



Loucks property New Gem

South Canal

section 19

Loucks private well river

Louck Property

South canal

BLM

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Google

214



Beskoon property section 23

Rausch property section 23

South Canal

New Gem

private not irrigated

BLM

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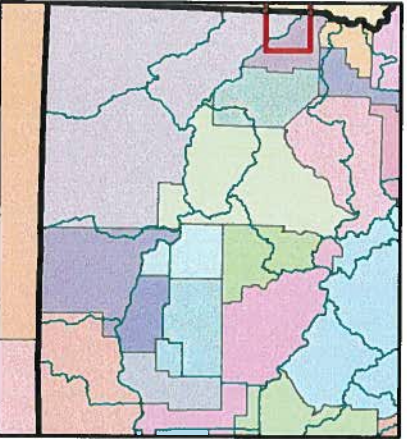
Gem Irrigation Dist

Adjudication Recommendations: 2-64, 2-65

Service Area Boundary
GIS Place of Use Illustration

Legend

- Service Area
- State Outline
- Townships
- PLS Sections



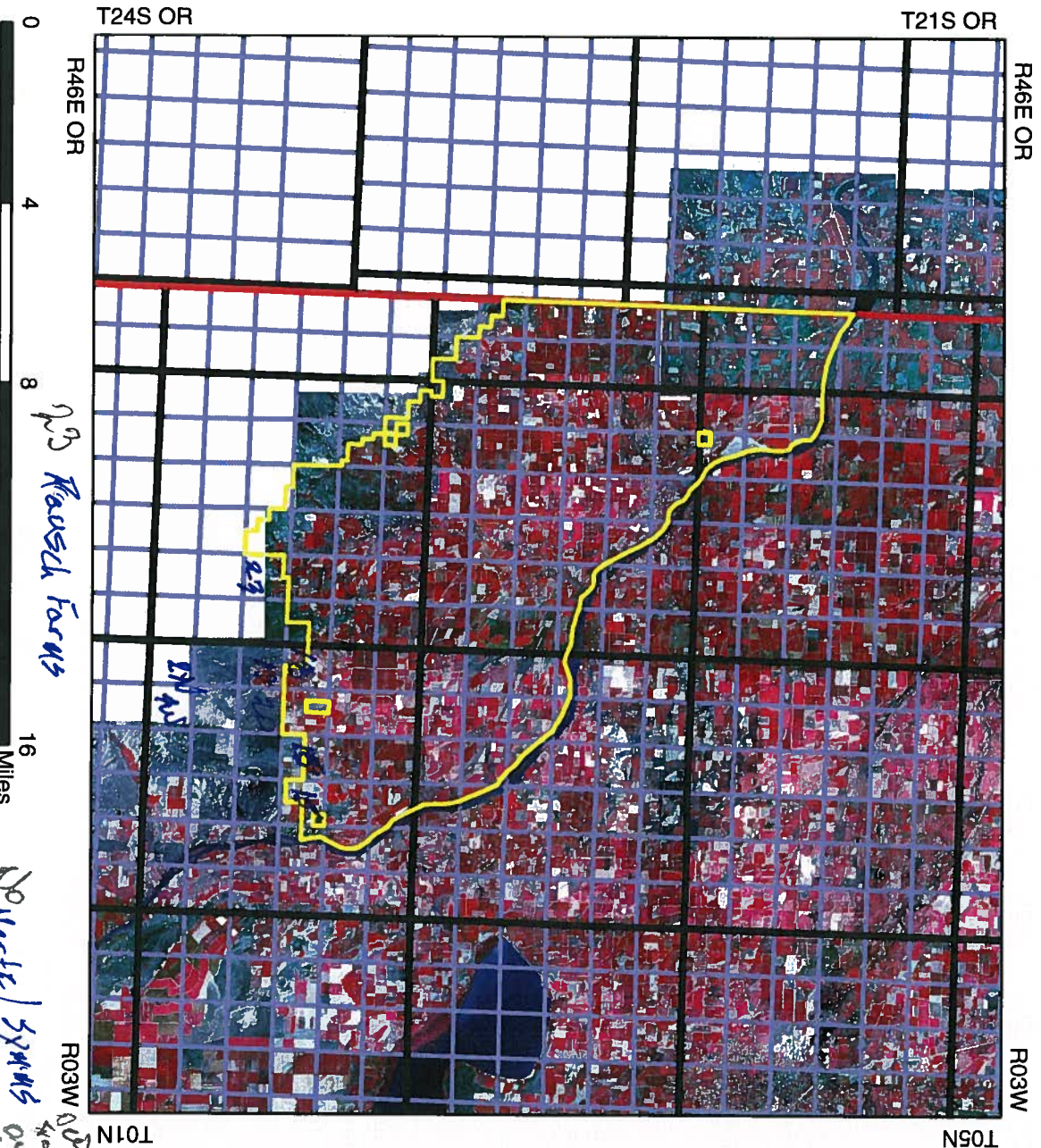
Canyon, Owyhee Counties

IDWR Basin 2

Prepared by Don Shaff

On April 27, 2009

1987/88 Aerial Photography



04/27/2009

IDAHO DEPARTMENT OF WATER RESOURCES
PRELIMINARY RECOMMENDATION OF WATER RIGHTS ACQUIRED UNDER STATE LAW

RIGHT NUMBER: 2-64

NAME AND ADDRESS: GEM IRRIGATION DIST
PO BOX 67
HOMEDALE ID 83628

SOURCE: SNAKE RIVER

TRIBUTARY: COLUMBIA RIVER

QUANTITY: 306.000 CFS

PRIORITY DATE: 05/05/1913

POINT OF DIVERSION:

T02N R04W S14 NWNENW Lot 1 Within OWYHEE County

T04N R05W S32 NWSE Lot 5 Within OWYHEE County

PURPOSE AND
PERIOD OF USE:

PURPOSE OF USE

PERIOD OF USE

QUANTITY

IRRIGATION

03/01 11/15

306.000 CFS

PLACE OF USE:

22603 ACRES TOTAL

The boundary encompassing the place of use for this water right is described with a digital boundary as defined by I.C. Section 42-202B(2) and authorized pursuant to I.C. Section 42-1411(2)(h). The data comprising the digital boundary are incorporated herein by reference and are stored on a CD-ROM disk issued in duplicate originals on file with the SRBA District Court and the Idaho Department of Water Resources. A map depicting the place of use is attached hereto to illustrate the place of use described by the digital boundary.

Right Nos. 2-64, 2-65, 57-2118, 57-2177, 57-4104, 57-10854, 57-10901, 57-10912, and 57-10913 are limited to the irrigation of a combined total of 22,603 acres 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 - Beneficial Use

File Note

Re: Tele-Conference 2-64, 2-65

Date: 2/24/09

Participants: Al Barker, Gen Irr. Dist.
Garnett Barker, IDWR
Renee Ridgeway, IDWR
Don Shaff, IDWR

Barker: 3 objectives

POU, increase Acres to 22,603 from 22,594

POU, shape of Irr areas within Boundary

POD. Add Homedale plant.

IDWR - Response

POU Acres increase - No problem
claimed 23,100+, increase well within
margin of error.

POU shape

Irrigated acres not critical
Boundary - will address BLM issues.

POD - Amend claims SF4
Gen is not to quantify.

Following SF4, IDWR will submit
ADRs on or before court deadline.

05/15/2006

IDAHO DEPARTMENT OF WATER RESOURCES
PRELIMINARY RECOMMENDATION OF WATER RIGHTS ACQUIRED UNDER STATE LAW

RIGHT NUMBER: 2-64

NAME AND ADDRESS: GEM IRRIGATION DIST
PO BOX 67
HOMEDALE ID 83628

SOURCE: SNAKE RIVER

TRIBUTARY: COLUMBIA RIVER

QUANTITY: 306.000 CFS

PRIORITY DATE: 05/05/1913

POINT OF DIVERSION:

T02N R04W S14 NWNENW Lot 1 Within OWYHEE County

PURPOSE AND
PERIOD OF USE:

<u>PURPOSE OF USE</u>	<u>PERIOD OF USE</u>	<u>QUANTITY</u>
IRRIGATION	03/01 11/15	306.000 CFS

PLACE OF USE:

22594 ACRES TOTAL

Place of use is within the boundary of Gem 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.

Right Nos. 2-64, 2-65, 57-2118, 57-2177, 57-4104, 57-10854, 57-10901, 57-10912, and 57-10913 are limited to the irrigation of a combined total of 22,594 acres 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 - Beneficial Use

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

02/20/2003

IDAHO DEPARTMENT OF WATER RESOURCES

Water Right Report 2-2276

WATER RIGHT NUMBER: 2-2276

Owner Type

Current Owner

Name and Address

GEM IRRIGATION DIST
PO BOX 67
HOMEDALE, ID 83628
(208)337-3760

Priority Date: 01/07/1964

Basis: License

Status: Active

Source

SNAKE RIVER

Tributary

COLUMBIA RIVER

Beneficial Use

IRRIGATION

From To

/ to /

Diversion Rate

50.000 CFS

Annual VolumeTotal Diversion:

50.000 CFS

Location of Point(s) of Diversion

SNAKE RIVER

NE1/4NW1/4

Sec. 14, Twp 02N, Rge 04W, B.M.

OWYHEE County

Place of Use

IRRIGATION

Twp Rge Sec	NE				NW				SW				SE				Totals
	NE	NW	SW	SE	NE	NW	SW	SE	NE	NW	SW	SE	NE	NW	SW	SE	
02N 04W 2											4.0						4.0
02N 04W 3		6.0	29.0		13.0		29.0	36.0	39.0	38.0	38.0						228.0
02N 04W 4	7.0	33.0	38.0	32.0	38.0	38.0	38.0	39.0									263.0
02N 04W 5	38.0	35.0	34.0	36.0	37.0	29.0	35.0	27.0									271.0
02N 04W 6	27.0	32.0	39.0	38.0	36.0	34.0	29.0	36.0									271.0
02N 04W 7	38.0	39.0	37.0	38.0	37.0	35.0	34.0	35.0									293.0
02N 04W 8	38.0	37.0	37.0	39.0	39.0	34.0	35.0	37.0									296.0
02N 04W 9	35.0	37.0	39.0	28.0	37.0	38.0	39.0	40.0									293.0

Scott -
Fy 2 - Danne

Other Claims
2-64
2-2014 (see 2-4)
5-3-2
DND

all average covered
in 2-64 (attached)
under Beneficial Use
Rt.



State of Idaho
DEPARTMENT OF WATER RESOURCES

Western Region, 2735 Airport Way, Boise, Idaho 83705-5082 - (208) 334-2190

CECIL D. ANDRUS
GOVERNOR

R. KEITH HIGGINSON
DIRECTOR

December 16, 1992

Mr. Ron Geertson, et al
Rt. 1, Box 1333
Homedale, ID 83628

RE: Reinstatement of a Point of Diversion by Gem Irrigation District

Dear Mr. Geertson:

I am in receipt of a letter signed by yourself and six other individuals in which you identified some concerns relative to Gem Irrigation District's actions to renew a point of diversion northwest of Homedale. I will respond to your questions in the order they were addressed in your letter.

1. Does Gem Irrigation District need authorization from the IDWR to move 25-30 cfs of the water right to Homedale?

Licensed water right No. 02-02014 identifies two points of diversion, one near Marsing (NENW Sec. 14, T 2 N, R 4 W) and the other near Homedale (NWSE Sec. 32, T 4 N, R 5 W), with a rate of diversion of 306 cfs, and with no restriction regarding the rate of flow to be diverted from each location. Licensed water right No. 02-02276 identifies only the Marsing point of diversion, for an additional 50 cfs. The total water right from the Snake River in the name of Gem Irrigation District is 356 cfs.

Consistent with the description in your letter, it is my understanding that in the 1930's or 1940's the diversion of water from the Snake River by Gem Irrigation District was consolidated at the diversion site near Marsing. It is my understanding that the site near Homedale has been unused since then.

This summer the manager of Gem Irrigation District, Mr. Clyde Hutton, visited our offices to determine what action, if any, would be needed to reconstitute the point of diversion near Homedale. We researched the water rights at the sites, discovered the recorded point of diversion at Homedale, and determined that if (1) the total rate of diversion of 356 cfs has been used periodically since the licenses were issued (so there has been no forfeiture of any portion of the water right), and (2) the total rate of diversion after the Homedale pumps are replaced does not exceed 356 cfs, then the only filing required by Gem Irrigation District is to amend the adjudication claim to show both points of diversion. This action can be completed at no charge to the district, and it does not have

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AUG 10 1994

Page 2
Ron Geertson, et al
December 16, 1992

to be accomplished until the Department is preparing the Director's Report for the Snake River mainstem.

Mr. Hutton felt that that the proposed reinstatement of the Homedale pumping plant would comply with these conditions because the output of the pumps has diminished over recent years. The pumping plant output was measured by District personnel to produce 371.49 cfs on May 27, 1964 according to the field report in the Department's file for License No. 02-02276. In comparison, according to information provided by the U.S. Geological Survey the maximum daily output of the pumping plant at Marsing was 319 cfs for water year 1992, and 321 cfs for water year 1991 (see discharge values enclosed). This is likely due in part to pump wear, but is also due in part to the lowered stage of the Snake River due to drought-reduced flows.

After receiving your letter, Mr. Geertson, as a double check I contacted Department chief counsel Mr. Phillip Rassier, who confirmed that he is not aware of any provision whereby the use of a point of diversion can be forfeited in conjunction with a water right for which the full rate of flow is appropriated at one or more of the remaining points of diversion.

2. Is the pumping plant at Marsing producing less than 356 cfs so that water is available within the water right to be transferred?

See the response above.

3. If the full amount of the 356 cfs has not been used, is that water still available for appropriation after over 50 years of non-use?

Based on the measurement of 371.49 cfs on May 27, 1964 and on the data reported by the USGS, it appears that 356 cfs could possibly have been used within the past 5 years. If this is the case, the addition of another 25-30 cfs at Homedale would be acceptable if the total diversion does not exceed 356 cfs.

4. What liabilities are the Directors creating for themselves and Gem Irrigation District by proceeding with a new diversion of water from the Snake River without authorization from the IDWR and other agencies?

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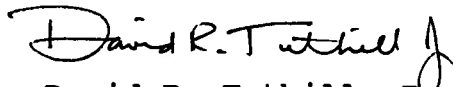
AUG 10 1994

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Ron Geertson, et al
December 16, 1992

I view the proposed action by Gem Irrigation District as being similar to a wateruser replacing a worn-out pump. I do not know of any approvals required by the District to complete the proposed action, assuming that the rights-of-way are still in place.

Mr. Geertson, after you and your associates review this response, please feel free to contact me regarding any aspect of this letter. In order to fully explore this subject I am sending copies of this letter to Mr. Hutton, and to Mr. Luke of our State Office.

Sincerely,



David R. Tuthill, Jr., P.E.
Manager, Western Regional Office

Enclosures

cc: Clyde Hutton, GID
Tim Luke, IDWR

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13172840 GEM PUMPING PLANT NR MARSING
DISCHARGE, CUBIC FEET PER SECOND, WATER YEAR OCTOBER 1990 TO SEPTEMBER 1991
MEAN VALUES

DAY	OCT	NOV	DEC	JAN	FEB	MAR	APR	MAY	JUN	JUL	AUG	SEP
1	222	---	---	---	---	---	66	241	266	303	314	285
2	166	---	---	---	---	---	98	232	268	297	313	285
3	151	---	---	---	---	---	104	256	270	305	313	294
4	151	---	---	---	---	---	104	269	269	318	314	298
5	151	---	---	---	---	---	116	270	268	315	315	297
6	151	---	---	---	---	---	138	285	268	315	314	298
7	210	---	---	---	---	---	142	293	269	316	313	296
8	204	---	---	---	---	---	148	293	268	315	311	298
9	195	---	---	---	---	---	156	278	268	314	311	299
10	159	---	---	---	---	---	235	262	268	314	312	300
11	122	---	---	---	---	---	234	262	280	315	312	280
12	147	---	---	---	---	---	230	263	307	313	313	274
13	187	---	---	---	---	---	231	263	320	314	313	256
14	188	---	---	---	---	---	231	243	318	313	313	243
15	166	---	---	---	---	---	231	229	301	291	295	242
16	150	---	---	---	---	---	235	228	321	289	279	243
17	149	---	---	---	---	---	237	215	319	292	282	243
18	148	---	---	---	---	---	236	189	319	298	281	244
19	109	---	---	---	---	---	237	186	320	282	301	243
20	---	---	---	---	---	---	236	188	320	271	313	245
21	---	---	---	---	---	---	235	191	318	274	315	245
22	---	---	---	---	---	---	236	191	321	297	312	244
23	---	---	---	---	---	---	235	192	321	307	314	243
24	---	---	---	---	---	---	235	214	318	310	312	243
25	---	---	---	---	---	---	233	230	318	313	294	245
26	---	---	---	---	---	---	233	229	316	298	281	247
27	---	---	---	---	---	---	234	242	313	281	282	244
28	---	---	---	---	---	---	245	260	298	282	286	244
29	---	---	---	---	---	---	251	264	285	282	286	243
30	---	---	---	---	---	---	251	263	300	282	284	242
31	---	---	---	---	---	17	---	267	---	303	282	---
TOTAL	3126	999999	999999	999999	999999	17	6033	7488	8915	9319	9380	7903
MEAN	165					17	201	242	297	301	303	263
MAX	222					17	251	293	321	318	315	300
MIN	109					17	66	186	266	271	279	242
AC-FT	6200					34	12000	14900	17700	18500	18600	15700
WATER YEAR 1991												
TOTAL				52181	MEAN	143	AC-FT	103500				

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13172840 GEM PUMPING PLANT NR MARSING
DISCHARGE, CUBIC FEET PER SECOND, WATER YEAR OCTOBER 1991 TO SEPTEMBER 1992
MEAN VALUES

DAY	OCT	NOV	DEC	JAN	FEB	MAR	APR	MAY	JUN	JUL	AUG	SEP
1	241	---	---	---	---	---	191	307	299	262	303	298
2	241	---	---	---	---	---	262	319	300	278	302	307
3	242	---	---	---	---	---	307	318	299	241	300	308
4	243	---	---	---	---	---	314	318	296	244	300	310
5	242	---	---	---	---	---	317	316	299	249	301	310
6	244	---	---	---	---	---	314	316	299	266	302	314
7	243	---	---	---	---	---	314	313	298	295	303	311
8	243	---	---	---	---	---	314	313	297	307	304	311
9	244	---	---	---	---	---	313	314	296	305	306	308
10	239	---	---	---	---	---	314	313	299	304	304	303
11	245	---	---	---	---	---	314	314	284	304	303	308
12	5.0	---	---	---	---	---	311	313	303	304	301	307
13	---	---	---	---	---	---	312	311	303	307	303	307
14	---	---	---	---	---	---	310	308	304	310	302	302
15	---	---	---	---	---	---	314	310	304	309	302	298
16	---	---	---	---	---	---	315	311	281	307	301	302
17	---	---	---	---	---	---	315	312	282	306	302	302
18	---	---	---	---	---	---	303	310	289	304	303	301
19	---	---	---	---	---	---	283	310	287	306	304	299
20	---	---	---	---	---	---	289	310	289	293	305	299
21	---	---	---	---	---	---	290	310	276	311	304	298
22	---	---	---	---	---	---	289	308	291	309	305	301
23	---	---	---	---	---	---	297	306	305	310	303	301
24	---	---	---	---	---	---	297	308	302	309	307	301
25	---	---	---	---	---	---	276	307	301	308	305	302
26	---	---	---	---	---	---	262	306	301	309	305	301
27	---	---	---	---	---	---	274	306	272	309	306	301
28	---	---	---	---	---	---	280	305	299	306	305	299
29	---	---	---	---	---	3.0	280	303	299	306	304	302
30	---	---	---	---	---	85	280	301	269	306	301	301
31	---	---	---	---	---	143	---	300	---	306	299	---
TOTAL	2672	99999	99999	99999	99999	231	8851	9616	8823	9190	9395	9112
MEAN	223					77	295	310	294	296	303	304
MAX	245					143	317	319	305	311	307	314
MIN	5.0					3.0	191	300	269	241	299	298
AC-FT	5300					458	17600	19100	17500	18200	18600	18100
		WATER YEAR 1992	TOTAL	57890	MEAN	158	AC-FT	114800				

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Mr. Dave Tuthill
Western Region Manager
ID Dept. Water Resources
1301 N. Orchard
Boise, ID 83706

RECEIVED

NOV 27 1992

Department of Water Resources

Rt.1 Box 1333
Homedale, ID 83628
27 Nov. 92

DEC - 2 1992

Dear Mr. Tuthill:

The purpose of this letter is to request from the ID Dept. of Water Resources certain determinations concerning the water right of the Gem Irrigation District from the Snake River at the Marsing Pumping Plant.

At this time the Directors of the Gem Irrigation District are actively engaged in planning and in the acquisition of rights of way, pipe, machinery and in negotiations for the delivery of power to a site on the Snake River approximately one mile northwest of Homedale for the construction of a new pumping plant and diversion of water from the Snake River at that point to the D Canal.

We, the undersigned water users of the Gem Irrigation Dist., are concerned that the Directors are proceeding with this pumping plant before receiving the necessary authorization from the IDWR and other controlling agencies. We therefore request the IDWR to make determination as to the right of the Gem District to divert additional waters from the Snake River at the proposed pumping plant #2.

Prior to 1940, the Gem Dist. was served only by water from the Snake River. With the completion of the Owyhee Project, the Dist. began to receive gravity water in addition to the pumped water. The pumping plant located northwest of Homedale was abandoned and the pumps and machinery moved to the plant at Marsing and the water right was transferred to Marsing in 1940.

The Directors of the Gem Dist. contend that the pumping plant at Marsing is not capable of pumping the full amount of the water right which is 356 cfs. This contention conflicts with the information provided by Tim Luke of IDWR which shows the plant pumping at or above the 356 cfs of the water right. The Directors intend to move 25 to 30 cfs of the water right to the proposed #2 pumps at Homedale.

These questions then arise:

1. Does the Gem District need authorization from the IDWR to move 25-30 cfs of the water right to Homedale?
2. Is the pumping plant at Marsing producing less than 356 cfs so that water is available within the water right to be transferred?
3. If the full amount of the 356 cfs water right has not been used, is that water still available for expropriation after over 50 years of non-use?
4. What liabilities are the Directors creating for themselves and the Gem District by proceeding with a new diversion of water from the Snake River without authorization from the IDWR and other agencies?

We hope you will be able to respond as soon as possible since the Directors are actively proceeding with this project.

Tim Luke
Bill Shunk
Paul L Shunk

Roy L Hunt
MICROFILMED
AUG 10 1994

Sincerely, 337-3407

Ron Gertson
Philip Gertson
M. G. Gertson

BOISE, IDAHO
P.O. BOX 2636 (83701)
421 W. FRANKLIN ST. (83702)



TWIN FALLS, IDAHO
397 BLUE LAKES BLVD. N. (83301)
ONTARIO, OREGON
2455 S.W. 4TH AVE. SUITE 12 (971)

February 11, 1987

RECEIVED
FEB 18 1987

Mr. Steven R. Ormiston
Attorney at Law
Lindsay, Hart, Neil & Weigler
400 Jefferson Place
350 North 9th Street
Boise, Idaho 83702

Department of Water Resources

RE: In the matter of:
General Determination of Rights to
the Use of the Surface Water of the
Snake River from the Base of Milner
Dam to the Idaho-Oregon Boundary
Case No. 73804/Ada
M & M File No. BA883

02-0064

Dear Mr. Ormiston:

Enclosed please find the original signed deposition of
George Vanderhoff, which was taken in the above-entitled
action on November 19, 1986.

After reading his deposition, he has requested that no
changes be made to the transcript.

We are releasing possession of this original signed
transcript to your office for your retention or
disposition in accordance with your request.

Very truly yours,

M & M COURT REPORTING SERVICE, INC.

