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DEPARTMENT OF
WATER RESOURCES

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Attorneys for Claimant Grandview Mutual Canal Company

IN THE DISTRICT COURT OF THE FIFTH JUDICIAL DISTRICT OF THE

STATE OF IDAHO, IN AND FOR THE COUNTY OF TWIN FALLS

In Re SRBA	)	Subcase 02-00080
	)	
	)	AFFIDAVIT OF ROHL HIPWELL
Case 38576	)	
_____	)	
STATE OF IDAHO	)	
	) ss	
COUNTY OF OWYHEE	)	

ROHL HIPWELL, being first duly sworn upon his oath, deposes and says that:

1. My name is Rohl Hipwell. I make this affidavit based upon my own personal knowledge and belief of the facts contained herein.
2. I am a shareholder and the Chairman of the Board of Directors of the Grandview Mutual Canal Company ("GVMCC"). GVMCC owns water rights and operates and maintains the Grand View Mutual Canal to deliver Snake River water diverted from C.J. Strike Reservoir to its shareholders.
3. The Grand View Mutual Canal is approximately 15 miles long from its origin at an Idaho Power Company Canal through which we receive water from C.J. Strike Reservoir to its terminus where we spill unused water to Birch Creek. Attached hereto in **Exhibit A** is a reduced

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size copy of a 1954 map of the Grand View Mutual Canal. The location of the canal has not changed significantly from the location shown on the map. There is a pumping plant in the canal approximately halfway between the head of the canal and the spill from the canal to Birch Creek (7 to 8 miles downstream as shown in Exhibit A), near the point where GVMCC diverted water from the Snake River before Idaho Power Company ("IPCo") constructed C.J. Strike Reservoir 1952. The location of GVMCC's original point of diversion is shown in the map attached hereto as **Exhibit B**. The marked Google earth aerial photographs in **Exhibit C** attached hereto show the location of the entire length of the canal, closer views of the head end of the canal, the pumping plant, GVMCC's former point of diversion from the Snake River, and the spill at the end of the canal into Birch Creek.

4. In 1952, IPCo entered an agreement with GVMCC and several other water right owners to move our Snake River diversions upstream several miles to receive water from C.J. Strike Reservoir through an IPCo canal. A copy of the 1952 agreement is attached hereto as **Exhibit D**. This change enabled GVMCC to reduce power and maintenance costs incurred in pumping water from the Snake River at the former point of diversion shown in Exhibits B and C. A pumping plant was installed in the canal near the original point of diversion to raise the water level and provide sufficient head to enable GVMCC to continue to deliver water to our shareholders, whose lands are all located downstream from the pumping plant. The place of use for our water rights, and all of lands of GVMCC shareholders which use GVMCC water rights, are located downstream from the pumping plant.

5. As provided in the agreement, since 1952, IPCo has provided sufficient water from C.J. Strike Reservoir to the GVMCC Canal to enable GVMCC to deliver, after conveyance

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losses from the canal, up to 75 cfs of water to the GVMCC pumping plant for GVMCC shareholders, and up to 22.06 cfs to headgates upstream from the pumping plant for other water users. GVMCC has controlled the flow of water from the IPCo canal into the GVMCC Canal, and has operated and maintained the canal since 1952. Today there are between 70 and 80 headgates through which we deliver water for the irrigation of approximately 4,000 acres of land. Approximately 2,900 acres are irrigated by GVMCC shareholders with GVMCC's water rights delivered to the pumping plant, and approximately 1,100 acres are irrigated by the other, upstream canal water users.

6. Until Corbin Knowles began work this year as the first Watermaster for the recently-created Water District 02, the GVMCC board of directors and staff believed that GVMCC would continue to be provided a sufficient flow of water from C.J. Strike Reservoir at the head of the GVMCC Canal to deliver to the pumping plant up to 75 cfs of water. This year, after conducting research regarding GVMCC's water rights and diversions from the IPCo canal into the GVMCC Canal, Mr. Knowles advised the GVMCC board of directors and staff that GVMCC's water rights (nos. 02-0080 for 25 cfs (1952 priority), 02-0081 for 49.5 cfs (1947 priority), and 02-7336 for 1.0 cfs (1981 priority)) entitle GVMCC to receive no more than 75 cfs of water at the head of the GVMCC Canal, and therefore do not account for any of the conveyance losses that occur in delivering GVMCC water through 7 to 8 miles of the GVMCC Canal to the pumping plant. He also advised us that the other water users are entitled to receive no more than 22.06 cfs at the head of the canal, so that the total quantity of water delivered to the head of the canal will be restricted to 97.06 cfs. He explained that diversion records and measurements taken this year show that diversions into the GVMCC Canal often range between

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125 cfs and 134 cfs.

7. Administration of our water rights as described by Mr. Knowles will significantly reduce the quantity of water available for GVMCC to deliver to its shareholders and to other water users. The total reduction of up to 37 cfs (28%) will impose extreme hardship on our shareholders and the other water users. The agricultural lands in our area cannot be successfully irrigated with only 72% of the water we have historically used.

8. GVMCC must respectfully request that the partial decree for GVMCC's water right no. 02-00080 be reopened to increase the quantity of the water right to include conveyance losses in delivering water through the GVMCC Canal so that GVMCC and the other water users may continue to receive the quantities of water they have historically used, and continue to require, to irrigate their lands.



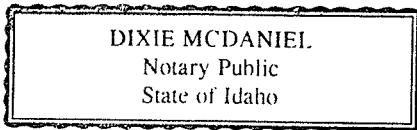
ROHL HIPWELL

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STATE OF IDAHO)
)ss.
County of Owyhee

On this 20 day of September, 2013, before me, the undersigned, a notary public in and for said state, personally appeared ROHL HIPWELL, known to me to be the individual that executed the foregoing affidavit, and acknowledged to me that he executed the same.

IN WITNESS WHEREOF, I have hereunto set my hand and affixed my official seal, the day and year in this certificate first above written.



Dixie McDaniel
Notary Public for State of Idaho
Residing at Grand View, Idaho
My Commission Expires: 2-21-19

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CERTIFICATE OF SERVICE

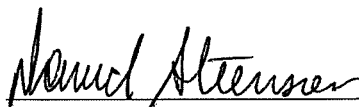
I certify that on September 30, 2013, I served copies of this document, including all attachments by mailing a copy thereof, postage prepaid, to each of the parties listed below.

