft. from Nov. 1 to Mar. 31 each winter which is a total loss to irrigation. Domestic water of good quality could be provided from wells, at a probably cost of from \$700,000 to \$1,000,000. This project is desirous of continuing the existing situation on Snake River, no new reservoirs and keep all of its present lease water at 12¢ per acre-ft. per year. It is the largest lease holder, having 151,000 acre-ft. of lease water. It is opposed to any development that would curtail its supply of this leased water which it needs. It could probably be compelled to agree to some program of well drilling if it had to do so to prevent itself from being deprived of the lease water, provided some feasible plan was adopted for financing the construction of the wells. It feels that if it provided wells at the expense of its stockholders the water saved should belong to it for its exclusive use. Any plan of eliminating winter use of water must include this project if much water is to be saved.

Upper Valley Heise to Blackfoot.— Winter diversions less surface spill back to the river amount to about 185,000 acre ft. for the 5 mos. Nov. to March, incl. of which about 1/2 drains back as ground-water inflow into American Falls reservoir and 1/2 drains westward under the desert and is lost for irrigation above Milner. Wells would probably cost \$800,000 and save 90,000 to 100,000 acre-ft. of water each winter.

The canals serving areas of non-tributary water table in this section are all applicants of So. Fk. storage and would agree to cease winter diversions if the well drilling program would be financed by the government, repayable under the Reclamation Act.

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It will appear from the foregoing that approximately 250,000 acre-ft. of winter water could be saved on the No. Side Twin Falls project and in the upper valley from Heise to Blackfoot. A small additional amount might be saved on the North Fork but much of that section is in an area of tributary groundwater and net savings would be relatively small.

The principal difficulty with the well drilling program is to finance it. People who have wells won't pay for wells for someone else. Canals that don't divert winter water now refuse to pay for wells so that other canals can cease winter diversion. The more prosperous farmers now have wells and the owners of most of the places needing wells are either non-resident, mortgage companies, or persons of limited means with their places mortgaged. It costs from \$500 to \$1,000 to drill and equip a well and the only way to complete well drilling program can be accomplished, in my judgment, is for the government to finance it, repayable by the individual land owner under the Reclamation Act along with this payments for storage. He can pay from \$12 to \$25 per year for his well where he never could, in many cases, raise at one time the entire cost thereof. The government could make a contract with each Canal Co. providing that it would drill as many wells as necessary and desired by landowners under the canal and the canal Co. agree that after this was done it would run no winter water. If the lands were in an irrigation district the cost of the well would be assessed against the lands and the payment collected through taxes. If the lands were under a Canal Co. the Canal Co. might pledge its canal system and water rights as a guaranty of payment as it might also do for purchase of stored water, provided it had the authority to make special levies for payment of costs of wells, or the lands might be annexed to an irrigation district if they weren't already in one. I am sure some method could be devised to guarantee to the Govt. repayment for costs of the wells.

I think that all of the projects who have applied for space in the So. Fork reservoir would agree as a condition to their being granted rights therein, that they would cease winter water diversions if the Govt. would drill the wells and let them pay for the wells along with the payments for stored water. If it should be decided to permit present lease holders of American Falls space to buy one-half of such space, the same requirement of ceasing winter water diversions should also be applied to such parties who had not already so contracted in connection with the So. Fork reservoir, under the same plan for initial financing. Thus the matter of saving winter water is tied up with The So. Fork reservoir, the sale or continued lease of Am. Falls space, and some method of financing the cost of wells by the Govt. The whole situation is hopeless if you just say to the canals that they must first get contracts for elimination of 250,000 acre-ft. of winter use, because that amount of saving can not be secured without eliminating such use on either the Twin Falls No. Side or So. Side projects. Neither of these projects has so far applied for any So. Fork reservoir space and both seem quite satisfied with the status quo on the river. The only way in which either might be induced to cease winter water is for the Govt. to make some such requirement in connection with the continued use or sale of the leased water, so that the means of compelling the

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saving of winter water is now in the hands of the Govt. and is not possible, of accomplishment alone by those desiring the So. Fork reservoir. You tried 5 years ago to insert a provision in the lease requiring that winter diversions cease but upon protest withdrew the requirement. If the Govt. would finance the initial cost of the wells under repayment contracts with Irrigation districts or canal companies there wouldn't be much excuse for anyone except the Twin Falls project objecting to the well drilling program. There is quite a keen demand for leasewater, however, and you might be able to dispose of the full amount of lease water if you inserted a provision in the next 5-year contract requiring that all participants therein agree to start at once drilling wells and to cease winter diversions within three years.

