

07/25/2005

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

RIGHT NUMBER: 67-3  
NAME AND ADDRESS: SUNNYSIDE DITCH CO  
C/O JAQUELINE WRAY  
PO BOX 829  
WEISER ID 83672  
SOURCE: WEISER RIVER TRIBUTARY: SNAKE RIVER  
QUANTITY: 2.000 CFS  
PRIORITY DATE: 05/01/1899  
POINT OF DIVERSION:

T11N R04W S25 SWSNW Within WASHINGTON County

PURPOSE AND  
PERIOD OF USE:

| <u>PURPOSE OF USE</u> | <u>PERIOD OF USE</u> | <u>QUANTITY</u> |
|-----------------------|----------------------|-----------------|
| IRRIGATION            | 4/01 10/31           | 2.000 CFS       |

The use of water for irrigation under this right may begin as early as March 1 and may continue to as late as November 15, provided other elements of the right are not exceeded. The use of water before April 1 and after October 31 under this remark is subordinate to all water rights having no subordinated early or late irrigation use and a priority date earlier than the date a partial decree is entered for this right.

PLACE OF USE:

3313 ACRES TOTAL

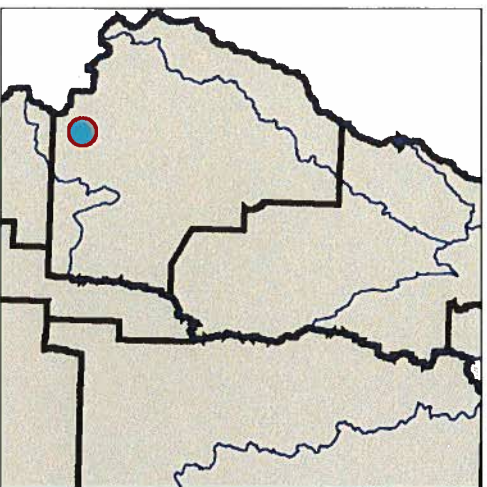
The boundary encompassing the place of use for this water right is described with a digital boundary as defined by I.C. Section 42-202B(2) and authorized pursuant to I.C. Section 42-1411(2)(h). The data comprising the digital boundary are incorporated herein by reference and are stored on a CD-ROM disk 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.