Frances Field
Oscar & Frances Field Family
Represented by:
Josephine P Beeman
409 West Jefferson Street
Boise, ID 83702

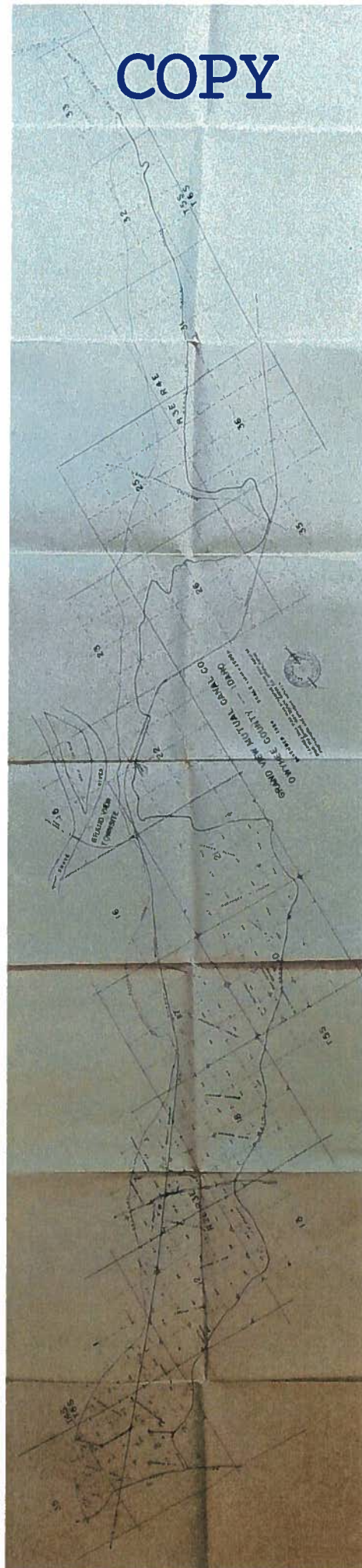
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Chief, Natural Resources Division
Office of the Attorney General
State of Idaho
P. O. Box 44449
Boise, Idaho 83711-4449

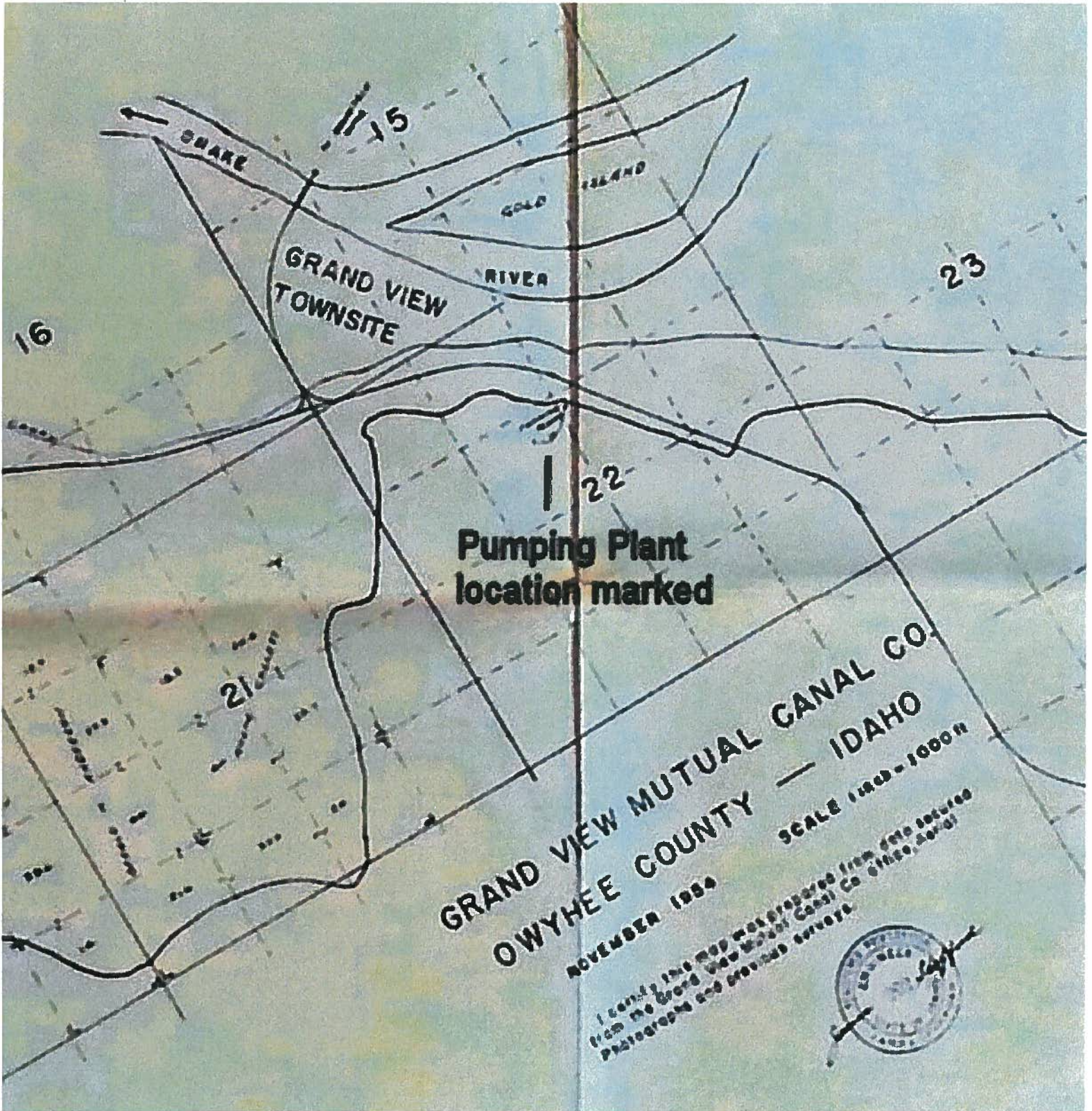
United States Department of Justice
Environment and Natural Resource Division
550 West Fort Street, Box MSC 033
Boise, Idaho 83724