The Twin Falls Canal Co. probably wouldn't sign such a contract and I don't know whether the No. Side Canal Co. would sign or not. These two projects have slightly over half or about 220,000 acre feet of leased water. The Burley and Minidoka districts would probably take 50,000 of this if the two Twin Falls projects gave it up and we might be able to dispose of most and perhaps all of the balance above American Falls. There would be a lot of ill-feelings arouse however which would be regrettable in view of the present harmonious relations among the canals on the river. This could be avoided if the Govt. would finance the well drilling program. We have appreciated the large amount of study that the Bureau has given to the perplexing problem of additional storage on Snake River and especially its latest set up whereby half of the cost of the reservoir will be repaid from power sales, one-fourth as flood control benefits, leaving one-fourth to be repaid by irrigation. This has reduced the irrigation cost per acre-ft to a figure where purchasers of space can buy enough to tide them over the years of no storage. If an owner of space only drew his water once in five years it would be equivalent to \$20 an acre-ft cost, on an average annual use basis, and you have built and have in contemplation numerous projects costing more than that.

Commissioner of Recl., Washington, D.C.

The storage is desired as a supplemental dry year supply exclusively for existing projects and as such it is entirely feasible. These projects survived the past dry years on the river with their present water rights so they won't collapse no matter how much water may or may not be available for future storage in the South Fork reservoir. Surely there will be enough retained there under any conceivable future occurrence of stream flow to be worth \$4,000,000 to the Snake River irrigators, who produce an average annual crop worth five times that amount. Why quibble over contracts for saving 250,000 acre-ft which is only one-fifth of the reservoir capacity, and which would largely accrue in dry years to reservoirs with prior rights, and furthermore which will be saved anyhow if the gov't. will so require in contracts for the new space and for sale or lease of American Falls space, provided it will finance the well drilling program.

We have the opportunity now to contract for the sale of the power output if we can make it available by 1945. It would be a tragedy here on Snake

River if we compelled these power users to develop power elsewhere and thereby lost this market, as we might never find another. I sincerely hope the Bureau will consider this matter further and with a full appreciation of the existing situation. I have been in close contact with water problems here on Snake River for about 30 years and the project seems so meritorious and feasible to me, under the existing proposal for distribution of its costs between power, flood control and irrigation, that I find it hard to believe that others should doubt its being a success, and I wish that I had the ability to make them see the situation as it actually exists.

In connection with the So. Fork storage, if undertaken, there will need to be some decision made on the disposal of the present lease water. I think, personally, that the plan to sell one-half of the lease space to present holders and put one-half on new lands is about right, as this results in a demand that will exhaust the South Fork space by present projects. If they were not allowed to buy as much as one-half of their leased space they would want more So. Fork storage which isn't available. The balance of the leased water ought to be used on Michaud Flat or areas similarly situated as the net water cost to the river there is only one-third of what it would be per acre irrigated if diverted to the Minidoka N.S. Extension where the water table drains away from the stream. I suppose the use of the water of the South Fork Reservoir on the Govt. Indian lands of the Fort Hall project will be just as effective an argument for condemnation of lands in the reservoir site as if the water was used on Govt. lands on the Minidoka Extension.

1,600,000 in 1962, for the purpose of providing an improved

water supply for the people of District Engineer.

2. AND WHEREAS, the Indian Territory of the Republic

Bureau his advice that the said proposed agreement was not to
 be considered binding until definite action was taken by the
 Bureau the drawing of it from the said conference was not
 necessary. He said that the subject of drawing it from the
 conference he advised the said members of the said conference