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

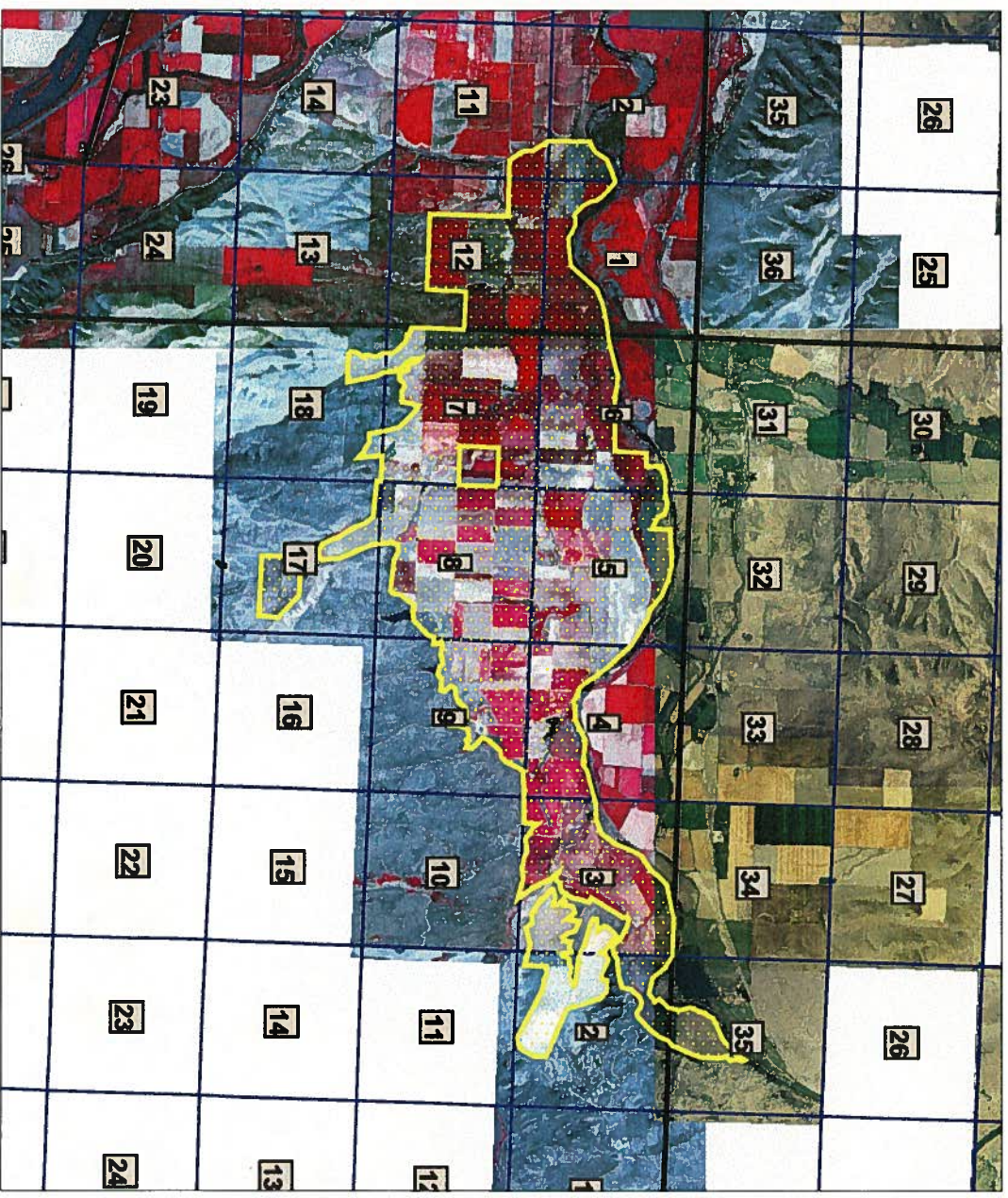
This partial decree is subject to such general provisions necessary for the definition of the rights or for the efficient administration of the water rights as may be ultimately determined by the Court at a point in time no later than the entry of a final unified decree. Section 42-1412(6), Idaho Code.

EXPLANATORY MATERIAL: BASIS OF CLAIM - Decreed

# Idaho Department of Water Resources



## *Sunnyside Ditch Company*



### Legend

-  Sunnysidedc.shp
-  Townships
-  Section Lines

Prepared by D. Narsavage  
On Tuesday, May 17, 2005  
1987 Aerial Photography



**T10N R04W**

Sunnyside Ditch - Jacques Wray 5/31/05  
 Ditch Capacity 3200 inches = 64 cfs

|               |                      | <u>Date Claimed</u> |           |
|---------------|----------------------|---------------------|-----------|
| Water Rights  | 67-3                 | 5/1/1899            | 2 cfs     |
|               | 67-4                 | 5/1/1900            | 8.72 cfs  |
|               | 67-4415 <sup>②</sup> | 1/1/1917            | 32.00 cfs |
|               | 67-4564 <sup>①</sup> | 4/25/1942           | 19.62 cfs |
| (67-1, 67-2)  | 67-13435             | 6/1/1887            | 3.5 cfs   |
| (67-5B, 67-6) | 67-13442             | 6/1/1889            | 1.7 cfs   |

May 10, 1918 is one day after original Muir v. Allison decree

① See affidavit as evidence of priority in original statutory claim file for 67-4564/67-4415

② See ①. Per claim review 5/31/05 it appears that 1922 is Substantiated.

Recommended Flow Rates in order of priority

| <u>Claimed</u>  |                                   | Subtotal                             |
|-----------------|-----------------------------------|--------------------------------------|
| 6/1/1887        | 3.5 cfs                           | 3.5 cfs                              |
| 5/1/1889        | 2.0 "                             | 5.5                                  |
| 6/1/1889        | 1.7 "                             | 7.2                                  |
| 5/1/1900        | 8.72 "                            | 15.92                                |
| 1/1/1917        | <del>32</del><br><del>19.62</del> | <del>47.92</del><br><del>35.54</del> |
| 4/25/1942       | <u>19.62</u>                      | 67.54                                |
| Reduce to 16.08 |                                   | Reduce to 64 cfs - max capacity      |

**Sunnyside Ditch Company**

[illegible]

Martin and William M Woods, C E McDonald,  
Defendants.

