

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 63-123E
Date Received: 9/7/1989
Receipt No: X777777
Received By:

NOTICE OF CLAIM TO A WATER RIGHT
ACQUIRED UNDER STATE LAW

1. Name of Claimant(s)

CAPITOL VIEW IRRIGATION INC Phone: (208) 939-7292
C/O PETE NEWTON
PO BOX 208
EAGLE ID USA 83616

2. Date of Priority: 06/01/1864

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	Type
04N	02E	32	SE SE	ADA	

5. Description of diverting works:

2 Pumps, 75 HP & 20 HP, Farmers Union Ditch.

6. Water is used for the following purposes:

Purpose	From	To	C.F.S.	(or) A.F.A
IRRIGATION	03/15	11/15	20	

7. Total Quantity Appropriated is:
20 C.F.S.

8. Total consumptive use:

9. Non-irrigation uses:

10. Place of use:

Township	Range	Section	1/4 of 1/4	Lot	Use	Acres
05N	01E	32	NE	NW	IRRIGATION	40
			SE	NW	IRRIGATION	40
			SW	NW	IRRIGATION	40
			NW	NE	IRRIGATION	20
			NW	SE	IRRIGATION	40
			NE	SE	IRRIGATION	40
			SW	SE	IRRIGATION	40
			SE	SE	IRRIGATION	40
			SE	SW	IRRIGATION	30
					NW	NW
Section Acres						370
05N	01E	33	NW	NW	IRRIGATION	40
			NE	NW	IRRIGATION	40
			SW	NW	IRRIGATION	40
			SE	NW	IRRIGATION	40
			SW	NE	IRRIGATION	40
			SE	SW	IRRIGATION	30
			NE	SE	IRRIGATION	40
			SW	SW	IRRIGATION	20
			NW	SE	IRRIGATION	40
					SE	SE
		SW	SE	IRRIGATION	40	
Section Acres						410
05N	01E	34	SE	NE	IRRIGATION	40
			NW	SW	IRRIGATION	40
			NE	SW	IRRIGATION	40
			SW	SW	IRRIGATION	40
			SE	SW	IRRIGATION	40
			SW	NE	IRRIGATION	40
Section Acres						240
Total Acres						1020

11. Place of use in counties: ADA

12. Do you own the property listed above as place of use? No

13. Other Water Rights Used:

14. Remarks:

Properties are owned by uses of Capitol View, Inc. This water right had previously been split into 63-123A & 63-123B. In this filing they are being recombined, because Transfer 542 was never put into effect.

Change in Place of Use, see Transfer 136.

THIS RIGHT IS A SPLIT FROM FORMER RIGHT 63-123.

15. Basis of Claim: Decreed

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 63-123
Date Received: 9/7/1989
Receipt No: W005677
Received By:

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

1. Name of Claimant(s)

CAPITOL VIEW IRRIGATION INC Phone: (208)939-7292

C/O PETE NEWTON
PO BOX 208
EAGLE ID USA 83616

2. Date of Priority: 06/01/1864

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	Type
04N	02E	32	SE SE	ADA	

5. Description of diverting works:

2 PUMPS, 75 HP & 20 HP, FARMERS UNION DITCH

6. Water is used for the following purposes:

Purpose	From	To	C.F.S.	(or) A.F.A
IRRIGATION	3/15	11/15	20	

7. Total Quantity Appropriated is:
20 C.F.S.

8. Total consumptive use:

9. Non-irrigation uses:

10. Place of use:

Township	Range	Section	1/4 of 1/4 Lot	Use	Acres
05N	01E	32	NE NW	IRRIGATION	40
			SE NW	IRRIGATION	40

			SW	NW	IRRIGATION	40
			NW	NE	IRRIGATION	20
			NW	SE	IRRIGATION	40
			NE	SE	IRRIGATION	40
			SW	SE	IRRIGATION	40
			SE	SE	IRRIGATION	40
			SE	SW	IRRIGATION	30
			NW	NW	IRRIGATION	40
					Section Acres	370
05N	01E	33	NW	NW	IRRIGATION	40
			NE	NW	IRRIGATION	40
			SE	NW	IRRIGATION	40
			SW	NW	IRRIGATION	40
			SW	NE	IRRIGATION	40
			SE	SW	IRRIGATION	30
			NE	SE	IRRIGATION	40
			SW	SW	IRRIGATION	20
			NW	SE	IRRIGATION	40
			SE	SE	IRRIGATION	40
			SW	SE	IRRIGATION	40
					Section Acres	410
05N	01E	34	SE	NE	IRRIGATION	40
			NW	SW	IRRIGATION	40
			NE	SW	IRRIGATION	40
			SW	SW	IRRIGATION	40
			SE	SW	IRRIGATION	40
			SW	NE	IRRIGATION	40
					Section Acres	240
					Total Acres	1020

11. Place of use in counties: ADA

12. Do you own the property listed above as place of use? No

13. Other Water Rights Used:

14. Remarks:

PROPERTIES ARE OWNED BY USERS OF CAPITAL VIEW, INC.
THIS WATER RIGHT HAD PREVIOUSLY BEEN SPLIT TO 63-00123A AND B.
IN THIS FILING THEY ARE BEING RECOMBINED BECAUSE TRANSFER 542 WAS NEVER PUT INTO EFFECT.
CHANGE IN PLACE OF USE-SEE TRANSFER NO. 136, ATTACHED.

15. Basis of Claim: Decreed

CHANGE IN ADDRESS OF NOTICE OF CLAIM

[] Water Right Number (s): 463-123
463-18700

[] Old Mailing Address: Capital View Irrigation, Inc.
c/o Cal Williams
3885 Sycamore Dr. Boise 83703

[] New Mailing Address: PO Box 208
Eagle ID 83616

New Telephone Number: (208) 939-7292

[] Signature of Claimant: [Signature]

Date: 3/4/03 Submitted for
Carol S. Stein
[Signature]

FOR IDWR USE ONLY:

Initial Review and Data-Entry

Date: By:

Further Action Needed:

Further Action Taken

Date: By:

Final Review and Data-Entry

Date: By:

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: A63-00123
Date Received: 9/07/1989
Receipt No: W005677
Received By: _____



NOTICE OF CLAIM TO A WATER RIGHT
ACQUIRED UNDER STATE LAW

Department of Water Resources
Western Regional Office

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

2. Date of Priority: JUN 01, 1864

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 & 20 HP, FARMERS UNION DITCH

6. Water is used for the following purposes:

Purpose	From	To	C.F.S	(or)	A.F.A.
IRRIGATION	03/15	11/15	20.000		

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

8. Total consumptive use is 3570.0 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

A63-00123

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Date: 11/28/89

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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	SW	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? NO

13. Other Water Rights Used:
NONE

14. Remarks:

PROPERTIES ARE OWNED BY USERS OF CAPITAL VIEW, INC.
THIS WATER RIGHT HAD PREVIOUSLY BEEN SPLIT TO 63-00123A AND B.

14. Remarks: Continued

IN THIS FILING THEY ARE BEING RECOMBINED BECAUSE TRANSFER 542 WAS NEVER PUT INTO EFFECT.

CHANGE IN PLACE OF USE-SEE TRANSFER NO. 136, ATTACHED.

15. Basis of Claim: DECREED

Case Number:

Court :

Decree date:

Decree Plaintiff

vs

Decree Defendant

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 View Trust Date: 12-4-89
Don M. Johnson Date: 12-4-89
Don M. Johnson

State of Idaho)
County of Blaine) 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

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: A63-00123
Date Received: 9/05/1989
Receipt No: W5677
Received By: hw

**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: JUN 01, 1864

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

4. Point of Diversion:

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

5. Description of diverting works:
2 PUMPS, 75 HP & 20 HP, FARMERS UNION DITCH

6. Water is used for the following purposes:

Purpose	From	To	C.F.S.	(or)	A.F.A.
IRRIGATION	03/15	11/15	20.000		

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

8. Total consumptive use is 3570.0 Acre Feet Per Annum.

9. Non-irrigation uses:

10. Place of Use:

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

A63-00123

Page 1

Date: 09/07/89

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AUG 14 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	SW		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? NO

13. Other Water Rights Used:
NONE

14. Remarks:

PROPERTIES ARE OWNED BY USERS OF CAPITAL VIEW, INC.
THIS WATER RIGHT HAD PREVIOUSLY BEEN SPLIT TO 63-00123A AND B.

14. Remarks: Continued

IN THIS FILING THEY ARE BEING RECOMBINED BECAUSE TRANSFER 542 WAS NEVER PUT INTO EFFECT.

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15. Basis of Claim: DECREED

Case Number:

Court :

Decree date:

Decree Plaintiff

vs

Decree Defendant

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 Organizations:

I do solemnly swear or affirm that I am President of
Title
Capital View Irr. Dist., that I have signed the foregoing
Organization
document in the space below as President of
Title
Capital View Irr. Dist. and that the statements contained in the
Organization
foregoing document are true and correct.

[Signature]
Signature of Authorized Agent

President Capital View Irr. Dist.
Title and Organization

9-7-1989
Date

State of Idaho)
County of Ada) SS.

Subscribed and sworn (or affirmed) before me this 7 day

of Sept. 19 89

Linda A. Werner
Notary Public

Seal

Residing at Linda A. Werner
Residing at Boise, Idaho
My Commission ~~My Commission~~ Expires December 8, 1994

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AUG 14 1989

Notice of Proposed Transfer of Water Right

Notice is hereby given that THE FEDERAL LAND BANK of SPokane,
Washington, has applied to the Commissioner of Reclamation of the State of Idaho for a certifi-
cate authorizing him to transfer the use of 0.0075 cubic feet per second
of the water of BOISE RIVER
from the land upon which it is now used, i. e. S¹ NW¹, N¹ SW¹ Section 33, Township 5 North,
Range 1 East,
to the following described tract E¹ SW¹, N¹ SW¹, SW¹ SW¹ of Section 4, Township 4 North,
Range 1 East.

And that, on the 25 day of December, A. D.
1923, at Boise, Idaho
before the Commissioner of Reclamation, or his authorized agent, the opportunity will be given to any
and all persons to appear and present for his consideration any reason or reasons why a certificate
should not be issued authorizing such transfer.

R. W. PARIS
Commissioner of Reclamation.

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AUG 14 1992

19.4 T 5N, R 1E, Sec. 32, 33, 34

#542 0.6875c. 83'

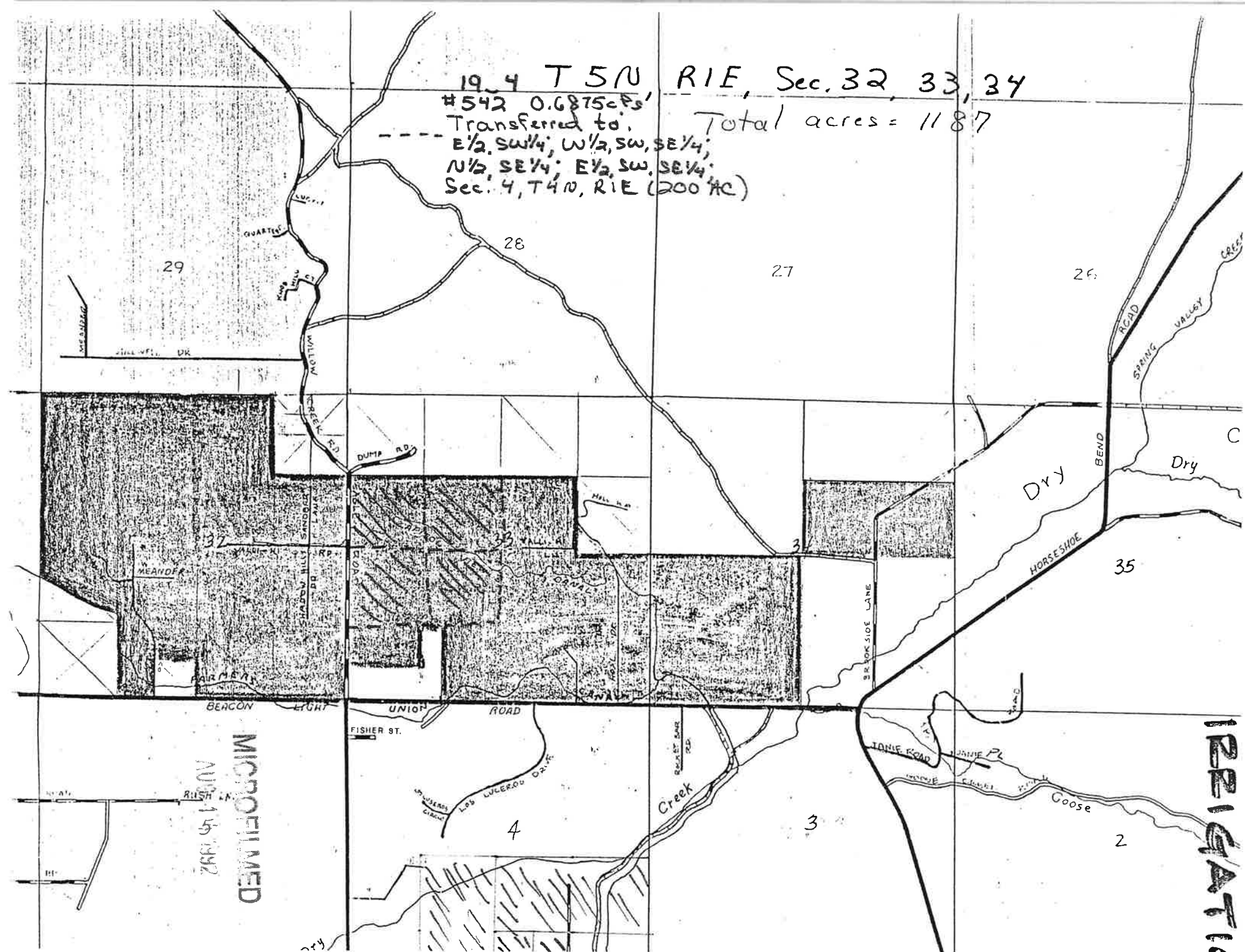
Transferred to:

E 1/2 SW 1/4, W 1/2 SW, SE 1/4;

N 1/2 SE 1/4, E 1/2 SW, SE 1/4;

Sec. 4, T 4N, R 1E (200 AC)