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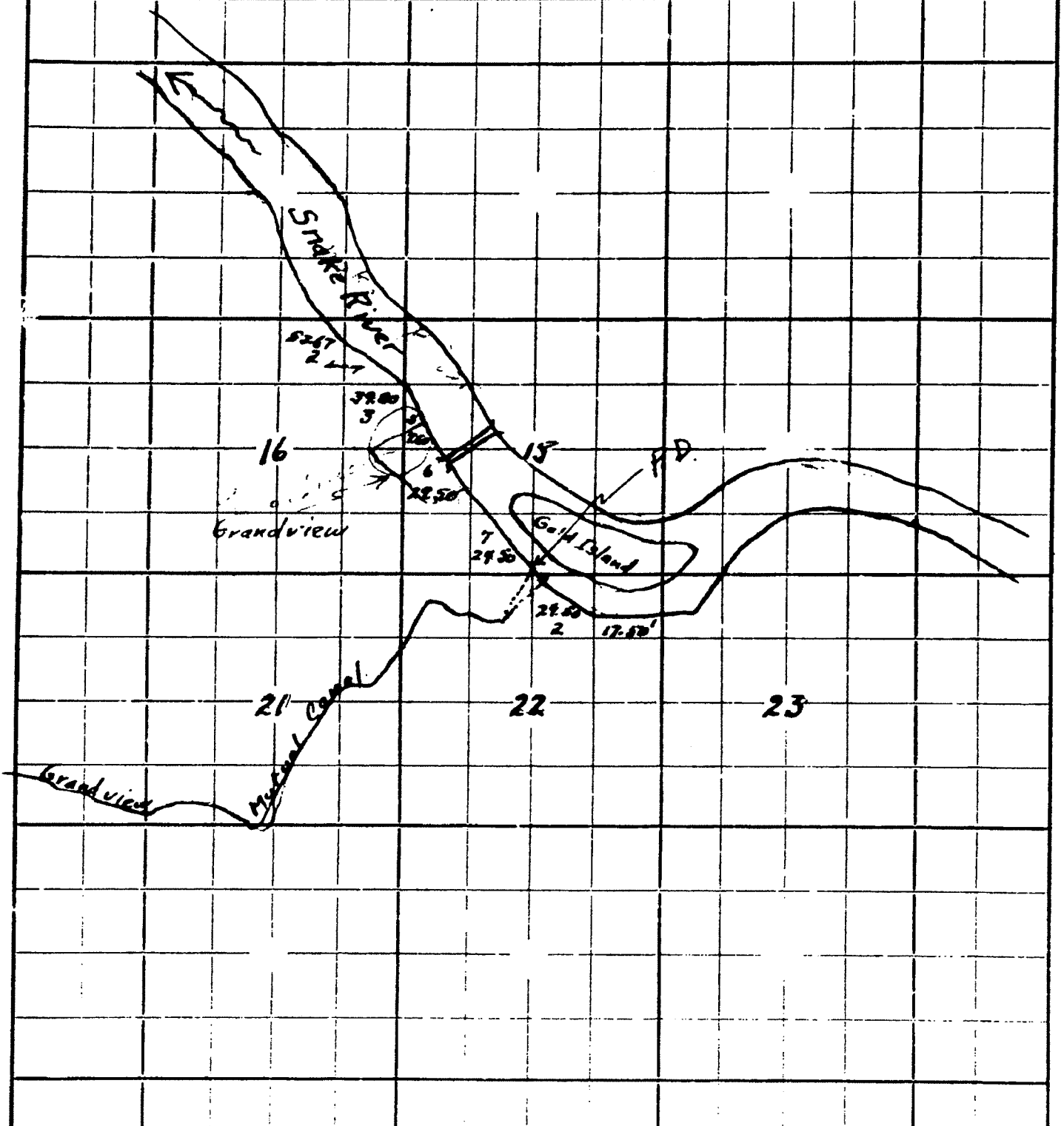
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C.J. Strike
Reservoir

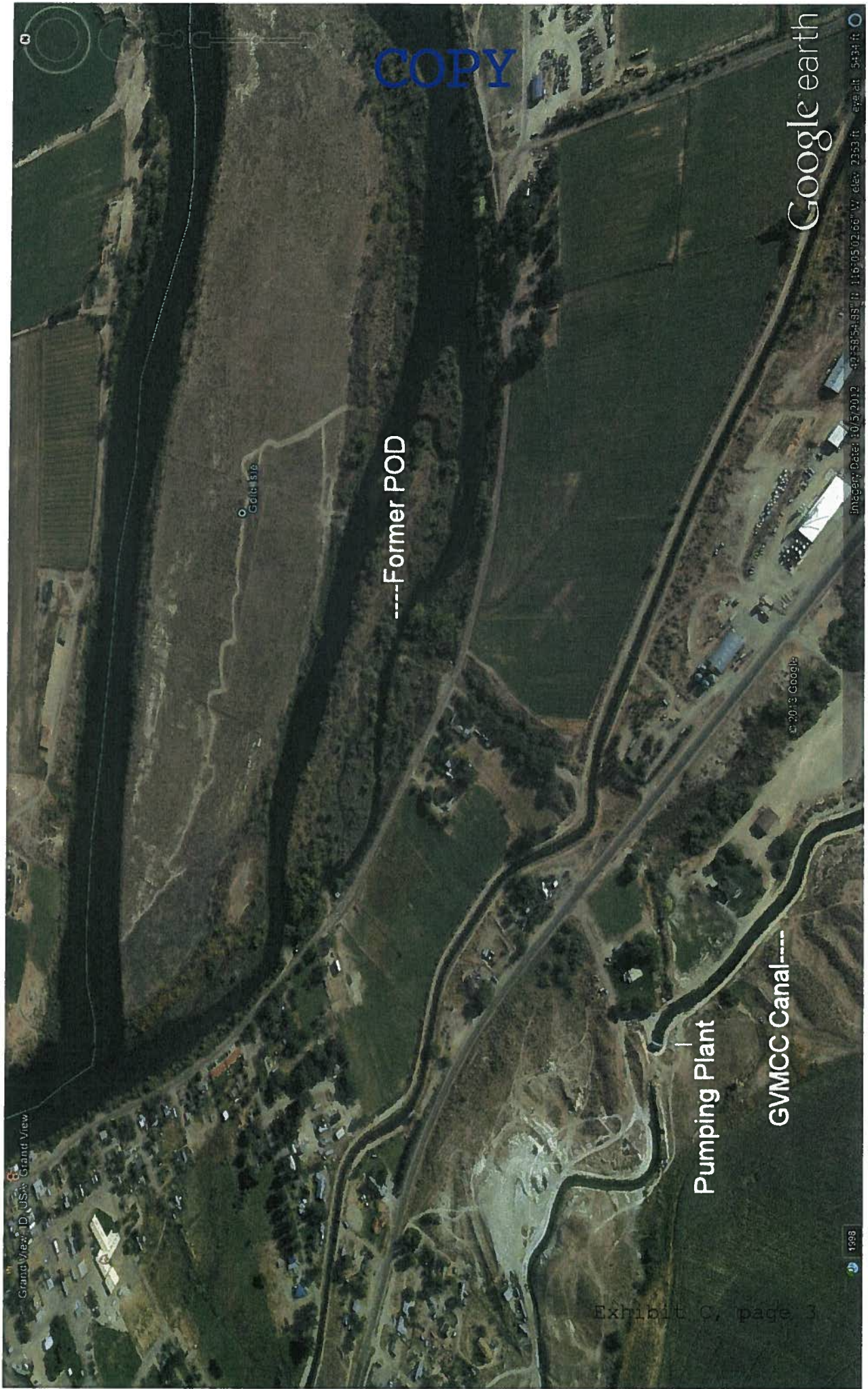
Google earth

IPCo Canal

GVMCC Canal Head

Imagery Date: 8/29/2011 4235649.02" N 115550780" W elev: 2139 ft eye alt: 3363 ft