Peggy Pfliiger

cc: Mr. Phillip J. Rassier ✓

BOISE OFFICE: Margaret E. Satterfield - Joseph P. Roden - Deborah Day - Sheri D. Ludiker
Lisa K. Erstad - Tammy Hahn - Sharon Lange - Cindy Gloe - Denece Rice

TWIN FALLS OFFICE: Lori Schmidt - Doug Briscoe

ONTARIO OFFICE: Tammy Hahn

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State of Idaho
Department of Water Resources

ADJUDICATION CLAIM ANALYSIS SHEET

Review by GKN

Date 1/4/84

Right No. 02-0064

Claimant Sen Joe Dietz

Recommendation differs from claim:
(Document any differences)

☒ Yes

☐ No

☐ Disallow

Claim Details Verified Against:

Check (X or ✓) those searched. Circle records used for recommendation.
Include copies or memos where applicable to explain findings.

☐ License

☐ Previous Statutory Claim.

☐ Permits, valid or lapsed. Number(s) if different than above _____

☐ Decree. Name & date _____

☐ Conveyance Loss Calculations. See printout included.

☐ Title abstract. ☐ In file. Or, Name & location _____

☐ County records. ☐ In file. Or, Name & location _____

☒ Affidavits. ☐ In file.

☐ Posted Notices, Water Locations Notices. ☐ In file.

☐ Deed Records. ☐ In file. Or, Name & location _____

☐ Patent Records. ☐ In file. Or, Name & location _____

☐ Metzker Maps. Identify _____

☒ A.S.C.S. Records. Year & Photograph No. 1977

☒ Irrigation Company/District Records. ☒ In file. Or Name & location _____

☐ Historical Books. Name(s) & location _____

☒ Interview(s). Attach conversation memorandum.

☐ Other _____

☐ _____

Field Exam Made: ☒ Yes ☐ No Date 1983 acreage & system design only

☐ Adj. Report in file 1-371.49 ☒ Beneficial Use Report in License (S.O.) File

Measurement 2-358.17 cfs. Amount recommended 306 cfs.

Type of measuring device: _____ Meter No. _____

Condition _____ Date _____ Time _____

Tom cotton made measurement.
Adjudication Photo(s) Used: Name or No. _____, _____, _____

Field Photographs Taken ☐ Yes ☐ No

Memorandum in file ☐ Yes ☐ No

Remarks Measurements taken by Tom cotton Dist. manager see Engr. Report

2 - measurements 1 - 371.49 total diversion
2 - 358.17 from Snake R
runoff.

November 20, 1986

Steve Ormiston
Lindsay, Hart, Neil, & Weigler
350 N. 9th Street, Suite 400
Jefferson Place
Boise, ID 83702

RE: Snake River Adjudication (Ada Co. Civil No. 73804)
Claims of Gem Irrigation District
(02-0064 and 02-0065)

Dear Steve:

Thank you again for asking Phil Rassier and me to attend the deposition of Ray Pershall and George Vanderhoff on November 19, 1986. Their testimony indicates to us that irrigation from the Snake River through the canals of the Gem Irrigation District began in the spring of 1913. Our adjudication files have information which would pinpoint May 5, 1913 as the starting date. A final review will be made when the director of Water Resources prepares to submit his report to the district court.

The Gem Irrigation District is to be commended for their desire and efforts to make a record of the initiation and development of their irrigation system.

Very truly yours,

JOSEPHINE P. BEEMAN
Deputy Attorney General
Idaho Department of Water Resources

JPB:alw

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AUG 10 1994

2

Had Mr. Bedford
planted crops?

- When ~~the~~ was the
water first ~~used~~
flooded or for
the first?

Are you familiar w/
present size of
the dist?

- Water 1st flowed to their
farms in June 1913

- Exhibit #1 - Permit 1911

- Land had never been irrigated
before

- Chat Johnson - farms across the
street from the dist.

- 1925-27 entire system
completed.

11-19-86

Don -

From the depositions this
morning, it appears that the earliest
water use by Gen. I. D. from the
Snake River was the spring of 1913.
The presently stated priority
date of 12-01-1911 corresponds to
the date of application with the
Dept's predecessor. Should the date
be April 1, 1913*, based upon
beneficial use? Your thoughts?
*this exact date is only a guess on my part.

So
I would agree as to the date
being after 12/01/1911. However other
material in the file indicates
the date may be 5/05/1913. *DS*

- Permit #1 started pumping
in 1913

- He thinks permit #2 was
started at the same time.

- He was on bd of dir. for
20 yrs. - from the
1940's

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- Lic. for Gen. Irr. Dist
setting priority of 1925
Ex. 2

(3)

Who in Bur. of Rec.?
U.S.

Why would So. go to
back the plant?
Wanted Gravity flow
from Dulce.

When was the land
covered by 1956
right first ~~into~~
used - 1930's

Met with the Bureau of
Reclamation many times
in the mid 1930's

- 1936 - Bureau offered
me by 30 ft.

- They always pumped
additional water when
needed, even prior to 1956,
eq. 1930's.

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11-19-86

George Vanderhoff

10/35

- Homedale, Id.

Rt 1

- 90 yrs

DOB Dec 30, 1898

Father: W.A. Vanderhoff

1910 - lived in Canyon, OK

1911, Sp. - moved to Sweet, Id.

1911 - moved to Emmett

- moved to McSennett, Nev.

1912 - moved to Homedale, lived
outside town.

- lived on homestead 1912-1919

1914 - George & brothers went
to the war.

Ex. 1 - Map,

- marked an X at his family's
homestead near Homedale.

Ex. 2 - 2nd map. - moved here in 1922
SWSWSW, sec 10 - homestead.

marked by X (10 Acres.)

- O marks place family

moved in 1912. 40 acres.
NE SW
NE SW. sec 16

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How many years did
you work on the
canal? Several

- Sec. 10 property
got water from
C canal. Sec. 16
property from B
canal.

- 1912 homestead
- no water in B canal until 1913.
- Siphon over Jump Creek was not workable until 1913.
- Spring 1913 started irrigating some water available
- 1914 there was plenty of water
- Canals are labeled A, B and C canals.

- 1913 - planted oats first
 - planted wheat and alfalfa in later yrs.
- Worked on the head of the canal where it started (started in 1913 for Monsur Henderson.)
- His father died in 1922
- He bought his place in 1922 or 23 and was married in 1926. The brothers continued to farm the old place in sec. 16.

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ENTB 11.35

11-19-86

In Boeman's notes -
19 November 1986
at the offices of Lindsay, Hart,
Neil, & Weigler

foundation -

familiar with Gem Irrigation District?

when were you born?

where?

where did you grow up

did you reside there all your life

did your family farm

deposition of
George Vanderhoff - on behalf of Gem Irrigation District
lives 1 mile from Homedale, Id.

born Dec. 30, 1898

1910 - lived in Lyndon, Okla., moved to Texas, then
Chahalis, Wash. (S. of Tacoma)

1911 - spring - moved to Sweet, Idaho
then Emmett
then McDermott, Nevada

1912 - 1 mile out of Homedale

1912 - 1919 - stayed on home place

1917 - volunteered ~~the~~ for S & S I (40 acres)
SW section 16

Ex 1 -

Ex 2 - plot of ownership - O marks where family lived in 1912
SW SW SW Sec 10 - 10 acres, moved here in 1922

1912 - no water in B canal

1913 - B canal had some water

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B canal
recently built?
had there
been any
earlier

crops - wheat
work on the canal - his' dad worked w/in' mile of home

George worked up by pumping
plant
cleaned out ~~grass~~ ^{moss} in the fall of the
called "kidneys" years
worked for Morrieon Knudsen

his' dad died in 1922

source?
of water

bought sect. 10 land in 1922, 1923

moved there in 1928 (married in 1926)

C canal

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02-0069 original Homedale 335 101111 0000 9373 1-2
 02-0069 original Homedale 335 101111 0000 9373 1-2
 02-0069 original Homedale 335 101111 0000 9373 1-2

Township	Range	Sec	NE 1/4			NW 1/4			SW 1/4			SE 1/4			TOTALS
			NE 1/4	NW 1/4	SE 1/4	NE 1/4	NW 1/4	SE 1/4	NE 1/4	NW 1/4	SE 1/4	NE 1/4	NW 1/4	SE 1/4	
2N	4W	3													360
		4													547
		5													538
		6													558
		7													466
		8													421
		9													390
		10													290
		11													126
		18													5
3N	4W	17													65
		18													93
		19													341
		20													528
		21													121
		27													66
		28													502
		29													465
		30													71
		31													527
		32													580
		33													518
		34													45
2N	5W	1													501
		2													98
		3													189
		4													70
		10													38
		12													90
3N	6W	13													20

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 AUG 10 1994

86298

CONVERSATION MEMORANDUM

DATE 1/4/84FILE 02-0064NAME OF PARTY Gen Gov Dist.EMPLOYEE John H Moyer

RE: Reviewed the acreage & system with Gen District manager in 1983 - acreage submitted and actual acreage agree. Excepted the total c.s.s arrived at by Tom cotton - Eng. reported included in folder.

2 measurements 1- 371.49

2- 358.17

02-0064 = 306 c.s.s

02-0065 = 50 c.s.s

total 356 c.s.s

The amount of water

This it was formerly 02-2014 for 306 c.s.s with a gravity date 1/27/25 application was dated 12/1/1911 see attached lic.

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State of Idaho
Department of Water Resources

ADJUDICATION CLAIM
REPORT OF EXAMINERS

Claim No. 02-0064

1. Name of Applicant Gen. Dist.
2. Priority 12/1/1911
3. Source of Water Snake R.
4. (Quantity) (Domestic, Irri., Stock Water, etc.) (Period of Use)
_____ cfs Use _____ From _____ to _____
306 cfs Use gr. From 3/15 to 11/15
_____ cfs Use _____ From _____ to _____
5. Location of Point of Diversion: ^{NW} NE NW of Section 14
Twp. 2N, Rge. 4W, County of Owyhee
6. Describe Diversion Works: Pumping plant &
canal system
7. Describe Location of Use:

TWP	RGE	SEC	NE $\frac{1}{4}$				NW $\frac{1}{4}$				SE $\frac{1}{4}$				SW $\frac{1}{4}$				TOTALS
			NE	NW	SW	SE	NE	NW	SW	SE	NE	NW	SW	SE	NE	NW	SW	SE	
			See tabulation sheet																

TWP.			RGE.			COUNTY			SCALE: 1" = 1 MILE									

8. Purpose other than irrigation: none
9. Remarks:

This examination was made on the 4 day of Jan, 1984.

(Signed)

Examiner

John K. Moyer

STATE OF IDAHO
DEPARTMENT OF RECLAMATION
BOISE, IDAHO

REPORT OF ENGINEER

Permit No. 31730

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

1. Name of applicant Gem Irrigation District
2. Source of water supply: Snake River
3. Location of point of diversion: Is in the NE $\frac{1}{4}$ NW $\frac{1}{4}$ of Section 14
T. 2 N R. 4 W.B.M. County of Owyhee

Describe works as they exist, giving dimensions and capacities of same: _____

- A1 1025 HP Whse Motor #2430798; Allis-Chalmers Centrifugal Pump #5550 (Size 24-Type HS, 17000 GPM @ 180' @ 865 RPM)
- A2 1025 HP Whse Motor #1036315; Allis Chalmers Centrifugal Pump #5549 (Size 24-Type HS, 17000 GPM @ 180' @ 865 RPM)
- A3 1025 HP Whse Motor # 1036316, Wheeler-Economy Centrifugal Pump #A24-17843-1, (Size 30x24 MAC, 19000 GPM @ 180' @ 865 RPM)
- A4 1025 HP Whse Motor #1036314, Wheeler-Economy Centrifugal Pump #A2417843-2, (Size 30x24 MAC, 19000 GPM @ 180' @ 865 RPM)
- B1 700 HP Whse Motor #1036311, Wheeler-Economy Centrifugal Pump #A24-17842-2, (Size 30x24 MAD, 19700 GPM @ 110' @ 700 RPM)
- B2 700 HP Whse Motor # 1036310, Wheeler-Economy Centrifugal Pump #A24-17842-1, (Size 30x24 MAD, 19700 GPM @ 110' @ 700 RPM)
- C1 330 HP Whse Motor #1036320, Worthington Centrifugal Pump #506554 (Size 20" VOLUTE 70' Head)
- C2 330 HP Whse Motor #1036321, Worthington Centrifugal Pump #506553, (Size 20" VOLUTE 70' head)
- C3 550 HP Allis-Chalmers Motor #108157, Allis Chalmers Centrifugal Pump #2144, (Size 20, Type S. 1350 GPM @ 120' @ 885 RPM)

New Switch panels with remote control have replaced the old panels.

Water is pumped into existing penstocks and canals
D 31730

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

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

Remarks: *Mr. Breshears Plant operator and Tom Cotton Project Manager along.*

*Leaves Pumps off. No measurement made. Use Measurements Made Tom Cotton 5/27/64 - A Canal 184.19, B Canal 113.03, C Canal 74.27 ft. Total 371.4
7/20/64 A Canal 173.82, B Canal 111.78, C Canal 72.57 ft. total 358.1*

This examination was made on the 23rd day of July, 1965

(Signed) _____

Robert W. Hamelth

Examiner.

h 21720

DEPARTMENT OF WATER RESOURCES
LISTING OF RIGHTS

SOURCE: SNAKE RIVER				TRIBUTARY TO: COLUMBIA RIVER					
RIGHT NUMBER	NAME AND ADDRESS	PRIORITY DATE	USE FROM	TO	USE PERIOD	MAX AMOUNT MAX RATE	DIVERSION POINT	PLACE OF USE AND ACREAGE	BASIS FOR RIGHT
02-4001	IDAHO POWER CO. P. O. BOX 70 BOISE	07-01-1911	POWER	01-01	12-31	1460.00 CFS	LT10 S18 T02S R01E LT11 S18 T02S R01E	LT11 (SESE) S18 T02S R01E	BENEFICIAL USE
REMARKS: SWAN FALLS POWER PLANT.									
02-0064	THE GEM IRRIGATION DIST. P.O. BOX 67 HOMEDALE	12-01-1911	IRRIGATION	03-15	11-15	306.00 CFS	LT01 S14 T02N R04W		BENEFICIAL USE
OTHER RIGHTS: SOURCE(S) OUTSIDE BASIN.									
REMARKS: P/U WITHIN GEM IRR. DIST. AC. IRR. = 18,564.									
P/U: T02N R04W S08 NENE									
	SWNW	NWNE	SWNE			SENE	NENW		NW/NW
	SESE	SENW	NESW			NWSW	NESE		NWSE
S09 NENE									
	SWNW	NWNE	SWNE			SENE	NENW		NW/NW
	NWSE	SENW	NESW			NWSW	SWSW		NESE
S10 NENE									
	SWNW	NWNE	SWNE			SENE	NENW		NW/NW
S18 NWNE									
		LT05 (SESW)	LT05 (SWSE)			SENE	SESE		
P/U: T03N R04W S17 LT06 (SWSW)									
	S19 NENE	NWNE	SWNE			SENE	SWNW		SENW
	NESW	NWSW	NESE			NWSE	SWSE		SESE
	S21 NESW	NWSW	SWSW			SESW	SWSE		SWSE

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AUG 10 1994

DEPARTMENT OF WATER RESOURCES
LISTING OF RIGHTS

SOURCE: SNAKE RIVER TRIBUTARY TO: COLUMBIA RIVER

RIGHT NUMBER	NAME AND ADDRESS	PRIORITY DATE	USE	USE PERIOD FROM TO	MAX AMOUNT MAX RATE	DIVERSION POINT	PLACE OF USE AND ACREAGE	BASIS FOR RIGHT
02-0064	THE GEM IRRIGATION DIST. - CONTINUED							
	P/U: T30N R04W S29 NENE	NWNE		SWNE	SENE	NENW	NWNE	
	SWNW	SENE		NESW	NWSW	SESW	NESE	
	NWSE	SWSE		SESE				
	S30 SWSE	SESE						
	S32 NENE	NWNE		SWNE	SENE	NENW	NWNE	
	SWNW	SENE		NESW	NWSW	SESW	SESW	
	NESE	NWSE		SWSE	SESE			
	S33 NENE	NWNE		SWNE	SENE	NENW	NWNE	
	SWNW	SENE		NESW	NWSW	SESW	SESW	
	NESE	NWSE		SWSE				
	S34 SWNW	NWSW						
	P/U: T02N R05W S01 NENE	NWNE		SWNE	SENE	NENW	NWNE	
	SWNW	SENE		NESW	NWSW	SESW	SESW	
	NESE	NWSE		SWSE	SESE			
	S02 NENE	NWNE		SENE	NENW	NENW	SENE	
	S03 NENE	NWNE		SWNE	SENE	NENW	NESE	
	NWSE	SWSE		SESE				
	S04 NENE	NWNE						
	S10 NENE	NWNE						
	S12 NENE	NWNE						
	P/U: T03N R06W S13 SENE			SENE				
	P/U: T03N R05W S16 NENE	NWNE		SWNE	SENE	NENW	NWNE	
	SWNW	SENE		NESW	NWSW	SESW	SESW	
	NESE	NWSE		SWSE	SESE			
	S17 NENE	NWNE		SWNE	SENE	NENW	NWNE	
	SWNW	SENE		NESW	NWSW	SESW	SESW	
	NESE	NWSE		SWSE	SESE			
	S19 NENE	NWNE		SWNE	SENE	NENW	NWNE	
	S20 NENE	NWNE		SWNE	NENW	NESE	NWSE	
	SWSE	SESE						

INDICATES TOTAL

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AUG 10 1994

DEPARTMENT OF WATER RESOURCES
LISTING OF RIGHTS

SOURCE: SNAKE RIVER

TRIBUTARY TO: COLUMBIA RIVER

RIGHT NUMBER	NAME AND ADDRESS	PRIORITY DATE	USE	USE PERIOD FROM TO	MAX AMOUNT MAX RATE	DIVERSION POINT	PLACE OF USE AND ACREAGE	BASIS FOR RIGHT
02-0064	THE GEM IRRIGATION DIST. - CONTINUED							
	P/U: T03N R05W S21 NENE							
	SWNW	NWNE	SWNE		SENE	NENW	NWNE	NWNE
	NESE	SENE	NESW		NWSW	SWSW	SESW	SESW
	S22 NENE	NWSE	SWSE		SESE			
	SWNW	NWNE	SWNE		SENE	NENW	NWNE	NWNE
	NESE	SENE	NESW		NWSW	SWSW	SESW	SESW
	S23 NENE	NWSE	SWSE		SESE			
	SWNW	NWNE	SWNE		SENE	NENW	NWNE	NWNE
	NESE	SENE	NESW		NWSW	SWSW	SESW	SESW
	S24 NENE	NWSE	SWSE		SESE			
	SWNW	NWNE	SWNE		SENE	NENW	NWNE	NWNE
	NESE	SENE	NESW		NWSW	SWSW	SESW	SESW
	S25 NENE	NWSE	SWSE		SESE			
	SWNW	NWNE	SWNE		SENE	NENW	NWNE	NWNE
	NESE	SENE	NESW		NWSW	SWSW	SESW	SESW
	S26 NENE	NWSE	SWSE		SESE			
	SWNW	NWNE	SWNE		SENE	NENW	NWNE	NWNE
	NESE	SENE	NESW		NWSW	SWSW	SESW	SESW
	S27 NENE	NWSE	SWSE		SESE			
	SWNW	NWNE	SWNE		SENE	NENW	NWNE	NWNE
	NESE	SENE	NESW		NWSW	SWSW	SESW	SESW
	S28 NENE	NWSE	SWSE		SESE			
	SWNW	NWNE	SWNE		SENE	NENW	NWNE	NWNE
	NESE	SENE	NESW		NWSW	SWSW	SESW	SESW
	S29 NENE	NWSE	SWSE		SESE			
	S32 NENE	NWSE	SWSE		SESE	SESE		
	SWNW	NWNE	SWNE		SENE	NESE	NWSE	NWSE
	NESE	SENE	NESW		NWSW			
	S33 NENE	NWSE	SWSE		SESE			
	SWNW	NWNE	SWNE		SENE	NENW	NWNE	NWNE
	NESE	SENE	NESW		NWSW	NESE	NWSE	NWSE
	S34 NENE	NWSE	SWSE		SESE			
	SWNW	NWNE	SWNE		SENE	NENW	NWNE	NWNE
	NESE	SENE	NESW		NWSW	SWSW	SESW	SESW

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DEPARTMENT OF WATER RESOURCES
LISTING OF RIGHTS

DEPARTMENT OF WATER RESOURCES
LISTING OF RIGHTS

TRIBUTARY TO: COLUMBIA RIVER

SOURCE: SNAKE RIVER

RIGHT NUMBER	NAME AND ADDRESS	PRIORITY DATE	USE	USE PERIOD FROM TO	MAX AMOUNT MAX RATE	DIVERSION POINT	PLACE OF USE AND ACREAGE	BASIS FOR RIGHT
02-0064 THE GEM IRRIGATION DIST. - CONTINUED								
P/U: T03N R05W S34 NESE								
S35	NENE	NWSE	SWSE		SESE			
	SWNW	NWNE	SWNE		SENE	NENW	NWNE	
	NESE	SENE	NESW		NWSW	SWSW	SESW	
S36	NENE	NWSE	SWSE		SESE			
	SWNW	NWNE	SWNE		SENE	NENW	NWNE	
	NESE	SENE	NESW		NWSW	SWSW	SESW	
S08	NENE	NWSE	SWSE		SESE			
S09	NWNE	SENE	SWSW		SESW	SWSE		
	SENE	SWNE	SENE		NENW	NWNE	SWNE	
	SENE	NESW	NWSW		SESW	SESW	NESE	
S07	SWSW	SWSE	SESE		SESE			
S05	SESE	SESW	SWSE					
P/U: T02N R04W S03 LT04 (SWNE)								
	SWSW	LT02 (NENW)	SWNW		SENE	NESW	NWSW	
S04	LT02 (NWNE)	SESW	NESE		NWSE	SWSE	SESE	
	SENE	SWNE	SENE		LT03 (NENW)	LT04 (NWNW)	SWNW	
	NWSE	NESW	NWSW		SESW	SESW	NESE	
S05	LT01 (NENE)	SWSE	SESE					
	SWNW	LT02 (NWNE)	SWNE		SENE	LT03 (NENW)	LT04 (NWNW)	
	NESE	NWSE	NESW		SESE	SWSW	SESW	
S06	LT01 (NENE)	LT02 (NWNE)	SWNE		SENE	LT03 (NENW)	LT04 (NWNW)	
	LT05 (SWNW)	SENE	SWNE		SESE	LT07 (SWSW)	SESW	
	NESE	NWSE	SWSE		SESE			
S07	NENE	NWNE	SWNE		SENE	NENW	LT01 (NWNW)	
	LT02 (SWNW)	SENE	NESW		LT03 (NWSW)	SESW	NESE	
	NWSE	SWSE	SESE					
S11	NWNE	SWNW	LT03 (NENW)		NWSW	LT04 (SWSW)	LT04 (SESW)	
S18	LT07 (SWSE)	LT06 (SESE)						

INDICATES TOTAL

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AUG 10 1994

DEPARTMENT OF WATER RESOURCES
LISTING OF RIGHTS

SOURCE: SNAKE RIVER				TRIBUTARY TO: COLUMBIA RIVER				
RIGHT NUMBER	NAME AND ADDRESS	PRIORITY DATE	USE	USE PERIOD FROM TO	MAX AMOUNT MAX RATE	DIVERSION POINT	PLACE OF USE AND ACREAGE	BASIS FOR RIGHT
02-0064 THE GEM IRRIGATION DIST. - CONTINUED								
P/U: T03N R04W S20 LT01 (NENE)								
	SWNW	LT01 (NWNE)	SWNE		LT02 (SENE)	NENW	NWNW	
	NESE	SWNE	NESW		NWSW	SWSW	SESW	
	S27 LT07 (SWNW)	NWSE	SWSE		SESE			
	S28 LT01 (NENE)	LT06 (NWSW)	LT05 (SWSW)					
	SWNW	LT02 (NWNE)	SWNE		SENE	NENW	NWNW	
	NESE	SWNE	NESW		NWSW	SWSW	SESW	
	S31 NENE	NWSE	SWSE		SESE			
	LT02 (SWNW)	NWNE	SWNE		SENE	NENW	LT01 (NWNW)	
	NESE	SWNE	NESW		LT03 (NWSW)	LT04 (SWSW)	SESW	
	P/U: T03N R05W S13 SWSW	NWSE	SWSE		SESE			
	S14 LT06 (SWNW)	SESW	LT06 (SWSE)					
	NWSE	LT05 (SENW)	NESW		NWSW	SWSW	LT03 (NESE)	
	S15 LT01 (NENE)	SWSE	SESE		SENE	NENW	SESW	
	NESW	NWNE	SWNE		SESW	NESE	NWSE	
	SWSE	NWSW	SWSW					
	S18 NENE	SESE	SWNE		SENE	NENW	LT01 (NWNW)	
	LT02 (SWNW)	NWNE	NESW		LT04 (SWSW)	SESW	NESE	
	NWSE	SWSE	SESE					
	S04 SESW	LT05 (NWSE)	SWSE					
	S10 LT05 (SWNE)	LT06 (NENW)	SWNE		SWNW	SESW	NESW	
	NWSW	SWSW	SESW		LT04 (NWSE)	SWSW	LT03 (SESE)	

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AUG 10 1994

THE STATE OF IDAHO

LICENSE AND CERTIFICATE OF WATER RIGHT

Water License No. 7982

Priority January 27, 1925

Amount 306 Sec. Ft.

