

11/19/2005

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

RIGHT NUMBER: 63-18700

NAME AND ADDRESS: CAPITOL VIEW IRRIGATION INC
C/O PETE NEWTON
PO BOX 208
EAGLE ID 83616

SOURCE: BOISE RIVER

TRIBUTARY: SNAKE RIVER

QUANTITY: 0.910 CFS

PRIORITY DATE: 02/17/1929

POINT OF DIVERSION:
T03N R02E S5 SENE Within ADA County

PURPOSE AND
PERIOD OF USE:

<u>PURPOSE OF USE</u>	<u>PERIOD OF USE</u>	<u>QUANTITY</u>
IRRIGATION	03/01 11/15	0.910 CFS

Diversion for irrigation under this water right prior to April 1 and after October 31 shall occur only as authorized by the Water District 63 Water Master and only when water is being released for flood control by the United States from the Lucky Peak Dam outlet under procedures and requirements for the Memorandum of Agreement between the U.S. Department of the Army and the U.S. Department of the Interior for Flood Control Operations of the Boise River Reservoirs, dated November 20, 1953, the Water Control Manual for Boise River Reservoir dated April 1985 and any future amendments or revisions made thereto pursuant to state or federal procedures or law; provided that any such use of this water right prior to April 1 and after October 31 shall be subordinated to water rights for storage in Lucky Peak Reservoir, Lake Lowell, Arrowrock Reservoir, and/or Anderson Ranch Reservoir, as decreed in SRBA Case No. 39576.

PLACE OF USE:

682 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.

THIS RIGHT IS LIMITED TO THE IRRIGATION OF 682 ACRES WITHIN THE
BOUNDARY OF THE CAPITAL VIEW IRRIGATION DISTRICT

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

THE FOLLOWING RIGHTS ARE ALSO DIVERTED THROUGH POINT OF
DIVERSION DESCRIBED ABOVE: 63-120G, 63-123C, 63-123D, 63-123E,
63-123F 63-123G, 63-124Q, 63-125J, 63-126F, 63-165M, 63-198AG,
63-248, 63-297, 63-2360, 63-21729, 63-31832, 63-31937

WATER IS DELIVERED THROUGH THE FARMERS UNION CANAL

IDAHO DEPARTMENT OF WATER RESOURCES

Adjudication Recommendation Report 63-18700 V1

WATER RIGHT NUMBER: 63-18700 V1

<u>Owner Type</u>	<u>Name and Address</u>
Current Owner	CAPITOL VIEW IRRIGATION INC C/O PETE NEWTON PO BOX 208 EAGLE, ID 83616 (208)939-7292

Priority Date: 02/17/1929

Basis: Beneficial Use

Status: Active

<u>Source</u>	<u>Tributary</u>
BOISE RIVER	SNAKE RIVER

<u>Beneficial Use</u>	<u>From</u> <u>To</u>	<u>Diversion Rate</u>	<u>Annual Volume</u>
IRRIGATION	03/01 to 11/15	0.910 CFS	
	<u>Total Diversion:</u>	0.910 CFS	

Location of Point(s) of Diversion

BOISE RIVER	SE1/4NE1/4	Sec. 5, Twp 03N, Rge 02E, B.M.
ADA County		

Place of UseIRRIGATION Within ADA County

T05N R01E S32	NWNE	T05N R01E S32	SWNE
T05N R01E S32	SENE	T05N R01E S32	NENW
T05N R01E S32	NWNW	T05N R01E S32	SWNW
T05N R01E S32	SENW	T05N R01E S32	NESW
T05N R01E S32	NWSW	T05N R01E S32	SESW
T05N R01E S32	NESE	T05N R01E S32	NWSE
T05N R01E S32	SWSE	T05N R01E S32	SESE
T05N R01E S33	SWNE	T05N R01E S33	SWNW
T05N R01E S33	SENW	T05N R01E S33	NESW
T05N R01E S33	NWSW	T05N R01E S33	SWSW
T05N R01E S33	SESW	T05N R01E S33	NESE
T05N R01E S33	NWSE	T05N R01E S33	SWSE
T05N R01E S33	SESE	T05N R01E S34	SWNE
T05N R01E S34	SENE	T05N R01E S34	NESW
T05N R01E S34	NWSW	T05N R01E S34	SWSW
T05N R01E S34	SESW	T05N R01E S34	NWSE

IDAHO DEPARTMENT OF WATER RESOURCES
Adjudication Recommendation Report 63-18700 V1

Total Acres: 682

Conditions of Approval:

1. F06 THE FOLLOWING RIGHTS ARE ALSO DIVERTED THROUGH POINT OF DIVERSION DESCRIBED ABOVE: 63-120G, 63-123C, 63-123D, 63-123E, 63-123F 63-123G, 63-124Q, 63-125J, 63-126F, 63-165M, 63-198AG, 63-248, 63-297, 63-2360, 63-21729, 63-31832, 63-31937
2. 135 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.
3. F01 WATER IS DELIVERED THROUGH THE FARMERS UNION CANAL
4. S45 Diversion for irrigation under this water right prior to April 1 and after October 31 shall occur only as authorized by the Water District 63 Water Master and only when water is being released for flood control by the United States from the Lucky Peak Dam outlet under procedures and requirements for the Memorandum of Agreement between the U.S. Department of the Army and the U.S. Department of the Interior for Flood Control Operations of the Boise River Reservoirs, dated November 20, 1953, the Water Control Manual for Boise River Reservoir dated April 1985 and any future amendments or revisions made thereto pursuant to state or federal procedures or law; provided that any such use of this water right prior to April 1 and after October 31 shall be subordinated to water rights for storage in Lucky Peak Reservoir, Lake Lowell, Arrowrock Reservoir, and/or Anderson Ranch Reservoir, as decreed in SRBA Case No. 39576.
5. C18 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.
6. K06 THIS RIGHT IS LIMITED TO THE IRRIGATION OF 682 ACRES WITHIN THE BOUNDARY OF THE CAPITAL VIEW IRRIGATION DISTRICT

Remarks:Comments:

1. jshurte 11/19/2005 Priority date

Comment: Per Mel Schultes notes in his review of this right the priority date is being changed to 2-17-1929. This date is one day after the Stewart and Bryan decrees. This right is for Capital Views share of ditch loss based on measurements taken in the spring of 2003 in the Farmers Union Canal. Since this right was not included in the Stewart or Bryan decree, thus the advancement of the priority date.

Element Reviewed/Verified Dates:

<u>Element</u>	<u>Last Reviewed Date</u>	<u>Reviewer</u>	<u>Last Verified Date</u>	<u>Verifier</u>	<u>Status</u>
POU	3/16/2004 2:14:22 PM	mschulte			Active
Summary			03/16/2004	mschulte	Active
Priority Date	7/26/2004 2:24:48 PM	mschulte			Active
POD	7/26/2004 2:25:17 PM	mschulte			Active
Source	7/26/2004 2:25:38 PM	mschulte			Active
POU	7/26/2004 2:26:02 PM	mschulte			Active

IDAHO DEPARTMENT OF WATER RESOURCES

Adjudication Recommendation Report 63-18700 V1

Use	7/26/2004 2:26:25 PM	mschulte	Active
Season	7/26/2004 2:27:36 PM	mschulte	Active
Quantity	7/26/2004 2:29:38 PM	mschulte	Active
Summary		07/26/2004 mschulte	Active
POU	9/21/2004 1:04:48 PM	mschulte	Active
Priority Date	11/19/2005 11:26:38 AM	jshurte	Active
POD	11/19/2005 11:26:50 AM	jshurte	Active
POU	11/19/2005 11:26:52 AM	jshurte	Active
Source	11/19/2005 11:26:53 AM	jshurte	Active
Season	11/19/2005 11:26:54 AM	jshurte	Active
Use	11/19/2005 11:26:54 AM	jshurte	Active
Quantity	11/19/2005 11:26:55 AM	jshurte	Active

Water Supply Bank:

05/12/2005

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

RIGHT NUMBER: 63-18700

NAME AND ADDRESS: CAPITOL VIEW IRRIGATION INC
C/O PETE NEWTON
PO BOX 208
EAGLE ID 83616

SOURCE: BOISE RIVER

TRIBUTARY: SNAKE RIVER

QUANTITY: 0.910 CFS

PRIORITY DATE: 01/20/1906

POINT OF DIVERSION:

T03N R02E S5 SENE Within ADA County

PURPOSE AND
PERIOD OF USE:

<u>PURPOSE OF USE</u>	<u>PERIOD OF USE</u>	<u>QUANTITY</u>
IRRIGATION	03/01 11/15	0.910 CFS
Diversion for irrigation under this water right prior to April 1 and after October 31 shall occur only as authorized by the Water District 63 Water Master and only when water is being released for flood control by the United States from the Lucky Peak Dam outlet under procedures and requirements for the Memorandum of Agreement between the U.S. Department of the Army and the U.S. Department of the Interior for Flood Control Operations of the Boise River Reservoirs, dated November 20, 1953, the Water Control Manual for Boise River Reservoir dated April 1985 and any future amendments or revisions made thereto pursuant to state or federal procedures or law; provided that any such use of this water right prior to April 1 and after October 31 shall be subordinated to water rights for storage in Lucky Peak Reservoir, Lake Lowell, Arrowrock Reservoir, and/or Anderson Ranch Reservoir, as decreed in SRBA Case No. 39576.		