© 1998



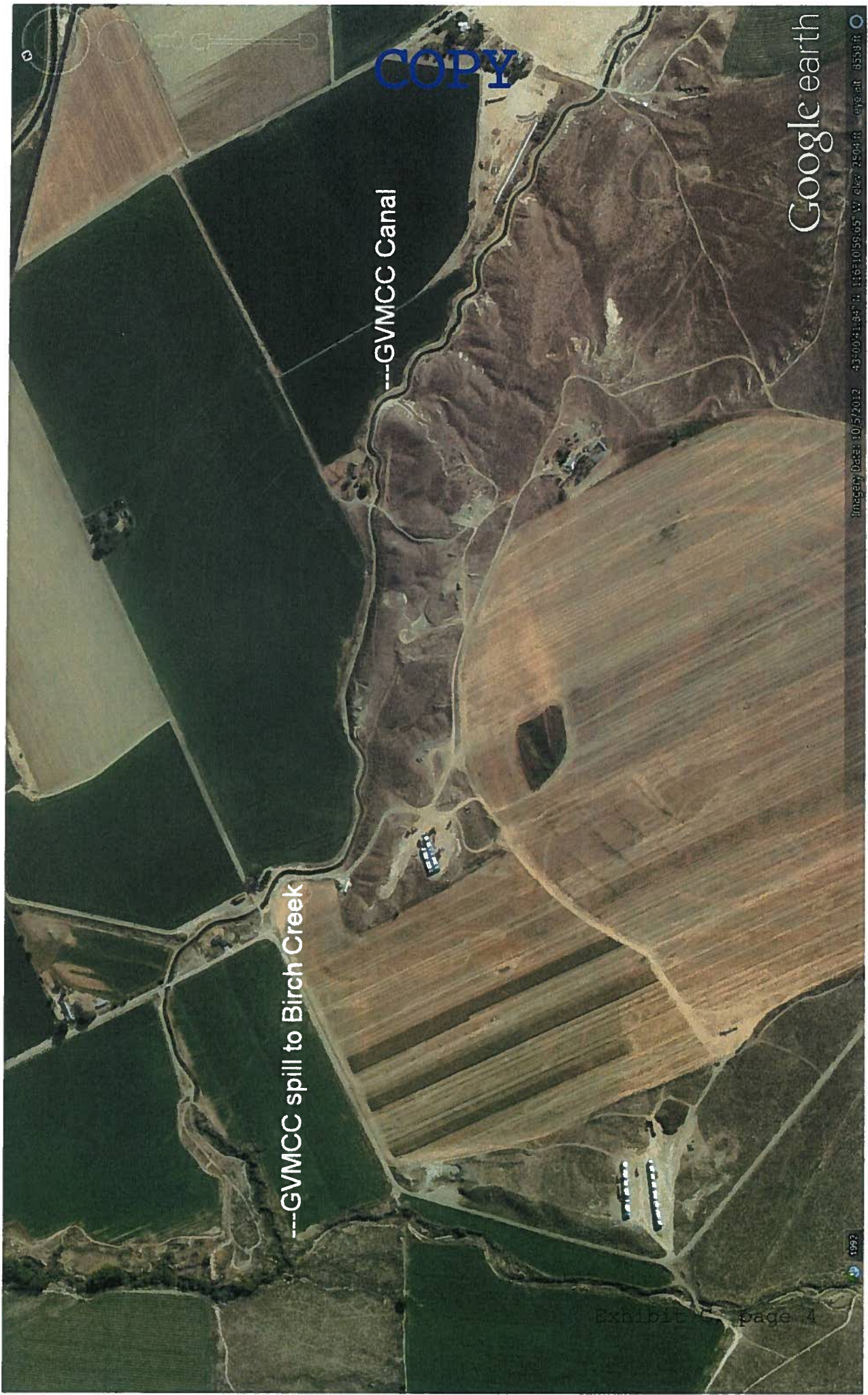
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Google earth

----Former POD

GVMCC Canal----

Pumping Plant



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---GVMCC Canal

---GVMCC spill to Birch Creek

Google earth

Imagery Date: 10/5/2012 43°00'41.84" N 116°10'59.65" W elev: 2504 ft eye alt: 8553 ft

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A G R E E M E N T

1. THIS AGREEMENT, Made and entered into this 10th day of April, 1952, by and between IDAHO POWER COMPANY, a corporation organized and existing under and by virtue of the laws of the State of Maine, duly qualified and doing business in the State of Idaho, hereinafter referred to as the "Power Company", and GRANDVIEW MUTUAL CANAL COMPANY, a corporation organized, existing and operating under the laws of the State of Idaho, hereinafter referred to as the "Canal Company", and SHOOFLY FARMS, a copartnership consisting of W. A. Bybee and Ruth Bybee, husband and wife, D. O. Bybee and Thelma C. Bybee, husband and wife, and Gordon F. Ray and Leda Ray, husband and wife, the copartners thereof, hereinafter referred to as "Shoofly Farms", and D. O. BYBEE and THELMA C. BYBEE, husband and wife, hereinafter referred to in the singular as "Bybee", and TOTORICA CO., an Idaho corporation, hereinafter referred to as "Totorica Company", and URBANO TOTORICAGUENA and JUANA TOTORICAGUENA, husband and wife, hereinafter referred to in the singular as "Totoricaguena", and CHARLES E. LEE and ELI E. HOLTZMAN, bachelors, hereinafter referred to as "Lee and Holtzman"; the said Canal Company, Shoofly Farms, Bybee, Totorica Company, Totoricaguena and Lee and Holtzman being also sometimes hereinafter referred to collectively as the "Mutual Canal parties",

W I T N E S S E T H:

2. WHEREAS, The Canal Company owns and operates an irrigation system in Owyhee County, Idaho, the facilities thereof comprising,

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among other things, a pumping plant on the left or south bank of Snake River in Section 15, Township 5 South, Range 3 East, Boise Meridian, and a canal and canal system extending from said pumping plant in a general westerly and northwesterly direction across Township 5 South, Range 3 East, Boise Meridian, and Township 5 South, Range 2 East, Boise Meridian, to the terminus of said canal at Birch Creek in Section 2, Township 5 South, Range 2 East, Boise Meridian; and is the owner of certain water rights and/or permits for the appropriation and use of water from Snake River for irrigation purposes, (said permits being Nos. 20071, 21295 and 22595 in the records of the Idaho Department of Reclamation), which water rights and permits are for the aggregate flow of seventy-five (75) cubic feet per second of time, with the point of diversion located at its said pumping plant, and said canal Company desires to change the point of diversion thereof as herein set forth for the reason that the diversion of said waters by Canal Company by pumping from the Snake River requires a pumping lift of approximately one hundred twelve (112) feet to the head of its said canal, with attendant operating and maintenance pumping costs and expenses; and,

3. WHEREAS, Shoofly Farms owns and operates an irrigation system in Owyhee County, Idaho, the facilities thereof comprising, among other things, a pumping plant on the left or south bank of Snake River in section 32, township 5 south, range 4 east, Boise Meridian, and a canal and canal system extending from said pumping plant in a westerly and northwesterly direction for the irrigation