THIS IS TO CERTIFY that Gem Irrigation District of Homedale, Idaho, made application for permit to appropriate the public waters of the State of Idaho, dated December 1, 1911; that Permit No. 7982 was issued under said application; that Certificate of Completion of works, with a carrying capacity of 306 second feet, was issued thereunder on April 30, 1914, showing that said works were completed on the 21st day of February, 1914; and that on the 17th day of March, 1934, Gem Irrigation District of Homedale, State of Idaho, made proof to the satisfaction of the Commissioner of Reclamation of Idaho, of a right to the use of the waters of Snake River, a tributary of Columbia River for the purpose of irrigation and domestic use, under Use Permit No. 7982 of the Commissioner 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 Commissioner of Reclamation of Idaho and entered of record in Volume 7 of Licenses, at page 3769, on the 31st day of May, 1934;

The right hereby confirmed dates from January 27, 1925;

The Points of Diversion are located: No. 1-At a point whence the NE corner Sec. 15, T. 2 N., R. 4 W., B. M., bears N. 74° 15' W. 1435 feet. No. 2-At a point whence the N₁ corner Sec. 5, T. 3 N., R. 5 W., B. M., bears S. 11° 00' W. 2500 feet, Owyhee 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 306 cubic feet per second.

Description and location of use:

Lot 4, Lot 5, Lot 6, SW₁ SE₁, S 2/4 SE₁ Section 24. NE₁, N₂ NW₁, SE₁ NW₁, E₂ SW₁, SE₁, Section 25. E₂ NE₁, Section 36. All the above in Township 4 North, Range 6 West, B. M.

West 15 acres Lot 9, South 20 acres Lot 10, Section 19. Lot 5, Section 29. NE₁, N₂ NE₁, Lot 1, Lot 2, SE₁ NW₁, SW₁, E₂ SE₁, NW₁ SE₁, Section 30. NE₁, N₂ NW₁, NE₁ SE₁, Section 31, Lot 6, Lot 7, W₂ NW₁, N₂ SW₁, SE₁ SW₁, Lot 5, Section 32. All the above in Township 4 North, Range 5 West, B. M.

Lot 8, Section 3. Lot 4, S₂ SW₁, Lot 5, Lot 6, S₂ SE₁, Section 4. S₂ Lot 1, Lot 2, S₂ NE₁, E₂ SE₁, Section 5. NE₁, N₂ SW₁, SE₁ SW₁, SE₁ Section 8. All

June 2, 1983

Mr. Roderick B. Wood
Attorney at Law
P. O. Box 36
Homedale, ID 83628

Re: Gem Irrigation District
Ada County Case No. 73804

Dear Barry:

An agent in this office has begun the review of the District's claims filed in the above action. The irrigated lands have been verified in consultation with Clyde Hutton. The remaining tasks involve the diversion rates and priority dates which appear to be well documented. After June 30, these questions should be resolved.

A time frame for a draft decision on all the water rights in this action is somewhat obscure. Just over 50 percent of the claims have been reviewed to date. After the Water Right Claims Program initially ends on June 30, 1983, the staff can return its attention to field work and claims review. A draft proposed finding may be issued this winter or next spring depending on the staffing needs of regional activities during the interim. I wish I could be more definitive.

Thanks for your perseverance.

Sincerely,

Donald V. Shaff
Adjudication Unit Leader

DVS/cjk

MICROFILMED

AUG 10 1994

RICHARD B. EISMANN

ATTORNEY AT LAW

112 W. IDAHO AVENUE

POST OFFICE BOX 36

HOMEDALE, IDAHO 83628

TELEPHONE:

(208) 337-3134

(208) 337-3139

ASSOCIATES:
DANIEL T. EISMANN
RODERICK B. WOOD

May 27, 1983

Mr. Donald V. Shaff
Department of Water Resources
Statehouse
Boise, Idaho 83720

Re: Gem Irrigation District
Ada County Case No. 73804

Dear Don:

Please advise me of the status of the Gem Irrigation District's water filing in the above referenced case. I would also appreciate your setting out the expected time frame in arriving at a decision.

Thank you.

Very truly yours,

**DICTATED BY THE ATTORNEY
AND MAILED WITHOUT SIGNATURE
IN HIS ABSENCE TO AVOID DELAY.**
Roderick B. Wood
RBW/js

CLT: Gem Irrigation District

RECEIVED

MAY 31 1983

Department of Water Resources
Western Regional Office

MICROFILMED

AUG 10 1994

December 8, 1982

Roderick B. Wood
P. O. Box 36
Homedale, ID 83628

02-0065

Re: Gem Irrigation District

Dear Barry:

Progress on the Snake River Adjudication has been satisfactory under the circumstances, but is not to a point projected earlier. Specifically, an intensive review of the District claims will be done this winter. Following a review of all claims, a Preliminary Report will be distributed by June perhaps. At that time any possible protests could be filed.

Thank you for your patience and help.

Regards,

DONALD V. SHAFF
Adjuciation Unit Leader

DVS:jp

MICROFILMED

AUG 10 1994

RICHARD B. EISMANN

ATTORNEY AT LAW

112 W. IDAHO AVENUE

POST OFFICE BOX 36

HOMEDALE, IDAHO 83628

TELEPHONE:

(208) 337-3134

(208) 337-3139

ASSOCIATES:
DANIEL T. EISMANN
RODERICK B. WOOD

December 2, 1982

Mr. Don Shaff
Western Region
Department of Water Resources
450 W. State
Boise, Idaho 83702

Re: Gem Irrigation District

Dear Mr. Shaff:

Please advise me of the status of the adjudication of water rights for the Gem Irrigation District and whether or not you can now present us with a proposed finding of the priority of the Gem Irrigation District including the amount, and secondly, if any complaints or objections have been received.

Thank you for your attention to this matter.

Very truly yours,


Roderick B. Wood
RBW/js

CLT: Gem Irrigation District

RECEIVED
DEC 6 1982

Department of Water Resources
Western Regional Office
MICROFILMED

AUG 10 1994

POOR ORIGINAL

STATE OF IDAHO

LICENSE AND CERTIFICATE OF WATER RIGHT

Water License No. 7982

Priority January 27, 1925

Amount 306 Sec. Ft.

THIS IS TO CERTIFY that Gem Irrigation District of Homedale, Idaho, made application for permit to appropriate the public waters of the State of Idaho, dated December 1, 1911; that Permit No. 7982 was issued under said application; that Certificate of Completion of works, with a carrying capacity of 306 second feet, was issued thereunder on April 30, 1914, showing that said works were completed on the 21st day of February, 1914; and that on the 17th day of March, 1934, Gem Irrigation District of Homedale, State of Idaho, made proof to the satisfaction of the Commissioner of Reclamation of Idaho, of a right to the use of the waters of Snake River, a tributary of Columbia River for the purpose of irrigation and domestic use, under Use Permit No. 7982 of the Commissioner 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 Commissioner of Idaho and entered of record in Volume 7 of Licenses, at page 3769, on the 3rd

1925;

point whence the NE corner Sec. 15, T.
No. 2-At a point whence the N $\frac{1}{4}$ corner
20 feet, Owyhee County.

is entitled and hereby confirmed, for
y needed and beneficially used for said
id.

SE $\frac{1}{4}$ Section 24. NE $\frac{1}{4}$, N $\frac{1}{2}$
NE $\frac{1}{4}$, Section 36. All the above

Section 19. Lot 5, Section 29.
NW $\frac{1}{4}$ SE $\frac{1}{4}$, Section 30. NE $\frac{1}{4}$, N $\frac{1}{2}$
NW $\frac{1}{4}$, N $\frac{1}{2}$ SW $\frac{1}{4}$, SE $\frac{1}{4}$ SW $\frac{1}{4}$, Lot 5, Sec-
h, Range 5 West, B. M.

DAVE SHAFIT

COPY OF LICENSE

02-2014

WESTERN

GER / RR. DIST.

MICROFILMED

AUG 10 1994

Lot 8, Section 3. Lot 4, S $\frac{1}{2}$ SW $\frac{1}{4}$, Lot 5, S $\frac{1}{2}$ SE $\frac{1}{4}$, Section 4. S $\frac{1}{2}$ Lot 1, Lot 2, S $\frac{1}{2}$ NE $\frac{1}{4}$, E $\frac{1}{2}$ SE $\frac{1}{4}$, Section 5. NE $\frac{1}{4}$, N $\frac{1}{2}$ SW $\frac{1}{4}$, SE $\frac{1}{4}$ SW $\frac{1}{4}$, SE $\frac{1}{4}$ Section 8. All of Section 9. Lot 6, W $\frac{1}{2}$ NW $\frac{1}{4}$, W $\frac{1}{2}$ NW $\frac{1}{4}$ SW $\frac{1}{4}$, S $\frac{1}{2}$ SW $\frac{1}{4}$, Section 10. S $\frac{1}{2}$ SE $\frac{1}{4}$, Section 14. NW $\frac{1}{4}$ SW $\frac{1}{4}$, S $\frac{1}{2}$ SW $\frac{1}{4}$, Section 15. W $\frac{1}{2}$ NE $\frac{1}{4}$, W $\frac{1}{2}$ SE $\frac{1}{4}$, Section 16. All of Section 17. NE $\frac{1}{4}$, Lot 1, Lot 2, Lot 3, SE $\frac{1}{4}$ NW $\frac{1}{4}$, E $\frac{1}{2}$ SW $\frac{1}{4}$, N $\frac{1}{2}$ SE $\frac{1}{4}$, Section 18. NW $\frac{1}{4}$ NE $\frac{1}{4}$, Section 19. NE $\frac{1}{4}$, N $\frac{1}{2}$ SE $\frac{1}{4}$, SE $\frac{1}{4}$ SE $\frac{1}{4}$, Section 20. NE $\frac{1}{4}$ NE $\frac{1}{4}$, W $\frac{1}{2}$ 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 21. NE $\frac{1}{4}$ NE $\frac{1}{4}$, W $\frac{1}{2}$ SE $\frac{1}{4}$, SE $\frac{1}{4}$ SE $\frac{1}{4}$, Section 22. W $\frac{1}{2}$, SE $\frac{1}{4}$, SW $\frac{1}{4}$ NW $\frac{1}{4}$, S $\frac{1}{2}$ NW $\frac{1}{4}$, N $\frac{1}{2}$ SE $\frac{1}{4}$, Section 23. S $\frac{1}{2}$ SW $\frac{1}{4}$, NW $\frac{1}{4}$ SW $\frac{1}{4}$, SE $\frac{1}{4}$, Section 25. W $\frac{1}{2}$, SE $\frac{1}{4}$, SW $\frac{1}{4}$ NW $\frac{1}{4}$, N $\frac{1}{2}$ SE $\frac{1}{4}$, Section 26. E $\frac{1}{2}$ NE $\frac{1}{4}$, W $\frac{1}{2}$ NW $\frac{1}{4}$, NW $\frac{1}{4}$ SW $\frac{1}{4}$, SE $\frac{1}{4}$, Section 27. N $\frac{1}{2}$, N $\frac{1}{2}$ SW $\frac{1}{4}$, N $\frac{1}{2}$ NE $\frac{1}{4}$, Section 28. E $\frac{1}{2}$ NE $\frac{1}{4}$, E $\frac{1}{2}$ SE $\frac{1}{4}$, Section 29. S $\frac{1}{2}$ NE $\frac{1}{4}$, SE $\frac{1}{4}$ SE $\frac{1}{4}$, Section 33. SE $\frac{1}{4}$, Section 35. All of Section 36. All the above in Township 3 North, Range 5 West, B. M.

N $\frac{1}{2}$, N $\frac{1}{2}$ SW $\frac{1}{4}$, SE $\frac{1}{4}$ SW $\frac{1}{4}$, SE $\frac{1}{4}$, Section 1. E $\frac{1}{2}$ NE $\frac{1}{4}$, Section 2. Lot 2, NW $\frac{1}{4}$ SE $\frac{1}{4}$, Section 3. NE $\frac{1}{4}$ SW $\frac{1}{4}$, Section 10. E $\frac{1}{2}$ NE $\frac{1}{4}$, Section 12. All the above in Township 2 North, Range 5 West, B. M.

Lot 3, Lot 4, NW $\frac{1}{4}$, S $\frac{1}{2}$ Section 3. All of Section 4. All of Section 5. All of Section 6. N $\frac{1}{2}$, N $\frac{1}{2}$ SW $\frac{1}{4}$, SE $\frac{1}{4}$ SW $\frac{1}{4}$, SE $\frac{1}{4}$, Section 7. N $\frac{1}{2}$, N $\frac{1}{2}$ SW $\frac{1}{4}$, N $\frac{1}{2}$ SE $\frac{1}{4}$, SE $\frac{1}{4}$, Section 8. N $\frac{1}{2}$, N $\frac{1}{2}$ SW $\frac{1}{4}$, SW $\frac{1}{4}$ SW $\frac{1}{4}$, N $\frac{1}{2}$ SE $\frac{1}{4}$, Section 9. N $\frac{1}{2}$ NW $\frac{1}{4}$ SW $\frac{1}{4}$, E $\frac{1}{2}$ SE $\frac{1}{4}$, Section 10. W $\frac{1}{2}$ NW $\frac{1}{4}$, Lot 3, Lot 4, NW $\frac{1}{4}$ SW $\frac{1}{4}$, Section 11. Lot 1, Section 14. All the above in Township 2 North, Range 4 West, B. M.

SE $\frac{1}{4}$ NE $\frac{1}{4}$, E $\frac{1}{2}$ SE $\frac{1}{4}$, Section 19. S $\frac{1}{2}$ NW $\frac{1}{4}$, S $\frac{1}{2}$, Section 20. Lot 5, SW $\frac{1}{4}$ SW $\frac{1}{4}$, Section 21. Lot 5, Lot 6, Lot 7, Section 27. Lot 2, S $\frac{1}{2}$ NE $\frac{1}{4}$, NW $\frac{1}{4}$, S $\frac{1}{2}$, Section 28. NE $\frac{1}{4}$, E $\frac{1}{2}$ NW $\frac{1}{4}$, NE $\frac{1}{4}$ SW $\frac{1}{4}$, W $\frac{1}{2}$ SE $\frac{1}{4}$, N $\frac{1}{2}$ NE $\frac{1}{4}$ SE $\frac{1}{4}$, Section 29. S $\frac{1}{2}$ NE $\frac{1}{4}$, Lot 1, Lot 2, SE $\frac{1}{4}$ NW $\frac{1}{4}$, S $\frac{1}{2}$, Section 31. 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 32. N $\frac{1}{2}$, SW $\frac{1}{4}$, N $\frac{1}{2}$ SE $\frac{1}{4}$, S $\frac{1}{2}$ S $\frac{1}{2}$ SE $\frac{1}{4}$, Section 33. W $\frac{1}{2}$ NW $\frac{1}{4}$, W $\frac{1}{2}$ SW $\frac{1}{4}$, Lot 5, Lot 6, Section 34. All the above in Township 3 North, Range 4 West, B. M.

S $\frac{1}{2}$ NE $\frac{1}{4}$, N $\frac{1}{2}$ SE $\frac{1}{4}$, Section 13, Township 3 North, Range 6 West, 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 Commissioner of Reclamation, affixed at Boise, Idaho, this 3rd day of May, 1934.

(SEAL)

R. W. FARIS

Commissioner of Reclamation.

INTER-DEPARTMENT MEMO — 1

FROM D. SHAFF

DATE 6/29/82

TO 02-0064

SUBJECT EVIDENCE OF PRIORITY DATE

FILE 02-0100 CONTAINS A NEWSPAPER ARTICLE ABOUT THE SWAN FALLS POWER PLANT. IN THE FOURTH COLUMN NEAR THE BOTTOM OF THE PAGE, THE ARTICLE CONFIRMS THE PROBABLE DIVERSION OF SNAKE RIVER WATER IN 1913 BY THE GEN /RR. DIST.

MICROFILMED

AUG 10 1994



SIGNATURE

ASSOCIATES:
DANIEL T. EISMANN
RODERICK B. WOOD

RICHARD B. EISMANN
ATTORNEY AT LAW
112 W. IDAHO AVENUE
POST OFFICE BOX 36
HOMEDALE, IDAHO 83628

TELEPHONE:
(208) 337-3134
(208) 337-3139

May 10, 1982

Mr. Donald V. Shaff
Adjudication Unit Leader
Department of Water Resources
92 South Cole Road
Boise, Idaho 83709

Re: Gem Irrigation District

Dear Don:

Enclosed herewith is our check in the amount of \$10.00 to cover part of the computer costs for the computer abstract of water rights which you sent to me on April 30, 1982.

Thank you for your assistance.

Very truly yours,

Barry

Roderick B. Wood
RBW/js
Enclosure

CLT: South Board of Control

RECEIVED

MAY 11 1982

Department of Water Resources
Western Regional Office

*Receipt #22913
5-13-82
ajl*

MICROFILMED

AUG 10 1994



State of Idaho
DEPARTMENT OF WATER RESOURCES
WESTERN REGION, 92 South Cole Road, Boise, Idaho 83709

JOHN V. EVANS
Governor

(Office at the corner of
Franklin and Cole Roads)

A. KENNETH DUNN
Director

(208) 334-2190

April 30, 1982

Barry Wood
Attorney-at-Law
P. O. Box 36
Homedale, ID 83638

✓ Re: Gem Irrigation District

filed
02-0064
02-0065

Dear Mr. Wood:

The computer abstract of water rights you requested is enclosed. The entire list is not in date-of-priority order because the source description varies slightly as you go through the abstract. To cover part of the computer costs, please remit \$10.

I believe you are familiar enough with the water jargon to interpret the abbreviations on the printout. If you have any questions, please call me.

Regards,

DONALD V. SHAFF
Adjudication Unit Leader

DVS:aje

Enclosure

MICROFILMED

AUG 10 1994

M E M O R A N D U M

March 5 , 1982

TO: Gem Irrigation File

FROM: Don Shaff *DS*

SUBJECT: Conversation with Bill Ferguson

Mr. Ferguson was in the office 11/05/81 to file a claim to a water right for wastewater on his land near the Oregon border. He filed a claim on 19 acres in Sec. 24, Twp. 4N, Rge. 6W that he said was not receiving water from the irrigation district. This land was taken out of sagebrush rather recently and long after the irrigation district delivered water.

MICROFILMED

AUG 10 1994

July 13, 1981

RECEIVED

JUL 16 1981

Department of Water Resources
Western Regional Office

Roderick B. Wood
Attorney at Law
P.O. Box 36
Homedale, ID 83628

Dear Barry:

In response to your letter of July 7, 1981, I want to reconfirm the position of the Department of Water Resources with respect to the fees for Gem Irrigation District's filings in the Snake River adjudication.

The District has one filing (02-0064) for 306 c.f.s. with a claimed priority date of 1911. There is a license 02-2014 with a priority date of 1925 which is applicable to the 306 c.f.s., as we have discussed, the application for permit under license 02-2014 was filed December 1, 1911. Normally, the application date would become the priority date for the license. However, because proof of beneficial use was due in 1921, but not filed until 1934, the priority date for the licensed right was advanced from 1911 to 1925 pursuant to statutory mandate. The file for license 02-2014 shows that Gem Irrigation District was sent notice of the effect which late proof of beneficial use would have on its priority date. I sent you a copy of this notice.

With respect to the District's filing for 306 c.f.s. in the Snake River Adjudication, it is Water Resources' position that a claim for a priority date earlier than the licensed 1925 date must be based on a constitutional right corresponding to the date the 306 c.f.s. was first put to beneficial use. Therefore, pursuant to Idaho Code 42-1414, the District's filing fee for this notice of claim must be determined based on Idaho Code 42-221. I understand that the corresponding fee has \$2,255 has been paid under protest.

Let me repeat that Water Resources has not yet made any decision as to the priority date it will recommend for the 306 c.f.s. claim. This letter addresses only the filing fee for the notice of claim.

MICROFILMED

AUG 19 1984

Barry Wood
July 13, 1981
Page 2

The District has a second filing (02-0065) for 50 c.f.s. with a claimed priority date of 1956. Again, there is a license 02-2276 with a priority date of 1964 which is applicable to the 50 c.f.s. As the materials I sent you show, the permit for this license was not applied for until January 7, 1964. Therefore, any water right claimed in connection with license 02-2276 could not have a priority date earlier than 1964. Thus, a priority date of 1956 must be claimed pursuant to a constitutional right, not the licensed right, and the corresponding filing fee is \$725 under Idaho Code 42-1414 and 42-221. The District's payment under protest of this fee has been noted.

It is unlikely ~~that~~ Water Resources will alter its position regarding the amount of the above fees. I understand that your decision to present the fee dispute to Judge Newhouse will probably be made after you have reviewed the involved water files.

It is anticipated that Water Resources' preliminary finding of water rights in the Snake River Adjudication will be circulated in June 1982.

Let me know if I can be of further assistance.

Very truly yours,

Josephine P. Beeman
Deputy Attorney General
Department of Water Resources

JPB:jh
cc: Don Shaff

MICROFILMED

AUG 10 1984

RECEIVED

JUL 8 1981

RICHARD B. EISMANN

ATTORNEY AT LAW

112 W. IDAHO AVENUE

POST OFFICE BOX 36

HOMEDALE, IDAHO 83628

July 7, 1981

ASSOCIATES:
DANIEL T. EISMANN
RODERICK B. WOOD

Department of Water Resources
JUL 8 1981
(208) 337-3134
(208) 337-3139

Ms. Jo Beeman
Deputy Attorney General
Department of Water Resources
Western Regional Office
92 South Cole Rd.
Boise, Idaho 83709

RECEIVED

JUL 16 1981

Department of Water Resources
Western Regional Office

Dear Jo:

As you know I represent the Gem Irrigation District, Homedale, Idaho, in the pending adjudication of water rights on the Snake River.

On or about June 22, 1980, you and I agreed to an extension of time by the Gem Irrigation to include the date of July 2, 1981, in which to file the District's claims for water rights in the Snake River.

On July 2, 1981, Mr. Clyde Hutton, manager of Gem Irrigation District, tendered two notices of claim of a water right to the Department of Water Resources, each accompanied by a \$10.00 check and each was refused on the basis that the filing fee was incorrect.

I was able to contact you on July 6, 1981, regarding this problem and you agreed to investigate the same. Your investigation revealed that it was the Department's position that the Gem Irrigation District's priority dates based on the permits were that there was a 1925 permit or license for 306 cubic feet per second and a 1964 priority date for 50 cubic feet per second, and that if the Gem Irrigation District desired an earlier priority date it would be on the appropriation to beneficial use method and hence the higher filing fee.

I advised you that there was some disagreement over that position but that to get the claims filed the Gem Irrigation District would pay the filing fee based on the amount

MICROFILMED

AUG 10 1984

Ms. Jo Beeman
Deputy Attorney General
July 7, 1981
Page 2

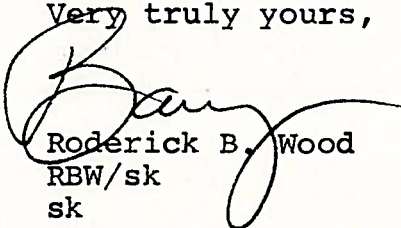
of water appropriated which fee would be paid under protest until the issue was resolved.