PLACE OF USE:

682 ACRES TOTAL

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EXPLANATORY MATERIAL: Beneficial Use

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DIVERSION DESCRIBED ABOVE: 63-120G, 63-123C, 63-123D, 63-123E,
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WATER IS DELIVERED THROUGH THE FARMERS UNION CANAL

IDAHO DEPARTMENT OF WATER RESOURCES

Adjudication Recommendation Report 63-18700 V1

WATER RIGHT NUMBER: 63-18700 V1

<u>Owner Type</u>	<u>Name and Address</u>
Current Owner	CAPITOL VIEW IRRIGATION INC C/O PETE NEWTON PO BOX 208 EAGLE, ID 83616 (208)939-7292

Priority Date: 01/20/1906

Basis: Beneficial Use

Status: Active

<u>Source</u>	<u>Tributary</u>
BOISE RIVER	SNAKE RIVER

<u>Beneficial Use</u>	<u>From</u> <u>To</u>	<u>Diversion Rate</u>	<u>Annual Volume</u>
IRRIGATION	03/01 to 11/15	0.910 CFS	
	<u>Total Diversion:</u>	0.910 CFS	

Location of Point(s) of Diversion

BOISE RIVER	SE1/4NE1/4	Sec. 5, Twp 03N, Rge 02E, B.M.
ADA County		

Place of Use

Conditions of Approval:

1. 135 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.
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Remarks:

IDAHO DEPARTMENT OF WATER RESOURCES

Adjudication Recommendation Report 63-18700 V1

1. Quantity THIS RIGHT WHEN COMBINED WITH ALL OTHER RIGHTS SHALL PROVIDE NO MORE THAN .02 CFS PER ACRE AT THE FIELD HEADGATE.
2. Explanatory WATER IS DELIVERED THROUGH THE FARMERS UNION CANAL
3. Explanatory THE FOLLOWING RIGHTS ARE ALSO DIVERTED THROUGH POINT OF DIVERSION DESCRIBED ABOVE: 63-120G, 63-123C, 63-123D, 63-123E, 63-123F 63-123G, 63-124Q, 63-125J, 63-126F, 63-165M, 63-198AG, 63-248, 63-297, 63-2360, 63-21729, 63-31832, 63-31937
4. Place of Use - Irrigation THIS RIGHT IS LIMITED TO THE IRRIGATION OF 682 ACRES WITHIN THE BOUNDARY OF THE CAPITAL VIEW IRRIGATION DISTRICT

Comments:

Water Supply Bank:

**STATE OF IDAHO
DEPARTMENT OF WATER RESOURCES
ADJUDICATION FIELD REPORT**

Prior to Field Exam

- ☐ Copy of Claim, claim has been signed, sealed, and dated by notary?
- ☐ Check fees paid
- ☐ Well logs (if needed)
- ☐ Copy of topo or NAPP
- ☐ Check of Govt. Lots, if needed, Govt. Plat/Tax lot information
- ☐ Check POD & POU overlap, see below – include overlapping right for exam
- ☐ Evidence of Priority – if none, talk with claimant

CLAIMANT INFORMATION – verify contact information is completeClaim No(s) 63-18700Owner: Capital View Inc. Phone No. See 63-123E

Current Address: _____

- ☐ No change NAME IS THE SAME
- ☐ NEW OWNER _____
- ☐ No change Address
- ☐ NEW ADDRESS _____
- ☐ How long owned property? _____

Accompanied by: _____

PRIORITY DATE

- ☐ No change – Complete evidence submitted or not necessary
- ☐ Incomplete – Claimant should be asked when water was first used and submit proof of date.
- ☐ Priority date is acceptable/within mandatory filing dates?

Priority date, per claimant, is: 1-20-1906

(If priority date, based on your exam, seems questionable, explain below.)

Cannot date back into Stewart or Bryan decrees
therefore priority date is one day after Bryan decree = 2-17-1929.