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of lands in township 5 south, range 3 east, Boise Meridian, and is the owner of certain appropriated water rights and rights to the use of water from Snake River for irrigation purposes, with point of diversion located at its said pumping plant, and desires to change the point of diversion thereof as herein set forth for the reason that the diversion of water by Shoofly Farms by pumping from Snake River requires a pumping lift of approximately ninety (90) feet to the head of its said canal with attendant maintenance, operation and pumping costs and expenses; and, Bybee has lands in township 5 south, range 4 east, Boise Meridian, and in township 6 south, range 4 east, Boise Meridian, and has permit to appropriate and use water from Snake river for irrigation purposes, with the point of diversion located at said pumping plant at Shoofly and desires to change the point of diversion for said permits and water rights as herein set forth for the reason that the diversion of water from Snake River by Bybee at such pumping plant requires a pumping lift of approximately ninety (90) feet to the head of the canal therefor with the attendant maintenance, operation and pumping costs and expenses; and, the said lands of Shoofly Farms are situate in the County of Owyhee, State of Idaho, and are particularly described as follows, to-wit:

The premises bounded and described as follows:

Commencing at the northeast corner of section 26, township 5 south, range 3 east, Boise Meridian, the point of beginning; running thence west along the north boundary line of said section 26 a distance of 1320 feet to the northwest corner of the northeast quarter of the northeast quarter of said

is the owner of certain submerged water rights and rights to
of lands in connection with same

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section 26, running thence southerly and parallel to the east boundary line of said section 26 a distance of 3960 feet, more or less, to the northwest corner of the southeast quarter of the southeast quarter of said section 26, running thence west 553 feet along the north boundary line of the southwest quarter of the southeast quarter of said section 26 to a point on said boundary line 15 feet west of the west side of the Shoofly Canal, running thence southerly on a meandering line 15 feet west and parallel to the west side of the Shoofly Canal for a distance of 3571 feet, more or less, to a point on the south sideline of the northwest quarter of the northeast quarter of section 35, township 5 south, range 3 east, Boise Meridian, thence east a distance of 200 feet, more or less, to the center of Shoofly Creek, thence northeasterly along the center line of Shoofly Creek a distance of 5388 feet, more or less, to a point on the southwesterly sideline of the right of way of the Grandview Canal, thence northwesterly along the southwesterly sideline of the right of way of the Grandview Canal a distance of 4488 feet, more or less, to a point on the north sideline of section 25, township 5 south, range 3 east, Boise Meridian, thence westerly along the north sideline of said section 25 a distance of 109 feet, more or less, to the northeast corner of section 26, township 5 south, range 3 east, Boise Meridian, the point of beginning, containing 420 acres, more or less;

and, the said lands of Bybee are situate in the County of Owyhee, State of Idaho, and are particularly described as follows, to-wit:

Lots four and five and the southeast quarter of the southwest quarter of section thirty-one, township five south, range four east, Boise Meridian, and lots two, three and four in section six, township six south, range four east, Boise Meridian, containing 311.95 acres, more or less;

and, the said water rights of Shoofly Farms and Bybee aggregate a flow of seventeen and four-tenths (17.4) cubic feet per second of time;

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4. And, WHEREAS, Totorica Company is the owner of all that portion of the southeast quarter of section thirty-two, township 5 south, range 4 east, Boise Meridian, in Owyhee County, Idaho, lying south of the main transmission canal of the Grand View Irrigation District in Owyhee County, Idaho, and the said Totoricaguena is the owner of the northeast quarter of the southwest quarter of section 32, township 5 south, range 4 east, Boise Meridian, in Owyhee County, Idaho, and each the said Totorica Company and Totoricaguena claims the right to divert water from Snake River for the irrigation of their said respective lands with the point of diversion in township 5 south, range 4 east, Boise Meridian, in Owyhee County, Idaho, and each the said Totorica Company and Totoricaguena is desirous of irrigating, from the canal to be known as the Mutual Canal hereinafter described, their said respective lands; and,

5. WHEREAS, Lee and Holtzman have the lands in Owyhee County, Idaho, particularly described as follows, to-wit:

The northeast quarter of the northeast quarter, the southwest quarter of the northwest quarter and all that part of the northwest quarter of the northwest quarter of section 36 lying south and east of Shoofly Creek;
All that part of the northeast quarter of the northeast quarter of section 35 lying south and east of Shoofly Creek; and the southwest quarter of the southeast quarter, all that part of the northwest quarter of the southeast quarter lying south and west of the Grandview Gravity Canal and also lying south and east of Shoofly Creek, all that part of the northeast quarter of the southwest quarter lying south and east of Shoofly Creek, all that part of the southeast quarter of the southwest quarter lying south and east of Shoofly Creek and all that part of the southwest quarter of the southwest quarter lying south and east of Shoofly Creek, in section 25, all of said lands being situate in township 5 south, range 3 east of the Boise Meridian;

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and have the right to receive one (1) cubic foot of water per second of time from the said pumping plant of Shoofly Farms for the irrigation of their said lands and further claim the right to divert additional water in the quantity of two (2) cubic feet per second of time from Snake River at said pumping plant and point of diversion therefor for the irrigation of their said lands and the said Lee and Holtzman are desirous of obtaining their said water for irrigation through the irrigation canal to be known as the Mutual Canal hereinafter described; and,

6. WHEREAS, the Power Company, pursuant to license of the Federal Power Commission under the Federal Power Act, has constructed, owns and operates a hydroelectric power project known as the C. J. Strike Hydroelectric Development, including a dam across Snake River in the West Half of Section 34, Township 5 South, Range 4 East, Boise Meridian, which dam has created and provided a large reservoir upstream therefrom in which the normal top operating level will be maintained at elevations varying from 2450 to 2455, and the Power Company has constructed and owns a canal from said dam along and near the left or south bank of Snake River westerly a distance of approximately 4,000 feet, and outlet works in said dam and from said reservoir into such canal and the Canal Company, Shoofly Farms, Bybee, Lee and Holtzman, and Totorica Company and Totoricaguena can transfer their respective points of diversion to, and divert their respective water rights from, the Power Company's said reservoir and outlet and canal, as herein provided, by gravity flow into the Mutual Canal of the Mutual Canal parties to be constructed as herein provided; and,

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7. WHEREAS, the arrangements herein provided will operate to the mutual advantage of all parties hereto in that the Canal Company, Shoofly Farms, Bybee, Totorica Company, Totoricaguena and Lee and Holtzman will eliminate all or a portion of their respective pumping costs, and the Power Company, by the elimination of the respective points of diversion of the several Mutual Canal parties below the C. J. Strike Dam on the south bank of Snake River, can obtain a more efficient use of the waters of the river and reservoir through greater flexibility in the operation of its power plant; and,

8. WHEREAS, the respective uses of the parties are necessary to the continued growth and development of the area, and the arrangements herein provided for will permit the most complete, economical and beneficial use and development of the water and power resources of the State of Idaho; and it is the considered judgment of the parties hereto that the arrangements herein made and agreed to are in the best interests of all parties hereto, with mutual and separate advantages and benefits to all concerned;

9. NOW, THEREFORE, in consideration of the agreements and covenants of the parties herein contained, the said parties have contracted and agreed, and do hereby contract and agree, as follows:

10. THE POWER COMPANY AGREES:

(a) That it has constructed and installed, and will hereafter maintain, in and from its C. J. Strike Dam and Reservoir, on or near the left or south bank of Snake River, a concrete outlet works with control gate and other related facilities, and a canal extending westerly therefrom a distance of approximately 4,000 feet to a point near the north line of the southwest quarter of the southwest quarter of section 33, township 5 south, range 4 east, Boise Meridian; with concrete outlet works and adjustable

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gate at the terminus of Power Company's said canal, with a water elevation of approximately 2449.75 feet at such terminus, and, such other facilities as will permit the safe delivery of a reasonably uniform flow of water, as hereinafter provided, to the Mutual Canal, being the canal of the Mutual Canal parties to be constructed as hereinafter provided;

(b) That it will make available, in the manner hereinafter specified, for diversion into the Mutual Canal of the Mutual Canal parties where the said Mutual Canal joins onto the Power Company's said outlet works at the terminus of the Power Company's said canal, (hereinafter sometimes referred to as the "point of water availability"), without charge, cost or expense, during the period from March 15th to October 31st of each year, a sufficient flow and quantity of irrigation water from its C. J. Strike Reservoir to provide the respective Mutual Canal parties herein-after named at their respective outlet works and diversion points from said Mutual Canal, after allowing for reasonable evaporation, seepage and other canal losses in transmission in the Mutual Canal, the flow and quantity of water as follows:

To the Canal Company, a flow of seventy-five (75) cubic feet per second of time;

To Shoofly Farms and Bybee, a flow of seventeen and four-tenths (17.4) cubic feet per second of time;

To Lee and Holtzman, a flow of three (3) cubic feet per second of time;

To Totorica Company and Totoricaguena, a flow of one and six-tenths (1.6) cubic feet per second of time;

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PROVIDED, HOWEVER, that during the 1952 irrigation season the delivery of water to each of the said Mutual Canal parties shall commence upon the completion of the construction of the Mutual Canal and the respective outlet works therefrom to be constructed as provided in this agreement;

(c) That it will contribute to the cost of the Mutual Canal and the pumps and outlet works therefrom to be constructed as in paragraph 12(a) provided, the amount of Nine Thousand Eight Hundred Dollars (\$9,800.00), it being understood and agreed that the Power Company has and will have no interest in nor responsibility with respect to the design, construction, operation or maintenance of, or ownership of, such Mutual Canal, pumps or outlet works;

(d) That the Power Company will not in any respect, directly or indirectly, hinder or in any way prevent any of the Mutual Canal parties from perfecting any of their said respective water rights, as provided in this agreement, should any action or proceedings by any such party appear to such party to be advisable or necessary, and that for all of the purposes of this agreement the Power Company will recognize the water right of the Canal Company is seventy-five (75) cubic feet of water per second of time, and of the Shoofly Farms and Bybee seventeen and four-tenths (17.4) cubic feet per second of time, and of Lee and Holtzman three (3) cubic feet per second of time, and of Totorica Company and Totoricaguena one and six-tenths (1.6) cubic feet per second of time;

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11. IT IS UNDERSTOOD AND AGREED By and between the Power Company and the Mutual Canal parties that the diversion of irrigation water from the terminus of the said canal of the Power Company into the Mutual Canal, at the said point of water availability, shall be done and controlled in the following manner:

The Power Company has built and will maintain an adjustable gate at the terminus of the Power Company's said canal and will install in Mutual Canal a staff gauge for the indication of the water flow in the Mutual Canal and will keep sufficient water available in the said canal of the Power Company at such canal gate to supply the irrigation water rights in the amounts fixed by this contract for the respective Mutual Canal parties, and the Mutual Canal parties shall be solely responsible in the control and operation of such gate and the opening and closing thereof to permit the flow of water within the limitations set forth in this agreement into the Mutual Canal, and the Power Company shall have no responsibility nor obligation to the Mutual Canal parties to adjust such gate nor the flow of waters through such gate but shall be responsible and obligated in that respect only to have the irrigation waters at such gate for the flow thereof through such gate into the Mutual Canal, and should the Power Company at any time adjust or control such gate at the request of the Mutual Canal parties or some one of them, or the agent or employee of all of them or some one of them, and without charge, and only as an accommodation to the Mutual Canal parties, such action shall be without liability on the part of the Power Company or obligation

to continue thereafter to adjust or control such gate.

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12. THE MUTUAL CANAL PARTIES AGREE with the Power Company and with each other as follows:

(a) To construct, and thereafter maintain and operate, a canal to be known as, and herein referred to as, the "Mutual Canal", from the terminus of the Power Company's canal at the point of water availability, capable of carrying to the Mutual Canal parties at their respective points of diversion from said Mutual Canal the irrigation water herein provided for each of them, at the sole cost and expense of said Mutual Canal parties excepting only for the contribution of \$9,800.00 by the Power Company to the construction of such Mutual Canal as herein provided. Said Mutual Canal parties agree with the Power Company that they will maintain or provide for maintenance of said Mutual Canal so as to eliminate and prevent obstructions therein, and to prevent and avoid unreasonable wastage and leakage of water therefrom in accord with good irrigation practice.

(b) To take the steps as will be necessary to change their respective points of diversion on Snake River for their said water rights for irrigation purposes hereinbefore specified to the outlet works in the Power Company's said C. J. Strike Dam and thence through the said canal of the Power Company to the said point of water availability hereinbefore defined and from thence into the said Mutual Canal;

13. Each the Canal Company, Shoofly Farms, Bybee, Totorica Company, Totoricaguena, and Lee and Holtzman, agrees with the Power Company as follows:

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The Canal Company agrees that its said water right shall be used only for irrigation at and upon the lands bounded on the south by the present main transmission canal of the Canal Company and on the north by the main transmission canal of the Grand View Irrigation District and on the west by Birch Creek and on the east by a line running due north from the pumping plant of the Canal Company to be constructed at or near the terminus of the Mutual Canal, to the main transmission canal of Grand View Irrigation District, and the Power Company agrees with the Canal Company that said water right of seventy-five (75) cubic feet per second of time is appurtenant to all such lands;

Shoofly Farms and Bybee and the Power Company agree with each other that the said water right of Shoofly Farms and Bybee is appurtenant to the said respective lands of Shoofly Farms and Bybee hereinbefore described, but that any part of the waters in such water right in excess of the quantity necessary for the irrigation of the said lands of Shoofly Farms may be used for the irrigation of any other lands on which such waters can be placed to a beneficial use for irrigation and which may be irrigated from the said Mutual Canal by diversion therefrom at any point easterly of the most westerly boundary of said lands of Shoofly Farms by any means whatsoever and further and without limitation on the above provision the place of use of any such waters may be changed without limit to any other lands which may be irrigated from the Mutual Canal to be built as hereinbefore provided by any means whatsoever; PROVIDED, HOWEVER, that the place of use of any such irrigation

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right and waters appurtenant to said lands of Shoofly Farms shall not be changed until the contract balance on the purchase price of such Shoofly Farms remaining unpaid and the interest thereon shall be fully paid.