It is my understanding that you and I agreed that at such time as the legal research in this matter can be completed as to laws existing in the early 1900's and that when further facts have been gathered regarding exactly what happened in the early days with the Gem Irrigation District's water permits and appropriations, that the filing dispute could either be resolved by agreement or would be tendered to the district judge for his consideration as a disputed legal issue. Lastly it was agreed that the notices of claim of water rights could be amended in the future to conform to the evidence as it is finally pieced together.

We need to agree and stipulate to either a date certain or preferably the happening of some event by which to resolve the fee protest. Please contact me about this.

If this is not your understanding of your agreement, please advise immediately.

Very truly yours,



Roderick B. Wood
RBW/sk
sk

CLT:

Clyde Hutton

MICROFILMED

AUG 10 1984

RECEIVED

JUL 8 1981

RICHARD B. EISMANN

ATTORNEY AT LAW

112 W. IDAHO AVENUE

POST OFFICE BOX 36

HOMEDALE, IDAHO 83628

July 7, 1981

ASSOCIATES:
DANIEL T. EISMANN
RODERICK B. WOOD

Department of Water Resources

TELEPHONE:
(208) 337-3134
(208) 837-3139

Route To	Date	Initial
Director		
Deputy Dir.		
Reso. Adm.		
Reso. Analysis		
Oper. Bureau		
Proj. Stud. Bu.		
Reg. Off. Bu.		
Tech. Serv. Bu.		
File:		

Director
Department of Water Resources
Broadbent Business Park
92 South Cole Rd.
Boise, Idaho 83709

02-0064

Re: Ada County Case No. 73804
Second order of joinder adjudication of water rights
on the Snake River

Dear Gentlemen:

On the date of July 2, 1981, Mr. Clyde Hutton, manager of the Gem Irrigation District appeared at your office to file two notices of claim to a water right. These filings were made pursuant to the legal action entitled "In the District Court of the Fourth Judicial District of the State of Idaho, in and for the county of Ada, Case No. 73804"; and in particular the second order of joinder entered in that case.

The notices of claim claimed water rights pursuant to permits and licenses No. 7982 and 02-1776 but pointed discrepancies with respect to the dates of priority. The notices further mentioned the dates the water was first applied to beneficial use as further evidence of the priority error and stated that in any event, the priority date should be no later than the respective dates of application of beneficial use if for some reason the respective permit priority dates were denied.

Each of the two notices were accompanied by a \$10.00 filing fee as set forth in Idaho Code Section 42-221 and 42-1414.

Your attention is specifically pointed to Idaho Code Section 42-1414 which provides in pertinent part as follows:

MICROFILMED

AUG 10 1994

RECEIVED

JUL 8 1981

Department of Water Resources
Western Regional Office

Director
Department of Water Resources
July 7, 1981
Page 2

"Fee for filing notice of claim. - The department of water resources shall accept no notice of claim required under the provisions of section 42-1409, Idaho Code, unless such notice of claim is submitted with a filing fee based upon the quantity of water claimed which shall be determined on the same basis as the fee for filing an application for a permit to appropriate the public waters of this state as provided in section 42-221, Idaho Code, except that where such claim is in connection with a water right established pursuant to a valid permit or license previously issued by the department of water administration or a water right which has previously been adjudicated by a state or federal court, the claimant shall pay a filing fee of only ten dollars (\$10.00).

. . ."

Your department refused to file the permits, stating in substance that the Gem Irrigation District was filing a notice for a claim which was not based upon a prior permit or license from the Department of Water Resources or its predecessor. Your contention may be in error. Each notice clearly states the basis of the claim and also points out the existing error with respect to the priority date.

Your department demanded a combined filing fee of \$2,980.00 to file these permits. I enclose check numbers 20161 and 20163 drawn on the account of South Board of Control Owyhee Project as managing agent for the Gem Irrigation District for that combined sum which is hereby paid under protest and without waiver of any rights of the Gem Irrigation District.

I want to again emphasize that because time is of the essence this sum is paid under protest without waiver of any rights of the Gem Irrigation District and I will await direction from the Board of Directors of the Gem Irrigation District as to their intended course of action to seek the return of the larger filing fee.

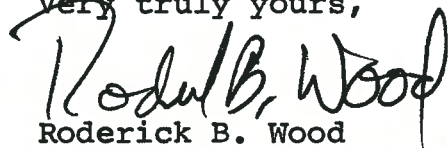
MICROFILMED

AUG 10 1994

Director
Department of Water Resources
July 7, 1981
Page 3

Should you have any questions, please advise.

Very truly yours,

A handwritten signature in dark ink, appearing to read "Roderick B. Wood". The signature is fluid and cursive, with the first name "Roderick" being more prominent and the last name "Wood" following in a similar style.

Roderick B. Wood
RBW/sk/CD

CLT:

Clyde Hutton

MICROFILMED

AUG 10 1994

JUN 22 1981

Department of Water Resources

Richard B. Eismann
Daniel T. Eismann
Roderick B. Wood**
Attorneys at Law
P. O. Box 36
Homedale, Idaho 83628
Telephone (208) 337-3135
CAT.(11)

IN THE DISTRICT COURT OF THE FOURTH JUDICIAL DISTRICT OF
THE STATE OF IDAHO IN AND FOR THE COUNTY OF ADA

IN THE MATTER OF THE GENERAL	)	
DETERMINATION OF RIGHTS TO	)	
THE USE OF THE SURFACE WATERS	)	Civil No. 73804
OF THE SNAKE RIVER FROM THE	)	
BASE OF MILNER DAM TO THE	)	
IDAHO-OREGON BORDER.	)	

NOTICE OF APPEARANCE
BY COUNSEL

NOTICE IS GIVEN that the undersigned hereby appears in
this action as counsel for CLAIMANTS.

SERVICE BY MAIL: The undersigned does hereby certify that
a true and correct copy of the foregoing instrument was
this day mailed to: JOSEPHINE P. BEEMAN, Deputy Attorneys
General, Department of Water Resources, Statehouse, Boise,
Idaho 83720.

DATED: JUN 22 1981

SIGNED: **RODERICK B. WOOD**

Roderick B. Wood
Counsel for The Claimants
Gem Irrigation District of the
South Board of Control

JUN 10 1981

MICROFILMED

IN THE MATTER OF THE GENERAL DETER-
MINATION OF RIGHTS TO THE USE OF ____
SNAKE RIVER FROM BASE OF MILNER
DAM TO OREGON
BORDER. _____ ~~CONFIDENTIAL~~

NOTICE OF CLAIM
TO A
WATER RIGHT

<u>02-0064</u>	
I.D. No.	Map No.
\$ <u>2255-</u>	<u>19518</u>
Fee Paid	Receipt No.

Notice is hereby given that THE GEM IRRIGATION DISTRICT
(Name of Claimant)

P.O. Box 67, Homedale, Idaho 38268 Telephone No. 337-3760
(Mailing Address) (Zip Code)

claims a right to the diversion and beneficial use of the surface or ground water. The extent and nature of said claim is as follows:

- (1) Date of priority: (When was the water first applied to a beneficial use, or priority date of decreed, licensed or permit right) December 1, 1911 by Permit No. 7982 and if any discrepancy (*see attached)

- (2) Describe the source of water: (Name of stream, lake, spring, etc., or ground water) _____
Snake River tributary to Columbia River

- (3) Describe the purpose for which the water has been used and the time during the year when you have used the right claimed:
Quantity 306 cfs Use A Irrigation, usual Period of Use From April 1 To Oct. 15
(CFS, GPD, AF) (Domestic, Irrigation, stock, etc.) (Mo. Day) (Mo. Day)

Quantity _____ Use _____ Period of Use From _____ To _____
(CFS, GPD, AF) (Domestic, irrigation, stock, etc.) (Mo., Day) (Mo., Day)
(Both dates inclusive)

Quantity _____ Use _____ Period of Use From _____ To _____
(CFS, GPD, AF) (Domestic, Irrigation, stock, etc.) (Mo., Day) (Mo., Day)
(Both dates inclusive) (Both dates inclusive)

Quantity _____ Use _____ Period of Use From _____ To _____
(CFS, GPD, AF) (Domestic, Irrigation, stock, etc.) (Mo., Day) (Mo., Day)
206 cfs for this specific use and license

- (4) 306 cfs by this specific use and license TOTAL QUANTITY CLAIMED. (CFS, GPD, AF) (Both dates inclusive)

- (5) A) Point of Diversion: Give location of point where water is diverted from its source (see attached sheet) %
 Sec. 15 14, Twp. 2 N ✓, Rge. 4 W - , B.M., 73 Owyhee ✓ County
 Additional Points: SCI: 2720(1)4267

B) Describe means of diversion of water: (Pump and pipeline, well, diversion dam, reservoir, length of ditch and field, etc.). Give sizes and capacities: be as specific as possible. Describe any changes in the system and give the date of the change. Pump and pipeline into canal system for distribution to all lands in District which lie under the "A" Canal. System has undergone (*see attached sheet)

- (6) A) Describe location of use by listing number of irrigated acres within each 40-acre tract in appropriate box. If use is not for irrigation, place an "X" in appropriate box to show location.

Do not acres in P/U														
		NW¼				SW¼				SE¼				TOTAL
SEX	NEX	NW¼	SW¼	SEX	NEX	NW¼	SW¼	SEX	NEX	NW¼	SW¼	SEX		
ITS AND														
THROUGH TWELVE.														
See 02-0045 for map & acreage.														
See attached acreage tabulation sheet →														
														<u>18,564</u>

8th - right - overflow water - South Road Total no. of acres 18,565

B) If water is used for other than irrigation, fully describe that use, being as specific as possible: NA

NOTE: Include here the type and number of stock watered: NA

- (7) If you are claiming water as a member of an organization, list name of organization: The Gem Irrigation District

- (8) Remarks The State of Idaho records show a license No. 7982 with a priority date of January 27, 1925 of 306 cubic feet per second which (*see attached sheet

- (9) Basis of claim (Check one) ☒ A) Right based on diversion and beneficial use (Place of use within Gem Tr. Dist. Irr. = 18,564 Ac.)
☐ B) Right decreed by court, cite title of case.

☒ C) Right based on application, permit, license, or previous statutory claim filed with the Idaho Department of Water Resources. Give No. 7982/ (*see attached sheet)

Be it known that the undersigned, after being duly sworn on oath, depose(s) and say(s) that all statements included herein are true and accurate to the best of (his, her, their) knowledge.

July 2, 1981
(Date)

(Signature of Claimant)

State of IDAHO

Organization

County of Owyhee

Seal

(Signature of Spouse)
Organization GEM IRRIGATION DISTRICT

Signature of Authorized Agent
Carroll Johnstone, Chairman
In the year 1981

On this 2nd day of July
a notary public, personally appeared CARROLL JOHNSTONE

Known to me to be the person(s) whose name(s) are subscribed to the above instrument, and acknowledged to me that (he, she, they, corporation, partnership or Gem Irrigation District) executed the same.

My commission expires 2-15-82 9KAD 1/4/84 Notary Public residing at Caldwell, Idaho

ORIGINAL

NOTICE OF CLAIM TO A WATER RIGHT

<u>02-0064</u>	
I.D. No.	Map No.
\$ <u>22.55-</u>	<u>19518</u>
Fee Paid	Receipt No.

P.O. Box 67, Homedale, Idaho 38268 Telephone No. 337-3760
(Mailing Address) (Zip Code)

(1) Date of priority: (When was the water first applied to a beneficial use, or priority date of decreed, licensed or permit right) December 1, 1911 by Permit No. 7982 and if any discrepancy (*see attached)

(2) Describe the source of water: (Name of stream, lake, spring, etc., or ground water) Snake River tributary to Columbia River

(3) Describe the purpose for which the water has been used and the time during the year when you have used the right claimed:
Quantity 306 cfs Use Irrigation, usual Period of Use From April 1 To Oct. 15
(CFS, GPD, AF) (Domestic, Irrigation, stock, etc.) (Mo., Day) (Mo., Day)

Quantity _____ Use _____ Period of Use From _____ To _____
(CFS, GPD, AF) (Domestic, irrigation, stock, etc.) (Mo., Day) (Mo., Day)
(Both dates inclusive)

Quantity _____ Use _____ Period of Use From _____ To _____
(CFS, GPD, AF) (Domestic, Irrigation, stock, etc.) (Mo., Day) (Mo., Day)
(Both dates inclusive)

Quantity _____ Use _____ Period of Use From _____ To _____
(CFS, GPD, AF) (Domestic, irrigation, stock, etc.) (Mo., Day) (Mo., Day)
206 cfs for this specific use and license (Both dates inclusive)

(4) 306 cfs by this specific use and license
(CFS, GPD, AF) TOTAL QUANTITY CLAIMED.

(5) A) Point of Diversion: Give location of point where water is diverted from its source (*see attached sheet) ¼ Sec. 15, Twp. 2 N, Rge. 4 W, B.M., Owyhee County
Additional Points:

B) Describe means of diversion of water: (Pump and pipeline, well, diversion dam, reservoir, length of ditch and field, etc.). Give sizes and capacities: be as specific as possible. Describe any changes in the system and give the date of the change. Pump and pipeline into canal system for distribution to all lands in District which lie under the "A" Canal. System has undergone (*see attached sheet)

(6) A) Describe location of use by listing number of irrigated acres within each 40-acre tract in appropriate box. If use is not for irrigation, place an "X" in appropriate box to show location.

[illegible]

Total no. of acres	18,565
--------------------	--------

B) If water is used for other than irrigation, fully describe that use, being as specific as possible: NA

NOTE: Include here the type and number of stock watered: NA

(7) If you are claiming water as a member of an organization, list name of organization: The Gem Irrigation District

(8) Remarks The State of Idaho records show a license No. 7982 with a priority date of January 27, 1925 of 306 cubic feet per second which (*see attached sheet)

(9) Basis of claim (Check one) ☒ A) Right based on diversion and beneficial use.

☐ B) Right decreed by court, cite title of case.

XX C) Right based on application, permit, license, or previous statutory claim filed with the Idaho Department of Water Resources. Give No. 7982 (*see attached sheet)

Be it known that the undersigned, after being duly sworn on oath, depose(s) and say(s) that all statements included herein are true and accurate to the best of (his, her, their) knowledge.

July 2, 1981
(Date)

(Signature of Claimant)

State of IDAHO

Organization

County of Owyhee

Seal

Organization GEM IRRIGATION DISTRICT

Carroll Johnstone, Chairman
in the year 1981

before me

On this 2nd day of July
a notary public, personally appeared CARROLL JOHNSTONE

known to me to be the person(s) whose name(s) are subscribed to the above instrument, and acknowledged to me that (he, she, they, corporation, partnership or Gem Irrigation District) executed the same.

My commission expires 2-15-82

Notary Public residing at Caldwell, Idaho

- (1) exists, first beneficial use was made on May 5, 1913.
See Exhibits: 4, 5, 7, 9, 10 and 11.
- (3) But period of use may vary according to seasonal weather conditions.
- (5) A point whence the NE corner of Section 15 bears North 74 degrees 15 minutes West 1,435 feet.
- (5B) changes in the form of enlargements, improvements and repairs since its beginning.
- (8) is in error.
- (9C) And if any discrepancy exists as to date of priority under permit, then priority is also based on date of application to beneficial use or May 5, 1913.

TABLE OF EXHIBITS

Exhibit 1. A photocopy of an Order by the Owyhee County Commissioners organizing the Gem Irrigation District pursuant to the laws of the State of Idaho, which meeting was held at Silver City, Idaho on May 10, 1909 and which Order was recorded in Book 7, Miscellaneous Records, page 81, et. seq. among the records of Owyhee County, Idaho, May 12, 1909, at 4:30 p.m. This Order includes the legal description of the original boundaries of the Gem Irrigation District.

Exhibit 2. A photocopy of the Idaho Supreme Court Opinion in Gem Irrigation District v. Johnson, 18 Idaho 386, 109 P. 845, June 28, 1910 wherein the Idaho Supreme Court affirmed a District Court Order decreeing and confirming the organization of the Gem Irrigation District.

Exhibit 3. A photocopy of a State of Idaho Application for Permit to appropriate the Public Waters of the State of Idaho, Permit No. 7982, filed on behalf of the Gem Irrigation District by Chas. McCoard, Trustee, which permit was filed at 5 p.m. on December 1, 1911 in the office of the State Engineer, State of Idaho, which permit was approved by the State Engineer on January 20, 1912, recorded in Book 25, page 7982 and which permit required one-fifth of the work stated in the permit to be completed on or before July 20, 1914, the whole of said work to be completed on or before January 20, 1917 and beneficial use of water appropriated in accordance with the permit to be made on or before January 20, 1921.

Exhibit 4. A photocopy of the Certificate of Completion of Works dated April 30, 1914 by F. P. King, State Engineer, for Permit No. 7982 and which Certificate contains a legal description of the lands proposed to be irrigated by the use of the water diverted and appropriated under Permit No. 7982.

Exhibit 5. Certificate and affidavit of Herbert Wing, Acting State Engineer of the State of Idaho, dated December 2, 1914, reciting that Permit No. 7982 was filed on December 1, 1911 granting the right to appropriate and put to beneficial use 650 second feet of waters of Snake River in Owyhee County, Idaho and that pursuant to said Permit the permit holder made satisfactory proof of completion of works for the diversion of 306 second feet of water and that the Gem Irrigation District was not delinquent in the matter of proof required by the laws of the State of Idaho and no protests or contests were pending in the office of the State Engineer pursuant to said Permit.

Exhibit 6. An order of the Gem Irrigation District Board of Directors at the regular meeting of said Board on September 7, 1915 excluding certain lands from the District which lie above the canal works which Order was duly recorded in Book 7, Miscellaneous Records, page 398 et. seq. among the records of Owyhee County, Idaho on October 12, 1915 at 4:00 o'clock p.m.

Exhibit 7. A photocopy of the Idaho Supreme Court opinion of Yaden et al. v. Gem Irrigation District, 37 Idaho 300, 250 P. 216, May 31, 1923, wherein portions of the history

of Gem Irrigation District are set forth and which recite the dates of application of waters of the Snake River to beneficial use of lands lying within the Gem Irrigation District which dates are consistent with the exhibits contained with this application and claim of water right.

Exhibit 8. A photocopy of an Order Annexing Lands to Gem Irrigation District pursuant to resolution of the Board of Directors of the Gem Irrigation District made at its meeting held on September 6, 1927, citing the legal descriptions of the lands annexed.

Exhibit 9. Proof of Application of Water to Beneficial Use Deposition of Witness filed by W. H. Robinson on March 17, 1934 claiming the appropriation of approximately 375 cubic feet per second which water has been diverted under Permit No. 7982 since May 1913 for beneficial use on lands within the boundaries of the Gem Irrigation District.

Exhibit 10. Proof of Application of Water to Beneficial Use Deposition of Witness filed by E. B. Snell on March 17, 1934 claiming the appropriation of approximately 350 cubic feet per second which water has been diverted under Permit No. 7982 since May 1913 for beneficial use on lands within the boundaries of the Gem Irrigation District.

Exhibit 11. A photocopy of the Report of Engineer of the State of Idaho Department of Reclamation for Permit No. 7982 signed by Fred A. Tolman as Examiner on March 27, 1934 describing the diversion works of the Gem Irrigation District.

Exhibit 12. The current legal description of the exterior boundary of the Gem Irrigation District under the operation and maintenance of the Owyhee Project South Board of Control to which the waters diverted from the Snake River as aforementioned.

APR 10 1934
WICHOLITWED

POOR ORIGINAL

No. 4706.

Silver City, Idaho.

Monday, May 10th, 1909.

The Board of County Commissioners of Owyhee County, Idaho, met in special session at the office of the Clerk thereof, in Silver City, the county seat of said county, at ten o'clock A. M., to canvass the votes cast at an election to be held on Tuesday, May 4th, 1909, to determine whether or not the lands included within the boundaries of the proposed Gem Irrigation District shall be duly organized as an irrigation district, and if, upon such canvass, it appears that two-thirds of the votes cast are "Irrigation---Yes", the Board shall by order entered on its minutes, declare such territory duly organized as an irrigation district, under the name and style theretofore designated, and shall declare the persons receiving the highest number of votes for directors of said proposed district to be duly elected to such offices.

Present: C. H. Grete, Chairman, J. W. McDowell and A. J. Harley, Commissioners, and J. S. St Clair, Clerk.

The following proceedings were had, to-wit:

Whereupon, the Board proceeded to canvass the returns of the special election held May 4th, 1909, for the purpose of voting on the question of organizing the Gem Irrigation District.

ABSTRACT OF VOTES POLLED.

IRRIGATION DISTRICT

Yes 48

No 1

The number of votes cast for officers for the said Gem Irrigation District are as follows:

For Directors:

No. Votes:

Division # 1
Division # 1
Division # 2
Division # 2
Division # 3
Division # 3

George Humrickhouse
Charles E. Taber
Chas. S. Faurot
Frank Myler
J. W. McDowell
F. E. Tracy

Forty
Nine
Forty Six
Two
Twenty Five
Twenty Four

POOR ORIGINAL

surveys of said canal, as the same is now constructed, and meandering with said canal, on the upper side thereof;

Lots 1 and 2 in the SE $\frac{1}{2}$ of Section 19;

W $\frac{1}{2}$ of NW $\frac{1}{2}$, SE $\frac{1}{2}$ of NW $\frac{1}{2}$ and SW $\frac{1}{2}$ of Section 20;

N $\frac{1}{2}$, N $\frac{1}{2}$ of SW $\frac{1}{2}$, N $\frac{1}{2}$ of S $\frac{1}{2}$ of SW $\frac{1}{2}$, N $\frac{1}{2}$ of SE $\frac{1}{2}$, N $\frac{1}{2}$ of S $\frac{1}{2}$ of SE $\frac{1}{2}$ and SE $\frac{1}{2}$ of SE $\frac{1}{2}$ of SE $\frac{1}{2}$, of Section 30;

NW $\frac{1}{4}$, NW $\frac{1}{4}$ of NE $\frac{1}{4}$, W $\frac{1}{2}$ of SW $\frac{1}{4}$ and NE $\frac{1}{2}$ of SW $\frac{1}{4}$, Section 29;

N $\frac{1}{2}$ of NW $\frac{1}{4}$, SE $\frac{1}{4}$ of NW $\frac{1}{4}$, N $\frac{1}{2}$ of SW $\frac{1}{4}$ of NW $\frac{1}{4}$, SE $\frac{1}{4}$ of SW $\frac{1}{4}$ of NW $\frac{1}{4}$, S $\frac{1}{2}$ of SW $\frac{1}{4}$, NE $\frac{1}{4}$ of SW $\frac{1}{4}$ and S $\frac{1}{2}$ of NW $\frac{1}{4}$ of SW $\frac{1}{4}$, of Section 32;

E $\frac{1}{2}$ of NE $\frac{1}{2}$ of NE $\frac{1}{2}$ of Section 31;

In Township 2, North of Range 5, West of Boise Meridian:

NW $\frac{1}{4}$, S $\frac{1}{2}$ of NE $\frac{1}{4}$, NE $\frac{1}{2}$ of SW $\frac{1}{4}$ and NW $\frac{1}{4}$ of SE $\frac{1}{4}$ of Section 5;

And that part of Lots 1 and 2, Section 5, which lies above a line running westerly 30 feet distant from the center line of the "A" canal of the Gem Irrigation District, according to the survey of said canal, as the same is now constructed, and meandering with said canal, on the upper side thereof, through said Section 5;

---:---

Homedale, Idaho,

October 9, 1915.

I, W. W. Peter, Secretary of the Gem Irrigation District, do hereby certify that the foregoing resolution was adpoted by the Board of Directors of the Gem Irrigation District at the regular meeting of said Board on the 7th day of September, 1915.

I hereby certify that the foregoing is an exact and true copy of said resolution.

.....
: GEM IRRIGATION DISTRICT, :
: Organized 1909 :
: Owyhee County, Idaho. :
:.....

W. W. Peter,
Secy. of Gem Irrigation District.

Filed Oct. 12th, 1915, at 4 o'clock P. M., at request of Wm. D. Martin.