Total acres = 1187



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NOV 15 1992

IRRI GATI

75.3 acres in the S $\frac{1}{2}$ of the SW $\frac{1}{4}$ and the S $\frac{1}{2}$ of SE $\frac{1}{4}$ of Sec. 22; 123.2 acres in the S $\frac{1}{2}$ of the SW $\frac{1}{4}$ and S $\frac{1}{2}$ of SE $\frac{1}{4}$ of Sec. 23; 29 acres in the SW $\frac{1}{4}$ of Sec. 24; the SE $\frac{1}{4}$ of the SE $\frac{1}{4}$ of Sec. 25; the following lands in Sec. 26, the N $\frac{1}{2}$ of the NW $\frac{1}{4}$; the SW $\frac{1}{4}$ of the NW $\frac{1}{4}$ and 26.7 acres of the SE $\frac{1}{4}$ of the NW $\frac{1}{4}$; the NW $\frac{1}{4}$ of the NE $\frac{1}{4}$ and 22.7 acres in the N $\frac{1}{2}$ of the SW $\frac{1}{4}$; the following lands in Sec. 27, S $\frac{1}{2}$ of the NE $\frac{1}{4}$; SW $\frac{1}{4}$ of the S $\frac{1}{2}$ of the SE $\frac{1}{4}$ of the NW $\frac{1}{4}$; the SW $\frac{1}{4}$; 37 acres in the NW $\frac{1}{4}$ of the SE $\frac{1}{4}$; 16.6 acres in the NE $\frac{1}{4}$ of the SE $\frac{1}{4}$; 38.1 acres in the SW $\frac{1}{4}$ of the SE $\frac{1}{4}$ and 7.8 acres in the SE $\frac{1}{4}$ of the SE $\frac{1}{4}$; the following lands in Sec. 28, the SE $\frac{1}{4}$; the S $\frac{1}{2}$ of the SW $\frac{1}{4}$; the NW $\frac{1}{4}$ of the SW $\frac{1}{4}$ and the SW $\frac{1}{4}$ of the NW $\frac{1}{4}$; the following lands in Sec. 29, the SE $\frac{1}{4}$ of the NE $\frac{1}{4}$; N $\frac{1}{2}$ of SE $\frac{1}{4}$ and SE $\frac{1}{4}$ of SE $\frac{1}{4}$; the following lands in Sec. 32, the S $\frac{1}{2}$ of NW $\frac{1}{4}$ of NE $\frac{1}{4}$; the W $\frac{1}{2}$ of the NW $\frac{1}{4}$ of the NW $\frac{1}{4}$ of NE $\frac{1}{4}$; the S $\frac{1}{2}$ of the SW $\frac{1}{4}$ of NE $\frac{1}{4}$; the SE $\frac{1}{4}$; SE $\frac{1}{4}$ of SW $\frac{1}{4}$ and the S $\frac{1}{2}$ of the SW $\frac{1}{4}$ of the SW $\frac{1}{4}$; all of Sec. 33; the following lands in Sec. 34, NW $\frac{1}{4}$; the SW $\frac{1}{4}$; the SE $\frac{1}{4}$; the S $\frac{1}{2}$ of the NE $\frac{1}{4}$; 37.3 acres in the NW $\frac{1}{4}$ of the NE $\frac{1}{4}$ and 23 acres in the NE $\frac{1}{4}$ of the NE $\frac{1}{4}$; the following lands in Sec. 35, 23.3 acres in the SE $\frac{1}{4}$ of the NE $\frac{1}{4}$; 5.2 acres in the NW $\frac{1}{4}$ of the NW $\frac{1}{4}$; 9.2 acres in the NW $\frac{1}{4}$ of the SW $\frac{1}{4}$; 8.1 acres in the NE $\frac{1}{4}$ of the SW $\frac{1}{4}$; 33 acres in the SW $\frac{1}{4}$ of the SE $\frac{1}{4}$; 36 acres in the SE $\frac{1}{4}$ of the SW $\frac{1}{4}$; the S $\frac{1}{2}$ of the SE $\frac{1}{4}$; the NE $\frac{1}{4}$ of the SE $\frac{1}{4}$; 38 acres in the NW $\frac{1}{4}$ of the SE $\frac{1}{4}$, an irregular tract comprising 300 acres and being a part of each subdivision of forty acres in Sec. 36; also the following lands in T. 4 N. R. 2 W. B. M. in Canyon County, Idaho, to-wit: Lots 1, 2, 3 and 4 in Sec. 2; Lot 1 and the N 15 acres of Lot 4 in Sec. 3; Lot 4 in Sec. 4; Lot 1 and the N 32 acres of Lot 3 in Sec. 5, contiguous lands containing in all 3081 acres, more or less.

Dated Boise, Idaho, this 8th day of June, 1914.

F.P. King,

State Engineer.

Approved J. H. Peterson, Atty. Gen.

IN THE DISTRICT COURT OF THE UNITED STATES, IN AND FOR THE
DISTRICT OF IDAHO, SOUTHERN DIVISION.

United States of America,

Plaintiff,

vs.

Boise Fruit Tracts Company, and

J.H. Smith, State Engineer of the
State of Idaho.

Defendants.

J U D G M E N T.

This cause came on regularly to be heard on the 31 day of July, 1916,
J.L. McClear, United States District Attorney, and B.E. Stoutemeyer, District Counsel,
United States Reclamation Service, appearing as counsel for the Plaintiff and T.L.

Martin and B.F. Neal, for the Defendant, Boise Fruit Tracts Company, and Defendant J.H. Smith, State Engineer of the State of Idaho, appearing in person. A Stipulation for judgment, signed by the respective parties Plaintiff and Defendant, either in person or by attorney, for a judgment herein was presented, and the cause was on said Stipulation submitted to the Court for consideration and decision.

WHEREFORE, By reason of the Stipulation aforesaid, it is ordered and adjudged that the said Plaintiff's application for an injunction against the transfer of that certain water right, known and described as the Jacobs Canal water right, for 1000 miners inches, or 20 cubic feet per second of time, of a date of priority of June 1st, 1864, and designated in that certain Decree of the District Court of the Seventh Judicial District of the State of Idaho, wherein the Farmers' Co-operative Ditch Company, a corporation, was Plaintiff and the Riverside Irrigation District, Ltd., et al, were Defendants, dated the 18th day of January, 1906, as "Right No.2", be, and the same is, hereby denied; and it is further adjudged that the transfer of the said water right of the Jacobs Canal Company, as provided in that certain Order of the State Engineer of the State of Idaho, dated June 8th, 1914, and set forth and described in the said Complaint, transferring the point of diversion of the said water right to the head-gate of the canal of the Farmers Union Canal Company, be, and the same is hereby confirmed as valid and legal, and the diversion of the said water right at said new point of diversion, to-wit, at the head-gate of the canal of the said Farmers Union Canal Company, be, and the same is hereby allowed and confirmed.

It is further ordered and adjudged that the said Defendants, their agents, servants, employees, and assigns, and all persons acting under or by authority of the said Defendants, or any of them, be and they are hereby perpetually enjoined and restrained from diverting the other water rights mentioned in the Complaint herein, or either or any of them, at any point other than the points named in the original Decree of the District Court of the Seventh Judicial District of the State of Idaho, hereinbefore referred to, said water rights, the diversions of which is hereby enjoined, are more particularly described in the said Order of the State Engineer and in said Complaint herein as follows:

All the water rights appurtenant to that part of Lots 1, 2, and 3 in Sec. 12, T. 4 N., R. 4 W., B.M. and that part of Lots 3, 4, and 5 in Sec. 7, T. 4 N., R. 3 W., B.M. which lie on the Southerly side of the present main channel of the Boise River, area 200 acres; the W. 25 acres of the NE $\frac{1}{4}$ of the NW $\frac{1}{4}$ of Sec. 14; the E $\frac{1}{2}$ of the NE $\frac{1}{4}$ of Sec. 23; the E $\frac{1}{2}$ of the SE $\frac{1}{4}$ of Sec. 14; the W 30 acres of the NW $\frac{1}{4}$ of the NE $\frac{1}{4}$ of Sec. 13 all in T. 4 N., R. 4 W., B.M.; and the NW $\frac{1}{4}$ of the NE $\frac{1}{4}$ of Sec. 19, T. 4 N., R. 3 W., B.M.; said water being heretofore diverted through the Pioneer Dixie Ditch the point of diversion of which is described in said decree as follows, to-wit:

The point of diversion is on the left bank of the Boise River in the SW $\frac{1}{4}$ of Sec. 20, T. 4 N. R. 3 W., B.M. Said waters appurtenant to said lands hereinabove described being part of rights Nos. 8 and 45 set out in said decree hereinabove referred to.

All water rights appurtenant to the E $\frac{1}{2}$ of Sec. 8 and all of Sec. 9, T. 4 N., R. 4 W., B.M. said water being heretofore diverted through the Riverside Canal, the point of diversion of which from the Boise River is described in said decree as follows; to-wit: The point of diversion is on the left bank of the Boise River near the

center of Sec.20, T. 4 N., R. 3 W., B.M., and said waters appurtenant to said lands hereinbefore described being all of Right No. 88 as set out in said decree hereinabove referred to.

All the water rights appurtenant to the SW $\frac{1}{4}$ of the SE $\frac{1}{4}$ of Sec.31, T. 5 N., R. 4 W., B.M., said water being heretofore diverted through the Eureka No.2 ditch the point of diversion of which from the Boise River is described in said decree as follows, to-wit: The Point of diversion is on the left bank of the Boise River near the SW corner of Sec.12, T. 4 N., R. 4 W., B.M. Said water appurtenant to said lands hereinabove described being a part of Right No.88 as set out in said decree hereinabove referred to.

And it is further ordered, adjudged and decreed that the permanent injunction of this Court issue herein, directed to the said Defendants, their servants, agents, employees, and attorneys, requiring them, and each of them, to perpetually refrain from diverting said described water rights, except the said described Jacobs Canal water right, into the said canal of the Farmers Union Canal Company, under said Order of the said State Engineer, or otherwise.

It is further ordered, and adjudged that the respective parties hereto shall each pay its own costs incurred herein.

Frank S. Dietrich.

UNITED STATES OF AMERICA

DISTRICT OF IDAHO,) ss.

I, W.D. McReynolds, Clerk of the United States District Court for the District of Idaho, do hereby certify that the foregoing copy of Judgment in cause No. 168, the United States, vs. Boise Fruit Tracts Company, and J.H. Smith, as State Engineer of the State of Idaho, has been by me compared with the original, and that it is a correct transcript therefrom and of the whole of such original, as the same appears of record and on file at my office and in my custody.

In testimony whereof, I have set my hand and affixed the seal of said Court in said District this 31st day of July, 1916.

(SEAL)
10 cent Revenue Stamp
attached.

W.D. McReynolds, Clerk.

IN THE MATTER OF THE APPLICATION OF
THE BOISE FRUIT TRACTS COMPANY, FOR THE
TRANSFER OF BOISE RIVER WATER RIGHTS.

I, J.H. Smith, State Engineer of the State of Idaho, hereby certify that on the 19th day of June, 1914, the State Engineer of the State of Idaho issued to the Boise Fruit Tracts Company, a Certificate of Transfer authorizing the transfer of the points of diversion and the place of use of certain water rights held by the above named Company, said points of diversion and place of use being described in the original decree entitled: "Farmers' Co-operative Ditch Company, Plaintiff, vs., Riverside Irrigation District, et al., Defendants", as follows, to-wit:

(1) All the water rights appurtenant to that part of Lots 1, 2, and 3 in Sec. 12, T. 4 N., R. 4 W., B.M., and that part of Lots 3, 4 and 5 in Sec. 7, T. 4 N., R. 3 W., B.M. which lie on the southerly side of the present main channel of the Boise River, area 200 acres; the W. 25 acres of the NE $\frac{1}{4}$ of the NW $\frac{1}{4}$ of Sec. 14; the E $\frac{1}{2}$ of the NE $\frac{1}{4}$ of Sec. 23; the E $\frac{1}{2}$ of the SE $\frac{1}{4}$ of Sec. 14; the W. 30 acres of the NW $\frac{1}{4}$ of the NE $\frac{1}{4}$ of Sec. 13, all in T. 4 N., R. 4 W., B.M.; and the NW $\frac{1}{4}$ of the NE $\frac{1}{4}$ of Sec. 19, T. 4 N., R. 3 W., B.M.; said water being diverted through the Pioneer Dixie Ditch, the point of diversion of which is described in said decree as follows, to-wit: The point of diversion is on the left bank of the Boise River in the SW $\frac{1}{4}$ of Sec. 20, T. 4 N., R. 3 W., B.M. Said waters appurtenant to said lands hereinabove described being a part of rights Nos. 8 and 45, as set out in said decree hereinabove referred to.

(2) All the water rights appurtenant to the E $\frac{1}{2}$ of Sec. 8 and all of Sec. 9, T. 4 N., R. 4 W., B.M., said water being heretofore diverted through the Riverside Canal, the point of diversion of which from the Boise River is described in said decree as follows, to-wit: The point of diversion is on the left bank of the Boise River near the center of Sec. 20, T. 4 N., R. 3 W., B.M., said waters appurtenant to said lands hereinabove described being all of Right No. 88, as set out in said decree hereinabove referred to.

(3) All the water rights appurtenant to the SW $\frac{1}{4}$ of the SE $\frac{1}{4}$ of Sec. 31, T. 5 N., R. 4 W., B.M., said water being heretofore diverted through the Eureka No. 2 Ditch, the point of diversion of which from the Boise River is described in said decree as follows, to-wit: The point of diversion is on the left bank of the Boise River near the S.W. corner of Sec. 12, T. 4 N., R. 4 W., B.M. Said water appurtenant to said lands hereinabove described being a part of Right No. 89, as set out in said decree hereinabove referred to.

That, under and by virtue of a Judgment issued by the District Court of the United States, in and for the District of Idaho, Southern Division, in the matter of the United States of America, Plaintiff, vs., Boise Fruit Tracts Company and J.H. Smith, State Engineer of the State of Idaho, Defendants, all of the above described water rights must hereafter be diverted from the Boise River at the points and through the canals described in the decrees hereinabove referred to and shall be used upon the lands described in said decree and not upon the lands described in State Engineer's Certificate of Transfer, hereinabove referred to, under the heading, "Point to Which Transferred and Place of Use."

IN WITNESS WHEREOF, I have hereunto set my hand and affixed the seal of my office at Boise, Idaho, this 14th day of October, A. D. 1916.

J.H. SMITH,
State Engineer

(SEAL)

06/15/2005

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

RIGHT NUMBER: 63-123E

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

SOURCE: BOISE RIVER

TRIBUTARY: SNAKE RIVER

QUANTITY: 7.000 CFS

PRIORITY DATE: 06/01/1864

POINT OF DIVERSION:
T03N R02E S5 NESENE 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	7.000 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 - Decreed

WATER IS DELIVERED THROUGH THE FARMERS UNION CANAL

THIS RIGHT IS DESIGNATED AS NO 2 IN THE STEWART DECREE AND THE
BOISE WATER MASTERS RECORDS

This right is a split from former right 63-123.

THE FOLLOWING RIGHTS ARE ALSO DIVERTED THROUGH POINT OF
DIVERSION DESCRIBED ABOVE: 63-120G, 63-123C, 63-123D, 63-123F,
63-123G, 63-124Q, 63-125J, 63-126F, 63-165M, 63-198AG, 63-248,
63-297, 63-2360, 63-21729, 63-18700, 63-31832, 63-31937

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

05/09/2005

RECEIVED

JUN 22 2005

WATER RESOURCES
WESTERN REGION

NOTICE OF ERROR
REPLY

Please type or print clearly, fill out this form completely and mail.

Return this reply form to IDWR by the deadline date printed below if you want IDWR to change your recommendation or you want to let IDWR know that you agree with its recommendation.

YOUR DEADLINE FOR RETURNING A NOTICE OF ERROR REPLY IS: June 24, 2005

Water right number: 63-123E

CAPITOL VIEW IRRIGATION INC

C/O PETE NEWTON

PO BOX 208

EAGLE ID 83616

Telephone Number: (208) 939-7292

1. Describe the portion of the proposed recommendation with which you disagree (e.g. priority date, period of use, source):

Please see the attached "Notice of Error Reply".

2. Describe the changes you wish to make in the proposed recommendation:

Please see the attached "Notice of Error Reply"

3. Give a brief explanation as to why you disagree with these portions:

Please see attached.