Source: Boise River Tributary to Snake River

- ☐ No Change –SAME SOURCE
- ☐ Source found is different than claimed: _____

POINT OF DIVERSION

- ☐ No change
- ☐ POD found is different than claimed: _____
- ☐ If different, when did POD change? _____

DIVERSION AND DELIVERY SYSTEM

Points of Diversion:

ID #	Govt Lot #	1/4	1/4	1/4	Sec.	Twp.	Rge.	County	Method of Determination/Remarks GPS ID
			SE	NE	5	3N	2E	Ala	Farmers Union canal P&O

Description of diverting works

See 03-123E**OVERLAP REVIEW**

Other water rights with the same point of diversion: _____

Does overlap add acres or uses to existing system, increase rate of flow or volume, or other? Explain: _____

WATER USES☐ No change☐ Different UsesUse Irrigation From 3-1 To 11-15 Amount .91 CFS _____ AFA

Use _____ From _____ To _____ Amount _____ CFS _____ AFA

Use _____ From _____ To _____ Amount _____ CFS _____ AFA

TOTAL VOLUME – Groundwater only☐ Incomplete on claim, the total is, Amount _____ CFS _____ AFA☐ Changes found, the new total is, Amount _____ CFS _____ AFA☐ More than 1" per Acre? Yes _____ (claimant must complete excess flow sheet)**NON-IRRIGATION USES:**☐ No change☐ Changes Exam found: Domestic # of homes _____ Stock # _____

Types _____ Additional comments: _____

PLACE OF USE:☐ No Change☐ Changes shown below:

See 63-123 E Place of Use			NE				NW				SW				SE				Totals
TWP	RGE	SEC	NE	NW	SW	SE	NE	NW	SW	SE	NE	NW	SW	SE	NE	NW	SW	SE	

Overlap with other water rights: See 63-123 E

Does overlap increase rate of flow, volume, additional acres, different source for same acres? Explain:

Delivery System Narrative: See 63-123 E

Well or Diversion Identification No GPS ID	Motor Make	Hp	Motor Serial No.	Pump Make	Pump Serial No. or Discharge size

FLOW MEASUREMENTS:

Attach appropriate documents

NARRATIVE/REMARKS/COMMENTS

This right is Capital View Irrigation's share of ditch loss based on measurements taken in the spring of 2003 in the Farmers Union Canal.
See the attached copy of the ditch loss allocation

[illegible]

AFTER EXAM THE FILE SHOULD CONTAIN:

- ☐ Completed claim checklist
- ☐ Photographs of POD's and POU
- ☐ GPS readings
- ☐ Completed map and or GIS layout showing POD's and POU

DATE EXAM CONDUCTED:

FIELD EXAMINER:

SUBJECT: Meel Schulte

Ditch loss allocation in Farmers Union Canal

Using licensed and decreed diversion rates only.

From POR to BVID headgate

Boise Valley	50.71 cfs	= 20.9%
Farmers Union	184.47 cfs	= 76.2%
Capitol View	7.0 cfs	= 2.9%
Total	242.18 cfs	100%

From POR to BVID headgate: 12.74 cfs estimated loss

Boise Valley	$12.74 \text{ cfs} \times 20.9\%$	= 2.66 cfs
Farmers Union	$12.74 \text{ cfs} \times 76.2\%$	= 9.71 cfs
Capitol View	$12.74 \text{ cfs} \times 2.9\%$	= .37 cfs
		12.74 cfs.

From BVID headgate downstream

Boise Valley	15.7 cfs	= 7.6%
Farmers Union	184.47 cfs	= 89%
Capitol View	7.0 cfs	3.4%
Total	207.17 cfs	100%

* $15.86 \text{ cfs} + 6.58 \text{ cfs} + 3.27 \text{ cfs} = 15.71 \text{ cfs}$ = remainder of estimated loss

* Boise Valley $15.71 \text{ cfs} \times 7.6\%$ = 1.19 cfs

* Farmers Union $15.71 \text{ cfs} \times 89\%$ = 13.98 cfs

* Capitol View $15.71 \text{ cfs} \times 3.4\%$ = .54 cfs

100% 15.71 cfs

Summary:

Boise Valley = 3.85 cfs

Farmers Union = 23.69 cfs

Capitol View = .91 cfs

28.45 cfs.

In the Matter of the Arbitra-	)	
tion between the Capital View	)	
Irrigation Company and the Farm-	)	AWARD OF ARBITRATOR
ers Union Ditch Company, Ltd.	)	A. V. TALLMAN.
Before A. V. Tallman, Arbitrator.	)	

To the above named parties and their attorneys
Boise, Idaho:

At a hearing held on June 8, 1921, at Boise, Idaho, the above named parties to this cause of action, represented by their respective attorneys, appeared before A. V. Tallman, acting as Arbitrator, and presented for his consideration testimony and arguments in support of their respective claims.

In the opinion of the Arbitrator the following items as set forth in the controversy are of prime importance and a distinct understanding of the relationship of the two Irrigation Companies should be established at this time in order to prevent future misunderstanding.