Fees, \$4.20 Pd

J. S. St Clair
Ex-Officio Recorder.

OCT 10 1915
MICROFILMED

POOR ORIGINAL

Recorded in Book 7 Miscellaneous Record, page 398 et. seq.,
among the records of Owyhee County, Idaho.

State of Idaho, :
County of Owyhee. :--SS.
:

I, J. S. St Clair, Ex-Officio Recorder in and
for the County of Owyhee, State of Idaho, do hereby certify that the
foregoing writing has been carefully compared by me with the original
record thereof, remaining in this office, whereof it purports to be
a copy, and that it is a true and exact copy of said record, and of
the whole thereof.

IN WITNESS WHEREOF, I have hereunto set my hand and affixed my
official seal, this 17th day of September, 1918.

J. S. St Clair

Ex- Officio Recorder.

NOV 10 1918

RECORDED

(27 Idaho, 800)

YADEN et al. v. GEM IRR. DIST.
(No. 3824.)

(Supreme Court of Idaho. May 31, 1923.)

1. Waters and water courses §249—Landowner outside irrigation district held not to have "vested right" to water.

Where surplus water is delivered to a landowner outside of an irrigation district, when the same is not required for lands within such district, such landowner does not acquire a vested right to such waters within the meaning of section 4, art. 15, of the Constitution or C. S. § 5638, and is not entitled to the delivery of such water when the same is required for the irrigation of lands within the district.

[Ed. Note.—For other definitions, see Words and Phrases, First and Second Series, Vested Right.]

2. Waters and water courses §249—Irrigation districts not required to continue to deliver water to persons not acquiring vested right thereto.

An irrigation district, organized under the provisions of the statute, acquiring an irrigation system, is under no legal obligation to continue to deliver water to persons who have theretofore used the same, but who have not acquired a vested right to the use of such water.

3. Waters and water courses §224, 228—Irrigation districts quasi public corporations, with only such powers as conferred or necessarily implied.

Irrigation districts are quasi public or municipal corporations, and as such have only such powers as are given to them by statute, or such as are necessarily implied.

4. Waters and water courses §228½, New, vol. 10A Key-No. Series—Property acquired by irrigation district vests immediately therein in trust for statutory use and purposes.

Under the provisions of C. S. § 4350, the legal title to all property acquired by an irrigation district by operation of law vests immediately in the district, and is held in trust for, dedicated to, and set apart to, the use and purposes provided by law.

5. Waters and water courses §227—Acts of officers of irrigation district not within law prescribing powers held ultra vires.

The powers of the directors and officers of an irrigation district are prescribed by C. S. §§ 4346 and 4355, and any act done in excess of the express or implied provisions of the statute by such directors or officers is ultra vires.

6. Waters and water courses §249—Owners of lands outside irrigation district may become entitled to use of waters only by annexation.

Owners of lands lying outside of the boundaries of an irrigation district may become entitled to the use of waters or acquire an interest in the system of the district by annexation, as provided by C. S. §§ 4411-4421, inclusive.

Appeal from District Court, Owyhee County; Charles F. Reddoch, Judge.

Mandamus by L. B. Yaden and another against the Gem Irrigation District, to compel delivery of water. From a judgment denying the writ, plaintiffs appeal. Affirmed.

William Healy, of Boise, for appellants.
Thompson & Bicknell, of Caldwell, and John C. Rice, of Boise, for respondent.

BUDGE, C. J. This action was brought to obtain a writ of mandate to compel respondent to deliver water to appellant's land and to recover damages for loss of crops as a result of respondent's failure and refusal so to do. The cause was tried to the court, and judgment was entered in favor of respondent, from which judgment this appeal is prosecuted.

Throughout this opinion the use of the word "appellant" will be taken as referring to Eleanor B. Yaden.

The facts are substantially as follows: Respondent district was organized in 1909. Its irrigation works consist of a pumping plant on Snake river, from which stream the district diverts water into three main canals. One of these canals, known as A canal, extends in a westerly direction and is approximately 25 miles in length. Beyond the westerly termination of this canal is a stream called Succor creek, which flows in a northeasterly direction into Snake river. To the northwest of this stream lie certain lands which were included in the district as originally organized, but subsequently withdrawn. In 1912 an assessment of benefits was made and the cost of acquiring the works was apportioned and confirmed by court decree. At that time no lateral had been constructed to irrigate the lands lying beyond Succor creek. In 1913 appellant made a desert entry of lands, all of which, except 10 acres, lie on the northwest side of Succor creek and without the boundary lines of respondent district. In 1913 and 1914 respondent district completed the construction of a lateral across and beyond Succor creek and below appellant's land. This lateral is known as A-10A and is a branch of the A canal. It crosses Succor creek by means of a buried syphon. This syphon was constructed in 1913. From this lateral about 50 acres of appellant's land is susceptible of irrigation. The lateral beyond the syphon was built the following year and after appellant had perfected her entry. It would seem that this lateral and syphon were constructed for the purpose of irrigating lands that were then, but not now, within the district, and thereby a portion of the Yaden land became susceptible of irrigation from that source. From 1914 to 1917, inclusive, water was delivered through this lateral and syphon, a portion of

—For other cases see same topic and KEY-NUMBER in all Key-Numbered Digests and Indexes

EXHIBIT 7

APR 10 1924
MICROFILMED

which was used upon appellant's land. In 1917 appellant paid to respondent district the required charges for the delivery of water to land then under cultivation. In 1918 respondent district demanded and received from appellant a note secured by a crop mortgage covering the maintenance assessment for that year. During the early irrigation season of 1918 the syphon across Succor creek was in such condition that water could not be conveyed through the same without damage to abutting landowners. In that year the directors of respondent district refused to repair the syphon and discontinued the delivery of water to appellant.

Upon oral argument it was conceded that appellant was entitled to receive water for the 10 acres within respondent's present boundaries. At and for a period subsequent to the time of the construction of the A canal and the A-10A lateral, there was more than sufficient water to properly irrigate all of the lands within the boundaries of the district then in cultivation, and this condition continued until 1919. In the years 1918 to 1920 additional lands within the district were brought under cultivation. The capacity of the A canal was found to be insufficient to convey the amount of water necessary to properly irrigate lands then under cultivation within the district, and in 1920 the canal was enlarged and an additional pump installed for the purpose of providing additional water to such landowners within the district. It is conceded that prior to such increased reclamation and cultivation water was furnished for use on part of appellant's land.

The court found that the water which appellant used was conveyed through works which belonged to the owners of land within the district which, at that time, they did not require for use upon their lands, but for the past three years they had used and required the same for use and that appellant's use was only temporary during the time the lands entitled to said water did not require the same. In our opinion there was sufficient competent evidence to support this finding.

Appellant's right to delivery of water was denied by the court upon the theory that the cost of the installation of the system had been assessed against the lands within the district; that appellant's land not being within the district, and not being assessed or subject to assessment for the purchase price and cost of installation of the system, she was not entitled to receive water therefrom, and respondent district was not required to furnish water to any lands outside of the district; that all waters owned by the district were held in trust for the benefit of the owners of the land within its boundaries, such owners being entitled, as

their lands were brought under cultivation, to the full capacity of the system.

[1] It is insisted by appellant that the water having once been applied to her land and used for agricultural purposes, it was such a dedication and distribution of waters to a beneficial use that she could not thereafter be deprived of. In support of this contention reliance is placed upon article 15, §§ 1 and 4 of the Constitution, and C. S. §§ 5638 and 5556.

Section 1, art. 15, supra, provides as follows:

"The use of all waters now appropriated, or that may hereafter be appropriated for sale, rental or distribution; also of all water originally appropriated for private use, but which after such appropriation has heretofore been, or may hereafter be sold, rented or distributed, is hereby declared to be a public use, and subject to the regulation and control of the state in the manner prescribed by law."

Section 4, art. 15, supra, provides as follows:

"Whenever any waters have been, or shall be, appropriated or used for agricultural purposes, under a sale, rental, or distribution thereof, such sale, rental or distribution shall be deemed an exclusive dedication to such use; and whenever such waters so dedicated shall have once been sold, rented or distributed to any person who has settled upon or improved land for agricultural purposes with the view of receiving the benefit of such water under such dedication, such person, his heirs, executors, administrators, successors, or assigns, shall not thereafter, without his consent, be deprived of the annual use of the same, when needed for domestic purposes, or to irrigate the land so settled upon or improved, upon payment therefor, and compliance with such equitable terms and conditions as to the quantity used and times of use, as may be prescribed by law."

C. S. § 5638, is a substantial re-enactment of section 4, art. 15, supra.

C. S. § 5556, inter alia, provides that:

" * * * The right to the use of any of the public waters which have heretofore been or may hereafter be allotted or beneficially applied, shall not be considered as being a property right in itself, but such right shall become the complement of, or one of the appurtenances of, the land or other thing to which, through necessity, said water is being applied; and the right to continue the use of any such water shall never be denied or prevented from any other cause than the failure on the part of the user thereof to pay the ordinary charges or assessments which may be made to cover the expenses for the delivery of such water."

The provisions of the Constitution and the sections of the statutes cited and relied upon by appellant have peculiar application to persons or corporations organized for the purpose of appropriating water for sale, rental, or distribution and have no application to an irrigation district, except as hereinafter noted.

It is true that, whenever an irrigation district, organized under the provisions of the statute acquires an irrigation system through which waters have theretofore been delivered and applied to a beneficial use on lands outside or within the boundaries of the district, it is burdened with the obligation to continue such delivery. Appellant calls attention to the case of *Gerber v. Nampa & Meridian Irr. Dist.*, 19 Idaho, 765, 116 Pac. 104. That case does not bear out appellant's theory. In that case the plaintiff was the owner of land within the exterior limits of the defendant district which purchased from the Boise City Irrigation & Land Company a canal locally known as the Ridenbaugh canal. During 1904, 1905, and 1906, the predecessor in interest to the plaintiff took water for the land now owned by plaintiff, from two taps of the Ridenbaugh canal. The plaintiff in that case had acquired a vested right to the use of certain water from the predecessor of the irrigation district. When the district purchased the canal system from the Boise City Irrigation & Land Company, such system was burdened with the duty to deliver such water to the Gerber lands, and this court held, in effect, that, having purchased the system burdened with the duty to deliver such water, the right to the use of such water could not be denied. To the same effect see *Settlers' Irr. Dist. v. Settlers' Canal Co., Ltd.*, 14 Idaho, 504, 94 Pac. 829; *Niday v. Barker*, 16 Idaho, 73, 101 Pac. 254; *Nampa & Meridian Irr. Dist. v. Briggs*, 27 Idaho, 84, 147 Pac. 75.

[2] An irrigation district acquiring a system which had theretofore furnished water to settlers outside of the district, who had a vested right thereto, is compelled to continue to deliver such water. But an irrigation district acquiring a system which only furnishes water to settlers within the district cannot be compelled thereafter to furnish water to settlers outside of the district.

[3] Irrigation districts are creatures of the statutes. They are quasi public or municipal corporations, and as such have only such power as is given to them by statute, or such as is necessarily implied. *Evans v. Swendsen*, 34 Idaho, 290, 200 Pac. 136; *Kootenai County v. State Board of Equalization*, 31 Idaho, 155, 169 Pac. 935; *Olmstead v. Carter*, 34 Idaho, 276, 200 Pac. 134; *State v. Des Chutes Land Co.*, 64 Or. 167, 129 Pac. 764.

[4, 5] Under the provisions of C. S. § 4350, the legal title to all property acquired by the district by operation of law vests immediately in the district and is held in trust for, dedicated to, and set apart to the use and purposes provided by law. Under the provisions of C. S. §§ 4346 and 4355, the power of the directors or other officers of an irrigation district is limited, and any act done in excess of the express or implied provi-

sions of the statute by such directors or other officers is ultra vires. However, the foregoing provisions of the statutes do not prohibit the delivery of water to users outside of the district when the same is not needed by users within the district. Such delivery of water would not be a dedication under the provisions of the Constitution or the statutes heretofore referred to. Const. art. 15, §§ 1 and 4; C. S. §§ 5638 and 5550. The landowners within the district are obligated to the extent of the cost of maintenance of the system and for the payment of the same. The appropriation and diversion of waters by the district, through its officers, or the purchase of a system constructed in whole or in part by its funds, becomes the property of the district, and is held in trust for the landowners within it, and no burden can be imposed upon it for the delivery or maintenance of canals or laterals for the delivery of water beyond the boundaries of the district, and no contract made by the directors of a district to deliver water beyond its boundaries is a liability for which the district can be held. The ultimate purpose of a district's organization, under the provisions of the statutes of this state, is the improvement, by irrigation, of lands within the district. The purpose of its organization is not rental, sale, or distribution of water. It is authorized to acquire the right to the use of water for the purpose of delivery to settlers within the district. To bond the lands of the settlers within the district to acquire the right to the use of water, and then to deprive them of such right in order that it may be furnished to lands without the district would clearly be taking property of the landowners within the district without due process of law. *Jenison v. Redfield*, 149 Cal. 500, 87 Pac. 63; *Merchants' Nat. Bank of San Diego v. Escondido Irr. Dist.*, 144 Cal. 329, 77 Pac. 937.

Appellant concedes that she is not an appropriator of any of the waters diverted and distributed by means of the system owned by respondent district, that her lands are not and cannot be assessed for the purpose of paying off the indebtedness of the district or for the purpose of maintenance, but that she is a renter or distributee of water available for distribution from the system, and, as such, having once received the water and applied it to a beneficial use, this right cannot be denied her, although the system of respondent district is limited in its capacity to furnish water to landowners within its boundaries.

Appellant further seeks to reinforce her right to the use of waters from the distributing system of respondent upon the theory that she was applying waters to her lands prior to the cultivation and application of the waters of the system by later landown-

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ers within the district. There is no merit in this contention. The waters were originally appropriated and the system constructed to supply water to landowners within the boundaries of the district, and all persons dealing with the directors or officers of the district are bound to take notice of the various enactments conferring authority upon the directors or officers of the district and the limitation of their powers. The delivery of water by the directors or officers of an irrigation district to exterior lands would simply be an act ultra vires, except in such cases where the district acquired the system burdened with the duty to deliver water without its boundaries, or in case of surplus of water.

Officers of an irrigation district are public officers and a contract made with a public officer in excess of the provisions of the statute authorizing the contract is void, so far as it departs from or exceeds the terms of the law. *State v. Des Chutes Land Co.*, 64 Or. 167, 129 Pac. 764.

[8] C. S. §§ 4411 to 4421, inclusive, provide the only method by which owners of lands lying outside of the boundaries of an irrigation district may become entitled to the use of waters or acquire an interest in the system of the district, and that is by annexation.

From what has been said, it follows that the writ of mandate should not issue. The judgment of the trial court is affirmed, and it is so ordered. Costs are awarded to respondent.

WILLIAM A. LEE and WM. E. LEE, JJ.,
and GIVENS, C., concur.

(13 Colo. 495)

OFFICER v. NEW YORK LIFE INS. CO.
(No. 10382.)

(Supreme Court of Colorado. May 7, 1923.
Rehearing Denied July 2, 1923.)

Insurance — 365(2)—Policy held restored by payment of overdue premium and delivering application for reinstatement to branch office.

Where a policy provided that, after non-payment of a premium, it could be restored by payment of the premium with interest within the accumulation period, and that premiums were due and payable at the home office unless otherwise agreed in writing, payment of an overdue premium with interest to a branch office was sufficient to reinstate the policy, and its restoration related back to the delivery of the application therefor to the branch office, although the insured died before the application reached the home office.

En Banc.

Error to District Court, Weld County;
Neil F. Graham, Judge.

Action by Robert A. Officer, as executor of the last will and testament of Alexander Vernon Officer, deceased, against the New York Life Insurance Company. Judgment for defendant, and plaintiff brings error. Reversed with directions.

Harry N. Haynes and Ralph L. Dougherty, both of Greeley, for plaintiff in error.

Charles W. Waterman and William A. Jackson, both of Denver, and James H. McIntosh, of New York City, N. Y., for defendant in error.

SHEAFOR, J. The plaintiff in error brought this suit against the defendant in error to recover the sum of \$2,596.57, with interest, which he claims as a balance due upon a policy of insurance issued by the defendant, bearing date February 5, 1903, insuring the life of plaintiff's testator, Alexander Vernon Officer.

The complaint alleges and the answer admits: That on February 5, 1903, for a consideration therein stated, defendant executed its insurance policy and thereby insured the life of plaintiff's testator. That defendant is a life insurance company incorporated under the laws of the state of New York, doing business in Colorado. That on October 4, 1920, testator departed this life. That on December 11, 1920, plaintiff furnished defendant with proofs of death of said insured. That the tabular annual rate of premium on the policy when written was \$148.59. That in January, 1921, defendant paid plaintiff upon the policy the sum of \$3,000. That Alexander V. Officer, the insured, paid each and every semiannual premium called for by the terms of the policy up to and including the semiannual premium due February 5, 1920, and that on or about September 17, 1920, he delivered at defendant's Colorado branch office, in Denver, the sum of \$78.05, for the purpose of reinstating the policy, following his omission to pay the semiannual premium thereon of \$77.28, due August 5, 1920. That the insured signed and left at defendant's Colorado branch office a written application to the home office of defendant for reinstatement of the policy, and that the application, with accompanying evidence therein as to Officer's insurability, was made by inserting in a blank form entitled, "Application for reinstatement of policy," answers to questions therein propounded.

The policy was made part of the complaint and contains the following provision concerning reinstatement of policy:

"Reinstatement.—While the insurance under this policy will automatically continue as herein provided if any premium or interest is not paid on the date when due, the company will restore the policy as of the date of such non-payment, on payment by the insured of such

For other cases see same topic and KEY-NUMBER in all Key-Numbered Digests and Indexes

Aug 10 1924

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POOR ORIGINAL

AN ORDER ANNEXING LANDS
T O
GEM IRRIGATION DISTRICT

—ooo—

Pursuant to a resolution of the Board of Directors of the Gem Irrigation District made at its meeting held on the 6th day of September, 1927, directing that an order be made annexing the lands hereinafter described to the Gem Irrigation District,

IT IS HEREBY ORDERED, That the lands hereinafter described be and the same are hereby annexed to the Gem Irrigation District, to-wit:

TOWNSHIP FOUR NORTH, RANGE SIX WEST, B. M., OWYHEE
COUNTY, IDAHO:

In Section 23: Lots 3, 4, 5 and 6; $SE\frac{1}{4} NW\frac{1}{4}$; $E\frac{1}{2} SW\frac{1}{4}$; $W\frac{1}{2} NW\frac{1}{4} SE\frac{1}{4}$; $W\frac{1}{2} SW\frac{1}{4} SE\frac{1}{4}$.

All of Section 26.

All of Section 35.

In Section 36: $W\frac{1}{2} SW\frac{1}{4} NE\frac{1}{4}$; $NW\frac{1}{4}$; $W\frac{1}{2} NW\frac{1}{4} SW\frac{1}{4}$; $SW\frac{1}{4} SE\frac{1}{4} SW\frac{1}{4}$.

TOWNSHIP THREE NORTH, RANGE SIX WEST, B. M., OWYHEE
COUNTY, IDAHO:

In Section 1: $SW\frac{1}{4}$ Lot 2; $W\frac{1}{2} SW\frac{1}{4} NE\frac{1}{4}$; $NE\frac{1}{4} SE\frac{1}{4} NW\frac{1}{4}$; $S\frac{1}{2} SE\frac{1}{4} NW\frac{1}{4}$; $NW\frac{1}{4}$ Lot 3; Lot 4; $W\frac{1}{2} SW\frac{1}{4} NW\frac{1}{4}$; $SW\frac{1}{4}$; $W\frac{1}{2} SE\frac{1}{4}$.

All of Section 2.

In Section 12: $NW\frac{1}{4} NW\frac{1}{4} NE\frac{1}{4}$; $N\frac{1}{2} NE\frac{1}{4} NW\frac{1}{4}$.

In Section 11: $NW\frac{1}{4} NW\frac{1}{4} SE\frac{1}{4}$; $S\frac{1}{2} NW\frac{1}{4} SE\frac{1}{4}$; $SW\frac{1}{4} SE\frac{1}{4} NW\frac{1}{4}$; Lots 2 and 3; $N\frac{1}{2}$ Lot 4; $NE\frac{1}{4} SW\frac{1}{4}$.

In Section 23: $SW\frac{1}{4} SE\frac{1}{4} SW\frac{1}{4}$; $S\frac{1}{2}$ Lot 4.

EXHIBIT 8

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In Section 26: $E\frac{1}{2} NW\frac{1}{4}$; Lots 1 and 2; $S\frac{1}{2} SE\frac{1}{4} NE\frac{1}{4}$; $S\frac{1}{2} SW\frac{1}{4} NE\frac{1}{4}$; $NW\frac{1}{4} SW\frac{1}{4} NE\frac{1}{4}$; $SE\frac{1}{4}$.

In Section 25: $S\frac{1}{2} SE\frac{1}{4} SE\frac{1}{4}$; $SW\frac{1}{4} SE\frac{1}{4}$; $S\frac{1}{2} N\frac{1}{2} SW\frac{1}{4}$; $S\frac{1}{2} SW\frac{1}{4}$.

In Section 36: $N\frac{1}{2}$; $SE\frac{1}{4}$.

TOWNSHIP THREE NORTH, RANGE FIVE WEST, B. M., OWYHEE
COUNTY, IDAHO:

In Section 30: $SW\frac{1}{4} SE\frac{1}{4} SE\frac{1}{4}$; $S\frac{1}{2} SW\frac{1}{4} SE\frac{1}{4}$; $S\frac{1}{2} S\frac{1}{2} SW\frac{1}{4}$.

In Section 31: $SE\frac{1}{4} NE\frac{1}{4}$; $W\frac{1}{2} NE\frac{1}{4}$; $W\frac{1}{2} NE\frac{1}{4} NE\frac{1}{4}$; $W\frac{1}{2}$; $SE\frac{1}{4}$.

In Section 32: $SW\frac{1}{4} SW\frac{1}{4} NW\frac{1}{4}$; $N\frac{1}{2} NW\frac{1}{4} SW\frac{1}{4}$.

In Section 33: $S\frac{1}{2} SE\frac{1}{4} SE\frac{1}{4}$; $S\frac{1}{2} S\frac{1}{2} SW\frac{1}{4}$.

In Section 34: $E\frac{1}{2} SE\frac{1}{4} SE\frac{1}{4}$.

In Section 35: $S\frac{1}{2} SE\frac{1}{4} SW\frac{1}{4}$; $SW\frac{1}{4} SW\frac{1}{4}$.

TOWNSHIP TWO NORTH, RANGE FIVE WEST, B. M., OWYHEE
COUNTY, IDAHO:

In Section 6: $E\frac{1}{2}$; $NW\frac{1}{4}$.

In Section 5: $E\frac{1}{2} SE\frac{1}{4}$; $SW\frac{1}{4} SE\frac{1}{4}$; $S\frac{1}{2} SW\frac{1}{4}$; $NW\frac{1}{4} SW\frac{1}{4}$.

All of Section 4.

In Section 3: $E\frac{1}{2}$ Lot 1; $E\frac{1}{2} SE\frac{1}{4} NE\frac{1}{4}$; $E\frac{1}{4} E\frac{1}{2} SE\frac{1}{4}$.

In Section 2: $S\frac{1}{2} NE\frac{1}{4}$; Lot 2: $NW\frac{1}{4}$; $S\frac{1}{2}$.

In Section 1: $S\frac{1}{2} SE\frac{1}{4} SE\frac{1}{4}$; $SW\frac{1}{4} SE\frac{1}{4}$; $S\frac{1}{2} SW\frac{1}{4}$; $S\frac{1}{2} NE\frac{1}{4}$ $SW\frac{1}{4}$; $NW\frac{1}{4} NE\frac{1}{4} SW\frac{1}{4}$; $NW\frac{1}{4} SW\frac{1}{4}$; $SW\frac{1}{4} SW\frac{1}{4} NW\frac{1}{4}$.

All of Section 8.

All of Section 9.

In Section 10: $S\frac{1}{2}$; $S\frac{1}{2} S\frac{1}{2} NE\frac{1}{4}$; $S\frac{1}{2} NW\frac{1}{4}$; $SW\frac{1}{4} NE\frac{1}{4} NW\frac{1}{4}$; $S\frac{1}{2} NW\frac{1}{4} NW\frac{1}{4}$; $NW\frac{1}{4} NW\frac{1}{4} NW\frac{1}{4}$.