Do Not
I AGREE with this proposed recommendation: no changes need to be made.

DATE: 6/22/05

SIGNATURE:

Please print your name: Pete Newton, for Capital View Irrigation

IDWR Regional Office, 2735 Airport Wy, Boise, ID 83705, 2083342190

05/09/2005

RECEIVED
JUN 22 2005
WATER RESOURCES
WESTERN REGION

NOTICE OF ERROR
REPLY

Please type or print clearly, fill out this form completely and mail.

Return this reply to IDWR by the deadline date printed below if you want IDWR to change your recommendation or you want IDWR to know that you agree with its recommendation.

YOUR DEADLINE FOR RETURNING A NOTICE OF ERROR REPLY IS: JUNE 24, 2005

Water right number: 63-123E

CAPITAL VIEW IRRIGATION INC
C/O PETE NEWTON
PO BOX 208
EAGLE ID 83616
Telephone Number: (208) 939-7292

1. Describe the portion of the proposed recommendation with which you disagree (e.g. priority date, period of use, source):

It appears that the quantity and priority date in IDWR's "PRELIMINARY RECOMMENDATION" are both significantly incorrect, and in the draft description of purpose and period of use it specifies that Capital View's water right (Jacobs water) shall be subject to proportional reductions as stipulated in a court decision regarding other water rights in 1919. IDWR's current recommendation apparently would contradict the Idaho Supreme Court decision in Farmers Cooperative Ditch Co. v. Riverside Irrigation District, 16 Idaho 525, 102 Pac.481 (1909) (see also Farmers Union Ditch Company's Notice of Error Reply, and recent communications between Mr. Kiser and IDWR's Mr. Schulte). Also, there are several new restrictions specified in the draft recommendations regarding CVID's use and access to CVID's long-established water right that to our knowledge have no legal basis.

Change made to remove step down remark!

Quantity: The recommended quantity for Capital View Irrigation District (CVID) is 0.910 CFS. CVID believes the correct quantity, as has been beneficially in use by CVID since 1920, and since prior to 1865 by CVID's predecessors, is 7.5 cfs (375 Idaho Miner's Inches). CVID has, and has provided to IDWR, substantial documentation demonstrating this well-established use. Farmers Union has also provided documentation of this historical amount of diversion as part of the Jacobs Water diverted by Farmers Union since about 1920.

Priority Date: IDWR is recommending a priority date of 1/20/1906. The well-established and previously adjudicated priority date of the CVID (Jacobs) water right is June 1, 1864. This priority date for CVID's water also arose from Farmers Cooperative Ditch Co. v. Riverside Irrigation District, (believed to be now referred to as the "Stewart Decree" of 1905). The language from this decree is: "That the defendant the Jacobs Canal Company, Limited, be and it is hereby awarded the use of the waters of Boise River, diverted from a point on the north side of said river about one mile east of the east boundary line of the original townsite of Boise City, Idaho, through what is commonly known as the Jacobs Canal, for use upon the town lots and lands lying under said canal in Secs. 4, 9, 10, 11, 13, 14, T. 3 N. R. 2 E. B.M., in the following amount from the following date;

1000 inches, from June 1, 1864; and hereby designated as Right No. 2 and adjudged to pay \$70.00 costs, in addition to the costs incurred by

it." [Point of diversion, conveyance, and place of use later changed in accordance with the laws and regulations extent at the time of the changes.]

With respect to the question of Jacobs Water being subject to the proportional reductions specified in the 1919 case before Judge Brian, please see the citation above. Based on the limited documentation with which CVID is familiar, CVID does not believe that CVID's water is subject to proportional reductions as recommended or stipulated by Judge Brian, nor has CVID ever been subject to the Bryan Decree proportional reductions. Because CVID does not now have adequate water rights to adequately serve all the irrigated lands within CVID, to now subject CVID to proportional reductions, after approximately 140 years of beneficial use, would cause great hardship to and significantly damage CVID.

2. Describe the changes you wish to make in the proposed recommendation:

- i. Right Number: The historical Jacobs Water water right number was initially number "2", later identified as right number 63-0123, which is the water right which CVID still owns part of. If the water right number shown in the IDWR recommendation refers to a pre-existing water right number, please indicate the correct pre-existing water right number.
- ii. Quantity: It is believed that the appropriate CVID quantity is 375 Idaho Miner's inches, 7.5 CFS, not 0.910 CFS as shown in the preliminary recommendation.
- iii. Priority date: It is CVID's understanding that the priority date of the CVID (Jacobs) water right is June 1, 1864, so this is the date that CVID believes should appear as the priority date.
- iv. Purpose and period of use: As per the court stipulations in the early 1900's, it would appear that the appropriate language for CVID's water right purpose and period of use would be:
"375 inches from the Boise River for irrigation, originally established as Boise River water right No. 2."

Delete all of the new restrictions listed regarding CVID's access to and use of CVID's water right, all of the proposed paragraph following the first 15 words of this paragraph.

3. Give a brief explanation as to why you disagree with these portions:

These explanations are stated in items "1" and "2" above.

MEMORANDUM

**TO: DAVE TUTHILL, JAN SCHURTE, MEL SCHULTE, SUSAN
HAMLIN-NYGARD**

FROM: NICK SPENCER

RE: UNCUTTABLE RIGHTS IN BOISE RIVER

DATE: JUNE 7, 2005

Our decision to place the step-down remark on the Jacobs and Perrault/Johnson rights in order to place the burden on the local legal community to search for the missing court ruling making these two rights "uncuttable" has paid off. Jerry Kiser has provided us an explanation that seems credible to me. Based on this explanation I recommend that the step-down remark be removed from these two rights. Jerry Kiser's analysis is explained below.

The "missing" language is found in the 1909 supreme court decision on appeal of the Stewart Decree, Farmers' Cooperative Ditch Co. v. Riverside Irr. Dist., 16 Idaho 525, 102 P. 481 (1909). This is the case where the supreme court remanded the case back to Judge Stewart for a determination of the duty of water.

On page 536 of that decision, the supreme court expressly addresses the two rights in question, which it notes are listed as "Allotment No. 2" (Jacobs) and "Allotment No. 30" (Perrault and Johnson). It describes the purpose of these rights and notes they are to be remanded for determination of a duty of water, using the following language:

These two water rights are used primarily for sale, rental, and distribution for municipal and domestic purposes, and the sprinkling of streets and lawns and irrigating trees and shrubbery and flushing sewers in Boise City. These allotments, numbered 2 and 30, have been properly established and decreed and are hereby affirmed. But the duty of water to be used under such allotments, and the necessity for its application and the extent of its use, will be subjects of examination on a new trial in establishing the duty of water to be used and applied under these respective priorities.

Id. Thus the two rights were to be remanded back to the trial court for a determination of the duty of water. However, immediately following this decision, the supreme court appended its decision on a petition for rehearing of its decision. In its decision on the petition for rehearing the court modified its original order on remand. It stated as follows:

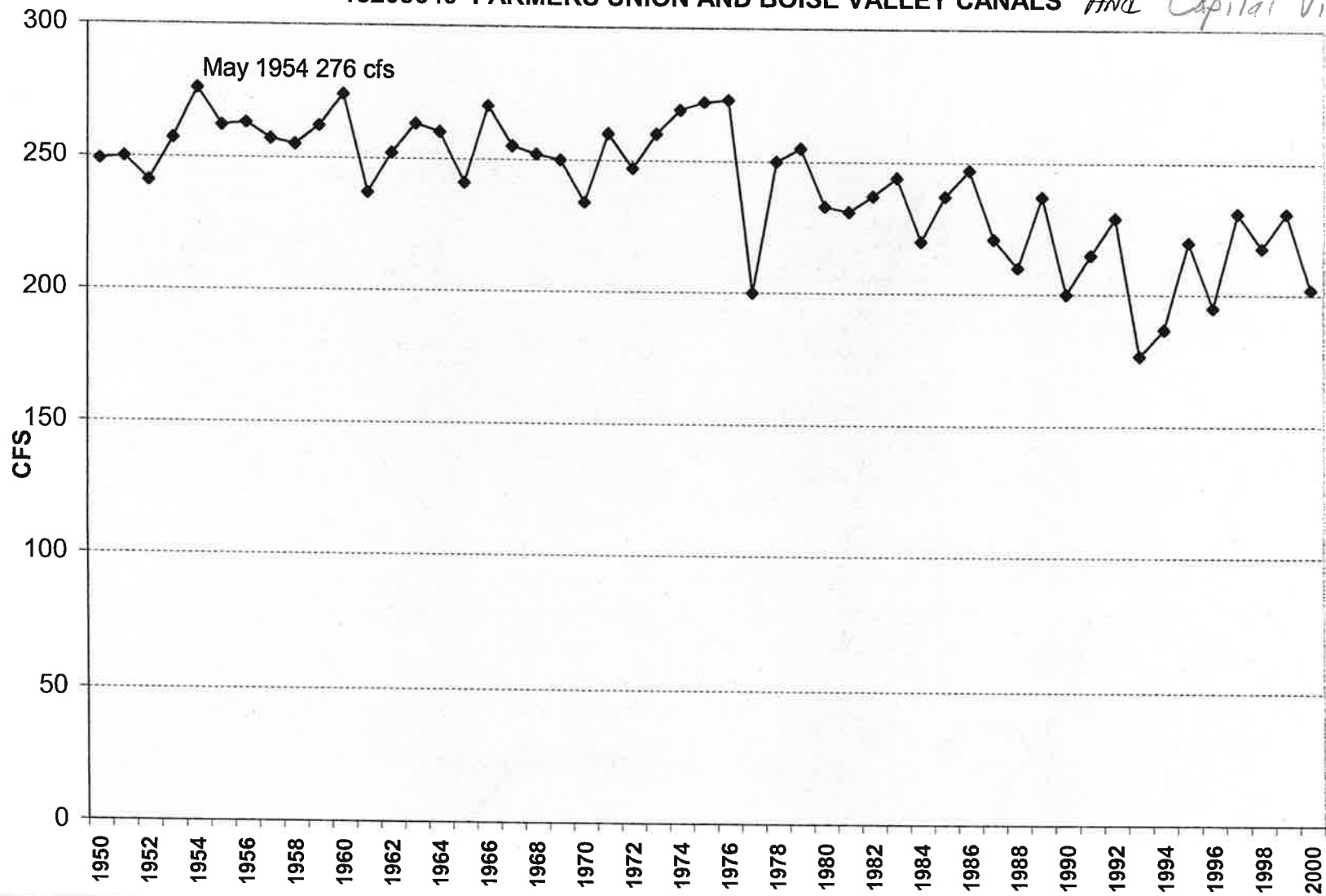
[T]he former opinion of this court must be so modified as to make the new trial apply to acreage tracts and not to the irrigation of certain town lots, street sprinkling, parking purposes, sewerage, domestic and power purposes. On a re-examination of the record, we conclude that the judgment of the trial court should be affirmed except as to the question of the duty of water for the irrigation and cultivation of agricultural lands and acreage tracts. The question of duty of water for acreage purposes is the only question to be determined in a new trial as far as the duty of water is concerned.

Id. at 539-540. In other words, it was only the *irrigation* rights that were remanded back to the trial court. The non-irrigation rights were affirmed as they were described in the original Stewart Decree; they were not remanded back to the trial court. Thus the Jacobs, and Perrault/Johnson rights, not being irrigation rights, were affirmed rather than remanded back to the trial court. Since they were not remanded back to the trial court they were not among the group of rights before Judge Bryan when he entered the order for the step-down provision. Thus they were not—and are not—subject to that step-down provision. They are “uncuttable.”

I find Jerry Kiser’s analysis persuasive. Please let me know what you think.

MAXIMUM MONTHLY DIVERSION 1950-2000

13205640 FARMERS UNION AND BOISE VALLEY CANALS *And Capital View*



13205640 HISTORIC DIVERSION OF FARMERS UNION AND BOISE VALLEY CANALS (CFS)

W-YR	OCT	NOV	DEC	JAN	FEB	MAR	APR	MAY	JUN	JUL	AUG	SEP	ANN
1950	44	0	0	0	0	0	104	229	245	249	192	163	1227
1951	57	0	0	0	0	0	131	216	240	250	210	160	1265
1952	54	0	0	0	0	0	59	231	220	241	207	165	1176
1953	54	0	0	0	0	0	129	229	168	257	220	188	1245
1954	62	0	0	0	0	0	126	276	235	260	207	176	1343
1955	60	0	0	0	0	0	27	145	262	239	218	176	1127
1956	44	0	0	0	0	0	148	237	260	263	223	185	1361
1957	55	0	0	0	0	0	34	176	257	249	221	181	1173
1958	62	0	0	0	0	0	67	226	218	255	233	181	1243
1959	62	0	0	0	0	0	175	237	262	241	221	106	1304
1960	21	0	0	0	0	0	129	244	274	242	211	171	1294
1961	57	0	0	0	0	0	101	237	217	189	189	109	1099
1962	20	0	0	0	0	0	101	197	242	252	231	195	1237
1963	44	0	0	0	0	0	79	239	234	263	242	171	1273
1964	54	0	0	0	0	0	101	226	190	260	239	185	1255
1965	47	0	0	0	0	0	84	241	237	241	220	180	1249
1966	75	0	0	0	0	0	188	270	232	221	200	126	1312
1967	39	0	0	0	0	0	118	250	203	255	208	133	1207
1968	26	0	0	0	0	0	134	247	252	215	114	151	1140
1969	37	0	0	0	0	0	97	250	245	223	229	158	1241
1970	36	0	0	0	0	0	72	231	232	234	218	150	1173
1971	57	0	0	0	0	0	52	254	230	260	236	183	1272
1972	29	0	0	0	0	0	60	236	230	247	234	171	1209
1973	65	0	0	0	0	0	126	250	260	231	211	148	1292
1974	21	0	0	0	0	0	39	252	269	257	246	188	1272
1975	50	0	0	0	0	0	8	174	272	268	241	203	1217
1976	68	0	0	0	0	0	62	273	252	262	207	151	1275
1977	46	0	0	0	0	0	136	168	197	200	197	138	1080
1978	23	0	0	0	0	0	29	171	250	247	220	146	1085
1979	65	0	0	0	0	0	42	221	255	224	176	138	1122
1980	39	0	0	0	0	0	55	189	208	233	200	143	1067
1981	63	0	0	0	0	0	30	179	213	231	205	161	1083
1982	46	0	0	0	0	0	42	195	237	216	215	150	1100
1983	36	0	0	0	0	0	34	135	244	223	210	160	1040
1984	47	0	0	0	0	0	32	184	198	220	207	160	1047
1985	55	0	0	0	0	0	59	220	237	210	179	118	1077
1986	26	0	0	0	0	0	62	181	234	246	247	126	1121
1987	11	0	0	0	0	0	92	221	200	190	185	104	1005
1988	3	0	0	0	0	0	74	210	203	150	137	84	861
1989	13	0	0	0	0	0	24	216	237	213	185	134	1023
1990	46	0	0	0	0	0	84	184	173	200	151	108	945
1991	57	0	0	0	0	0	66	159	215	179	153	74	903
1992	33	0	0	0	0	0	77	229	155	109	102	97	803
1993	44	0	0	0	0	0	13	135	175	177	148	145	837
1994	50	0	0	0	0	0	133	187	187	172	171	143	1043
1995	62	0	0	0	0	0	50	163	220	215	182	161	1053
1996	59	0	0	0	0	0	39	145	195	189	172	151	949
1997	78	0	0	0	0	0	123	215	220	231	226	166	1259
1998	88	0	0	0	0	0	87	151	163	218	198	158	1064
1999	59	0	0	0	0	0	101	182	210	231	210	153	1145
2000	42	0	0	0	0	0	86	189	202	174	156	138	986
AVERAGE: 1950-2000	47	0	0	0	0	0	81	210	225	226	201	151	1141

IDAHO DEPARTMENT OF WATER RESOURCES

Adjudication Recommendation Report 63-123E V1

WATER RIGHT NUMBER: 63-123E 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: 06/01/1864

Basis: Decreed

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	7.000 CFS	
	<u>Total Diversion:</u>	7.000 CFS	

Location of Point(s) of Diversion

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

Place of UseConditions 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.
2. 155 This right shall receive 100 percent of its decreed quantity until the natural flow of the waters of the Boise River shall decrease so that all rights containing this condition cannot receive 100 percent of their decreed quantities, at which time this right and the other rights containing this condition shall first be cut to 75 percent of their decreed quantities, as the natural flow of the river decreases, beginning with the latest rights containing this condition and preceding to the earliest rights containing this condition in the order of their priority dates, and after all of the rights containing this condition shall have been reduced to 75 percent of their decreed quantities, should the natural flow of the waters of the river decrease below the amount necessary to supply 75 percent of those decreed quantities, then this right and the other rights containing this condition, beginning with the latest and preceding to the earliest, shall be reduced to 60 percent of their decreed quantities.
3. C03 Right includes accomplished change in point of diversion pursuant to Section 42-1425, Idaho Code.
4. 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.