1st. - What part of the total cost of maintenance and operation of the Farmers Union Canal shall the Capital View Irrigation Company pay?

2nd. - What is the total indebtedness of the Capital View Irrigation Company to the Farmers Union Ditch Company, Ltd.?

3rd. - What part of the waters carried by the Farmers Union Ditch Company, Ltd. shall be subject to assessments?

4th. - What cash expenditures made by the Farmers Union Ditch Company, Ltd. shall be eliminated from the operation and maintenance costs of the Capital View Irrigation Company?

5th. - What method of making assessments should be used by the Farmers Union Ditch Company, Ltd.?

6th. - What financial statements are the Capital View Irrigation Company entitled to?

7th. - When shall the Capital View Irrigation Company pay operation and maintenance assessments levied by the Farmers Union Ditch Company, Ltd.?

8th. - What are the seepage or transportation losses from the Farmers Union Canal?

Opinion of Arbitrator.

Taking up the questions involved, the Arbitrator will endeavor to set forth his opinion, and reasons therefore, in the same order as outlined above.

1st. - The Capital View Irrigation Company shall pay the same maintenance and operating charge as any other water user or stockholder diverting water from the Farmers Union Canal, excepting users of Boise Valley Ditch Company water who are operating under a separate contract with the Farmers Union Ditch Company. It is the opinion of the Arbitrator that it was the intention of the original parties to the contract entered into by the predecessors of the Capital View Irrigation Company and the Farmers Union Ditch Company, Ltd., that the proportionate share of all maintenance and operating costs of the entire system owned and operated by said Farmers Union Canal Company and the contract specifically states that "charges for betterments shall be considered as maintenance".

The question arose during the hearing held before the Arbitrator as to whether or not the Farmers Union Ditch Company had actually enlarged its canal system during the years 1917 to 1921 inclusive.

As no evidence was introduced to show that any of the concrete structures, such as flumes, had been enlarged during the past ten years, it is the Arbitrator's opinion that the increased operating costs of the past five years over those of the previous five years is due to betterments made throughout the canal system and are a proper maintenance charge.

Evidence was introduced by the Capital View Irrigation Company to show that the Farmers Union Ditch Company had carried some 2500 inches more water in the canal than the respective rights were entitled to, thus attempting to show that the canal had been enlarged. The Arbitrator's knowledge of this canal covers some eight years of personal contact, and from the evidence adduced it is his opinion that during the short periods those extra quantities of water were carried in this canal, the canal was overloaded and no safe free board was allowed, thus causing danger of breaks. It is further held that should a break in the said Farmers Union Canal occur during the time more water is carried in said canal than is covered by assessment charges or decreed rights, then said Capital View Irrigation Company shall not pay any part of the cost of repairing such break or damages accruing thereto. Any expense incurred by said Farmers Union Ditch Company in repairing breaks in their canal, caused by unusual rainstorms, cloudbursts, or burrowing animals, shall be classed as ordinary maintenance and operation costs and the Capital View Irrigation Company shall pay their proportionate share of such charges.

2nd. - As finally determined by the Arbitrator, the actual maintenance and operating costs of the Farmers Union Ditch Company, those pertinent to the Capital View Irrigation Company, for the years 1917 to 1920, inclusive, are as follows:

1917, - \$17,461.68,	1918, - \$10,750.51,
1919, - \$12,964.06,	1920, - \$21,887.62.

The records of the Secretary of the Farmers Union Ditch Company, Ltd. show that for the years 1917, '18 and '19 there were 6659.66 miner's inches of water carried in the Farmers Union Canal each year that the Arbitrator holds should have paid assessments, 566-2/3 inches of said water being owned by said Capital View Irrigation Company.

During the years 1920 and '21 there were 6901.39 inches carried each year in the Farmers Union Canal that should be subject to assessments, 566-2/3 inches of said water being owned by said Capital View Irrigation Company.

If it were not for the fact that each year some indebtedness is carried over to the next year by the Farmers Union Ditch Company the fixing of the annual cost of each party's share would be a simple matter of arithmetic.

The contract provides that "the maintenance charges herein provided for shall be paid by the party of the second part, his heirs or assigns, at the same time and in the same manner as assessments for maintenance are paid by stockholders of the party of the first part". At the time the contract was entered into by the predecessors in interest of the Capital View Irrigation Company and the Farmers Union Ditch Company the latter Company was the owner of a certain water

right in the Boise River which represented 5500 inches of water, and ownership of said water was represented by 500 shares of stock which had been previously issued to its stockholders, one share of said stock representing the ownership of eleven inches of water of the total of 5500 inches owned by said Company. As the quantity of water carried by the Farmers Union Canal, upon which assessments are collected, has been constantly increasing each year and its issue of stock, 500 shares, remains constant, the Arbitrator holds that the number of inches of water represented by one share of stock must change, therefore we find that during the year 1917 one share of stock in the Farmers Union Ditch Company represented 12.11 inches of water.