It is ordered, adjudged and decreed that the waters of the Weiser River and all of its tributaries be and the same are hereby decreed to the plaintiffs herein and the various defendants and cross-complainants hereinafter named, in the following amounts and from the dates and in the order of priority hereinafter stated each inch of water hereinafter stated being the equivalent of one fiftieth of a cubic second foot per second. The waters to be diverted from the said Weiser River and its tributaries by the plaintiffs and defendants and cross-complainants hereinafter named and through the ditches and from the various tributaries of the said Weiser River hereinafter named:

WATER ALLOTMENTS CONTAINING NAMES OF PARTIES, AMOUNTS ALLOTTED IN INCHES WITH DATES OF PRIORITY.

| Names.                                                                                                                 | Amounts in inches                                                                                | Dates                                                                                                                                                                                                                                                                                                     |
|------------------------------------------------------------------------------------------------------------------------|--------------------------------------------------------------------------------------------------|-----------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| Main Weiser River.                                                                                                     |                                                                                                  |                                                                                                                                                                                                                                                                                                           |
| Sunnyside Ditch.                                                                                                       |                                                                                                  |                                                                                                                                                                                                                                                                                                           |
| John T Muir and William H Muir                                                                                         | 112 1/2                                                                                          | June 1, 1887 1000 1/2                                                                                                                                                                                                                                                                                     |
| George F Smith, John L Smith and Minnie B Smith and                                                                    |                                                                                                  |                                                                                                                                                                                                                                                                                                           |
| Chester A Smith                                                                                                        | 62 1/2                                                                                           | June 1, 1887 67 0002                                                                                                                                                                                                                                                                                      |
| Sunnyside Ditch Company                                                                                                | 100<br>436                                                                                       | May 1, 1890 67 0003<br>May 1, 1900 67 0004                                                                                                                                                                                                                                                                |
| Kelly Anderson Ditch.                                                                                                  |                                                                                                  |                                                                                                                                                                                                                                                                                                           |
| Anna Galloway Dickerson, Frances H Galloway, Guy Galloway, Catherine Galloway, J W Galloway and Thomas O Galloway, Jr. | 70                                                                                               | June 1, 1889 67 0005                                                                                                                                                                                                                                                                                      |
| J Newton and Bessie Wingfield                                                                                          | 15                                                                                               | June 1, 1889 67 0006                                                                                                                                                                                                                                                                                      |
| Weiser Mill Ditch.                                                                                                     |                                                                                                  |                                                                                                                                                                                                                                                                                                           |
| Weiser City Water Ditch & Irrigating Company                                                                           | 450                                                                                              | Sept. 1, 1880 67 0007                                                                                                                                                                                                                                                                                     |
| Weiser Irrigation Ditch.                                                                                               |                                                                                                  |                                                                                                                                                                                                                                                                                                           |
| Weiser Irrigation District                                                                                             | 100<br>1500<br>250<br>250<br>300<br>200<br>200<br>150<br>200<br>150<br>150<br>150<br>250<br>2000 | May 1, 1888 67 0008<br>Aug. 29, 1889 67 0009<br>May 1, 1890 67 0010<br>May 1, 1891 67 0011<br>May 1, 1892 67 0012<br>May 1, 1893 67 0013<br>May 1, 1894 67 0014<br>May 1, 1895 67 0015<br>May 1, 1896 67 0016<br>May 1, 1897 67 0017<br>May 1, 1898 67 0018<br>May 1, 1899 67 0019<br>May 1, 1900 67 0020 |
| Weiser Irrigation District (Con)                                                                                       |                                                                                                  |                                                                                                                                                                                                                                                                                                           |

from the said funds now in his hands and from the costs to be collected from the other parties in this case as herein provided; that the costs so taxed against the several parties are upon a total basis of twenty-two and seven tenths cents (22.7%) per miners inch and for each fraction of a miners inch of water herein allotted and decreed and as itemized in this decree and that there be paid out of the proceeds of said collection to be made by the Clerk from said parties the further sum of \$55.00 to pay the expenses of drafting these findings and this decree, as follows to wit:

| NAMES.                             | INCHES. | AMT.    | PD.     | BAL. DUE | OVER PD. |
|------------------------------------|---------|---------|---------|----------|----------|
| John T Muir                        | 113     | \$25.65 | \$25.50 | .15      |          |
| Smiths et al                       | 63      | 14.30   | 29.00   |          | \$14.70  |
| Sunnyside Ditch Co.                | 536     | 131.67  | 135.00  |          | 13.33    |
| Anna Galloway et al                | 70      | 15.89   | 14.70   | 1.19     |          |
| Wingfields                         | 15      | 3.41    | 3.15    | .26      |          |
| Weiser Mill Ditch                  | 450     | 102.15  | 100.00  | 2.15     |          |
| Weiser Irrigation Dist.            |         | 102.00  |         |          |          |
| Butterfield Live Stock Co.         | 45      | 45.00   | 45.00   |          |          |
| Middle Valley Irrigation Ditch Co. | 2200    | 499.40  | 416.00  | 83.40    |          |
| Alexander Allison                  | 122     | 27.69   | 25.62   | 2.07     |          |
| Joseph Allison                     | 148     | 33.60   | 31.03   | 2.52     |          |
| Eugene Leoney                      | 100     | 22.70   | 21.00   | 1.70     |          |
| Harry Coon                         | 165     | 37.46   | 34.65   | 2.81     |          |
| B F Jones                          | 10      | 2.27    | 2.10    | .17      |          |
| Marion Smith                       | 90      | 20.43   | 18.90   | 1.53     |          |
| Heirs of R H Martin                | 90      | 20.43   | 18.90   | 1.53     |          |
| J Emmett Frost                     | 125     | 28.38   | 20.00   | 8.38     |          |
| Grace Everest                      | 25      | 5.68    | 5.25    | .43      |          |
| Goldie Abernathy                   | 50      | 11.35   | 10.50   | .85      |          |
| Fred Jewell                        | 50      | 11.35   | 10.50   | .85      |          |
| John A Pfost                       | 41      | 9.31    | 8.61    | .70      |          |
| Mark Winkler                       | 60      | 13.62   | 12.60   | 1.02     |          |
| Carrie Winkler                     | 19      | 4.31    | 3.99    | .32      |          |
| E Hinkle                           | 82      | 18.61   | 17.22   | 1.39     |          |
| S A Moudy & E Hinkle               | 19      | 4.31    |         | 4.31     |          |
| George Gould                       | 89      | 20.20   | 18.69   | 1.51     |          |
| Frank Hahn                         | 190     | 43.13   | 40.00   | 3.13     |          |
| Isaac McMahan                      | 27      | 6.13    | 5.67    | .46      |          |
| Rollie A McMahan                   | 36      | 8.17    | 7.56    | .61      |          |
| Samuel E McMahan                   | 23      | 5.22    | 4.83    | .39      |          |
| Lester I McMahan                   | 22      | 4.99    | 4.62    | .37      |          |
| William M Glenn                    | 45      | 10.22   | 9.45    | .77      |          |
| George Robertson                   | 35      | 7.95    | 7.35    | .60      |          |
| Lillian G Spofford                 | 45      | 10.22   | 9.45    | .77      |          |
| Fruitvale Townsite Co              | 30      | 6.81    |         | 6.81     |          |
| Phillip Walston                    | 8       | 1.82    | 2.00    |          | .18      |
| G E Cox                            | 22      | .67     |         | .67      |          |
| A J. Freehafer and                 | 25      |         |         |          |          |

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**Morey-Smith-Crouter Ditch.**

Marion Smith

92

May 1, 1887 67 0490

W D Morey

162 1/2

May 1, 1887 67 0491

Mrs Margaret A Crouter

65

May 1, 1887 67 0492

**Donart-Martin-Cox Ditch.**

J E Donart

76

July 1, 1883 67 0493

Heirs of R H Martin, deceased

90

May 1, 1887 67 0494

Samuel A. Mentzer, sub for Riley Cox

94

May 1, 1887 67 0495

C E McDonald

56 High Water

34 Low water July 2, 1892 67 0496

The said water allotted and decreed as aforesaid is for use upon the several tracts of land hereinafter set forth following the name of the party to whom such allotment is made.

John T Muir and William H Muir: The South West quarter of the North East quarter, the South East Quarter of the North West Quarter, and the North Half of the South West Quarter and the South East Quarter of the South West Quarter and Lots 2 and 3 all in Section 3 in Township 10 North of Range 4, West of the Boise Meridian, being 251 acres more or less, in area.