IDAHO DEPARTMENT OF WATER RESOURCES

Adjudication Recommendation Report 63-123E V1

5. 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.

Remarks:

1. Explanatory THIS RIGHT IS DESIGNATED AS NO 2 IN THE STEWART DECREE AND THE BOISE WATER MASTERS RECORDS
2. Quantity THIS RIGHT WHEN COMBINED WITH ALL OTHER RIGHTS SHALL PROVIDE NO MORE THAN .02 CFS PER ACRE AT THE FIELD HEADGATE.
3. Explanatory WATER IS DELIVERED THROUGH THE FARMERS UNION CANAL
4. Explanatory THE FOLLOWING RIGHTS ARE ALSO DIVERTED THROUGH POINT OF DIVERSION DESCRIBED ABOVE: 63-120G, 63-123C, 63-123D, 63-123F, 63-123G, 63-124Q, 63-125J, 63-126F, 63-165M, 63-198AG, 63-248, 63-297, 63-2360, 63-21729, 63-18700, 63-31832, 63-31937
5. Place of Use - Irrigation THIS RIGHT IS LIMITED TO THE IRRIGATION OF 682 ACRES WITHIN THE BOUNDARY OF THE CAPITAL VIEW IRRIGATION DISTRICT
6. Explanatory This right is a split from former right 63-123.

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) 63-123EOwner: Capital View Irrigation Phone No. 345-7655 = Pete Newton

Current Address: _____

☒ No change NAME IS THE SAME☐ NEW OWNER _____☐ No change Address☒ NEW ADDRESS☐ How long owned property? _____PO Box 208, Eagle 83616

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: 6-1-1864 = as decreed

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

Source: Bonnie 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
		NE	SE	NE	5	3N	2E	Ada	GPS & USGS top map

Description of diverting works

Delivered by Farmers Union Ditch Co.

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:

Capital View Irrigation, Boise Valley Ditch Co, East Wells Development and Farmers Union are diverted at the Farmers Union Canal Co POP.

WATER USES☒ No change☐ Different Uses

Use Irrigation From 3-1 To 11-15 Amount 8.06 CFS _____ AFA _____

Use _____ From _____ To _____ Amount _____ CFS _____ AFA _____

Use _____ From _____ To _____ Amount _____ CFS _____ AFA _____

TOTAL VOLUME – Groundwater only NA

- ☐ 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:

Limited to 682 acres within the Boundary of Capital View Irrigation			NE				NW				SW				SE				Totals
Place of Use			NE	NW	SW	SE	NE	NW	SW	SE	NE	NW	SW	SE	NE	NW	SW	SE	
TWP	RGE	SEC																	

Overlap with other water rights: Capital View also has 760 acre feet of storage in Anderson Ranch and Lucky Peak Reservoirs
 Does overlap increase rate of flow, volume, additional acres, different source for same acres? Explain:
No - storage supplements live flow water

Delivery System Narrative: Water is pumped from the Farmers Union canal to land above the canal and delivered in ditches to the individual users who pressure sprinkle systems to apply the water.

Well or Diversion Identification No GPS ID	Motor Make	Hp	Motor Serial No.	Pump Make	Pump Serial No. or Discharge size
<u>NA</u>					

FLOW MEASUREMENTS:

Attach appropriate documents

NARRATIVE/REMARKS/COMMENTS

Designated as No. 2.
The allocation of this right is based on an agreement that transferred 1/3 of the right to Farmers Union Ditch Company as compensation for delivering it. The remaining 2/3 has been divided and delivered to seven individuals and entities. (See attached letter dated 6-15-2004)
Because Farmers Union claimed the entire right, the unclaimed parts will be recommended to Farmers Union

in addition to their $\frac{1}{3}$ share. This allocation was reviewed with Pete Heyton and confirmed by him with the Capital View Irrigation Board. See the attached notes.

The diversion rate includes 350" as assessed by Sammers plan 55" for delivery loss = 403" in 18.56 cfs.

See 63-18700 for delivery loss

See ~~the~~ the attached memo dated 3-8-2005 for additional information.

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:

3-8-2005

FIELD EXAMINER:

Nel Schulte

MEMORANDUM

FROM: Mel Schulte

TO: FILE

RE: A summary of information concerning the Jacobs Canal Company water right 63-123.

DATE: July 1, 2005

HISTORICAL INFORMATION

Water right 63-123 was awarded in the Stewart Decree as Right No. 2 to the Jacobs Canal Company with a priority date of June 1, 1864. The decree specified an amount of 1000 inches to be diverted from the north side of the Boise River about one mile east of the original Boise City town site to be used in Secs. 4, 9, 10, 11, 13, 14; T03N, R02E. This is possibly one of the rights that cannot be cut in times of scarcity.

An approved water right transfer dated June 8, 1914 changed the point of diversion to the Farmer's Union Canal. The transfer describes a detailed place of use in T05N, R01W, T05N, R02W and T04N, R02W.

An agreement dated July 17, 1916 between Farmer's Union Ditch Company and W. A. Keyt, who is described in the agreement as the owner of the Jacobs Canal Company right, splits the ownership of right 63-123. This contract gives Farmer's Union Ditch Company one-third of the right as compensation for delivering the remaining two-thirds of the right to land of interest to Keyt in T05N, R01E. This parcel in T05N, R01E is apparently the same land that was organized as Capital View Irrigation District in 1922.

An approved transfer dated December 31, 1934 split .6875 cfs of the Jacobs Canal Company right into the ownership of the Federal Land Bank to be used on land in Sec. 4, T04N, R01E. This right is designated as 63-123A in the water right records but no specific claim was filed in the SRBA for this split and there is no proof the transfer was ever perfected.

OWNERSHIP ISSUE

It is an accepted fact Farmer's Union Ditch Co. was conveyed one-third or 333 inches of right 63-123 by virtue of the July 17, 1916 agreement and W. A. Keyt retained ownership of the remaining two-thirds or 667 inches.

Capital View Irrigation District, the apparent successor of interest to W. A. Keyt, has indicated they have historically been delivered and assessed for only 350 inches of the 667 inches retained by W. A. Keyt.

If Farmer's Union owns one-third of 63-123 and Capital View Irrigation claims to own approximately one-third of the right an issue to be resolved is who owns the remaining one-third. There are no water right records that address the ownership issue nor are there any water right records that accurately describe the places of use for the entire right.

The Boise River water master's records and the Farmer's Union Ditch Company records indicate the entire right has been historically diverted into the Farmer's Union Canal.

The Lexington Hills subdivisions were developed by Lexington Hills, Inc on land previously owned by the Holgate family. A series of deeds conveyed the land in parcels from the Holgates to Lexington Hills, Inc.

Lexington Hills, Inc executed The Declaration Of Covenants, Conditions, Restrictions and Easements for Lexington Hills which authorized the formation of a homeowners association to be responsible for various maintenance and operations including the irrigation system. Lexington Hills Homeowners' Association, Inc was formed in 1992.

The common areas within Lexington Hills development were conveyed in a series of 16 deeds from Lexington Hills, Inc to Lexington Hills HOA dating from 1992 to 2001. Six of the deeds include the conveyance of water totaling 119.40 inches of Jacobs water. The remaining 10 deeds are silent as to water. Twelve of the deeds reserve a perpetual 10' right-of-way for the irrigation system to the grantor, Lexington Hills, Inc.

FARMER'S UNION DITCH COMPANY RECORDS

Farmer's Union Ditch Co. records provide some information that can assist in determining who might own the portion of 63-123 not allocated to Farmer's Union and Capital View Irrigation. As of June 15, 2004 (See attached letter) Farmer's has been delivering and assessing 308 inches of the Jacobs right as described below:

Green Acres/Richard Hormaechea	34.0 inches	*
Echo Creek HOA	33.77 inches	*
Lexington Hills, Inc	96.4 inches	
Lexington Hills, HOA	107.6 inches	
Ilene Stinar	10.0 inches	*
East Hills Development	26.23 inches	

* Not claimed in the SRBA

A very important bit of information in Farmer's records is the fact that 264 inches of the above listed 308 inches can be traced back as early as 1972 to land previously owned by Myron Holgate & Sons. The Holgate land is the same parcel that was subdivided into the current Echo Creek, Lexington Hills and Lexington Hills East subdivisions.

CURRENT SRBA CLAIMS

63-123C	Farmer's Union Ditch Co.	20 cfs	1000 inches	*
-123D	East Hills Development	.525 cfs	26.23 inches	
-123E	Capital View Irrigation	20 cfs	1000 inches	*
-123F	Lexington Hills, Inc	1.93 cfs	96.4 inches	
-123G	Lexington Hills, HOA	4.605	230.23 inches	**

* Farmer's Union and Capital View both claimed the entire right with the understanding that the real ownership and allocation of the right would be determined in the SRBA review and recommendations.

**Lexington Hills HOA claimed all of the water delivered to the Lexington Hills subdivision. They believe that East Hills Development has been absorbed into the Lexington Hills HOA. They contend that because they are the entity designated in the CC& R's and their own Bylaws as being responsible for the operation and maintenance of the irrigation system they are also entitled to the water rights appurtenant to the subdivision property.

PRELIMINARY RECOMMENDATIONS

Listed below are the diversion amounts and entities proposed for the preliminary recommendations:

63-123C	Farmer's Union Ditch Company	8.4 cfs	419.77 inches	***
-123D	East Hills Development	.52 cfs	26.23 inches	
-123E	Capital View Irrigation	7.0 cfs	350.0 inches	
-123F	Lexington Hills, Inc	1.93 cfs	96.4 inches	
-123G	Lexington Hills HOA	<u>2.15 cfs</u>	<u>107.6 inches</u>	
	TOTALS	20.00 cfs	1000 inches	

***The Farmer's Union allocation includes the following:

1916 contract portion conveyed as compensation	333.0 inches
Green Acres/Hormaechea part delivered but unclaimed	34.0 inches
Echo Creek HOA part delivered but unclaimed	33.77 inches

Ilene Stinar part delivered but unclaimed
A remaining portion delivered but not claimed

10.0 inches
9.0 inches
419.77 inches

ADDITIONAL INFORMATION TO SUPPORT THE RECOMMENDATIONS

The records of the Boise River water master and the Farmer's Union Ditch Co. verify that the Jacobs right, 63-123, has been historically diverted into the Farmer's Union Canal.

There is insufficient information in our water right records to support the division of the Jacobs right to the above list of claimants and the places of use they claimed. The above recommendations can, however, be justified as accomplished transfers based on the records of Farmer's Union Ditch Co. Farmer's Union can trace the assessment and delivery of 264 inches of the Jacobs right back to 1972 to the parcel of land that is now known as Lexington Hills, Lexington Hills East and Echo Creek subdivisions. We have deeds on file that convey the land from Holgate Enterprises to Lexington Hills, Inc.

The unclaimed portions of 63-123 listed above were recommended to the Farmer's Union Ditch Co. for two reasons. First, they claimed the entire right and second they have historically delivered and used these unclaimed portions within their boundary. If any of the unclaimed parts can be recommended to other entities in the future, Farmer's Unions share will have to be reduced to avoid expanding the right.

The sixteen deeds conveying the common areas from Lexington Hills, Inc. to Lexington Hills HOA appear to transfer the water appurtenant to the common areas to the association. However, the water appurtenant to the individual lots owned by private parties is not addressed in any instruments of conveyance. Therefore, it appears Lexington Hills, Inc. as the developer of the subdivisions still holds title to that water in a fiduciary capacity for the individual private lot owners.

Another item of interest relating to Lexington Hills HOA's claim to be the owner of the entire 230 inches of water associated with the subdivision is the fact they have only been assessed by Farmer's Union for 107.6 inches since 1994. Why don't the assessments by Farmers Union Ditch Co. reflect an assessment to the HOA for the entire 230 inches? It would seem they would want to solidify their claim as the total owner by changing the ditch company records. Why would they allow Lexington Hills, Inc and East Hills Development to be assessed and pay for water that is owned by the homeowners? According to Ron Schreiner with Farmers, the Lexington Hills entities and East Hills assessments are paid separately by a property management firm.

Notices of error were filed by Lexington Hills HOA and Capital View challenging our recommendations for the amount of diversion rate, but did not include sufficient evidence to change the recommendations. Therefore no changes were made to our original recommendations. The issues involving the ownership of the Jacobs right need to be resolved at the objection phase when all of the parties can present their cases in a formal review process.

MTS

FARMERS UNION DITCH CO. LTD.
2153 N. POLLARD LN.
STAR, ID. 83669

RECEIVED

JUN 17 2004

WATER RESOURCES
WESTERN REGION

June 15, 2004

Mr. Mel Shulte
Idaho Department of Water Resources
2735 Airport Way
Boise, Idaho 83705

Dear Mr. Shulte:

Here is what we have found in our records in regards to the Jacobs Water and when these HOAs' or individuals appear initially.

1980	Green Acres/Richard Hormaechea	34.0 inches
1992	Echo Creek HOA	33.77 inches
1992	Lexington Hills Inc.	96.4 inches
1994	Lexington Hills HOA	107.6 inches
1999	Ilene Stinar	10.0 inches
2000	East Hills Development	26.23 inches

For your information the Lexington Hills HOA came from a portion of Lexington Hills Inc.. Also the East Hills Development came from a portion of Echo Creek HOA.

A total of 264 inches of water was traced back as far as 1972 to Myron Holgate & Son, addressed to 1832 East Floating Feather Road, Eagle, Idaho. This is the total without Hormaechea and Stinar. The Stinar water was transferred from the previous owner David Willmot which dated back to 1981.

If you have any questions you can reach me at 286-7028.

Yours truly,


Ron Schreiner
Asst. Sec.