The contract further provides that the Capital View Irrigation Company shall pay assessments upon the maximum quantity of water diverted each year until the total quantity of water owned by the said Company has been diverted and thereafter the Company shall pay assessments upon the full amount owned.

The evidence shows that the maximum diversions for the past five years were as follows:

1917, 125 inches; 1918, 200 inches; 1919, 350 inches;
1920, 350 inches; and 1921, 420 inches. *28/23*

As previously stated, one share of stock in the Farmers Union Ditch Company represented during the year 1917, 12.11 inches of water, therefore the Capital View Irrigation Company should have paid assessments upon $125 \div 12.11$, or 10.32 shares for that year. The same ratio holds true for the years 1918 and 1919. In 1920 additional water was taken into the Farmers

Union Canal and we find that one share of stock represents 12.67 inches of water, therefor the 360 inches of water diverted by the Capital View Irrigation Company is represented by 27.62 shares of stock upon which they should pay assessments.

The following table shows findings of Arbitrator in regard to financial standing of the Capital View Irrigation Company.

Year	Inches of Water per Share	Shares	Assessment per share	Penalties	Totals	Credits
1917	12.11	10.32	\$20.00	-----	\$206.40	\$227.20
1918	12.11	16.52	20.00	38.65	330.40	-----
1919)	12.11	16.52	10.00	-----	162.52	385.40
(	12.11	28.90	15.00	-----	433.50	181.80
1920)	12.11	28.90	15.00	-----	433.50	424.70
(	12.67	27.62	20.00	170.33	552.40	-----
1921) Feb.	12.67	27.62	15.00	49.72	414.30	730.00
				259.70	2533.02	1969.10
Brought forward				Penalties	Totals	Credits
				259.70	2533.02	1969.10
				Penalties	259.70	
				Totals	2792.72	
				Credits	1969.10	

Balance due Farmers Union Ditch Co. - 823.62

1921 October Assessment, 33.15 shares @ \$20. - \$663.30, but not included in these findings.

Although no evidence was submitted to the Arbitrator in regard to the monies expended by the Capital View Irrigation Company in payment of water master's service on the Boise River it would be just if the Farmers Union Ditch Company should credit the Capital View Irrigation Company with one-third of the total taxes paid by the latter Company for said River services for the years 1916 to 1920 inclusive. The arbitrator has instructed the Water Master of Boise River to

so arrange his 1921 River charges that this matter will need no future adjustments between the parties to this arbitration.

3rd. - All waters owned by the Farmers Union Ditch Company shall be subject to assessments, also those waters carried in their canal system for other owners who may not be stockholders, excepting those waters which are covered by separate contract with the Boise Valley Ditch Company.

No extra maintenance charges shall be made for the carriage of storage water during the low water period of each year, for if it were not for this storage water the only service rendered for a part of each irrigation season would be to the Capital View Irrigation Company and the Farmers Union Ditch Company would be in a position to ask the Capital View Irrigation Company to pay all costs during the period that their water would be the only water carried in the canal.

4th. - In addition to the expenditures enumerated in the contract that shall not be chargeable to the Capital View Irrigation Company there should be no part of the monies paid to the United States Reclamation Service for storage water prorated to the Capital View Irrigation Company.

The cash book of the Farmers Union Ditch Company shows that on January 11, 1917, there was a total indebtedness of \$1,805.51, some of said money being represented by outstanding notes that have not been paid to date, and it is the Arbitrator's opinion that no part of this sum or interest on notes outstanding at that time should be paid by said Capital View Irrigation Company. In addition to the indebtedness of \$1,805.51 on January 11, 1917, the Arbitrator has deducted \$368.30 from the operating costs covering the

years 1917, '18, '19 and '20 that was paid out of the regular assessment money levied by the Farmers Union Ditch Company.

These two sums give a total of \$2,173.81 that represents the total reduction that should be made from the indebtedness of the Farmers Union Ditch Company on January 1, 1921, none of said \$2,173.81 being chargeable to the Capital View Irrigation Company. A separate account should be carried on the books of the Farmers Union Ditch Company to which items of expenditures from the assessment monies, not chargeable to the Capital View Irrigation Company, may be entered, so that as the indebtedness of the Farmers Union Ditch Company is reduced or entirely paid off, the Capital View Irrigation Company shall not be liable for any portion of the indebtedness created prior to January 11, 1917, or the expense created by its nonpayment up to the present time.