Totorica Company and Totoricaguena and the Power Company agree each with the others that said water right of one and six-tenths (1.6) cubic feet per second of time is appurtenant to the said respective lands of Totorica Company and Totoricaguena and that the use thereof shall be limited to the irrigation of their said respective lands as hereinbefore described, but that each the said Totorica Company and Totoricaguena may change the place of use of said water right from any said lands to any other lands which may be irrigated from said Mutual Canal to be built as hereinbefore provided by any manner or means whatsoever;

Lee and Holtzman and the Power Company agree each with the other that the said water right of Lee and Holtzman of three (3) cubic feet per second of time is appurtenant to the said described lands of Lee and Holtzman and that the use thereof shall be limited to irrigation at and upon such lands, but that Lee and Holtzman shall have the right to change the place of use of such water to any other lands to which such water can be placed to beneficial use for irrigation by diversion by any means whatsoever from said Mutual Canal; PROVIDED, HOWEVER, that the place of use of any such irrigation right and waters shall not be changed until the contract balance on the purchase price of said lands of Lee and Holtzman, and the interest thereon, shall be fully paid.

14. IT IS FURTHER AGREED:

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(a) That the Power Company shall be the sole owner of, and shall maintain and operate, the said concrete outlet works with control gate and other related facilities, from its said dam and reservoir together with the said canal extending westerly therefrom a distance of approximately four thousand (4000) feet to the point of water availability hereinbefore specified; and,

(b) That the said Mutual Canal to be built by the Mutual Canal parties as herein provided shall be solely owned by them pro rata and in accordance with the extent of their respective water rights as herein provided to their respective points of diversion and outlet works from said canal, and said Mutual Canal shall be operated and maintained by the said Mutual Canal parties who shall contribute to the cost of operation and maintenance thereof pro rata and according to the extent of their said respective water rights as herein stated to their respective points of diversion from said canal for the irrigation of their respective lands, that is to say, as to Shoofly Farms, Bybee, Totorica Company, Totoricaguena, and Lee and Holtzman, each shall contribute the pro rata portion of the cost of the maintenance and operation thereof from the head end or intake thereof to such parties' outlets from said canal for the irrigation of their respective lands.

15. Shoofly Farms agrees to grant and convey free of charge a right of way and easement across its said lands for the construction, operation and maintenance of said Mutual Canal.

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16. Totorica Company and Totoricaguena agree to grant and convey, free of charge, a right of way and easement over and across lands lying in Owyhee County, Idaho, being specifically the south half of section 32, township 5 south, range 4 east, Boise Meridian, for the construction, operation and maintenance of said Mutual Canal.

17. Lee and Holtzman agree that they will grant and convey, free of charge, a right of way and easement over and across their said lands for the construction, operation and maintenance of said Mutual Canal.

18. Each, the Canal Company, Shoofly Farms, Bybee, Totorica Company, Totoricaguena, and Lee and Holtzman agrees with the Power Company as follows:

(a) That it, he or they, as the case may be, will use the water provided for under paragraph 10(b) above, in an economical and husband-like manner and without waste and shall take only such quantities of water as shall be needed for irrigation requirements up to such party's maximum amount hereinbefore set forth, and will not unnecessarily waste or spill, or permit such wasting or spilling of any such water; and that any and all water not being used or required for irrigation purposes shall inure to the benefit of the Power Company for use in and through its power plant under and as a part of its project water rights.

(b) That it, he or they, as the case may be, shall be solely responsible for the determination and notification to the Power Company of the quantities of water and time for such

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party (within the limitations hereinabove set forth). to be made available at the said point of water availability.

19. The Canal Company, Shoofly Farms, Bybee, Totórica Company, Totoricaguena, and Lee and Moltzman, jointly and severally agree with the Power Company as follows:

To maintain and operate their said Mutual Canal and their respective water delivery and distribution systems in accordance with good irrigation practice, so as to prevent and avoid unreasonable wastage and leakage of water therefrom; that the Power Company shall in no event be liable or responsible for any damage to said canal beyond the point of water availability which may result from, or in connection with, the discharge into such canal of the amount of water provided in this agreement or such lesser quantity in the aggregate as said parties may, in writing, specify as the amount of water to be delivered to them from time to time, or for any loss or damage, of any kind or nature whatsoever, occurring to any of the parties, or to any of their members or stockholders, including damages to lands or crops, or any other direct, proximate or remote damages occurring or resulting from any reason or cause whatsoever, so long as the Power Company has the requisite amount of water, provided for herein, in its canal, at the point of water availability as set forth in paragraph 10(b) above;

20. In consideration of this agreement entered into with the Power Company, the Mutual Canal parties each in its own behalf and in behalf of its members and stockholders, if any, jointly

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and severally waive and hereby release and discharge the Power Company from and against any and all claims or possible claim for damages or liability of any sort or description which have or may have occurred prior to the date of this agreement from any cause, including the operation of the Power Company's dams and the fluctuation or claimed fluctuation of the waters of Snake River.

21. No party shall be considered to be in default of any obligation or liable or responsible for any loss or damage hereunder if prevented from fulfilling such obligation by reason of uncontrollable forces, including acts of God and the public enemy, or from accident, war, sabotage, explosion, fire, earthquake, restraint by court or public authority, or other cause which by exercise of foresight and due diligence such party could not have reasonably been expected to avoid. Such party shall exercise due diligence, however, to remedy such cause or remove such inability with all reasonable dispatch.

22. IT IS UNDERSTOOD AND AGREED that failure by the Canal Company, Shoofly Farms, Bybee, Totorica Company, Totoricaguena and Lee and Holtzman, or any of them, to perform any of the covenants herein contained, shall not be construed to give the Power Company the right to refuse or fail to make available to such parties as herein provided, the water hereinbefore agreed by the Power Company to be made available for them at the point of water availability in accordance with the terms of this agreement, and that the rights of the Power Company, in the event of breach or failure to perform any of the provisions hereof by such parties, shall be limited to injunctive relief, damages, or such other equitable or legal measures and remedies as may be enforced in a court of competent jurisdiction.

23. Any notice given to the Power Company hereunder shall be given or mailed, in writing, to the Power Company's Superintendent of the said C. J. Strike Hydroelectric Development, or may be given or mailed, in writing, to the Power Company's President and General Manager, 1220 Idaho Street, Boise, Idaho; and any notice given by the Power Company to any of the parties hereunder shall be given, in writing, to said parties at Grand View, Idaho, or Boise, Idaho, or to such person or address as they, respectively, shall designate.

24. This agreement and the respective rights and obligations hereunder shall inure to the benefit of and be binding upon the respective successors and assigns of the parties.

IN WITNESS WHEREOF, the Power Company has hereunto caused its corporate name to be subscribed and its corporate seal to be affixed by its officers first thereunto duly authorized by resolution of its Board of Directors, and the Canal Company has hereunto caused its corporate name to be subscribed and its corporate seal to be affixed by its officers first thereunto duly authorized by resolution of its Board of Directors, and Totorica Company has hereunto caused its corporate name to be subscribed and its corporate seal to be affixed by its officers first thereunto duly authorized by resolution of its Board of Directors, and the said Shoofly Farms, Bybee, Totoricaguena, and Lee and Holtzman have hereunto subscribed their names, all as of the day and year herein first above written.