In Section 11: $E\frac{1}{2}$; $E\frac{1}{2} NW\frac{1}{4}$; $E\frac{1}{2} NW\frac{1}{4} NW\frac{1}{4}$; $E\frac{1}{2} SW\frac{1}{4} NW\frac{1}{4}$; $SW\frac{1}{4} SW\frac{1}{4} NW\frac{1}{4}$; $SW\frac{1}{4}$.

All of Section 12.

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In Section 17: $N\frac{1}{2}$ $NE\frac{1}{4}$.

All of Section 16.

All of Section 15.

All of Section 14.

In Section 13: $N\frac{1}{2}$; $SW\frac{1}{4}$.

In Section 21: $N\frac{1}{2}$ $NE\frac{1}{4}$.

All of Section 22.

In Section 23: $N\frac{1}{2}$ $NW\frac{1}{4}$.

TOWNSHIP TWO NORTH, RANGE FOUR WEST, B. M., O'WYHEE
COUNTY, IDAHO:

In Section 7: $S\frac{1}{2}$; $W\frac{1}{2}$ $NW\frac{1}{4}$.

In Section 8: $S\frac{1}{2}$; $S\frac{3}{4}$ $S\frac{1}{2}$ $NE\frac{1}{4}$; $S\frac{3}{4}$ $S\frac{1}{2}$ $NW\frac{1}{4}$.

In Section 9: $S\frac{1}{2}$; $S\frac{3}{4}$ $S\frac{1}{2}$ $N\frac{1}{2}$.

In Section 10: $S\frac{1}{2}$; $S\frac{1}{2}$ $SE\frac{1}{4}$ $NE\frac{1}{4}$; $S\frac{1}{2}$ $NE\frac{1}{4}$ $SE\frac{1}{4}$ $NE\frac{1}{4}$; $NW\frac{1}{4}$
 $SE\frac{1}{4}$ $NE\frac{1}{4}$; $SW\frac{1}{4}$ $NE\frac{1}{4}$; $S\frac{1}{2}$ $SW\frac{1}{4}$ $NE\frac{1}{4}$ $NE\frac{1}{4}$; $S\frac{1}{2}$ $NW\frac{1}{4}$ $NE\frac{1}{4}$; $S\frac{3}{4}$ $N\frac{1}{2}$ $NW\frac{1}{4}$;
 $S\frac{1}{2}$ $NW\frac{1}{4}$.

In Section 11: Lot 4.

In Section 18: $E\frac{1}{2}$; $NW\frac{1}{4}$.

All of Section 17.

In Section 16: $N\frac{1}{2}$.

In Section 15: $N\frac{1}{2}$; $SW\frac{1}{4}$.

In Section 14: Lots 1 and 2.

IT IS FURTHER ORDERED, That the boundaries of said Gem Irrigation District be changed so that said boundaries will be as follows, to-wit:

Beginning at a point on the south bank of Snake River where the boundary line between the State of Idaho and the State of Oregon crosses said river on the west boundary line of Section

fourteen, Township four North, Range six West of Boise Meridian, and running thence south on said boundary 1485 feet to the northwest corner of Section twenty-three, Township four North, Range six West of Boise Meridian; thence south seven and one-half miles to the quarter corner on the West side of Section twenty-six, Township three North, Range six West of Boise Meridian; thence east on half-section line to the center of said Section twenty-six; thence south one-half mile; thence east one-half mile; thence south one-half mile; thence east one-half mile; thence south one-half mile; thence east one-half mile to the northwest corner of Section six, Township two North, Range five West of Boise Meridian; thence south one-half mile; thence east one-half mile; thence south one-half mile; thence east one-half mile to the southeast corner of said Section six; thence south one mile; thence east one-half mile; thence south one-fourth mile; thence east one-half mile; thence south three-fourths of a mile to the southwest corner Section sixteen, said township and range aforesaid; thence east one-half mile; thence south one-fourth mile; thence east one-half mile; thence south three-fourths of a mile to the southwest corner of Section twenty-two, said township and range; thence east one mile; thence north three-fourths of a mile; thence east one-half mile; thence north one-fourth mile to the quarter corner between Sections fourteen and twenty-three, same township and range; thence east one mile; thence north one-half mile; thence east one mile to the center of Section eighteen, Township two North, Range four West of Boise Meridian; thence south one-half mile; thence east one and one-half miles to the southeast corner of Section seventeen, said township and range; thence north one-half mile; thence east one mile; thence south one-half mile; to the southwest corner of Section fifteen, same township and range; thence east one-half mile; thence north one-half mile; thence

POOR ORIGINAL

east one-half mile to the quarter corner between Sections fourteen and fifteen, Township two North, Range four West of Boise Meridian; thence east on line between Lots two and three of said Section fourteen, to the southwesterly bank of Snake River; thence northwesterly along the southerly bank of Snake River following its meanderings, to a point where the section line between Sections ten and fifteen, Township three North, Range five West of Boise Meridian, intersects the southerly bank of said river; thence west along said section line to the southwest corner of Lot three in said Section ten; thence south one-fourth mile; thence east one-fourth mile; thence south one-fourth mile; thence east one-half mile; thence south one-half mile to the south quarter corner of Section fourteen, said township and range; thence west one and three fourths miles; thence north one mile; thence east three-fourths of a mile to the north quarter corner between Sections ten and fifteen, same township and range; thence north one-half mile, to the center of said Section ten; thence east on line between Lots four and five in said Section ten, to the southerly bank of Snake River; thence continuing northwesterly along the southerly bank of Snake River, following its meanderings, to the point of beginning.

DATED This 10th day of Sept, in
the year of our Lord one thousand nine hundred and twenty-seven.

GEM IRRIGATION DISTRICT

By W. E. Thompson
President

J. B. Bowler
Secretary

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ORDER ANNEXING LANDS

TO

GEN. IRRIGATION DISTRICT.

Dated September 10th, 1927.

SUATH OF IRVING, Esq.
Circuit Court.

Filed for record this 20th day

of January, 1928, at 9:05 A. M., at

request of Gen. Irrigation

District.

and recorded in Book 9 of

Miscellaneous Record.

W. H. Smith

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STATE OF IDAHO
DEPARTMENT OF RECLAMATION
BOISE, IDAHO

PERMIT NO. 7982

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. W. H. Robinson; 45 years; Caldwell, Idaho; Manager, Gem Irrigation District; Caldwell, Idaho

Ques. 2. Are you acquainted with President, Board of Directors, Gem Irrigation District holder of Permit No. 7222? How long have you known him and where does he reside?

Ans. 15 years; Homedale, Idaho

Ques. 3. Have you read or heard read said Permit No. 7222, 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. Source: Snake River

Ans. Plants #1 and 2, running into Canals A. B. C. & D and Diversions from Jump Creek and Sucker Creek into the Canal and McDowell ditch.

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. About 375 cubic feet 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. Now irrigating 15,000 acres of tobacco, alfalfa and

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Ques. 7. If for power or other purposes than irrigation, state how water has been applied and to what extent

Ans. None

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.

Ans. Desert land, some being sandy and requires about 150000
feet on acre per season.

Ques. 9. Have you any interest in the works, water or lands above mentioned? If so, in what way and to what extent?

Ans. Yes. I own an interest in 160 acres of land in the project.

Ques. 10. State when, how, in what amount and to what extent you have witnessed the application to beneficial use of water diverted under said permit.

Ans. Water has been diverted under this permit since May, 1910 for
beneficial use in the reclaiming of the above land.

(Signed) M. H. Robinson.

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 Harlem, Id., County of Carleton, State of Idaho, on this day of March 17th, A. D. 1911.

B. B. Hargis
Notary Public.

My commission expires 1-9-36

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STATE OF IDAHO
DEPARTMENT OF RECLAMATION
BOISE, IDAHO



PERMIT NO. 7982

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. E. R. Snell; 54 years; Homedale, Idaho; farmer

Ques. 2. Are you acquainted with the President of Reclamation District the holder of Permit No. 7982? How long have you known him and where does he reside?

Ans. 10 years; Homedale, Idaho

Ques. 3. Have you read or heard read said Permit No. 7982, 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. Source: Snake River

Ans. Plants #1 and #2 turning into Snake R. R. Canal and discharging from Jump Creek and Succor Creek into the Patch and McDowell ditches.

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. About 350 cubic feet 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. For irrigation and domestic use. Land has been cultivated and direct result of said use for general farming.

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Ques. 7. If for power or other purposes than irrigation, state how water has been applied and to what extent

Ans. None

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.

Ans. Arid, desert land before being reclaimed and requires about
five acre feet per acre per season.

Ques. 9. Have you any interest in the works, water or lands above mentioned? If so, in what way and to what extent?

Ans. Yes. I am a farmer on the project owning 100 acres in cultivation
in the project.

Ques. 10. State when, how, in what amount and to what extent you have witnessed the application to beneficial use of water diverted under said permit.

Ans. Water has been diverted to beneficial use since 1910.

(Signed)

E. B. Snell

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 Hamlet, County of Campana, State of Idaho, on this day of March 17th, A. D. 1921.

B. B. Hanger

Notary Public.

My commission expires 1-9-36

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STATE OF IDAHO
DEPARTMENT OF RECLAMATION
BOISE, IDAHO

REPORT OF ENGINEER

Permit No. 7982

This proof is for BENEFICIAL USE

In Water District No. _____

1. Name of applicant GEN. IRRIGATION DISTRICT
2. Source of water supply: Snake River
3. Location of points of diversion: #1. At a point whence the NE corner Sec. 15, T. 2 N., R. 4 E., B. 1., bears N. 74° 15' W. 1435 feet. #2. At a point of Section whence the N. 4 cor. Sec. 5, T. 3 N., R. 5 W., B. 1., bears S. 11° 00' W. 2500 feet.
T. _____ R. _____ County of Owyhee

4. Describe works as they exist, giving dimensions and capacities of same: Concrete pumping station

floor plan 100'x50'

<u>Upper station</u>	<u>2- 1025 HP. Westinghouse Motor DC. to 24" Allis Chalmers</u>
<u>equipped with</u>	<u>2- " " " 18" Worthington</u>
	<u>2- 700 " " " 20" "</u>
	<u>2- 350 " " " 20" "</u>
	<u>1- 275 " " " 12" Allis Chalmers</u>
	<u>Rated capacity = 325 Sec</u>

<u>Lower station</u>	<u>2- 275 " " " 14" Worthington</u>
	<u>1- 75 " " " 10" "</u>
<u>Total rated capacity = 361. Sec 44.</u>	<u>Rated Capacity = 36 Sec.</u>

5. Water is used for: Irrigation and domestic purposes.
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 for other than irrigation): (See attached list)

(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 _____

EXHIBIT 11

JUN 10 1934

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This examination was made on the 27th day of June, 1934.(Signed) [Signature]
Examiner.

A description of the exterior boundary of the Gem Irrigation District, under the operation and maintenance of the Owyhee Project South Board of Control.

Beginning at the point where the Oregon - Idaho State boundary line intersects the southerly high water mark of the Snake River. Then southerly along the Oregon - Idaho State boundary line to the West quarter ($W\frac{1}{4}$) corner of Section twenty-six (26), Township three (3) North, Range six (6) West, Boise meridian, Idaho; thence easterly along the midsection line of said Section twenty-six (26) to the Center quarter ($C\frac{1}{4}$) corner of said Section twenty-six (26); thence southerly along the midsection line of said Section twenty-six (26) to the South quarter ($S\frac{1}{4}$) corner of the section; thence easterly along the south boundary of Section twenty of Section twenty-six (26) to the southeast corner of Section twenty-six (26); then southerly along the western boundary of Section thirty-six (36), Township three (3) North, Range six (6) West, Boise meridian, Idaho, to the West quarter ($W\frac{1}{4}$) corner of said Section thirty-six (36); thence easterly to the Center quarter ($C\frac{1}{4}$) corner of Section thirty-six (36); thence southerly to the South quarter ($S\frac{1}{4}$) corner of Section thirty-six (36); thence easterly to the southeast corner of said Section thirty-six (36); thence southerly along the western boundary of Section six (6), Township two (2) North, Range five (5) West, Boise meridian, Idaho. To the West quarter ($W\frac{1}{4}$) corner of said Section six (6); thence easterly along the midsection line of said Section six (6) to the Center quarter ($C\frac{1}{4}$) corner of the section, then southerly along the midsection line to South quarter ($S\frac{1}{4}$) corner of said Section six (6); thence easterly to the southeast corner of said Section six (6); thence southerly along the western boundary of Section eight (8), Township two (2)

EXHIBIT 12

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North, Range five (5) West, Boise meridian, Idaho, to the southwest corner of said Section eight (8); thence easterly along the southern boundary of said Section eight (8) to the quarter corner common to Sections eight (8) and seventeen (17), Township two (2) North, Range five (5) West, Boise meridian, Idaho, to the southwest corner of said Section eight (8); thence easterly along the southern boundary of said Section eight (8) to the quarter corner common to Sections eight (8) and seventeen (17), Township two (2) North, Range five (5) West, Boise meridian, Idaho; thence southerly to the Center North sixteenth (CN1/16) corner of Section seventeen (17), Township two (2) North, Range five (5) West, Boise meridian, Idaho; thence easterly to the North sixteenth corner (N1/16) common to Sections seventeen (17) and sixteen (16), Township two (2), North, Range five (5) West, Boise meridian, Idaho; thence southerly along the western boundary of said Section sixteen (16) to the southwest corner of Section sixteen (16); thence easterly along the southern boundary of Section sixteen (16) to the quarter corner common to Sections sixteen (16) and twenty-one (21), Township two (2) North, Range five (5) West, Boise meridian, Idaho; thence southerly along the midsection line of said Section twenty-one (21) to the Center North sixteenth (CN1/16) corner of said Section twenty one (21); thence easterly to the North sixteenth (N1/16) corner common to Sections twenty-one (21) and twenty-two (22), Township two (2) North, Range five (5) West, Boise meridian, Idaho; thence southerly along the western boundary of Section twenty-two (22), to the Southwest corner of Section twenty-two (22), Township two (2) North, Range five (5) West, Boise meridian, Idaho; thence east along the southern boundary of said Section twenty-two (22) to the southeast corner of Section twenty-two (22); thence northerly along the eastern boundary of said

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Section twenty-two (22) to the North sixteenth (N1/16) corner common to Sections twenty-two (22) and twenty-three (23), Township two (2) North, Range five (5) West, Boise meridian, Idaho; thence easterly to the Center North sixteenth (CN1/16) corner of Section twenty-three (23), Township two (2) North, Range five (5) West, Boise meridian, Idaho; thence northerly to the quarter corner common to Sections fourteen (14) and twenty-three (23), Township two (2) North, Range five (5) West, Boise meridian, Idaho; thence easterly to the South quarter ($S\frac{1}{4}$) corner of Section thirteen (13), Township two (2) North, Range five (5) West, Boise meridian, Idaho; thence northerly along the midsection line of said Section thirteen (13) to the Center quarter ($C\frac{1}{4}$) corner of Section thirteen (13); thence easterly along the midsection line to the East quarter ($E\frac{1}{4}$) corner of said Section thirteen (13); thence continuing easterly to the Center quarter ($C\frac{1}{4}$) corner of Section eighteen (18), Township two (2) North, Range four (4) West, Boise meridian, Idaho; thence southerly along the midsection line of said Section eighteen (18) to the South quarter ($S\frac{1}{4}$) corner of said Section eighteen (18); thence easterly to the southeast corner of Section seventeen (17), Township two (2) North, Range four (4) West, Boise meridian, Idaho; thence northerly to the quarter corner common to Sections sixteen (16) and seventeen (17), Township two (2) North, Range four (4) West, Boise meridian, Idaho; thence easterly along the midsection line of said Section sixteen (16) to the East quarter ($E\frac{1}{4}$) corner of said Section sixteen (16); thence southerly along the eastern boundary of said Section sixteen (16) to the southeast corner of said Section sixteen (16); thence easterly along the southern boundary of Section fifteen (15), Township two (2) North, Range four (4) West, Boise meridian, Idaho; to the South quarter ($S\frac{1}{4}$) corner of said Section

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fifteen (15); thence northerly along the midsection line of said Section sixteen (16) to the Center quarter ($C\frac{1}{4}$) corner of said Section fifteen (15); thence easterly to an intersection with the high water mark of the Snake River, said point being within Section fourteen (14), Township two (2) North, Range four (4) West, Boise meridian, Idaho; thence following in a northwesterly direction along said high water mark of the Snake River to the point of beginning.

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Whereupon, the following order is made; On this 10th day of May, 1909, came on regularly to be canvassed the election returns of a special election heretofore ordered to be held on Tuesday, May 4, 1909, for the purpose of organizing the "Gem Irrigation District", and electing officers thereof. From the Canvass it appearing that two thirds of all the votes cast at said election were irrigation district yes, it is hereby ordered that the territory heretofore designated by order of the Board made and entered on the 16th day of March, 1909, be and the same is hereby duly organized as an irrigation district under the name and style of "Gem Irrigation District", the boundaries of the said Gem Irrigation District are declared to be as heretofore fixed, and are declared to be as follows, to-wit:

Beginning at a point on the South bank of the Snake River, where the boundary line between the States of Idaho and Oregon crosses said river on the Westerly boundary line of Section 14, Township 4 North, of Range 6 West, of Boise Meridian; thence south on said boundary line 1485 feet to the Northwest corner of Section 23, T. 4 N., R. 6W.; thence East 990 feet; South 1320 feet; East 1320 feet; South 1520 feet; East 660 feet; South 2640 feet; East 1980 feet to the Southeast corner of said Section 23; thence South one mile to the Southeast corner of Section 26; thence East 2640 feet to the Southeast corner of the Southwest quarter of Section 25, Township and Range aforesaid; thence South one mile to the Southeast corner of the Southwest quarter of Section 36, Township and Range aforesaid; thence East two miles to the Southeast corner of the Southwest quarter of Section 32, in Township 4 North, of Range 5 West of Boise Meridian; thence South 2640 feet to the Southeast corner of the Northwest quarter of Section 5, Township 3 North, of Range 5 West, of Boise Meridian; thence East 1320 feet; thence South 3960 feet; thence West 3960 feet; thence South 1320 feet to the Southwest corner of the Northwest quarter of Section 8, in Township 3 aforesaid; thence West 340 feet; South 660 feet; West 660 feet; South 660 feet; West 3960 feet;

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South 660 feet; West 660 feet; South 660 feet to the Southeast corner of the Southwest quarter of Section 12, in Township 3 North of Range 6 West, Boise Meridian; thence West 8910 feet to the said boundary line between the States of Idaho and Oregon; thence South on the said boundary line 2640 feet to the Southwest corner of the Northwest quarter of Section 14, in said Township 3 North; thence East on the quarter section line through Sections 14 and 15 to the quarter corner on the West side of Section 16, in Township 3 North of Range 5 West, Boise Meridian; thence South 2640 feet to the Southwest corner of said Section 18; thence East 2640 feet to the quarter corner on the South line of said Section 18; thence South 1980 feet; thence East 2640 feet; thence North 1980 feet to the Southeast corner of said Section 18; thence East 2640 feet to the quarter corner on the South line of Section 17; thence South 1320 feet; thence East 1320 feet; thence South 3960 feet; thence East 1320 feet to the Southeast corner of Section 20, in Township 3 North, of Range 5 West; thence South $1 \frac{7}{8}$ miles to a point 660 feet North of the Southeast corner of Section 32, in said last mentioned township; thence East 640 feet; thence South 660 feet to the quarter corner on the South line of Section 33, of the last mentioned township; thence East 1320 feet to the Southeast corner of the Southwest quarter of the Southeast quarter of said Section 33; thence North 660 feet; East 1320 feet; South 5940 feet to the Southeast corner of Section 4, in Township 2 North, of Range 6 West, of Boise Meridian; thence East 660 feet; South 660 feet; East 20 feet; South 660 feet; East 660 feet; South 660 feet; East 3300 feet; thence North 1980 feet; thence West 990 feet; thence North 2640 feet; thence West 330 feet; thence North 3960 feet; thence East 1930 feet to the center of the Southwest quarter of Section 35, in Township 3 North, Range 5 West, Boise Meridian; South 660 feet; East 1320 feet; South 660 feet to the Southeast corner of the Southwest quarter of Section 35, Township 3 North, of Range 5 West, of Boise Meridian; thence East 1320 feet; South 1320 feet; East 1320 feet; South 660 feet; East 660 feet;

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South 660 feet; East 1320 feet; South 660 feet; East 660 feet; South 660 feet; East 1650 feet; South 660 feet; East 990 feet; South 660 feet to the Southeast corner of Section 1, in Township 2 North, of Range 5 West, of Boise Meridian; thence East 1320 feet; South 2640 feet; East 6600 feet to the Southeast corner of the Northwest quarter of Section 8, Township 2 North, of Range 4 West, of Boise Meridian; thence North 990 feet; thence East 7920 feet; North 1320 feet; East 2640 feet; South 660 feet; East 1980 feet; South 660 feet; East 660 feet; South 2510 feet; thence East to the South bank of Snake River; (the said point on the South bank of Snake River being in Section 11, in Township 2 North, of Range 4 West of Boise Meridian); thence Northwesterly on and along the South bank of said Snake River, with its meanderings to the Southeast corner of Lot 4, of Section 10, in Township 3 North, of Range 5 West, Boise Meridian; thence West to the Northwest corner of Lot 3, of said Section 10; thence South 2640 feet; thence East 1320 feet; thence South 1320 feet to the quarter corner on the East line of Section 16, of the last mentioned township; thence East 2640 feet to the center of section 14, of said township; thence South 2640 feet to the quarter corner on the South line of said Section 14; thence West $1 \frac{3}{4}$ miles to the Southwest corner of the Southeast quarter of the Southeast quarter of Section 16, said township and range; thence North one mile to the Northwest corner of the Northeast quarter of the Northeast quarter of said Section 16; thence East three-fourths of a mile to the quarter corner on the North boundary of Section 15; thence North one-half mile to the center of Section 10, said township and range; thence East to the South bank of Snake River; thence Northwesterly on and along the South bank of Snake River, with its meanderings, to the place of beginning, containing the following lands, situated in Owyhee County, State of Idaho, to-wit:

In Township 2 North of Range 4 West:

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Lot 1 of Sec. 2; Lots 1, 2, 3, 4, and 5, the $S\frac{1}{2}$ of the $NW\frac{1}{4}$, the $SW\frac{1}{4}$, the $W\frac{1}{2}$ of the $SE\frac{1}{4}$, and the $SE\frac{1}{4}$ of the $SE\frac{1}{4}$, of Sec. 3; all of Sec. 4; all of Sec. 5; all of Sec. 6; the $E\frac{1}{2}$ of the $NW\frac{1}{4}$, and the $NE\frac{1}{4}$ of Sec. 7; the $NW\frac{1}{4}$, the $N\frac{1}{2}$ of the $NE\frac{1}{4}$ and the $N\frac{1}{2}$ of the $N\frac{1}{2}$ of the $S\frac{1}{2}$ of the $NE\frac{1}{4}$ of Sec. 8; the $N\frac{1}{2}$ of the $N\frac{1}{2}$ and the $N\frac{1}{2}$ of the $N\frac{1}{2}$ of the $S\frac{1}{2}$ of the $N\frac{1}{2}$ of Sec. 9; the $N\frac{1}{2}$ of the $N\frac{1}{2}$ of the $N\frac{1}{2}$ of the $NW\frac{1}{4}$, the $N\frac{1}{2}$ of the $N\frac{1}{2}$ of the $NE\frac{1}{4}$, the $N\frac{1}{2}$ of the $S\frac{1}{2}$ of the $N\frac{1}{2}$ of the $NE\frac{1}{4}$, the $S\frac{1}{2}$ of the $SE\frac{1}{4}$ of the $NE\frac{1}{4}$ of the $NE\frac{1}{4}$, and the $N\frac{1}{2}$ of the $NE\frac{1}{4}$ of the $SE\frac{1}{4}$ of the $NE\frac{1}{4}$ of Sec. 10; Lots 1, 2 and 3, the $W\frac{1}{2}$ of the $NW\frac{1}{4}$ and the $NW\frac{1}{4}$ of the $SW\frac{1}{4}$ of Sec. 11.