George F Smith, John L Smith and Minnie B Smith: The South East Quarter (SE 1/4) of the Northeast Quarter of Section 3; and the Southwest Quarter (SW 1/4) of the Northwest Quarter (NW 1/4) of Section 2 township 10 North of Range 4 West of Boise Meridian, containing 80 acres of land. Also the following described tract of land.

Beginning at the Southwest corner of Lot 1, Section 3 Township 10 North of Range four (4) West of the Boise Meridian, and running thence North to the Middle of the main channel of the Weiser River; thence up the middle of the main channel of the Weiser River to a point on the north side line of the Northwest Quarter (NW 1/4) of the Southeast Quarter (SE 1/4) of Section 35, Township 11 North Range 4 West Boise Meridian, thence running East along said line to the Northeast corner of the said Northwest Quarter of the Southeast Quarter of said Section 35, thence running south to the south east corner of the Southwest Quarter of the Southeast Quarter of said Section 35, thence West to the Northeast corner of Lot 3 in Section 2 Township 10 North Range 4 West of the Boise Meridian, thence running South to the Southeast corner of said Lot 3, thence running West to the place of beginning this last described tract of land consisting of Lot One of Section Three and Lots three and four of Section Two Township Ten North and all that land lying and being situated south and east of the present course of the Weiser River in the West half of the Southeast Quarter and the East half of the Southwest Quarter of Section 35 in Township 11 North all of Range 4 West Boise Meridian containing a total acreage of two hundred and ninety acres more or less.

Sunnyside Ditch Company: All the lands lying west of the lands of the plaintiffs hereinbefore described and bounded on the south by the Sunnyside Ditch, on the north by the Weiser River and the Kelley-Anderson Ditch and extending westerly and bounded on the west by the north and south line between Sections 11 and 12 Township 10 North Range 5 West Boise Meridian, also the Northeast Quarter of Section 4, Township 11 North Range 5 West Boise Meridian, and the Southeast Quarter of the Southeast Quarter of Section 33 Township 11 North Range 5 West Boise Meridian.

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WEISER RIVER PRIORITY SUIT.  
WATER ALLOTMENTS AND DATES OF PRIORITY.

| NAMES                                                                                                                     | AMOUNTS IN INCHES. | DATES.       |
|---------------------------------------------------------------------------------------------------------------------------|--------------------|--------------|
| <b>SUNNYSIDE DITCH.</b>                                                                                                   |                    |              |
| John T. Muir and William H. Muir                                                                                          | 112½               | June 1, 1887 |
| George F. Smith, John L. Smith and Minnie B. Smith                                                                        | 62½                | " " "        |
| Sunny Side Ditch Company                                                                                                  | 100                | May 1, 1899  |
|                                                                                                                           | 436                | " " 1900     |
| <b>KELLEY ANDERSON DITCH</b>                                                                                              |                    |              |
| Anna Galloway Dickerson, Frances d. Galloway, Guy Galloway, Catherine Galloway, J. W. Galloway and Thomas O. Galloway Jr. | 70                 | June 1, 1889 |
| J. Newton and Reasie Wingfield                                                                                            | 15                 | " " "        |
| <i>Weiser Mill Ditch</i>                                                                                                  | 450                | Sept 1, 1880 |
| WEISER IRRIGATION DISTRICT                                                                                                | 100                | May 1, 1868  |
|                                                                                                                           | 1500               | Aug 29, 1883 |
|                                                                                                                           | 250                | May 1, 1887  |
|                                                                                                                           | 250                | " " 1888     |
|                                                                                                                           | 300                | " " 1889     |
|                                                                                                                           | 200                | " " 1890     |
|                                                                                                                           | 200                | " " 1891     |
|                                                                                                                           | 150                | " " 1892     |
|                                                                                                                           | 200                | " " 1893     |
|                                                                                                                           | 150                | " " 1894     |
|                                                                                                                           | 150                | " " 1895     |
|                                                                                                                           | 150                | " " 1896     |
|                                                                                                                           | 150                | " " 1897     |
|                                                                                                                           | 250                | " " 1898     |
|                                                                                                                           | 2000               | " " 1904     |
| <b>MIDDLE VALLEY DITCH COMPANY</b>                                                                                        |                    |              |
|                                                                                                                           | 1000               | July 7, 1883 |
|                                                                                                                           | 700                | Nov. 1, 1887 |
|                                                                                                                           | 500                | May 1, 1889  |
| <b>ALLISON JEWELL DITCH</b>                                                                                               |                    |              |
| Alexander allison                                                                                                         | 68                 | July 4, 1882 |
|                                                                                                                           | 54                 | May 1, 1902  |
| Joseph Allison                                                                                                            | 100                | July 4, 1882 |
| Eugene Looney                                                                                                             | 100                | " " "        |
| Harry Coon                                                                                                                | 165                | " " "        |
| <b>SMITH-JANES-MARTIN DITCH</b>                                                                                           |                    |              |
| B. F. Janes                                                                                                               | 10                 | July 4, 1886 |
| Marion Smith                                                                                                              | 90                 | " " "        |
| Heirs of R. H. Martin                                                                                                     | 90                 | " " "        |