03-123

(6)

I.

That the defendant [REDACTED] be and is hereby awarded the use of the waters of Boise River, diverted from a point on the north bank of said river about one mile east of the east line of the original townsite of Boise City, Idaho, through what is commonly known as the Jacobs Canal, for use upon lands lying in Secs. 10 and 11, T. 3 N. R. 2 E. B.M., in the following amount from the following date;

63 0120 110 inches, from [REDACTED]; and hereby designated as Right No. 1
512,513,580, 595

That the defendant [REDACTED] be and is hereby awarded the use of said waters diverted from a point on the south side of said river in NW $\frac{1}{4}$ of NW $\frac{1}{4}$ of Sec. 9, T. 3 N. R. 2 E. B.M., through what is known as the Davis Canal, for use upon lands in Secs. 5, 6, 31 and 32, T. 3 N. R. 2 E. B.M., in the following amount from the following date;

63 0121 670 inches, from [REDACTED], and hereby designated as Right No. 94.

That the defendant [REDACTED] be and is hereby awarded the use of said waters diverted from said river at a point in NW $\frac{1}{4}$ of Sec. 9, T. 3 N. R. 2 E. B.M., through what is known as the Davis private ditch, for use upon SE $\frac{1}{4}$ of Sec. 5 and SE $\frac{1}{4}$ of Secs 8 and 9, all in T. 3 N. R. 2 E. B.M., in the following amount from the following date;

63 0122 27 inches, from [REDACTED]; And hereby designated as Right No. 119
P. b. 32

And adjudged to pay \$56.49 costs, in addition to the costs incurred by him.

II.

[REDACTED], Limited, a corporation.

That the defendant the Jacobs Canal Company, Limited, be and it is hereby awarded the use of the waters of Boise River, diverted from a point on the north side of said river about one mile east of the east boundary line of the original townsite of Boise City, Idaho, through what is commonly known as the Jacobs Canal, for use upon the town lots and lands lying under said canal in Secs. 4, 9, 10, 11, 13, 14, T. 3 N. R. 2 E. B.M., in the following amount from the following date;

63 0123 1000 inches, from [REDACTED]; and hereby designated as Right No. 2
542, 136

And adjudged to pay \$70.00 costs, in addition to the costs incurred by it.

IDAHO DEPARTMENT OF WATER RESOURCES

Water Right Report 63-123

WATER RIGHT NUMBER: 63-123

Owner Type Name and Address

Priority Date:

Basis:

Status: See Remarks

Source Tributary

<u>Beneficial Use</u>	<u>From</u> <u>To</u>	<u>Diversion Rate</u>	<u>Annual Volume</u>
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Total Diversion:Location of Point(s) of DiversionPlace of UseConditions of Approval:Remarks:

1. General SPLIT INTO 63-0123A & 63-0123B BY TRANS. 542.

Comments:Dates and Other Information:

IDAHO DEPARTMENT OF WATER RESOURCES

Water Right Report 63-123

Dates and Other Information:

Licensed Date:
Decreed Date:
Water Supply Bank Enrollment Accepted:
Water Supply Bank Enrollment Removed:
Enlargement Use Priority Date:
Enlargement Statute Priority Date:
Formal Action Date:
State or Federal:
Owner Name Connector:
Water District Number:
Generic Max Rate Per Acre:
Generic Max Volume Per Acre:
Decree Defendant:
Decree Plaintiff:
Civil Case Number:
Judicial District:
Swan Falls Trust or Nontrust:
Swan Falls Dismissed:
DLE Act Number:
Carey Act Number:
Mitigation Plan: False

IDAHO DEPARTMENT OF WATER RESOURCES

Water Right Report 63-123A

WATER RIGHT NUMBER: 63-123A

<u>Owner Type</u>	<u>Name and Address</u>
Original Owner	JACOBS CANAL CO
	, ID
Current Owner	FEDERAL LAND BANK OF SPOKANE
	, ZZ

Priority Date: 06/01/1864

Basis: Decreed

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	/ to /	0.690 CFS	
DOMESTIC	/ to /		
	<u>Total Diversion:</u>	0.690 CFS	

Location of Point(s) of Diversion

BOISE RIVER

Place of UseIRRIGATION Within ADA County

T04N R01E S04	NESW	T04N R01E S04	SESW
T04N R01E S04	NESE	T04N R01E S04	NWSE
T04N R01E S04	SWSE		

DOMESTIC same as IRRIGATIONConditions of Approval:Remarks:

1. General TO FARMERS UNION CANAL.
TRANS. 542.
DIV. RATE=.6875 CFS.

Comments:Dates and Other Information:

IDAHO DEPARTMENT OF WATER RESOURCES

Water Right Report 63-123B

WATER RIGHT NUMBER: 63-123B

<u>Owner Type</u>	<u>Name and Address</u>
Current Owner	JACOBS CANAL CO
	, ID

Priority Date: 06/01/1864

Basis: Decreed

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	/ to /	19.310 CFS	
	<u>Total Diversion:</u>	19.310 CFS	

Location of Point(s) of Diversion

BOISE RIVER	SE1/4SE1/4	Sec. 32, Twp 04N, Rge 02E, B.M.
ADA County		

Place of UseIRRIGATION Within ADA County

T03N R02E S04	T03N R02E S09
T03N R02E S10	T03N R02E S11
T03N R02E S13	T03N R02E S14
T04N R02W S02 Lot 1 NENE	T04N R02W S02 Lot 2 NWNW
T04N R02W S02 Lot 3 NENW	T04N R02W S02 Lot 4 NWNW
T04N R02W S03 Lot 1 NENE	T04N R02W S03 Lot 4 NWNW
T04N R02W S04 Lot 4 NWNW	T04N R02W S05 Lot 3 NENW
T05N R01W S19 SWSW	T05N R01W S30 NWSW
T05N R01W S30 SWSW	T05N R01W S31 NWNW
T05N R01W S31 SWNW	T05N R02W S22 SWSW
T05N R02W S22 SESW	T05N R02W S22 SESE
T05N R02W S23 SWSW	T05N R02W S23 SESW
T05N R02W S23 SWSE	T05N R02W S23 SESE
T05N R02W S24 NESW	T05N R02W S24 NWSW
T05N R02W S24 SWSW	T05N R02W S24 SESW
T05N R02W S25 SESE	T05N R02W S26 NWNE
T05N R02W S26 NENW	T05N R02W S26 NWNW
T05N R02W S26 SWNW	T05N R02W S26 SENW
T05N R02W S26 NESW	T05N R02W S26 NWSW
T05N R02W S27 SWNE	T05N R02W S27 SENE
T05N R02W S27 SWNW	T05N R02W S27 SENW
T05N R02W S27 NESW	T05N R02W S27 NWSW
T05N R02W S27 SWSW	T05N R02W S27 SESW
T05N R02W S27 NESE	T05N R02W S27 NWSE
T05N R02W S27 SWSE	T05N R02W S27 SESE
T05N R02W S28 SWNW	T05N R02W S28 NWSW
T05N R02W S28 SWSW	T05N R02W S28 SESW
T05N R02W S28 NESE	T05N R02W S28 NWSE
T05N R02W S28 SWSE	T05N R02W S28 SESE
T05N R02W S29 SENE	T05N R02W S29 NESE

T05N R02W S29	NWSE
T05N R02W S32	NWNE

T05N R02W S29	SESE
T05N R02W S32	SWNE

IDAHO DEPARTMENT OF WATER RESOURCES

Water Right Report 63-123B

T05N R02W S32	NWNE	T05N R02W S32	SWNE
T05N R02W S32	SWSW	T05N R02W S32	SESW
T05N R02W S33		T05N R02W S34	
T05N R02W S35	SENE	T05N R02W S35	NWNW
T05N R02W S35	NESW	T05N R02W S35	NWSW
T05N R02W S35	SESW	T05N R02W S35	NESE
T05N R02W S35	NWSE	T05N R02W S35	SWSE
T05N R02W S35	SESE	T05N R02W S36	

Conditions of Approval:Remarks:

1. General ALSO USED ON TOWN LOTS (BOISE).
WATER CARRIED IN FARMERS UNION CANAL.
DIV. RATE=19.3125 CFS.
TRANS. 136.

Comments:Dates and Other Information:

Licensed Date:
 Decreed Date: 1/18/1906
 Water Supply Bank Enrollment Accepted:
 Water Supply Bank Enrollment Removed:
 Enlargement Use Priority Date:
 Enlargement Statute Priority Date:
 Formal Action Date:
 State or Federal:
 Owner Name Connector:
 Water District Number: 63
 Generic Max Rate Per Acre:
 Generic Max Volume Per Acre:
 Decree Defendant:
 Decree Plaintiff:
 Civil Case Number:
 Judicial District:
 Swan Falls Trust or Nontrust:
 Swan Falls Dismissed:
 DLE Act Number:
 Carey Act Number:
 Mitigation Plan: False

IDAHO DEPARTMENT OF WATER RESOURCES

Adjudication Claim Report 63-123A

WATER RIGHT NUMBER: 63-123A

<u>Owner Type</u>	<u>Name and Address</u>
Original Owner	JACOBS CANAL CO
	, ID
Original Owner	FEDERAL LAND BANK OF SPOKANE
	, ZZ

Priority Date: 06/01/1864

Basis:

Status: See Remarks

<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>
DOMESTIC	/ to /			
IRRIGATION	/ to /		0.690 CFS	
	<u>Total Diversion:</u>		0.690 CFS	

Location of Point(s) of Diversion

BOISE RIVER	NW1/4NW1/4NW1/4	Sec. 36, Twp 65N, Rge 46E, B.M.
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Place of UseIRRIGATION Within ADA County

T04N R01E S04	NESW	T04N R01E S04	SESW
T04N R01E S04	NESE	T04N R01E S04	NWSE
T04N R01E S04	SWSE		

DOMESTIC same as IRRIGATIONConditions of Approval:Remarks:

1. General THIS RIGHT AND RIGHT NO. 63-00123B WERE RE-COMBINED AND FILED ON BY TWO DIFFERENT CANAL COMPANIES. FARMERS UNION FILED ON A63-00123C WHICH RECOMBINED BOTH BECAUSE THE WATER IS DELIVERED THROUGH THEIR DITCH FOR CAPITAL VIEW IRRIG. DIST. THEN CAPITAL VIEW IRRIG. DIST. FILED ON BOTH UNDER A63-00123 BECAUSE IT IS STILL THEIR WATER EVEN THOUGH IT IS DELIVERED THROUGH THE FARMER'S UNION CANAL CO. WHICH CLAIM IS RECOMMENDED WILL BE DECIDED AT A LATER DATE. JS

Comments:

IDAHO DEPARTMENT OF WATER RESOURCES

Adjudication Claim Report 63-123B

WATER RIGHT NUMBER: 63-123B

<u>Owner Type</u>	<u>Name and Address</u>
Original Owner	JACOBS CANAL CO
	, ID

Priority Date: 06/01/1864

Basis:

Status: See Remarks

<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	/	to /	19.310 CFS	
		<u>Total Diversion:</u>	19.310 CFS	

Location of Point(s) of Diversion

BOISE RIVER SE1/4SE1/4 Sec. 32, Twp 04N, Rge 02E, B.M.
ADA County

Place of Use

IRRIGATION Within ADA County

T03N R02E S04		T03N R02E S09	
T03N R02E S10		T03N R02E S11	
T03N R02E S13		T03N R02E S14	
T04N R02W S02	Lot 1 NENE	T04N R02W S02	Lot 2 NWNE
T04N R02W S02	Lot 3 NENW	T04N R02W S02	Lot 4 NWNW
T04N R02W S03	Lot 1 NENE	T04N R02W S03	Lot 4 NWNW
T04N R02W S04	Lot 4 NWNW	T04N R02W S05	Lot 3 NENW
T05N R01W S19	SWSW	T05N R01W S30	NWSW
T05N R01W S30	SWSW	T05N R01W S31	NWNW
T05N R01W S31	SWNW	T05N R02W S22	SWSW
T05N R02W S22	SESW	T05N R02W S22	SESE
T05N R02W S23	SWSW	T05N R02W S23	SESW
T05N R02W S23	SWSE	T05N R02W S23	SESE
T05N R02W S24	NESW	T05N R02W S24	NWSW
T05N R02W S24	SWSW	T05N R02W S24	SESW
T05N R02W S25	SESE	T05N R02W S26	NWNE
T05N R02W S26	NENW	T05N R02W S26	NWNW
T05N R02W S26	SWNW	T05N R02W S26	SENW
T05N R02W S26	NESW	T05N R02W S26	NWSW
T05N R02W S27	SWNE	T05N R02W S27	SENE
T05N R02W S27	SWNW	T05N R02W S27	SENW
T05N R02W S27	NESW	T05N R02W S27	NWSW
T05N R02W S27	SWSW	T05N R02W S27	SESW
T05N R02W S27	NESE	T05N R02W S27	NWSE
T05N R02W S27	SWSE	T05N R02W S27	SESE
T05N R02W S28	SWNW	T05N R02W S28	NWSW
T05N R02W S28	SWSW	T05N R02W S28	SESW
T05N R02W S28	NESE	T05N R02W S28	NWSE
T05N R02W S28	SWSE	T05N R02W S28	SESE
T05N R02W S29	SENE	T05N R02W S29	NESE

T05N R02W S29	NWSE
T05N R02W S32	NWNE

T05N R02W S29	SESE
T05N R02W S32	SWNE

IDAHO DEPARTMENT OF WATER RESOURCES

Adjudication Claim Report 63-123B

T05N R02W S32	NWNE	T05N R02W S32	SWNE
T05N R02W S32	SWSW	T05N R02W S32	SESW
T05N R02W S33		T05N R02W S34	
T05N R02W S35	SENE	T05N R02W S35	NWNW
T05N R02W S35	NESW	T05N R02W S35	NWSW
T05N R02W S35	SESW	T05N R02W S35	NESE
T05N R02W S35	NWSE	T05N R02W S35	SWSE
T05N R02W S35	SESE	T05N R02W S36	

Conditions of Approval:Remarks:

1. General THIS RIGHT AND RIGHT NO. 63-00123A WERE RECOMBINED AND FILED ON BY TWO DIFFERENT CANAL COMPANIES. FARMERS UNION FILED ON BOTH THESE RIGHTS UNDER CLAIM NO. A63-00123C BECAUSE THE WATER IS DELIVERED THROUGH THEIR DITCH FOR THE CAPITOL VIEW IRRIG. DIST. THEN THE CAPITOL VIEW IRRIG. DIST FILED ON BOTH UNDER A63-00123 BECAUSE IT IS THEIR WATER EVEN THOUGH IT IS DELIVERED THROUGH THE FARMERS UNION DITCH CO. WHICH CLAIM WILL BE RECOMMENDED IN THE FINAL REPORT WILL BE DECIDED LATER DURING FINAL REVIEW. JS

Comments:Dates and Other Information:

Claim Received Date: 5/24/1989
 Enlargement Use Priority Date:
 Enlargement Statute Priority Date:
 State or Federal: S
 Owner Name Connector:
 Water District Number: 63
 Generic Max Rate Per Acre:
 Generic Max Volume Per Acre:
 Swan Falls Trust or Nontrust:
 Swan Falls Dismissed:
 DLE Act Number:
 Carey Act Number:
 Mitigation Plan: False