In Township 2 North of Range 5 West, of Boise Meridian:

Lots 1, 2, 3 and 4, the $N\frac{1}{2}$ of the $SW\frac{1}{4}$ of the $NW\frac{1}{4}$, the $SE\frac{1}{4}$ of the $SW\frac{1}{4}$ of the $NW\frac{1}{4}$, the $SE\frac{1}{4}$ of the $NE\frac{1}{4}$, the $S\frac{1}{2}$ of the $NE\frac{1}{4}$, the $NE\frac{1}{4}$ of the $NE\frac{1}{4}$ of the $SW\frac{1}{4}$, the $E\frac{1}{2}$ of the $SE\frac{1}{4}$, the $NE\frac{1}{4}$ of the $SE\frac{1}{4}$ of the $SE\frac{1}{4}$, and the $E\frac{1}{2}$ of the $NW\frac{1}{4}$ of the $SE\frac{1}{4}$ of the $SE\frac{1}{4}$ of Sec. 1; Lot 1 of Sec. 2; the $W\frac{1}{2}$ of Lot 1, Lots 2, 3, and 4, the $S\frac{1}{2}$ of the $NW\frac{1}{4}$, the $SW\frac{1}{4}$ of the $NE\frac{1}{4}$, the $W\frac{1}{2}$ of the $SE\frac{1}{4}$ of the $NE\frac{1}{4}$, the $SW\frac{1}{4}$, the $W\frac{1}{2}$ of the $SE\frac{1}{4}$; the $W\frac{3}{4}$ of $E\frac{1}{2}$ of the $SE\frac{1}{4}$ of Sec. 3; the $N\frac{1}{2}$ of the $NE\frac{1}{4}$, the $N\frac{1}{2}$ of the $S\frac{1}{2}$ of the $NE\frac{1}{4}$, the $E\frac{1}{2}$ of the $NE\frac{1}{4}$ of the $NW\frac{1}{4}$, the $NW\frac{1}{4}$ of the $NE\frac{1}{4}$ of the $NW\frac{1}{4}$, and the $NE\frac{1}{4}$ of the $NW\frac{1}{4}$ of the $NW\frac{1}{4}$ of Sec. 10; the $W\frac{1}{2}$ of the $NW\frac{1}{4}$ of the $NW\frac{1}{4}$, and the $NW\frac{1}{4}$ of the $SW\frac{1}{4}$ of the $NW\frac{1}{4}$ of Sec. 11.

In Township 3 North of Range 4 West, Boise Meridian:

Lots 5 and 6 of Sec. 17; Lots 6, 7, 8 and 9 of Sec. 18; all of Sec. 19; all of Sec. 20; Lots 5 and 6 and the $SW\frac{1}{4}$ of the $SE\frac{1}{4}$ of Sec. 21; Lots 5, 6 and 7 of Sec. 27; all of Sec. 28; all of Sec. 29; all of Sec. 30; all of Sec. 31; all of Sec. 32; all of Sec. 33; Lots 5, 6, 7 and 8, and the $W\frac{1}{2}$ of the $W\frac{1}{2}$ of Sec. 34.

In Township 3 North, of Range 5 West, Boise Meridian:

Lot 8 of Sec. 3; Lots 3, 4, 5 and 6, the $S\frac{1}{2}$ of the $SE\frac{1}{4}$, the $SW\frac{1}{4}$, and the $SW\frac{1}{4}$ of the $NW\frac{1}{4}$ of Sec. 4; the $NE\frac{1}{4}$, and the $E\frac{1}{2}$ of the $SE\frac{1}{4}$ of Sec. 5; the $S\frac{1}{2}$ of the $S\frac{1}{2}$, the $N\frac{1}{2}$ of the $SE\frac{1}{4}$, and the $SE\frac{1}{4}$ of

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the NE $\frac{1}{4}$ of the SW $\frac{1}{4}$ of Sec. 7; the S $\frac{1}{2}$, the S $\frac{1}{2}$ of the N $\frac{1}{2}$ and the NE $\frac{1}{4}$ of the NE $\frac{1}{4}$ of Sec. 8; all of Sec. 9; Lots 3, 5 & 6, the W $\frac{1}{2}$ of the NW $\frac{1}{4}$, the SE $\frac{1}{4}$ of the NW $\frac{1}{4}$ and the SW $\frac{1}{4}$ of Sec. 10; Lots 5, 6, 7 and 8, and the S $\frac{1}{2}$ of the SW $\frac{1}{4}$, Sec. 13; Lots 3, 4, 5 and 6, the S $\frac{1}{2}$ of the SE $\frac{1}{4}$ and the NW $\frac{1}{4}$ of the SE $\frac{1}{4}$ of Sec. 14; Lot 1 of Section 15; the W $\frac{1}{2}$, and the W $\frac{1}{2}$ of the E $\frac{1}{2}$ of Sec. 16; all of Sec. 17; all of Sec. 18; the N $\frac{1}{2}$ of the NE $\frac{1}{4}$, and the N $\frac{1}{2}$ of the S $\frac{1}{2}$ of the NE $\frac{1}{4}$ of Sec. 19; the N $\frac{1}{2}$ of the NE $\frac{1}{4}$, the SE $\frac{1}{4}$ of the NE $\frac{1}{4}$, and the E $\frac{1}{2}$ of the SE $\frac{1}{4}$ of Sec. 20; all of Sec. 21; all of Sec. 22; all of Sec. 23; all of Sec. 24; all of Sec. 25; all of Sec. 26; all of Sec. 27; all of Sec. 28; the N $\frac{1}{2}$, the N $\frac{1}{2}$ of the S $\frac{1}{2}$, the N $\frac{1}{2}$ of the S $\frac{1}{2}$ of the SW $\frac{1}{4}$, the SW $\frac{1}{4}$ of the SE $\frac{1}{4}$, and the N $\frac{1}{2}$ of the SE $\frac{1}{4}$ of the SE $\frac{1}{4}$ of Sec. 33; the N $\frac{1}{2}$, the SW $\frac{1}{4}$, the N $\frac{1}{2}$ of the SE $\frac{1}{4}$, the SW $\frac{1}{4}$ of the SE $\frac{1}{4}$, and the W $\frac{1}{2}$ of the SE $\frac{1}{4}$ of the SE $\frac{1}{4}$ of Sec. 34; the N $\frac{1}{2}$, the N $\frac{1}{2}$ of the S $\frac{1}{2}$, the S $\frac{1}{2}$ of the SE $\frac{1}{4}$, and the N $\frac{1}{2}$ of the SE $\frac{1}{4}$ of the SW $\frac{1}{4}$ of Sec. 35; all of Sec. 36.

In Township 3 North, Range 6 West, Boise Meridian:

The SE $\frac{1}{4}$ of the SE $\frac{1}{4}$, the E $\frac{1}{2}$ of the SW $\frac{1}{4}$ of the SE $\frac{1}{4}$ and the SW $\frac{1}{4}$ of the SW $\frac{1}{4}$ of the SE $\frac{1}{4}$ of Sec. 12; the N $\frac{1}{2}$ of Sec. 13; the N $\frac{1}{2}$ of Sec. 14;

In Township 4 North, Range 5 West, Boise Meridian:

Lots 5, 6, 7 and 8 and the S $\frac{1}{2}$ of Sec. 19; Lots 3 and 4 of Sec. 20; Lots 5, 6, 7 and 8 of Sec. 29; all of Sec. 30; all of Sec. 31; Lots 4, 5, 6 and 7 and the W $\frac{1}{2}$ of the NW $\frac{1}{4}$, the SW $\frac{1}{4}$, and the SW $\frac{1}{4}$ of the SE $\frac{1}{4}$ of Sec. 32; all that portion of Sec. 33 lying West and South of Snake River.

In Township 4 North, Range 6 West, Boise Meridian:

Lots 1 and 2, the NE $\frac{1}{4}$ of the NW $\frac{1}{4}$, the S $\frac{1}{2}$ of the NE $\frac{1}{4}$, the E $\frac{1}{2}$ of the SE $\frac{1}{4}$ and the E $\frac{1}{2}$ of the W $\frac{1}{2}$ of the SE $\frac{1}{4}$ of sec. 23; all that portion of Sec. 14 lying South and West of Snake River; Lots 4, 5, 6 and 7 and the S $\frac{1}{2}$ of Sec. 24; all of Sec. 25; the E $\frac{1}{2}$ of Sec. 36.

It is further ordered that the divisions of said district be described as follows, to-wit:

Division No. 1

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shall consist of all that portion of said district lying east of the range line between Range 4 West and Range 5 West, of the Boise Meridian.

Division No. 2

shall consist of all that portion of the district lying between the range line between Ranges 4 West and 5 West and a line described as beginning at the boundary line of the district at the Southwest corner of Sec. 21, T. 3 N., R. 5 W., and running thence East 1320 feet to the Southwest corner of the SE $\frac{1}{4}$ of the SW $\frac{1}{4}$ of said Sec. 21; running thence due North to Snake River.

Division No. 3

shall consist of all that portion of the district lying West of line last above described.

It is further declared that the following persons received the highest number of votes for the respective offices named and therefore elected to same:

George Humrickhouse, Director, Division No. 1.

Chas. S. Faurot, Director, Division No. 2.

J. W. McDowell, Director, Division No. 3.

It is hereby ordered that a certified copy of the order organizing the Gem Irrigation District be filed and recorded in the office of the County Recorder of Owyhee County, Idaho.

Whereupon, it is ordered that this Board do now adjourn sine die.

Attest:

J. S. St Clair,

Clerk.

Chas. H. Grete,

Chairman.

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State of Idaho, :
:--SS.
County of Owyhee. :

I, J. S. St Clair, Clerk of the Board of County Commissioners of Owyhee County, State of Idaho, do hereby certify that the foregoing eight sheets contain a true and correct transcript of the proceedings of said Board held on Monday, the 10th day of May, 1909, in the Matter of the Organization of the Gem Irrigation District, and of the whole thereof.

IN WITNESS WHEREOF, I have hereunto set my hand and affixed the seal of said Board, this 12th day of May, 1909.

J. S. St Clair, Clerk.

(Seal)

By J. E. Dickens, Deputy.

Filed May 12th, 1909, at 4:30 o'clock P. M., at request of C. H. Grete, Chairman.

J. S. St Clair

Ex-Officio Recorder.

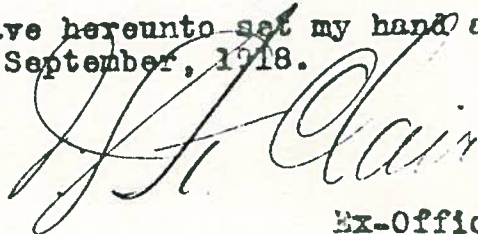
By J. E. Dickens, Deputy.

Recorded Book 7 Miscellaneous Record, page 81 et. seq., among the records of Owyhee County, Idaho.

STATE OF IDAHO, :
:--SS.
County of Owyhee. :

I, J. S. St Clair, Ex-Officio Recorder of Owyhee County, Idaho, do hereby certify that the foregoing is a true and correct copy of the original Order of Organization of the Gem Irrigation District now on record in my office.

IN WITNESS WHEREOF, I have hereunto set my hand and affixed my official seal this 17th day of September, 1918.



Ex-Officio Recorder.

SEP 17 1918
RECORDED

(18 Idaho, 388)

GEM IRR. DIST. v. JOHNSON.

(Supreme Court of Idaho. June 28, 1910.)

(Syllabus by the Court.)

WATERS AND WATER COURSES (§ 225*)—IRRIGATION DISTRICTS—ORGANIZATION—QUALIFICATIONS OF PETITIONERS.

"The holders of title or evidence of title," or entrymen "on lands under any law of the United States or of this state," who have received receipts or other evidence of their rights as such entrymen, are competent and proper persons to sign a petition for the organization of an irrigation district under the provisions of section 2372, Rev. Codes, and such petitioners may be counted in computing the requisite number of signers or holders of title or evidence of title to lands susceptible of irrigation under a common system of irrigation.

[Ed. Note.—For other cases, see Waters and Water Courses, Cent. Dig. § 317; Dec. Dig. § 225.*]

Appeal from District Court, Owyhee County; Ed. L. Bryan, Judge.

Action by the Gem Irrigation District against J. Walter Johnson. Judgment for plaintiff, and defendant appeals. Affirmed.

Smith & Scatterday, for appellant. Rice, Thompson & Buckner, for respondent.

AILSHIE, J. This is an appeal from the judgment and order of the district court decreeing and confirming the organization of the Gem Irrigation district. This district was organized under the provisions of section 2372 of the Revised Codes. That section provides as follows: "Whenever fifty, or a majority, of the holders of title, or evidence of title, to lands susceptible of one mode of irrigation from a common source and by the same system of works, desire to provide for the irrigation of the same, or when for other reasons they desire to organize the proposed territory into one district, they may propose the organization of an irrigation district under this title: Provided, said holders of title or evidence of title shall hold such title or evidence of title to at least one-fourth part of the total area of the land in the proposed district, which will be assessable for the purposes of the district. The equalized county assessment roll next preceding the presentation of a petition for the organization of an irrigation district shall be sufficient evidence of title for the purpose of this title, but other evidence may be received, including receipts or other evidence of the rights of entrymen on lands under any law of the United States or of this state, and such entrymen shall be

competent signers of such petition, and the lands on which they have made such entries shall, for the purposes of said petition, be considered as owned by them."

The only question that is argued or presented on this appeal is whether or not the expression "the lands in the proposed district which will be assessable for the purposes of the district" has reference to lands to which the owners or occupants hold title and lands the title to which has passed from the state or the general government, or whether this relates to and is satisfied by the latter part of the proviso to the section which says, "but other evidence may be received, including receipts or other evidence of the rights of entrymen on lands under any law of the United States or of this state." We do not think there is any room for doubt as to what the Legislature meant by the provisions of the last sentence of this proviso to section 2372. The concluding part of the sentence itself is clear and explicit. It says, "and such entrymen [referring to the holders of the receipts from the state or the general government] shall be competent signers of such petition, and the lands on which they have made such entries shall, for the purposes of said petition, be considered as owned by them." This measures the qualifications of a signer of such petition, and the conditions under which he may sign and be counted as one of the number, and one whose lands will constitute the required amount to be represented by such petition. The condition is that he shall hold an entryman's receipt, either from the state or the general government, for the lands claimed by him and which he seeks to have included in the district and subjected to assessment for the purposes of an irrigation district.

It is equally clear that irrigation bonds issued against such lands would be valid and binding to the extent at least of the title, interest, or claim of such entryman in and to such lands, whether acquired by him from the state or the general government. As to what liability the bonds would impose upon such lands beyond and in excess of the interest acquired or held by the entryman is another question, and one that does not concern us in this case. See Nev. Natl. Bank v. Poso Irrigation District, 140 Cal. 344, 73 Pac. 1056.

The judgment of the district court should be affirmed, and it is so ordered. Costs awarded in favor of respondent.

SULLIVAN, C. J., concurs.

For other cases see same topic and section NUMBER in Dec. Dig. & Am. Dig. Key No. Series & Rep'r Indexes

EXHIBIT 2

APR 10 1924
RECEIVED

See Rules and Regulations
enclosed herewith.

POOR ORIGINAL

EXHIBIT 3

Name of Sender.

P. O.

No. 11746

APPLICATION FOR PERMIT

To Appropriate the Public Waters of the State of Idaho

1. Name of Applicant: Chas. McCoard, Trustee for Lew Ingatho

Postoffice address: Homedale

County: Owyhee

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: (See Remarks #3)

(d) Other resources:

2. The quantity of water claimed is six hundred & fifty (650) cubic feet per second.

3. Source of water supply: Snake River

4. Location of point of diversion: As shown under Remarks #2

County of Owyhee

5. To be used for:

I. Irrigation and domestic use:

(a) Amount of land to be irrigated: 31,000 acres

(b) In the following legal subdivisions: lands designated in the list

(A list of the lands to be irrigated may be appended as a part of this application)

attached and made a part here of, marked Exhibit "A"

II. Mining, milling power, manufacturing, transportation or other purposes:

(a) At what point:

(b) Amount of power to be generated: 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: \$ 1,500,000.00

7. Description of works for diversion:

I. Kind of works: 2 pumping plants, pumping through pipe lines into
(Reservoir, dam, ditch, flume, pipes or otherwise)
4 canals at different levels as shown on the appended plat

II. Dimensions of work:

(a) Height of dam feet, length of dam at top feet, length of dam at
(If height of dam will exceed 10 feet, send to State Engineer's Office for Regulation)
bottom feet. Material used in construction

(State whether wood, earth, stone or concrete)

(b) Capacity of reservoir acre feet.

(c) Size of headgate: Width feet, height feet.

(d) Conduit Ditch, flume or / pipe See Remarks #1.
(State whether ditch, flume or pipe) feet, width at water line

..... feet, depth of water feet; diameter of pipe inches; average
grade per mile is feet. Length of conduit is miles, and it crosses the
following quarter sections: Quarter Sections are shown accurately
on Exhibit "B"

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 four
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.

Chas. M. McCoard

Applicant.

By Agent.

Remarks: #1. The conduits used to deliver the water to the land will
be of various sizes, dimensions and capacities. The average grade
will be three feet to a mile, and the average velocity 2 feet per
second.

#2: It is desired to divert the water at two points in two dif-
ferent amounts. At the upper pumping station the first point of
diversion is located at a point whence the N.E. cor. Sec. 15, T. 2
N. R. 4 W. B. M., bears N. 74° 15' W. 1435 feet. The amount of water
claimed here is 500 cubic feet per second. At the lower pumping
station the second point of diversion is located at a point whence
the N. 1/4 Cor. Section 5, T. 3 N. R. 5 W. B. M., bears S. 11° 00' W.
2500 feet. The amount of water claimed here is 150 cubic feet per
second.

Remark #3: The Gem Irrigation District, for which District Chas.
McCoard is making this filing has bonds to be issued to the amount

POOR ORIGINAL

of two million, ninety thousand, one hundred and ten dollars (\$2,090,1

APPROVAL OF STATE ENGINEER.

The number of this permit is 7982

Recorded in Book 25 Page 7982 Approved January 20, 1912.

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 \$ 1300.00 to be filed on or before March 20, 1912.

~~Work to be completed on or before~~ and to continue diligently and to complete the work on or before July 20, 1914.

One-fifth of the work above specified to be completed on or before July 20, 1914.

The whole of said work to be completed on or before January 20, 1917.

Beneficial use of water appropriated in accordance herewith, to be made on or before January 20, 1921.

Witness my hand this twentieth day of January, 1912.

A. B. Robinson
State Engineer.

POOR ORIGINAL

No.	7952
PERMIT	
Date of first	Office of State Engineer
8 DEC 1 1911	
Returned to applicant	in duplicate
Correct application	received
DEC 30 1911	
Per. P. K. Miller 6198	

Stationer Shop, Boise, Idaho
P. 11-450

NOT SOLIDIFIED

PERMIT NO. 7982

CERTIFICATE OF COMPLETION OF WORKS

To All Whom It May Concern:

This is to certify that Chas. McCord, Trustee for Gem Irrigation District, of Homedale, County of Owyhee, and State of Idaho, the holder of Permit No. 7982, issued upon Application No. 11716, bearing date of priority of December 1, 1911, authorizing the diversion of 650 second feet of the waters of Snake River, County of Owyhee, 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 306 second-feet of the waters of Snake River; that the points of diversion of said waters are as follows: At upper pumping plant, which is designated as plant No. 1, the point of diversion is located at a point whence the NE corner of Sec. 15, T. 2 N. R. 4 W., bears N. 74° 15' W. 1435 feet. At the lower plant, designated as plant No. 2, the point of diversion is located at a point whence the NE corner of Section 5, T. 3 N. R. 5 W., bears S. 11° 00' W. 2500 feet, and that the lands proposed to be irrigated by the use of said water are described as follows, to-wit:

Township 4 North, Range 6 West of Boise Meridian:

Lots 6, 7 and 8, Section 14; Lots 1, 2 and 3 of Section 23; NE $\frac{1}{4}$ of NW $\frac{1}{4}$, S $\frac{1}{2}$ of NE $\frac{1}{4}$, NE $\frac{1}{4}$ of SE $\frac{1}{4}$ of Section 23; S $\frac{1}{2}$ and Lots 4, 5, 6 and 7 of Section 24; E $\frac{1}{2}$, the E $\frac{1}{2}$ of W $\frac{1}{2}$, and NW $\frac{1}{4}$ of NE $\frac{1}{4}$ of Section 25; NE $\frac{1}{4}$ of NE $\frac{1}{4}$, SE $\frac{1}{4}$ of NE $\frac{1}{4}$ of Section 36.

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Township 4 North, Range 5 West Boise Meridian: Lots 5,6,7 and 8 and S $\frac{1}{2}$ of Section 19, Lots 3 and 4 of Section 20. All of Section 30. Lots 5,6,7 and 8 of Section 29. NE $\frac{1}{4}$ of NW $\frac{1}{4}$, SE $\frac{1}{4}$ of NW $\frac{1}{4}$, and NE $\frac{1}{4}$, NE $\frac{1}{4}$ of SE $\frac{1}{4}$ Section 31, Lots 4,5 6 and 7, W $\frac{1}{2}$ of NW $\frac{1}{4}$, NE $\frac{1}{4}$ of SW $\frac{1}{4}$, SE $\frac{1}{4}$ of SW $\frac{1}{4}$ and SW $\frac{1}{4}$ of SE $\frac{1}{4}$ of Section 32. Lot 3 of Section 33. Township 3 North of Range 5 West Boise Meridian: Lots 1,2 and 3, S $\frac{1}{2}$ of NE $\frac{1}{4}$, NE $\frac{1}{4}$ of SE $\frac{1}{4}$, SE $\frac{1}{4}$ of SE $\frac{1}{4}$ of Section 5. Lots 3,4,5 and 6, S $\frac{1}{2}$ of SE $\frac{1}{4}$, SW $\frac{1}{4}$, and SW $\frac{1}{4}$ of NW $\frac{1}{4}$ of Section 4. Lot 8 Section 3. Lots 4,5 and 6, LW $\frac{1}{4}$ of NW $\frac{1}{4}$, S $\frac{1}{2}$ of NW $\frac{1}{4}$ and SW $\frac{1}{4}$ of Section 10. All of Section 9, E $\frac{1}{2}$, SW $\frac{1}{4}$, SE $\frac{1}{4}$ of LW $\frac{1}{4}$ of Section 8. S $\frac{1}{2}$ of Section 7. All of Section 17 and 18. W $\frac{1}{2}$, W $\frac{1}{2}$ of E $\frac{1}{2}$ of Section 16, Lot 1 of Section 15. Lots 3,4,5 and 6, W $\frac{1}{2}$ SE $\frac{1}{4}$, and SE $\frac{1}{4}$ of SE $\frac{1}{4}$ of Section 14. Lots 5,6,7 and 8, S $\frac{1}{2}$ of SW $\frac{1}{4}$ of Section 13. NE $\frac{1}{4}$, E $\frac{1}{2}$ of NW $\frac{1}{4}$ of Section 19, NE $\frac{1}{4}$ of NW $\frac{1}{4}$, SE $\frac{1}{4}$ of NW $\frac{1}{4}$, and E $\frac{1}{2}$ of Section 20. All of Sections 31, 22, 23, 24, 25, 26, 27, 28. E $\frac{1}{2}$, and SE $\frac{1}{4}$ of SW $\frac{1}{4}$ of Section 29. E $\frac{1}{2}$ and NE $\frac{1}{4}$ of NW $\frac{1}{4}$ of Section 32. All of Sections 33, 34, 35, 36. Township 3 North, Range 4 West Boise Meridian: Lots 5 and 6 of Section 17. Lots 6,7,8 and 9 of Section 18. All of Sections 19, 30, 29, 31, 32 and 33. W $\frac{1}{2}$, SE $\frac{1}{4}$, SW $\frac{1}{4}$ of NE $\frac{1}{4}$ and Lots 1 and 2 of Section 20. Lots 5 and 6 and SW $\frac{1}{4}$ of SW $\frac{1}{4}$ of Section 21. Lots 1 and 2, S $\frac{1}{2}$ of NE $\frac{1}{4}$, S $\frac{1}{2}$, and NW $\frac{1}{4}$ of Section 28. Lots 5,6 and 7 of Section 27. Lots 5,6,7 and 8 and W $\frac{1}{2}$ of W $\frac{1}{2}$ of Section 34. Township 2 North, Range 5 West of Boise Meridian: Lots 1 and 2, and SE $\frac{1}{4}$ of NE $\frac{1}{4}$ of Section 5. Lots 1,2,3 and 4, S $\frac{1}{2}$ of NE $\frac{1}{4}$, SE $\frac{1}{4}$, and E $\frac{1}{2}$ of SW $\frac{1}{4}$, SE $\frac{1}{4}$ of NW $\frac{1}{4}$ of Section 4. All of Section 3. NE $\frac{1}{4}$ of Section 2. All of Section 1. NE $\frac{1}{4}$ and NE $\frac{1}{4}$ of SE $\frac{1}{4}$

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of Section 12. $N\frac{1}{2}$ of $NE\frac{1}{4}$, $SW\frac{1}{4}$ of $NE\frac{1}{4}$, $NW\frac{1}{4}$ and $NW\frac{1}{4}$ of $SW\frac{1}{4}$ of Section 10. $N\frac{1}{2}$ of $NE\frac{1}{4}$, $SE\frac{1}{4}$ of $NE\frac{1}{4}$, and $NE\frac{1}{4}$ of $SE\frac{1}{4}$ of Section 9. Township 2 North, Range 4 West Boise Meridian: Lot 1 Section 2. Lots 1,2,3,4 and 5, $S\frac{1}{2}$ $NW\frac{1}{4}$, $SW\frac{1}{4}$, $W\frac{1}{2}$ $SE\frac{1}{4}$, $SE\frac{1}{4}$ of $SE\frac{1}{4}$ of Section 3. All of Section 4,5,6 and 7. $N\frac{1}{2}$, $N\frac{1}{2}$ of $S\frac{1}{2}$ and $SE\frac{1}{4}$ of $SE\frac{1}{4}$ of Section 8. $N\frac{1}{2}$, $N\frac{1}{2}$ of $S\frac{1}{2}$, and $SW\frac{1}{4}$ of $SW\frac{1}{4}$ of Section 9. $N\frac{1}{2}$, $NW\frac{1}{4}$ of $SW\frac{1}{4}$ and $E\frac{1}{2}$ of $SE\frac{1}{4}$ of Section 10. Lots,1,2,3 and 4, $W\frac{1}{2}$ of $NW\frac{1}{4}$ and $NW\frac{1}{4}$ of $SW\frac{1}{4}$ of Section 11. Lot 1 of Section 14. $NE\frac{1}{4}$ of $NW\frac{1}{4}$ and $NW\frac{1}{4}$ of $NE\frac{1}{4}$ of Section 18. Township 3 North, Range 6 West Boise Meridian: $S\frac{1}{2}$ of $SE\frac{1}{4}$ of Section 12. $N\frac{1}{2}$, $N\frac{1}{2}$ of $S\frac{1}{2}$ of Section 13. $S\frac{1}{2}$ of $N\frac{1}{2}$, $SE\frac{1}{4}$ $NW\frac{1}{4}$ and $NE\frac{1}{4}$ of $NE\frac{1}{4}$ of Section 14, containing 31,000 acres.