The Farmers Union Ditch Company should keep a separate account of all transactions relating to storage water accounts.

5th. - The Farmers Union Ditch Company, in levying assessments should first ascertain the quantities of water that are subject to assessment so that the number of inches of water representing one share of stock will be fixed. The maximum diversion of the Capital View Irrigation Company for the year in question in miner's inches should then be divided by the number of inches representing one share of stock to determine the number of shares of stock the Capital View Irrigation Company should pay assessments on.

6th. - It is the opinion of the Arbitrator that the Farmers Union Ditch Company should furnish to the Capital View Irrigation Company on January 1st of each year an itemized

statement of the actual operating costs of the entire canal system for the preceding year, setting forth as separate items those expenditures that the contract exempts the Capital View Irrigation Company from paying. A like statement covering all cash receipts and expenditures should also be prepared at the same time and be presented to said Capital View Irrigation Company by the Farmers Union Ditch Company.

7th. - The Capital View Irrigation Company shall pay all maintenance and operation assessments levied by the Farmers Union Ditch Company at the same time and in the same manner as assessments for maintenance are paid by the stockholders of the Farmers Union Ditch Company, Ltd. as provided for in said contract.

8th. - The percent of seepage or transportation losses that shall be deducted from the quantities of water diverted from the Boise River by the Capital View Irrigation Company and carried through the Farmers Union Ditch as determined by the Arbitrator from field investigations shall be as follows: During the flood water period of the Boise River there shall be no deductions made for seepage losses and for the balance of the irrigation season a seepage loss of seventeen percent shall be deducted. This seepage loss of seventeen percent should not be considered as a binding figure for all time as it is liable to vary from year to year and both Ditch Companies should abide by future determinations of seepage losses when said determinations are found by engineers competent to carry on this work.

In conclusion I will state that it is the wish of the Arbitrator that the attorneys representing the respective

parties to this action shall submit to him a proper order outlining the above findings in legal terms so that it may be filed with the Clerk of the District Court.

Respectfully submitted.

A. V. TALLMAN
Arbitrator

Dated: October 27, 1921.

STATE OF IDAHO
DEPARTMENT OF WATER RESOURCES
1301 North Orchard Street, P.O. Box 83720
Boise, Idaho 83720-0098

Return Service Requested

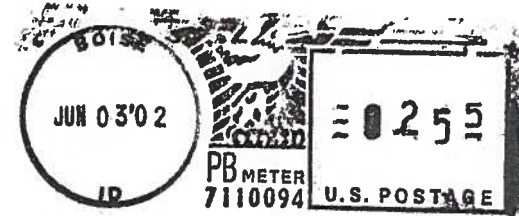
63-123
18700

(American Falls)
not sent

RETURNED
TO
SENDER
UNDELIVERABLE AS ADDRESSED—
NO FORWARDING ORDER ON FILE

CAPITAL VIEW IRRIGATION INC
C/O CAL WILLIAMS
3285 SYCAMORE DR
BOISE ID 83703

PRESORTED
FIRST CLASS



RECEIVED

JUN 11 2002

WATER RESOURCES
WESTERN REGION

DAAGTME 234270352



CAPITAL VIEW IRRIGATION DISTRICT

ADDITIONAL INFORMATION

DATE: July 1, 2005

BY: Mel Schulte

The primary contact is Pete Newton, the district's president (345-7655 = H) (388-2845 = W). Pete was very helpful and cooperative in providing information and reviewing the companies boundary and place of use map.

The primary issue with Capital View is associated with the ownership of the Jacobs right, 63-123 and the diversion rate relating to their portion of the right. The diversion rate recommended is based on information provided by Pete Newton and Farmers Union Ditch Co that delivers Capital View's water. Farmers Union assesses Capital View for 350 inches of water but claims they deliver a less amount due to delivery loss. My recommendation is based on the full 350 inches (7.0 cfs). Its possible that Gene Bailey with Farmers will challenge this recommendation with the claim that Farmers Union should receive the delivery loss in their portion of the right.

The POD for Capital View is the same as Farmers Union Ditch and Boise Valley Ditch Co and was determined by GPS.

The diversion rate recommended for Capital View's delivery loss claim 63-18700 is based on measurements taken on the Farmers Union canal and prorated between Farmers, Boise Valley and Capital View. This recommendation may also be challenged by Gene Bailey for the same reason described in paragraph two above.