IDAHO DEPARTMENT OF WATER RESOURCES

Adjudication Claim Report 63-123

WATER RIGHT NUMBER: 63-123

<u>Owner Type</u>	<u>Name and Address</u>
Current Owner	CAPITAL VIEW IRRIGATION INC C/O CAL WILLIAMS 3285 SYCAMORE DR BOISE, ID 83703 (208)342-6425

Priority Date: 06/01/1864

Basis: Decreed

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	3/15 to 11/15	20.000 CFS	
	<u>Total Diversion:</u>	20.000 CFS	

Location of Point(s) of Diversion

BOISE RIVER	SE1/4SE1/4	Sec. 32, Twp 04N, Rge 02E, B.M.
ADA County		

Place of Use

IRRIGATION

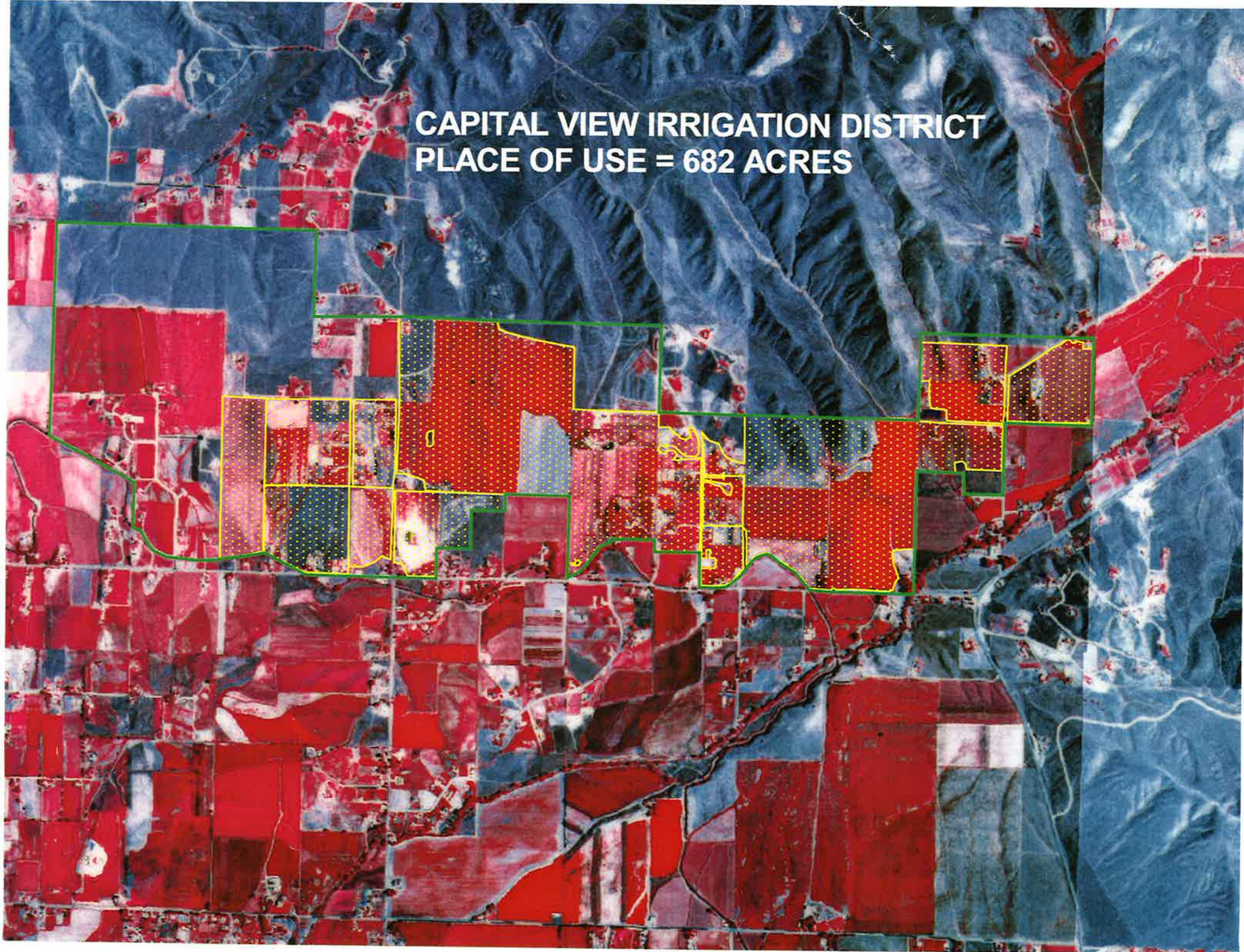
Twp	Rge	Sec	NE				NW				SW				SE				Totals
			NE	NW	SW	SE	NE	NW	SW	SE	NE	NW	SW	SE	NE	NW	SW	SE	
05N	01E	32		20.0			40.0	40.0	40.0	40.0				30.0	40.0	40.0	40.0	40.0	370.0
05N	01E	33			40.0		40.0	40.0	40.0	40.0			20.0	30.0	40.0	40.0	40.0	40.0	410.0
05N	01E	34			40.0	40.0							40.0	40.0	40.0	40.0			240.0

Total Acres: 1020

Conditions of Approval:Remarks:

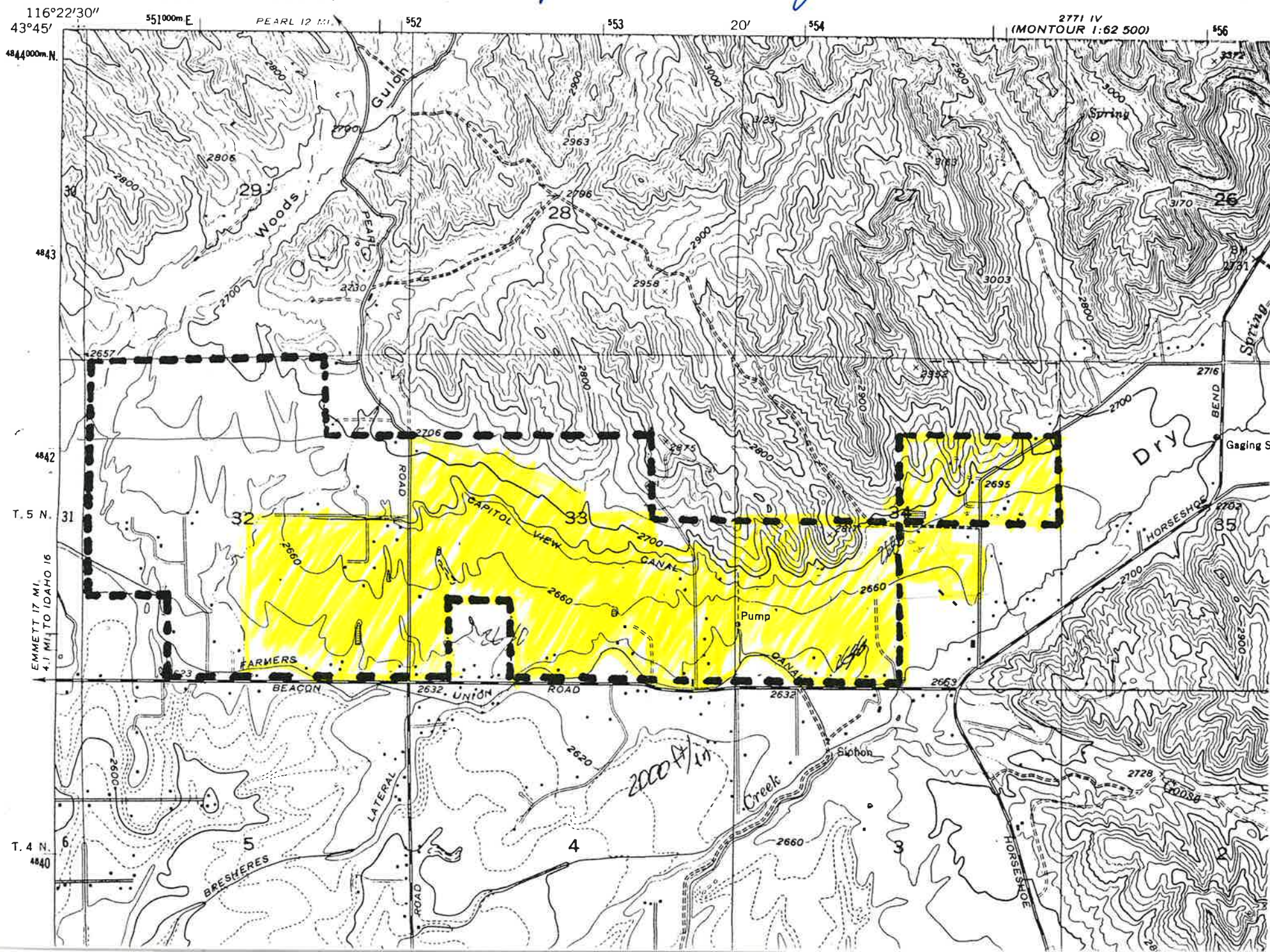
- General PROPERTIES ARE OWNED BY USERS OF CAPITAL VIEW, INC.
THIS WATER RIGHT HAD PREVIOUSLY BEEN SPLIT TO 63-00123A AND B.
IN THIS FILING THEY ARE BEING RECOMBINED BECAUSE TRANSFER 542 WAS NEVER
PUT INTO EFFECT.
CHANGE IN PLACE OF USE-SEE TRANSFER NO. 136, ATTACHED.

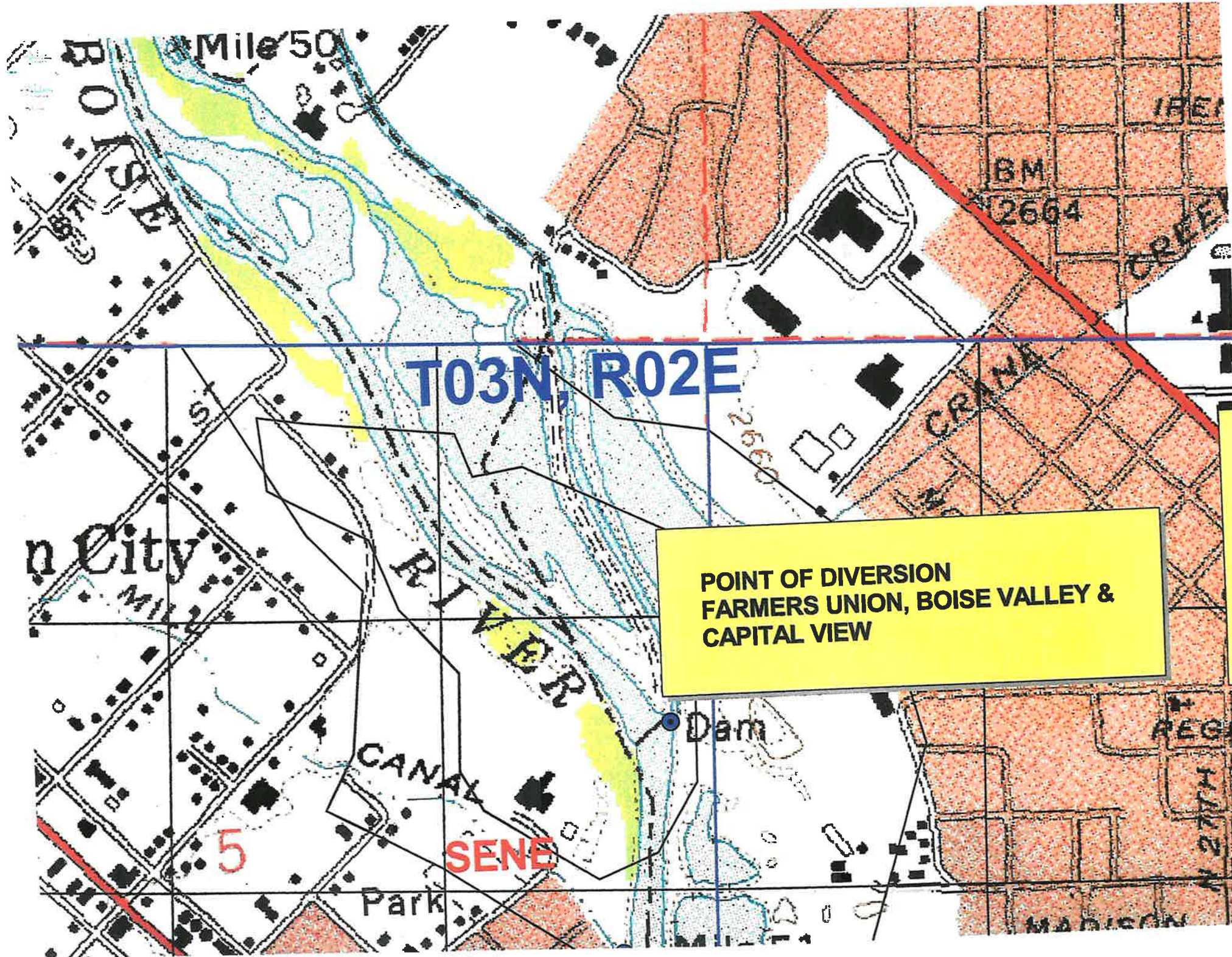
**CAPITAL VIEW IRRIGATION DISTRICT
PLACE OF USE = 682 ACRES**



UNITED STATES *63-123*
DEPARTMENT OF THE INTERIOR
GEOLOGICAL SURVEY

Capital View Irrigation District legal boundary





November 10, 2002

Idaho Department of Water Resources
Western Regional Office
Attention: Mr. Mel Schulte
2735 Airport Way
Boise, Idaho 83705-5082

RECEIVED

NOV 15 2002

WATER RESOURCES
WESTERN REGION

Subject: Capital View Irrigation District Service Area

Dear Mr. Schulte,

With reference to our phone conversation on November 4, enclosed please find a copy of a section of the USGS Eagle quad map showing both the district boundary as approved by the County Commission in 1922, and also the lands actually now receiving water via Capital View Irrigation District (CVID). The formal boundary of the district is shown in bold, dashed lines, and encompasses 1,210 acres. During district formation and approval by the county commission in 1922, 900 acres of the 1,210 acres shown in the district were identified to be "apportioned benefits".

I've also highlighted the enclosed map to show the area currently irrigated with CVID water. The highlighted area encompasses approximately 650 acres. This is a slight increase since 1998 because the Triple Ridge Subdivision is distributing their allotment over a larger area than was irrigated prior to residential development.

As you will note, the photo map you sent to me doesn't very well reflect the district boundary. It appears that perhaps the photo map you sent only shows the CVID service area in Section 32. I've enclosed a photo map prepared by IDWR a few years ago that better shows the entire district. I would be grateful if you can return the photo map to me eventually.

Sincerely,



Pete Newton
Secretary/Treasurer
Capital View Irrigation District

Encl.

SCANLAN ENGINEERING

Groundwater and Environmental Engineering

RECEIVED

DEC 26 2000

WATER RESOURCES
WESTERN REGION

January 11, 2000

Stephen Bradbury

Jones, Gledhill, Hess, Andrews, Fuhrman, Bradbury, & Eiden, P.A.

P.O. Box 1097

877 Main Street, Suite 500

Boise, ID 83701

Subject: Lexington Hills Irrigation Water Rights

Dear Mr. Bradbury:

Several months ago you asked me to look further into the history and ownership of the water rights associated with the Lexington Hills East property. My efforts have been largely unproductive. However, in talking with Georgia Mackley today, she indicated that the attorneys for Treasure Valley Village (Guhrke) are currently pursuing this issue. Hopefully, they can resolve the ownership question. In any event, I thought that I might report on what I found in my investigation.