Witness my hand this 30th day of April, A. D. 1914.

J. P. King
State Engineer.

STATE OF IDAHO,)
)ss:
 County of Ada.)

I, Herbert Wing, Acting State Engineer of the State of Idaho, hereby certify to the following statement of fact;

That, on January 20, 1912, the State Engineer of the State of Idaho issued to Chas. McCoard, Trustee for Gem Irrigation District, Permit to appropriate the public waters of the State No. 7982, of Idaho, based upon an application filed December 1, 1911, said permit granting the right to appropriate and put to beneficial use 650 second feet of the waters of Snake river, in Owyhee county, Idaho.

That, under the terms of said permit, proof of completion of works is required to be made by January 20, 1917, and proof of beneficial use of water by January 20, 1921.

That on February 21, 1914, the holder of said permit made satisfactory proof of completion of works for the diversion of 306 second feet of said water and that, on April 30, 1914, the Certificate of completion of works was issued therefor.

That the holder of said permit is not delinquent in the matter of proof required by the laws of the State of Idaho and that no protests or contests are pending in this office against said permit.

IN WITNESS WHEREOF I have hereunto set my hand and affixed the seal of the State Engineer of Idaho this 2nd day of December, 1914.

Herbert Wing
 Acting State Engineer.

No. 12733.

REGULAR MEETING OF BOARD OF DIRECTORS OF GEM

IRRIGATION DISTRICT

at Homedale, Idaho, September 7th, 1915.

---:---

The following resolution was presented by Mr. Marsing, seconded by Mr. Snell and unanimously adopted:

WHEREAS owners of land within the GEM IRRIGATION DISTRICT and above the "A" Canal of said District petitioned the Board of Directors of this District on the 5th day of January, 1915, to have the lands above the "A" Canal within the Gem Irrigation District excluded from said District, and an order was made granting said petition, but without describing the lands affected thereby, and it is necessary to make another order, for the purpose of supplying the omissions in said order; and

WHEREAS it appears to this Board of Directors that all of the lands hereinafter described are too high to be irrigated by the works of the Gem Irrigation District, and that it is for the best interest of the land owners above said canal and the said Gem Irrigation District to have said lands excluded therefrom; and

WHEREAS in the assessment of the benefits of the works of the Gem Irrigation District, no assessment of benefits was apportioned against the lands hereinafter described as benefited by the owkrs of said District, and said lands have not been obligated in any manner by said District;

Be It Therefore RESOLVED, That it is hereby ordered that the lands hereinafter described be and the same are hereby excluded from the boundaries of the Gem Irrigation District, and that said lands stand in the same position as though they had never been included within the boundaries of said District.

The lands affected by this order are described as follows, to-wit:

EXHIBIT 6

SEP 10 1915
HOMEDALE

In Township 4, North of Range 6, West of Boise Meridian:

$E\frac{1}{2}$ of $SW\frac{1}{4}$ of $NE\frac{1}{4}$, $SE\frac{1}{4}$, $NE\frac{1}{4}$ of $SW\frac{1}{4}$, $E\frac{1}{2}$ of $NW\frac{1}{4}$ of $SW\frac{1}{4}$, $SW\frac{1}{4}$ of $SW\frac{1}{4}$, $N\frac{1}{2}$ of $SE\frac{1}{4}$ of $SW\frac{1}{4}$, $SE\frac{1}{4}$ of $SW\frac{1}{4}$ of $SW\frac{1}{4}$, of Section 36; and that part of $NW\frac{1}{4}$ of $NE\frac{1}{4}$, $NE\frac{1}{4}$ of $NE\frac{1}{4}$, and the $SE\frac{1}{4}$ of $NE\frac{1}{4}$, Section 36; and that part of the $SW\frac{1}{4}$ of $SE\frac{1}{4}$ of Section 25, which lies above a line running northerly and westerly 30 feet distant from the center line of the "D" canal of the Gem Irrigation District, in accordance with the surveys of said canal as the same is now constructed, and meandering with said canal, on the upper side thereof,

In Township 4, North of Range 5, West of Boise Meridian:

Lots 3 and 4, the $E\frac{1}{2}$ of the $SW\frac{1}{4}$, $S\frac{1}{2}$ of $SE\frac{1}{4}$, of Section 31; and that part of Lot 2 and the $SE\frac{1}{4}$ of $NW\frac{1}{4}$, $SW\frac{1}{4}$ of $NE\frac{1}{4}$, $NW\frac{1}{4}$ of $SE\frac{1}{4}$, $NE\frac{1}{4}$ of $SE\frac{1}{4}$, Section 31, and that part of the $SW\frac{1}{4}$ of $SW\frac{1}{4}$ and the $SE\frac{1}{4}$ of $SW\frac{1}{4}$, $NW\frac{1}{4}$ of $SW\frac{1}{4}$, Section 32, which lies above a line running northerly and westerly 30 feet distant from the center line of the "D" canal of the Gem Irrigation District, in accordance with the surveys of said canal as the same is now constructed, and meandering with said canal, on the upper side thereof.

In Township 3, North of Range 6, West of Boise Meridian:

$NE\frac{1}{4}$ of Lot 3, $S\frac{1}{2}$ of Lot 3, $NW\frac{1}{4}$ of $SE\frac{1}{4}$ of $NW\frac{1}{4}$, $E\frac{1}{2}$ of $SW\frac{1}{4}$ of $NW\frac{1}{4}$, $N\frac{1}{2}$ of Lot 2, $SE\frac{1}{4}$ of Lot 2, Lot 1, $SE\frac{1}{4}$ of $NE\frac{1}{4}$, $E\frac{1}{2}$ of $SW\frac{1}{4}$ of $NE\frac{1}{4}$, $E\frac{1}{2}$ of $SE\frac{1}{4}$, Section 1;

$NE\frac{1}{4}$, $SE\frac{1}{4}$ of $SW\frac{1}{4}$, $NE\frac{1}{4}$ $NW\frac{1}{4}$, Lot 1, $N\frac{1}{2}$ of $SE\frac{1}{4}$ of $NW\frac{1}{4}$, $SE\frac{1}{4}$ of $SE\frac{1}{4}$ of $NW\frac{1}{4}$, $E\frac{1}{2}$ of $SE\frac{1}{4}$, $NE\frac{1}{4}$ of $NE\frac{1}{4}$ of $SE\frac{1}{4}$, $SW\frac{1}{4}$ of $SE\frac{1}{4}$, $S\frac{1}{2}$ of Lot 4, Section 11;

$NE\frac{1}{4}$ of $NE\frac{1}{4}$, $E\frac{1}{2}$ of $NW\frac{1}{4}$ of $NE\frac{1}{4}$, $SW\frac{1}{4}$ of $NW\frac{1}{4}$ of $NE\frac{1}{4}$, $S\frac{1}{2}$ of $NE\frac{1}{4}$, $SW\frac{1}{4}$ of $SW\frac{1}{4}$, $N\frac{1}{2}$ of $SW\frac{1}{4}$, $S\frac{1}{2}$ of $NW\frac{1}{4}$, $S\frac{1}{2}$ of $NE\frac{1}{4}$ of $NW\frac{1}{4}$, $NW\frac{1}{4}$ of $NW\frac{1}{4}$ and the $N\frac{1}{2}$ of $SE\frac{1}{4}$ of Section 12;

That part of the $SE\frac{1}{4}$ of $SW\frac{1}{4}$ and the $SW\frac{1}{4}$ of $SE\frac{1}{4}$ and the $SE\frac{1}{4}$ of $SE\frac{1}{4}$, of Section 12, lying north of Succor Creek;

$SW\frac{1}{4}$, $N\frac{1}{2}$ of $SE\frac{1}{4}$, $SE\frac{1}{4}$ of $SE\frac{1}{4}$, of Section 13; and that part of $NE\frac{1}{4}$

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of NW $\frac{1}{4}$ and the NE $\frac{1}{4}$ of NW $\frac{1}{4}$, of Section 13, which lies north of Succor Creek;

That part of SW $\frac{1}{4}$ of NW $\frac{1}{4}$, SE $\frac{1}{4}$ of NW $\frac{1}{4}$, and SW $\frac{1}{2}$ of NE $\frac{1}{4}$, SE $\frac{1}{2}$ of NE $\frac{1}{4}$, of Section 13, which lies above a line running westerly 30 feet distant from the center line of the "A" canal of the Gem Irrigation District, in accordance with the surveys of said canal as the same is now constructed, and meandering with said canal, on the upper side thereof, through said Section 13;

And that part of the NE $\frac{1}{4}$ of the SE $\frac{1}{2}$ of Section 13 which lies above the contour line running through said NE $\frac{1}{4}$ of SE $\frac{1}{2}$ of said Section described as follows:

Beginning at a point 1666 feet south of the east quarter corner of Section 13, Township 3, North of Range 6, West of Boise Meridian, running thence south 86° 30' W., 320 feet; south 58° 30' W., 220 feet; north 51° 15' W., 200 feet; south 6° 00' W., 265 feet; south 87° 15' W., 460 feet; south 61° 30' W., 200 feet; north 6° 30' E., 235 feet; north 56° 00' E., 425 feet; north 79° 00' E., 470 feet; north 58° 15' E., 300 feet; north 83° 45' E., 275 feet; to a point on the east line of said Section 13, 440 feet south of the east quarter corner of said Section 13;

Lots 1, 2, 3 and 4, SE $\frac{1}{2}$ of SE $\frac{1}{4}$, SW $\frac{1}{2}$ of SE $\frac{1}{4}$ and E $\frac{1}{2}$ of SE $\frac{1}{4}$, Section 14; and that part of the NW $\frac{1}{2}$ of NE $\frac{1}{4}$, SE $\frac{1}{2}$ of NW $\frac{1}{4}$, NE $\frac{1}{4}$ of NW $\frac{1}{4}$, and NE $\frac{1}{2}$ of NE $\frac{1}{4}$, of Section 14, lying north of Succor Creek;

And that part of the SE $\frac{1}{2}$ of NW $\frac{1}{4}$, NE $\frac{1}{4}$ of SW $\frac{1}{4}$, NW $\frac{1}{2}$ of NE $\frac{1}{4}$ and SE $\frac{1}{2}$ of NE $\frac{1}{4}$, of Section 14, which lies above the contour line running through said Section 14, described as follows:

Beginning at a point 2245 feet south of the northeast corner of Section 14; running thence north 84° 45' W., 165 feet; thence south 2° 00' E., 120 feet; thence north 32° 00' W., 120 feet; thence south 57° 00' W., 150 feet; thence south 40° 00' W., 120 feet; thence south 23° 00' W., 65 feet; thence north 74° 00' W., 160 feet; thence south

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84° 00' W., 350 feet; thence north 79° 00' W., 100 feet; thence south 56° 00' W., 170 feet; thence south 66° 00' W., 170 feet, to a point 1370 feet west of the east quarter corner of said Section 14; thence west 30 feet; thence south 65° 00' W., 460 feet; thence north 84° 00' W., 180 feet; thence south 80° 30' W., 300 feet; thence north 82° 30' W., 390 feet to a point 2500 feet north of the south quarter corner of said Section 14; thence north 82° 30' W., 335 feet; thence north 130 feet, to a point 1480 feet east of the west quarter corner of said Section 14; thence north 80 feet; thence north 37° 00' W., 600 feet; thence north 56° 00' W., 400 feet, to a point on the south bank of Succor Creek which bears north 47° 00' E., 1420 feet from the west quarter corner of said Section 14;

Lots 1, 2 and 3 and the $N\frac{1}{2}$ of Lot 4, $E\frac{1}{2}$ of $NW\frac{1}{4}$, $FE\frac{1}{4}$, $SE\frac{1}{4}$, $NE\frac{1}{4}$ of $SW\frac{1}{4}$, $N\frac{1}{2}$ of $SE\frac{1}{4}$ of $SW\frac{1}{4}$ and the $SE\frac{1}{4}$ of $SE\frac{1}{4}$ of $SW\frac{1}{4}$, of Section 23; $N\frac{1}{2}$ of $NE\frac{1}{4}$, $N\frac{1}{2}$ of $SE\frac{1}{4}$ of $NE\frac{1}{4}$, $NE\frac{1}{4}$ of $SW\frac{1}{4}$ of $NE\frac{1}{4}$, Sec. 26;

All of Section 24;

$N\frac{1}{2}$ of $SE\frac{1}{4}$, $N\frac{1}{2}$ of $SE\frac{1}{4}$ of $SE\frac{1}{4}$, $N\frac{1}{2}$, $N\frac{1}{2}$ of $N\frac{1}{2}$ of $SW\frac{1}{4}$, of Section 25;

In Township 3, North of Range 5, West of Boise Meridian:

$N\frac{1}{2}$ of $SW\frac{1}{4}$, $S\frac{1}{2}$ of $NW\frac{1}{4}$, Lot 4, Sec. 5, and that part of Lot 3, Section 5, which lies above a line running northerly and westerly 30 feet distant from the center line of the "D-1" lateral of the Gem Irrigation District, in accordance with the surveys of said lateral as the same is now constructed, and meandering with said lateral, on the upper bank thereof;

And that part of the $SW\frac{1}{4}$ of $NE\frac{1}{4}$, of Section 5, which lies above the contour line, running through the said $SW\frac{1}{4}$ of $NE\frac{1}{4}$ of said Section described as follows:

Beginning at a point 1825 feet west of the east quarter corner of Section 5, Township 3, North of Range 5, West of Boise Meridian; running thence north 53° 00' W., 710 feet; thence north 67° 00' W., 155 feet; thence north 45° 00' W., 200 feet to a point 2000 feet south

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of the north quarter corner of said Section 5;

All of Section 6;

Lots 1 and 2 and the NE $\frac{1}{4}$ of NW $\frac{1}{4}$, (NW $\frac{1}{4}$ of NE $\frac{1}{4}$, S $\frac{1}{2}$ of the NE $\frac{1}{4}$) of Sec. 7;

And that part of the SE $\frac{1}{4}$ of NW $\frac{1}{4}$, NW $\frac{1}{4}$ of NE $\frac{1}{4}$ and the NE $\frac{1}{4}$ of NE $\frac{1}{4}$, of said Section 7, which lies above a line running northerly and easterly 30 feet distant from the center line of the "A 10-a" lateral of the Gem Irrigation District, in accordance with the surveys of said lateral, as the same is now constructed, and meandering with said lateral, on the upper side thereof;

That part of Lot three (3) of said Section 7 lying northerly and westerly of a line described as follows:

Beginning at a point on the west line of said Section 7 521 feet north of the Southwest corner of said Lot 3; running thence east 652 feet, to a point 30 feet west of the tail block of the "A 10-a" siphon of the Gem Irrigation District, as it is now constructed, across Succor Creek; thence along a line running northerly and easterly 30 feet distant from the center line of the "A 10-a" lateral of the Gem Irrigation District, in accordance with the surveys of said lateral, as the same is now constructed, and meandering with said lateral, on the upper side thereof; through said Lot 3;

That part of Lots 3 and 4 and the SE $\frac{1}{4}$ of SW $\frac{1}{4}$ of Section 18 and that part of the NW $\frac{1}{2}$ of NW $\frac{1}{4}$, SE $\frac{1}{4}$ of NW $\frac{1}{4}$, SW $\frac{1}{4}$ of NE $\frac{1}{4}$, SE $\frac{1}{4}$ of NE $\frac{1}{4}$ and the NE $\frac{1}{4}$ of NE $\frac{1}{4}$ of Section 19 and that part of the SW $\frac{1}{4}$ of SW $\frac{1}{4}$ of Section 17, and that part of the NE $\frac{1}{4}$ of NW $\frac{1}{4}$ and SW $\frac{1}{4}$ of NE $\frac{1}{4}$ and NW $\frac{1}{4}$ of SE $\frac{1}{4}$ and SW $\frac{1}{4}$ of SE $\frac{1}{4}$ of Section 20, and that part of the NE $\frac{1}{4}$ of NE $\frac{1}{4}$ and SE $\frac{1}{4}$ of NE $\frac{1}{4}$ and SW $\frac{1}{4}$ of NE $\frac{1}{4}$ and NW $\frac{1}{4}$ of SE $\frac{1}{4}$ and SW $\frac{1}{4}$ of SE $\frac{1}{4}$ and SE $\frac{1}{4}$ of SW $\frac{1}{4}$ of Section 29, and that part of NW $\frac{1}{4}$ of NE $\frac{1}{4}$, SW $\frac{1}{4}$ of NE $\frac{1}{4}$, NW $\frac{1}{4}$ of SE $\frac{1}{4}$ and SW $\frac{1}{4}$ of SE $\frac{1}{4}$, Section 32, which lies above a line running northerly and westerly 30 feet distant from the center line of the "A" canal of the Gem Irrigation District, in accordance with the

South Board of Control, Owyhee Project

P.O. Box 67
Homedale, Idaho 83628
Phone 337-3760

August 15, 1990

RECEIVED
AUG 16 1990

Ms. Jan Shurte
Adjudications Supervisor, Western Region
Department of Water Resources
2735 Airport Way
Boise, ID 83705

Department of Water Resources
Western Regional Office

Dear Jan:

Please find enclosed copies of the data entries of our claims A57-04103, A57-04104, A02-00064, and A02-00065. They have been signed and notarized.

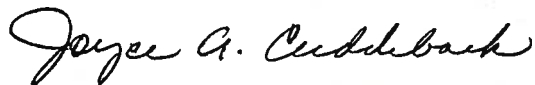
On claims A57-04103 and A57-04104, I had made a calculation error and the correct total should be the 2,909.8 as shown on your print-out. On claims A02-00064 and A02-00065, I inadvertently added in the City of Homedale for 343.75 acres and City of Marsing for 212.66 acres for a total of 556.41 acres which was actually a double entry as they had already been entered in the quarter/quarter descriptions as place of use. The total for these two claims should be 23,173.8 as shown on your print-out.

In Item #14 "Remarks" I have drawn a line through the remarks pertaining to the city acreages. You may want to make that deletion from your data entry in the computer.

With the corrected acreage totals, our filing fees should have been \$23,174 (\$1.00 per acre) plus \$300 (six filings at \$50 each) for a total of \$23,474. Our original adjudication fee paid was \$24,031, which would result in a \$557 overpayment.

I do apologize for the inconvenience my errors have made for you. We would like to request the \$557 refund, and would like to extend a "Thank you" for your assistance and patience with us in this matter.

Sincerely,



Joyce A. Cuddeback
Gem Irrigation District

Enclosures: A02-00064, A02-00065, A57-04104, A57-04103

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AUG 7 1992



State of Idaho
DEPARTMENT OF WATER RESOURCES

Western Region, 2735 Airport Way, Boise, Idaho 83705 - (208) 334-2190

CECIL D. ANDRUS

GOVERNOR

R. KEITH HIGGINSON

DIRECTOR

Clyde Hulton Jr.
Secretary
Gem Irrigation
P. O. Box 67
Homedale, Idaho 83628

RE: SRBA Claims - A02-00064, A02-00065, A57-04103, A57-04104,
A57-02118, A57-02177

Dear Mr. Hulton;

Please find attached receipt #W003966 for \$24,031.00 for the above listed Adjudication Claims. Also attached are the carbon copies of your original submittals, copies of the data entries of the claims, and copies of the lands listed you submitted with the claims.

During the review process, we have found discrepancies between the lands lists submitted and the total number of acres noted on the four of the claims. Your lands lists indicate 2,909.8, 2,909.8, 23,173.8, 23,173.8 acres for claims A57-04103, A57-04104, A02-00064, and A02-00065, respectively. However, the Total Acres Claimed on the claims are 3,025.4, 3,025.4, 23,730.21 and 23,730.21 acres for A57-04103, A57-04104, A02-00064 and A02-00065 respectively. Because of the size of the discrepancies, we would like your organization to review the lands lists and let us know if there was a calculation error on your part or that not all of the acres on the lands list were properly highlighted for the submittals.

These discrepancies would also indicate a sizable refund may be in order.

Please review the materials and respond promptly as we have begun the claims verification process in Owyhee County and must process your claims for the Fifth District Court this season.

Regards

Jan Shurte,
Adjudications Supervisor
Western Region

cc:JS:BAS:CH:files

Enclosures: W003966, A02-00064, A02-00065, A57-02157,
A57-02118, A57-04104, A57-04103.

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AUG 7 1992

Deposition
Gen. Irrigation District.

11-19-86

10 am.

PJZ

Lindsay, Hart of

Ray Pershall

MRSING, ID

87 yrs 1899 DOB

P.O.B. Alico, ID

Atty: Steve Oimston

FATHER: Elmer

MOTHER:

- moved to Caldwell in Fall 1912 from Redman Cr.

1910-15

- Spring of 1913 - came to the district

- moved to the Dist. in Mar 1913.

S. 9, 2 N 4 W. FARMstead

- has lived there the rest of his life.

- Father bought the land from Bedford

- farmed hay & grain

- 80 acres - owned

leaved other land.

- desert land when they first came to the area.

- canals built but not yet finished in 1913.

*

- took a few yrs to finish.

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AUG 10 1994