IDAHO POWER COMPANY

By

A. C. Inman
A. C. Inman, Vice President

ATTEST:

E. A. Andersen
E. A. Andersen, Asst. Secretary

COPY

GRANDVIEW MUTUAL CANAL COMPANY

By Norris A. McKeeth
Norris A. McKeeth, President

ATTEST: W. J. Briadeau
W. J. Briadeau, Secretary

SHOOFLY FARMS

By: W. A. Bybee
W. A. Bybee

Ruth Bybee
Ruth Bybee

D. O. Bybee
D. O. Bybee

Thelma C. Bybee
Thelma C. Bybee

Gordon F. Ray
Gordon F. Ray

Leda Ray
Leda Ray

THE COPARTNERS THEREOF.

D. O. Bybee
D. O. Bybee

Thelma C. Bybee
Thelma C. Bybee

TOTORICA CO.

By: Leandro Totoricaguena
Leandro Totoricaguena, President

ATTEST: Stanton Park
Stanton Park, Secretary

Urbano Totoricaguena
Urbano Totoricaguena

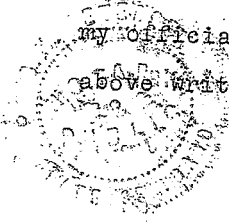
Juana Totoricaguena
Juana Totoricaguena

COPY

STATE OF IDAHO,)
COUNTY OF ADA,) ss.

On this 16th day of April, in the year 1952, before me, the undersigned, a Notary Public in and for said State, personally appeared A. C. Inman and E. A. Anderson, known to me to be the Vice President and Assistant Secretary, respectively, of Idaho Power Company, the corporation that executed the foregoing instrument, and acknowledged to me that such corporation executed the same.

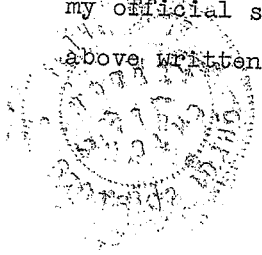
IN WITNESS WHEREOF, I have hereunto set my hand and affixed my official seal, the day and year in this certificate first above written.


J. H. Peterson.
Notary Public for Idaho,
Residing at Boise, Idaho.

STATE OF IDAHO,)
COUNTY OF ADA,) ss.

On this 30th day of April, in the year 1952, before me, the undersigned, a Notary Public in and for said State, personally appeared Norris A. McKeeth and W. J. Biladeau, known to me to be the President and Secretary, respectively, of Grandview Mutual Canal Company, the corporation that executed the foregoing instrument, and acknowledged to me that such corporation executed the same.

IN WITNESS WHEREOF, I have hereunto set my hand and affixed my official seal, the day and year in this certificate first above written.

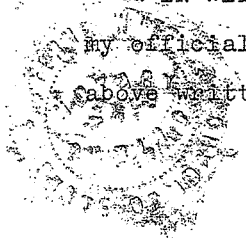

Lerne Witt
Notary Public for Idaho,
Residing at Boise, Idaho.

COPY

STATE OF IDAHO,)
COUNTY OF ADA,) ss.

On this 30th day of April, in the year 1952, before me, the undersigned, a Notary Public in and for said State, personally appeared W. A. Bybee, D. O. Bybee and Gordon F. Ray, known to me to be three of the partners in Shoofly Farms, a copartnership, who subscribed said partnership name to the foregoing instrument, and acknowledged to me that they executed the same in said partnership name.

IN WITNESS WHEREOF, I have hereunto set my hand and affixed my official seal, the day and year in this certificate first above written.


Ferne Witt
Notary Public for Idaho,
Residing at Boise, Idaho.

STATE OF IDAHO,)
COUNTY OF ADA,) ss.

On this 30th day of April, in the year 1952, before me, the undersigned, a Notary Public in and for said State, personally appeared D. O. Bybee and Thelma C. Bybee, husband and wife, known to me to be the persons whose names are subscribed to the within instrument, and acknowledged to me that they executed the same.

IN WITNESS WHEREOF, I have hereunto set my hand and affixed my official seal, the day and year in this certificate first above written.


Ferne Witt
Notary Public for Idaho,
Residing at Boise, Idaho.

STATE OF IDAHO,)
COUNTY OF ADA,) ss.

COPY

On this 1st day of May, in the year 1952, before me,
the undersigned, a Notary Public in and for said State, personally
appeared Leandro Totoricaguena and Stanton Park, known to me
to be the President and Secretary, respectively, of Totorica Co.,
the corporation that executed the foregoing instrument, and
acknowledged to me that such corporation executed the same.

IN WITNESS WHEREOF, I have hereunto set my hand and affixed
my official seal, the day and year in this certificate first
above written.

A. C. Kiser
Notary Public for Idaho,
residing at Boise, Idaho.

STATE OF IDAHO,)
COUNTY OF ADA,) ss.

On this 1st day of May, in the year 1952, before me,
the undersigned, a Notary Public in and for said State, personally
appeared Urbano Totoricaguena and Juana Totoricaguena, husband
and wife, known to me to be the persons whose names are subscribed
to the within instrument, and acknowledged to me that they executed
the same.

IN WITNESS WHEREOF, I have hereunto set my hand and affixed
my official seal, the day and year in this certificate first
above written.

A. C. Kiser
Notary Public for Idaho,
Residing at Boise, Idaho.

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STATE OF IDAHO, }
COUNTY OF ADA, } ss.

On this 10th day of June, 1952, before me, the undersigned,
a Notary Public in and for said State, personally appeared
Charles E. Lee, known to me to be the person whose name is sub-
scribed to the within instrument as the attorney in fact of
Eli E. Holtzman, and acknowledged to me that he subscribed the
name of Eli E. Holtzman thereto as principal, and his own name
as attorney in fact.

IN WITNESS WHEREOF, I have hereunto set my hand and official
seal this 10th day of June, 1952.

P. C. Kiser
Notary Public for Idaho,
Residing at Boise, Idaho.

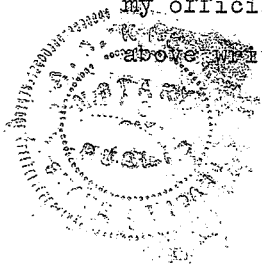


COPY

STATE OF IDAHO,)
) ss.
COUNTY OF ADA,)

On this 1st day of May, in the year 1952, before me,
the undersigned, a Notary Public in and for said State, personally
appeared Charles E. Lee and ~~Eli E. Holtzman~~ ⁹ bachelor, known to
me to be the person whose name ~~is~~ ^{is} subscribed to the within
instrument, and acknowledged to me that ~~they~~ executed the same.

IN WITNESS WHEREOF, I have hereunto set my hand and affixed
my official seal, the day and year in this certificate first
above written.



G. C. Kuier
Notary Public for Idaho,
Residing at Boise, Idaho.