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said water, impounded as aforesaid, is intended by the said Orchards Water Company to substitute, at the mouth of the said Middle Fork, for and to take the place of water diverted from the Middle Fork by said Orchards Water Company, which prior appropriators below the mouth of the said Middle Fork are entitled to during the low water period.

XX.

Your Referee further finds and reports, that there is yet a large amount of work to do in adjusting the costs of this proceeding and checking entry of defaults, so that it will be impossible to report final findings and decree before the 1st of September next, and for that reason it is necessary and in the interest of justice, and the plaintiffs and defendants in this cause, that a temporary decree should be forthwith entered herein, thereby putting the aforesaid allotments into effect during the present season.

I further report that, from the evidence taken at Weiser on August 3d, as aforesaid, it appeared that the Weiser Irrigation District was receiving on August 1st, 1917, only 2,087 inches, and other ditches along the main Weiser river, the following amounts:

|                                     |       |        |
|-------------------------------------|-------|--------|
| Sunnyside Ditch,                    | 896   | inches |
| Middle Valley Ditch,                | 1,414 | "      |
| Allison-Jewell "                    | 1,356 | "      |
| Orchards Water Company ditch        | 1,373 | "      |
| East Fork Ditch,                    | 337   | "      |
| Frank Hahn "                        | 131   | "      |
| Farmers Canal,                      | 205   | "      |
| Glenn-McMahan ditch                 | 346   | "      |
| Robertson-Sevey "                   | 235   | "      |
| Glenn West Fork "                   | 374   | "      |
| Grooms, Addington, West Fork ditch, | 103   | "      |

It further appeared from said evidence that the Orchards Water Company was and is delivering, or attempting to deliver, storage water from the Lost Creek Reservoir, at the mouth of ~~Full~~ <sup>Lost</sup> Creek, but that

ORIGINALS MUST BE COMPLETED AND RETURNED TO THE DISTRICT COURT OF THE DISTRICT OF COLUMBIA  
BY THE DISTRICT ENGINEER OF THE DISTRICT OF COLUMBIA

said water was being diverted from the river and used by and through other ditches before the same reached the mouth of the said Middle Fork.

XXI.

For the reasons last aforesaid, as Referee, I hereby recommend the immediate entry of a temporary decree, thereby subjecting the administration of the waters of said river to the State Engineer for allotment and distribution under the decree accompanying these findings and report.

I further certify and report that I have given personal notice to each and all of the Attorneys in this cause for whose clients allotments have been made, that this report will be presented to this Court at 2 o'clock P. M. on Monday August 6th, 1917, and that as such Referee, I would ask for the confirmation of said report in behalf of all parties to the case and for an immediate entry of a temporary decree in accordance with said report.

Respectfully submitted, this 6th day of August, 1917.

Fremont Wood,

Referee.

State of Idaho,  
County of Washington.

I, Frank W. Smith, Clerk of the District Court in and for the County of Washington, State of Idaho, hereby certify that the within and foregoing is a true and complete copy of the findings and report of Referee in the above entitled case, filed in said Clerk's office on the 6th day of August, 1917.

WITNESS my hand and the seal of said Court, this 6th day of August, 1917.

*Frank W. Smith*  
Clerk of said Court.