As discussed in my report to you dated December 4, 1998, the water rights associated with Lexington Hills East property were never officially transferred to Lexington Hills after the property was sold to Lexington Hills. However, the warranty deed for the property specifies "Together with any and all water rights appurtenant to the property, consisting of approximately 26.23 miner inches of water delivered to the premises by the Farmers Union Ditch Company". This water is a portion of the water right currently assessed to Echo Creek HOA by the Farmers Union Ditch Company.

The water rights in questions are a portion of the Jacobs Canal water right (63-00123). As such, these water rights differ from most of the water rights delivered to shareholders of the Farmers Union Ditch Company. Unlike "Farmers Union water shares", stock certificates are not issued for the Jacobs water. Instead, it appears that Farmers Union delivers the water to Jacobs water right holders and assesses for the delivery. The Farmers Union has claimed the water right in the Snake River Basin Adjudication, but actual ownership of the water right is unclear. The Jacobs right might be either (1) appurtenant to the land, or (2) owned by the person (or company) who is assessed for use of the water, or (3) owned by the Farmers Union Ditch Company

I have discussed this issue with several individuals. My notes follow.

1. ³⁴⁵⁻²⁵¹⁰ Gene Bailey, President of the Farmers Union, indicated that there is a contract (the "Capitol View contract") for delivery of the Jacobs water right to lands above the Farmers Union Canal. He was either unable or unwilling to provide a copy of the contract to me. He referred me to Susan Buxton, Attorney for Farmers Union.

2. I requested a copy of the Capitol View contract from Susan Buxton several times. She was either unable to find a copy or was unwilling to search for it in her records. As with Bailey, she thought that the document existed, but said it is packed away in the files (apparently she had recently moved her office and had not unpacked the files). My request for the contract is still pending with her.
345-7655-H 386-2845-W
3. Pete Newton (Secretary for Capitol View Irrigation District) said he does not have a copy of the Capitol View contract and does not know if one exists. He has not seen any documentation on how the water right got into the Farmers Union, or how the split of Jacobs water occurred. He said that the Capitol View Irrigation District was formed in about 1920. Capitol View bought the Jacobs water right from someone living in Oregon at the time. Pete thought that the Boise River Watermaster, Lee Sisco, might know some of the water right history.
4. Lee Sisco checked his files. He is aware of a transfer of the water right to the Farmers Union Canal diversion point in 1914. However, after the water is delivered from the River, he does not have any knowledge regarding place of use or ownership. He delivers the water right to the Boise River headgate as part of the Farmers Union package of water rights. As far as his office is concerned, the Jacobs water right is treated as a Farmers Union water right.
5. *286-7028* Ron Schreiner, Secretary for the Farmers Union, reported that the Farmers Union was not notified of the split of the water when the Lexington Hills property was separated from the Echo Creek property. He indicated that the assessments for the Echo Creek water (including the portion believed to be appurtenant to Lexington East) were paid by the following groups: Treasure Valley Village and MSG Enterprises in 1988-1990, Landmark Homes in 1991, US Bancorp Mortgage in 1992, Treasure Valley Village in 1993, and Echo Creek Subdivision from 1994 to present.
6. Carter Frischle (former President of the Farmers Union and currently employed by the Adjudication Bureau of the Idaho Department of Water Resources) confirmed that no certificates are issued by the Farmers Union for the Jacobs water. The only record is the Farmers Union assessment books. He also recalled an agreement between Lexington Hills and Echo Creek regarding pumps and splitting of the water delivered from the Farmers Union. He thought that the lands now occupied by Lexington Hills and Echo Creek were first irrigated in the 1950s. He was not aware of any record of transfer of water from Capitol View to these lands.

I reviewed the file for water right 63-00123 at the Idaho Department of Water Resources. Two water right transfers were found.

- The first transfer occurred in 1914. The transfer was made by the Boise Fruit Tracts Company, and consisted of moving the 20.0 cfs Jacobs Canal Company water right from the downtown Boise area into the Farmers Union Canal. Apparently, Boise Fruit Tracts planned to irrigate lands located above the Farmers Union in the area stretching from Meridian Road

to beyond the Emmett Highway. These lands are west of present day Capitol View Irrigation District.

- The second transfer occurred in 1934. The Federal Land Bank transferred 0.6875 cfs from lands within the Capitol View Irrigation District to lands below the Farmers Union Canal. According to a statement in the transfer file, Capitol View Irrigation District had been established sometime before 1925. When first established, the District served lands with 30, 60, and 90 foot pumping lifts from the Farmers Union Canal. In 1925, the 90-foot lift was abandoned as being too expensive. Therefore, the applicant proposed transferring the water off a portion of the 90-foot lift land within the Capitol View District to nearby lands lying below the Farmers Union Canal, immediately west of the present day Lexington Hills Subdivision. The transfer proposed commingling this water with Farmers Union water rights historically used on the same lands. The statement noted that "the applicant is required to pay a carrying charge for this water, as well as assessments for the payment of the watermaster and drainage assessments for Drainage District No. 2".

No other records were found at the Department of Water Resources describing the history of the Jacobs water right between 1914 and present.

It is interesting to note that the Farmers Union Ditch Company did not apply for the above referenced transfers. Instead, the Farmers Union Canal appears to simply be the mechanism of delivery of the water. Note that the 1934 water right transfer split water right 63-00123 into two portions (A & B). The Farmers Union Ditch Company is now claiming the water right in the SRBA as A63-00123C, which is a recombination of the A and B portions of the right.

I hope these findings can be of some use to you. If I receive a copy of the Capitol View contract, I will forward it to your office.

Sincerely,



Terry M. Scanlan

Cc: Georgia Mackley

STATE OF IDAHO
WATER DISTRICT 63
(BOISE RIVER)

HENRY KOELLING, WATERMASTER
214 BROADWAY
BOISE, IDAHO 83702

July 11, 1985

To Mr. Schultz

Mr. Rex LaBrie
Capital View Irrigation District
P. O. Box 208
Eagle, Idaho

Dear Mr. LaBrie:

In reply to your request for the water rights of the Capital View Irrigation District, our records show the following:

7.50 cfs (375 inches) of priority #2, date 6-1-1864. This is a steady flow right from the Stewart Decree of the Boise River. This water is available to your district every day of the irrigation season.

In addition to your natural flow rights, your district also has 460 acre feet of storage water in Anderson Ranch Reservoir and 300 acre feet of storage water in Lucky Peak Reservoir.

If you have any further questions, please feel free to call me.

Sincerely,

Henry Koelling
Henry Koelling
Watermaster

HK:ms

7-22-1916

Damage
Indicated
Cured
7-29-58

Filed
6-8-21

Do Not
Microfilm
These Documents

Agreement dated 7-17-16

THIS AGREEMENT, made and entered into by and between the Farmers Union Ditch Company, Limited, a corporation organized and existing under and by virtue of the laws of the State of Idaho, with its principal place of business at Star, Ada County, Idaho, the party of the first part, and W. A. Keyt of McMinnville, State of Oregon, party of the second part, WITNESSETH,

That, whereas, the party of the first part is the owner and in the possession of a certain canal or irrigation ditch, together with a right-of-way therefor, situate in Ada and Canyon Counties, State of Idaho, and described as follows, to-wit: Commencing at the headgate of said canal at a point on the northerly side of the Boise River in the Southeast Quarter of the Southeast Quarter of Section 22 in Township 4 North of Range 2 East of the Boise-Meridian and running thence in a northwesterly direction through Townships 4 North of Range 2 East; 4 North of Range 1 East; 5 North of Range 1 East; 4 North of Range 2 West, and 5 North of Range 2 West of the Boise Meridian, being the said ditch known as the Farmers Union Ditch, together with the right to divert certain waters from the Boise River into said ditch at the headgate thereof, for the use of the stockholders of said Farmers Union Ditch Company, Limited, and that said Farmers Union Ditch Company Limited, is, and since the year 1895 has been engaged in conveying and distributing through its said ditch waters to its said stockholders for irrigation and domestic purposes; and

Whereas, the party of the second part is interested in certain lands situate in Township 5 North, Range 1 East, B.M. which lie adjacent to and north of the canal of the party of the first part where it crosses said Township and Range, which land is arid in character and requires artificial irrigation for the production of profitable crops thereon, and,

Whereas, the party of the second part is the owner of that certain water right generally known as the Jacobs Canal Water right for 1000 miners' inches or twenty cubic feet per second of time, of the waters of Boise River, Idaho, adjudicated to said canal company in that certain suit wherein the Farmers Co-Operative Ditch Company, a corporation, was plaintiff, and the Riverside Irrigation District, Limited, et.al., were defendants, then pending in the District Court of the Third Judicial District of the State of Idaho, in and for the County of Ada, now pending in the District Court of the Seventh Judicial District of the State of Idaho, in and for the County of Canyon, said decree being dated January 18, 1906, and said water right being designated therein as "Right No. 2;" said water right having been specifically enumerated in certificate of transfer No. 136 issued by the State Engineer of the State of Idaho, dated June 8, 1914, and of record in the office of the State Engineer of Idaho; said described water right now being diverted at the intake of the canal of the party of the first part herein, and,

Whereas, in order for the party of the second part to apply the water which he owns as hereinabove described to said lands in Township 5 North, Range 1 East, adjacent to the North of the canal of the party of the first part herein, it is necessary that he convey the same through the canal of the party of the first part to a point in the Southwest Quarter (SW $\frac{1}{4}$) of the Southwest Quarter (SW $\frac{1}{4}$) of Section Thirty-four (34) Township Five (5) North, Range 1(1) East, E.M., hereinafter more particularly described.

Now, therefore, it is mutually understood and agreed between the parties hereto as follows, to-wit:

That for and in consideration of the party of the second part conveying, transferring and delivering to the party of the first part a one-third interest in the water right of said Jacobs Canal Water Right hereinabove described, the said Farmers

Union Ditch Company, Limited, hereby agrees to perpetually carry and deliver to the party of the second part, his heirs or assigns, during the entire irrigation season of each and every year after the date hereof, except as hereinafter provided, at the point of diversion hereafter described, the waters represented by Two-thirds of said Jacobs Canal water right hereinabove described, and at the elevation hereinafter described. 2/3 int

It is specially understood and agreed that the party of the first part shall be under no obligation to deliver to the party of the second part more water under this agreement than two-thirds of the amount which it is ultimately determined is represented by the water right of said Jacobs Canal Company, designated as "Right No. 2" in the priority suit on the Boise river hereinabove referred to, and which the party of the second part is entitled to have diverted from the Boise River by virtue of the ownership of said right, less proper deductions for seepage and evaporation.

It is further agreed that the party of the first part shall not be required to undergo any expense whatever in representing or defending said Jacobs Canal right in the litigation now pending in the Seventh Judicial District of the State of Idaho, in and for Canyon County, or any suit or action involving the transfer or use of said water but that said party of the second part shall cause the amount of water represented by said "Right No. 2" to be finally determined without expense to the party of the first part, and shall defend any suit or action involving the right to transfer or use the same without expense to the party of the first part.

DELIVERY.

It is expressly understood and agreed that the party of the second part and his assigns shall acquire no right or interest in or be entitled to the use of any part or portion of the waters

Now owned or hereafter acquired by the party of the first part by virtue of this agreement, and the party of the first part shall be under no obligation to carry or deliver the waters herein agreed to be carried and delivered until the party of the second part shall first have caused said waters represented by said "right No. 2" to be delivered and maintained at the headgate of the party of the first part for diversion into its canal.

POINT OF DIVERSION.

It is agreed that the place of diversion from the canal of the party of the first part by the party of the second part, his heirs or assigns, of said water herein agreed to be carried and delivered, shall be on the following described tract of land, to-wit:

On the North line of the canal of said Farmers Union Ditch Company, Limited, on the following described tract,

Beginning at the section corner of the township line common to Section thirty-three (33) and Thirty-four (34) in Township Five (5) North, Range One (1) East, B.M.; thence north 88° 10 min. east, 520 ft. being the place of beginning; thence south 85 deg. 56 min. west, 54.5 ft.; thence north 21 deg. 10 min. west, 349 ft. to a point 30 ft. east of the section line common to sections 33 and 34, Township 5 North, Range 1 East, B.M.; thence north 89° 10 min. east, 480 ft.; thence south 21 deg. 10 min. east, 480 ft.; thence south 66 deg. 56 min. west 54.5 ft. to the place of beginning containing 1.11 acres more or less.

ELEVATION OF DELIVERY.

It is understood and agreed that the party of the second part intends to elevate the water herein agreed to be carried, onto the lands to be irrigated by the same, by means of pumps. For the purpose of pumping the same he shall construct a sump on the north or right bank of the canal of the party of the first part at such distance from said canal as may be determined by the party of the second part; said sump shall be connected with the canal of the party of the first part by means of an open ditch so constructed that the waters to which the party of the second part is entitled may be measured into said ditch where it diverts from the

canal of the party of the first part. A headgate or tap shall be constructed at the head of said ditch in such manner and at such elevation as shall be approved by the party of the first part.

It is agreed that the party of the first part shall be under no obligation to deliver the water herein agreed to be carried and delivered to the party of the second part at an elevation greater than the present grade of the canal of the party of the first part where it passes the point of diversion described in the preceding paragraph, and the party of the first part shall have the same right to regulate the elevation and construction of the tap or headgate of the party of the second part as it has to regulate the taps or headgates of its stockholders or water users along the line of said canal.

MAINTENANCE.

For the purpose only of determining the annual maintenance to be paid by the party of the second party to the party of the first part for the carriage and delivery of said water hereinabove provided for, it is hereby agreed that the stock of the party of the first part represents eleven inches to the share and that the party of the second part shall pay to the party of the first part on each eleven inches diverted into and carried through the canal of the party of the first part for the party of the second part, the same annual maintenance as is paid by the stockholders of the party of the first part upon one share of the stock of said party of the first part; said estimate of the amount of water represented by one share of stock of said party of the first part being based upon the present capital stock of said party of the first part, to-wit: 500 shares.

It is agreed, however, that the party of the second part shall pay no maintenance to the party of the first part until he diverts water from said canal of the party of the first part and then only upon the amount so diverted, provided, however, that

when he shall have diverted or caused to be diverted the maximum amount which he is entitled to divert under this agreement he shall henceforth pay maintenance upon the maximum amount he is entitled to divert.

It is further agreed that in lieu of the payments of maintenance before the party of the second part diverts water from the canal of the party of the first part under this agreement, he shall give the party of the first part free use of all the water represented by said "right No. 2" of the Boise River herein agreed to be carried and delivered.

In the event said party of the second part, his heirs or assigns should fail or refuse to pay the maintenance as herein agreed, then the party of the first part shall be relieved during such delinquency only, from its obligations to carry and deliver said water herein agreed to be carried and delivered, and when said delinquent payments are made, together with 12% penalty on the amount of such delinquency the party of the first part shall resume its carriage and delivery of said water.

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 the stockholders of the party of the first part.