Capital View filed a notice of error requesting a diversion rate of 375 inches for 63-123C but Farmers Union has historically assessed for only 350 inches. Our position on all of the Jacobs right recommendations is to rely on Farmers Union's assessment records as evidence to support our recommendations so no change was made to our original recommendation.

MTS

IN THE DISTRICT COURT OF THE FIFTH JUDICIAL DISTRICT OF THE STATE OF IDAHO,
IN AND FOR THE COUNTY OF TWIN FALLS

IN RE THE GENERAL ADJUDICATION
OF RIGHTS TO THE USE OF WATER FROM
THE SNAKE RIVER BASIN WATER SYSTEM.

CIVIL CASE NUMBER: 39576

Ident. Number: A63-18700
Date Received: 9/07/1989
Receipt No: W005677
Received By: LW

RECEIVED
DEC 06 1989

Department of Water Resources
Western Regional Office

**NOTICE OF CLAIM TO A WATER RIGHT
ACQUIRED UNDER STATE LAW**

1. Name: CAPITAL VIEW IRRIGATION, INC. 208-342-6425
Address: C/O CAL WILLIAMS
3285 SYCAMORE DR.
BOISE, ID 83703

2. Date of Priority: JAN 20, 1906

3. Source: BOISE RIVER Trib. to: SNAKE RIVER

4. Point of Diversion:

Township	Range	Section	1/4 of	1/4 of	1/4	Lot	County
04N	02E	32	SE	SE			ADA

5. Description of diverting works:
2 PUMPS, 75 HP AND 20 HP, DITCH

6. Water is used for the following purposes:

Purpose	From	To	C.F.S.	(or)	A.F.A.
IRRIGATION	03/15	11/15	3.730		

7. Total Quantity Appropriated is:
3.730 C.F.S. (and/or) A.F.A.

8. Total consumptive use is Acre Feet Per Annum.

9. Non-irrigation uses:

10. Place of Use:

Township	Range	Section	1/4 of	1/4	Lot	Use	Acres
05N	01E	32	NW	NE		IRR	20.0
			NE	NW		IRR	40.0
			NW	NW		IRR	40.0

A63-18700

Page 1

Date: 09/07/89

MICROFILMED
SEP 01 1992

10. Place of Use: Continued

Township	Range	Section	1/4	of	1/4	Lot	Use	Acres
05N	01E	32	SW		NW		IRR	40.0
			SE		NW		IRR	40.0
			SE		SW		IRR	30.0
			NE		SE		IRR	40.0
			NW		SE		IRR	40.0
			SW		SE		IRR	40.0
			SE		SE		IRR	40.0
							Section Acres	370.0
		33	SE		NE		IRR	40.0
			NE		NW		IRR	40.0
			NW		NW		IRR	40.0
			SW		NW		IRR	40.0
			SE		NW		IRR	40.0
			SW		SW		IRR	20.0
			SE		SW		IRR	30.0
			NE		SE		IRR	40.0
			NW		SE		IRR	40.0
			SW		SE		IRR	40.0
			SE		SE		IRR	40.0
							Section Acres	410.0
		34	SW		NE		IRR	40.0
			SE		NE		IRR	40.0
			NE		SW		IRR	40.0
			NW		SW		IRR	40.0
			SW		SW		IRR	40.0
			SE		SW		IRR	40.0
							Section Acres	240.0
							Total Acres	1020.0

11. Place of use in counties: ADA

12. Do you own the property listed above as place of use? YES

13. Other Water Rights Used:
A63-00123

14. Remarks:
THE CFS AMOUNT IN THIS CLAIM IS BASED ON DITCH LOSS. THIS IS
NOT AN ACCURATE AMOUNT BUT IS BEING USED UNTIL THE CORRECT AMOUNT

14. Remarks: Continued
CAN BE DETERMINED BY THIS AGENT.

15. Basis of Claim: BENEFICIAL USE

16. Signature(s)

(a.) By signing below, I/We acknowledge that I/We have received, read and understand the form entitled "How you will receive notice in the Snake River Basin Adjudication." (b.) I/We do _____ do not _____ wish to receive and pay a small annual fee for monthly copies of the docket sheet.

Number of attachments: _____

For Individuals:

I/We do solemnly swear or affirm that the statements contained in the foregoing document are true and correct.

Signature of Claimant(s): Capital Vineyard Dist. Date: 12-4-89
Joe H. Hefner Date: 12-4-89
President

State of Idaho)
County of Ada) SS.

Subscribed and sworn (or affirmed) before me this 4 day
of December 19 89 Jeane Dancy
Notary Public

Seal

Residing at Boise
My Commission Expires 3-18-91

MICROFILMED
SEP 01 1992