The party of the second part shall not be liable for any portion of bonded or mortgaged indebtedness, or interest on bonds, mortgages or notes given by the party of the first part, whether outstanding at the date hereof or hereafter to be made or issued, for the purpose of developing, acquiring or purchasing water for said party of the first part. Should the party of the first part supplement its water supply by means of wells, pumps, reservoirs or other artificial means, the party of the second part shall pay no part of the expenses in developing, acquiring and maintaining the same or securing water therefrom, but the party of the second part shall not be liable for any portion of moneys expended for the

purpose of increasing the water supply of the stockholders of the party of the first part, which expenditures do not increase the amount of water to be delivered under this agreement by the party of the first part to the party of the second part. Charges for betterments shall be considered as maintenance.

The party of the second part, his heirs or assigns, shall have no right, under this agreement, to exercise any management or control in the affairs, or of the property of the party of the first part.

This contract is executed in duplicate, one copy of which is delivered to each of the parties hereto, and the same shall extend and bind the successors and assigns of the party of the first part and heirs, executors, administrators and assigns of the party of the second part.

This contract is executed on behalf of the party of the first part by its President and Secretary by virtue of authority conferred upon said officers by resolution of its Board of Directors.

IN WITNESS WHEREOF, the party of the second part has hereunto set his hand and seal, and the party of the first part has caused its corporate name to be signed and its corporate seal attached by its President and Secretary respectively this 17th day of July, 1916.

Attest:
James E. Better,
Secretary.

FARMERS UNION DITCH CO. LTD.,
By Emil Jullien, President,
Party of the First Part.

W. A. Kayt,
Party of the Second Part.

STATE OF IDAHO)
COUNTY OF ADA) ss.

On this 29th day of July, 1916, before me, Blanche Myer, a Notary Public in and for said County and State personally appeared Emil Jullien and James E. Better, known to me to be the President and Secretary respectively of the corporation which executed the within agreement, and each of said officers acknowledged to me that said corporation executed the same.

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

Blanche Myer
Notary Public
Residence, Boise, Ada Co., Idaho.

STATE OF OREGON,)
COUNTY OF POLK) SS.

On this 22nd day of July, 1916, before me W. J. Bishop,
a Notary Public in and for said County and State personally appeared
W. A. Kayt, known to me to be the person whose name is subscribed
to the within instrument 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.

W. J. Bishop
Notary Public
Residence, McKinnville, Polk
County, Oregon.
My Commission expired Jan. 29, 1917.

BEFORE THE STATE ENGINEER OF THE STATE OF IDAHO,
IN THE MATTER OF THE APPLICATION
OF BOISE FRUIT TRACTS COMPANY, FOR
THE TRANSFER OF BOISE RIVER WATER
RIGHTS.

This cause came on for hearing at 9 o'clock A. M. on the 5th day of May, 1914, pursuant to a continuance from April 14, 1914, entered on request of certain protestants upon the application of the Boise Fruit Tracts Company made under the provisions of Section 3264 of the Revised Codes of Idaho for a certificate of the State Engineer of the State of Idaho transferring the point of diversion and place of use of certain water rights in Boise River as specifically described in said application now on file in this office, and upon the joint protest of the Farmers' Co-operative Ditch Company, the Pioneer Irrigation District and the Hampa-Mexidian Irrigation District, Messrs. Walter Griffiths, T. D. Martin and E. E. Neal appearing as counsel on behalf of said applicant and Messrs. B. B. Scatterday, J. M. Thompson and H. E. McKivoy appearing as counsel on behalf of said protestants. Documentary evidence was introduced on behalf of said applicant in support of its application and documentary evidence was introduced by said protestants in support of their protest.

Whereupon, the said matter was submitted to the State Engineer for his consideration and decision, and, after fully considering the same, said State Engineer is of the opinion that said application should be allowed and that an order should be made transferring the point of diversion and place of use of said waters of Boise River which are appurtenant to the lands described in said application and hereinafter described, and also the entire waters of the right of the Jacobs Canal hereinafter

Specifically described.

NOW THEREFORE, it is hereby ordered that the points of diversion from the Boise River and the places of use of the waters hereinafter described be, and the same are hereby transferred, from the point of diversion and places of use hereinafter set out to the points of diversion and places of use hereinafter described:

PRESENT POINTS OF DIVERSION AND USE AND
DESCRIPTION OF WATER RIGHTS TRANSFERRED.

ALL of the water rights hereinafter described and hereby ordered transferred are described in that certain decree entered in the case entitled, "Farmers' Co-operative Ditch Company, plaintiff, vs. Riverside Irrigation District and others, defendants," in the District Court of the Third (now Seventh) Judicial District of the State of Idaho, in and for the County of Canyon, decree in which cause was entered and filed in the office of the Clerk of said Court on the 18th day of January, 1906. Said waters are specifically described as follows, to-wit:

(1) All the water rights appurtenant to that part of Lots 1, 2 and 3 in Sec. 12, T. 4 N. R. 4 W. B. M. and that part of Lots 4 and 5 in Sec. 7, T. 4 N. R. 3 W. B. M. which lie on the southerly side of the present main channel of the Boise River, area 200 acres; the W 25 acres of the NE 1/4 of the NE 1/4 of Sec. 14; the E 1/4 of the NE 1/4 of Sec. 25; the E 1/4 of the NE 1/4 of Sec. 14; the W 30 acres of the NE 1/4 of the NE 1/4 of Sec. 13, all in T. 4 N. R. 4 W. B. M.; and the NE 1/4 of the NE 1/4 of Sec. 13, T. 4 N. R. 3 W. B. M.; said water being heretofore diverted through the Pioneer Dixie Ditch, the point of diversion of which is described in said decree as follows, to-wit: The point of diversion is on the left bank of the Boise River in the NE 1/4 of Sec. 20, T. 4 N. R. 3 W. B. M. Said waters appurtenant to said lands hereinabove described being part of rights Nos. 7 and 45.

as set out in said decree hereinabove referred to.

(2) All the water rights appurtenant to the E $\frac{1}{2}$ of Sec. 8 and all of Sec. 9 T. 4 N. R. 4 W. S. M., said water being heretofore diverted through the Riverside Canal, the point of diversion of which from the Boise River is described in said decree as follows, to-wit: The point of diversion is on the left bank of the Boise River near the center of Sec. 20, T. 4 N. R. 3 W. S. M., said waters appurtenant to said lands hereinabove described being all of Right No. 88 as set out in said decree hereinabove referred to.

(3) All the water rights appurtenant to the SW $\frac{1}{4}$ of the SE $\frac{1}{4}$ of Sec. 31, T. 5 N. R. 4 W. S. M., said water being heretofore diverted through the Eureka No. 2 Ditch, the point of diversion of which from the Boise River is described in said decree as follows, to-wit: The point of diversion is on the left bank of the Boise River near the NW corner of Sec. 12, T. 4 N. R. 4 W. S. M. Said water appurtenant to said lands hereinabove described being a part of Right No. 89 as set out in said decree hereinabove referred to.

(4) Also all of the water right of the Jacobs Ditch Company, Limited, consisting of 1000 miners inches as the same is described in the decree hereinabove referred to, and described in said decree as used under a rental system in the irrigation of town lots and blocks, for street sprinkling, sewer flushing and other municipal purposes in Boise City and additions thereto. Said water being heretofore diverted through the Jacobs Ditch, the point of diversion of which from the Boise River is described in said decree as follows, to-wit: The point of diversion is on the right bank of the Boise River about one mile East of Boise City, said water being all of Right No. 90 as set out in said decree hereinabove referred to.

POINT TO WHICH TRANSFERRED AND PLACE OF USE.
All the water rights hereinabove described and hereby

ordered transferred are hereby ordered to be diverted into the canal of the Farmers Union Ditch Company, Limited, at the following point of diversion from the Boise River, to-wit: To be diverted into the Farmers Union Canal on the right bank of the Boise River in the SE $\frac{1}{4}$ of the NE $\frac{1}{4}$ of Sec. 32, T. 4 N. R. 2 E. of B. M. for use for domestic and irrigation purposes, upon the following described lands, to-wit:

The following lands in Twp. 5 N. of R. 1 W. of B. M. Ada County, Idaho: SW $\frac{1}{4}$ of SW $\frac{1}{4}$ of Sec. 19; W $\frac{1}{2}$ of NE $\frac{1}{4}$ of Sec. 30; SW $\frac{1}{4}$ of SW $\frac{1}{4}$ of Sec. 30; W $\frac{1}{2}$ of NE $\frac{1}{4}$ Sec. 31; and the following described lands in Twp. 5 N. of R. 2 W. of B. M. in Canyon County, Idaho, to-wit: 75.3 acres in the S $\frac{1}{2}$ of the SW $\frac{1}{4}$ and the S $\frac{1}{2}$ of SW $\frac{1}{4}$ of Sec. 25; 123.2 acres in the S $\frac{1}{2}$ of the SW $\frac{1}{4}$ and S $\frac{1}{2}$ of SE $\frac{1}{4}$ of Sec. 23; 29 acres in the SW $\frac{1}{4}$ of Sec. 24; the SE $\frac{1}{4}$ of the SE $\frac{1}{4}$ of Sec. 25; the following lands in Sec. 26, the N $\frac{1}{2}$ of the NE $\frac{1}{4}$; the SW $\frac{1}{4}$ of the NE $\frac{1}{4}$ and 26.7 acres of the SE $\frac{1}{4}$ of the NE $\frac{1}{4}$; the NE $\frac{1}{4}$ of the NE $\frac{1}{4}$ and 22.7 acres in the S $\frac{1}{2}$ of the SW $\frac{1}{4}$; the following lands in Sec. 27, S $\frac{1}{2}$ of the NE $\frac{1}{4}$; SW $\frac{1}{4}$ of the NE $\frac{1}{4}$; S $\frac{1}{2}$ of the SE $\frac{1}{4}$ of the NE $\frac{1}{4}$; the SW $\frac{1}{4}$; 27 acres in the NE $\frac{1}{4}$ of the SE $\frac{1}{4}$; 16.6 acres in the NE $\frac{1}{4}$ of the SE $\frac{1}{4}$; 38.1 acres in the SW $\frac{1}{4}$ of the SE $\frac{1}{4}$ and 7.3 acres in the SW $\frac{1}{4}$ of the SE $\frac{1}{4}$; the following lands in Sec. 28, the SE $\frac{1}{4}$; the S $\frac{1}{2}$ of the SW $\frac{1}{4}$; the NE $\frac{1}{4}$; the SW $\frac{1}{4}$ and the SE $\frac{1}{4}$ of the NE $\frac{1}{4}$; the following lands in Sec. 29, the SE $\frac{1}{4}$ of the NE $\frac{1}{4}$; N $\frac{1}{2}$ of SW $\frac{1}{4}$ and SE $\frac{1}{4}$ of SE $\frac{1}{4}$; the following lands in Sec. 30, the S $\frac{1}{2}$ of NE $\frac{1}{4}$ of NE $\frac{1}{4}$; the W $\frac{1}{2}$ of the NE $\frac{1}{4}$ of the NE $\frac{1}{4}$ of NE $\frac{1}{4}$; the S $\frac{1}{2}$ of the SW $\frac{1}{4}$ of NE $\frac{1}{4}$; the NE $\frac{1}{4}$; SE $\frac{1}{4}$ of SW $\frac{1}{4}$ and the S $\frac{1}{2}$ of the SW $\frac{1}{4}$ of the SW $\frac{1}{4}$; all of Sec. 33, the following lands in Sec. 34, NW $\frac{1}{4}$; the SW $\frac{1}{4}$; the SE $\frac{1}{4}$; the S $\frac{1}{2}$; the NE $\frac{1}{4}$; 57.3 acres in the NW $\frac{1}{4}$ of the NE $\frac{1}{4}$ and 25 acres in the NE $\frac{1}{4}$ of the NE $\frac{1}{4}$; the following lands in Sec. 35, 23.5 acres in the NE $\frac{1}{4}$ of the NE $\frac{1}{4}$; 5.3 acres in the NW $\frac{1}{4}$ of the NE $\frac{1}{4}$; 2.3 acres in the NW $\frac{1}{4}$ of the SW $\frac{1}{4}$; 8.1 acres in the NE $\frac{1}{4}$ of the NE $\frac{1}{4}$; 35 acres in the SW $\frac{1}{4}$ of the NE $\frac{1}{4}$; 35 acres in the SE $\frac{1}{4}$ of the SW $\frac{1}{4}$.

NOTICE OF PROPOSED TRANSFER OF WATER RIGHTS

Notice is hereby given that the Boise River Transfer Company, a corporation of Boise, Idaho, has applied to the State Engineer of the State of Idaho for certification authorizing it to transfer the use of 2.0 second feet of water described as 10.00 miners inches of the water of the Boise River from the ditches in which the same has been heretofore diverted and carried and from the lands upon which it is now used, to use 270 miners inches diverted in the Pioneer Ditch under rights Nos. 8 and 45 and used upon the following lands in Twp. 4 N. R. 4 E. B. M., Canyon County, Idaho, to-wit: Lots 1, 2, and 3, Sec. 12, NW1 of the NE1 of Sec. 13; NE1 of NW1 Sec. 14; E1 of NE1 Sec. 23 and E1 of SE1 of SE1 Sec. 14, and the following tracts in Twp. 4 N. R. 3 E. B. M., said County, to-wit: Lots 4 and 5 in Sec. 7; NW1 of NE1 Sec. 19, 60 miners inches being all of the water adjudicated to W. A. Black as right No. 88 and used upon the following lands in Twp. 4 N. R. 4 E. B. M., Canyon County, Idaho, to-wit: E1 of Sec. 8 and all of Sec. 9, 30 miners inches out of the water adjudicated to Eugene Ditch Company No. 2 under right No. 89 and used upon the following described lands, all in Twp. 5 N. R. 4 E. B. M., Canyon County, Idaho, to-wit: SW1 of NE1 of Sec. 31, to the following described tracts, to-wit:

All waters herein above referred to are diverted on the left hand side of the Boise River, and at the following points, to-wit:

Right No. 88 near the center of Sec. 20, Twp. 4 N. R. 3 E. B. M., at the head gates of the Riverside Irrigation District, Idaho; Rights Nos. 8 and 45, near the center of the NE1 of the NW1 of Sec. 20, Twp. 4 N. R. 3 E. B. M.

The water under right No. 88 is diverted at the head gates of the Eugene Ditch Company near the SW corner of Sec. 12, Twp. 4 N. R. 3 E. B. M., all in Canyon County, Idaho.

Dated Boise, Idaho, this 8th day of June, 1914.

State Engineer.

Approved
G. H. Johnson
Atty. Gen.

STATE OF IDAHO
DEPARTMENT OF RECLAMATION
Certificate of Water Right
Transferred Right No. 12-1

THIS IS TO CERTIFY That the FEDERAL LAND BANK is the owner
of and using a certain water right for

1.51 c.f.s. with a priority date of June 1, 1884
of the waters of the BOISE RIVER, County of Ada, State of Idaho,
decreed to the JACOB'S CANAL COMPANY, by Decree of Judge Geo. H. Ste-
wart, of the Third Judicial District of the State of Idaho, in and for
the County of Canyon, in the case of:

FARMERS' COOPERATIVE DITCH CO. vs. RIVERSIDE IRR. DIST., Ltd.
said decree bearing date of January 18, 1906, for the purpose of irri-
gating the following described lands, situate, lying and being in Water
District No. 12-1 in the County of Ada, State of Idaho, to wit:

S $\frac{1}{2}$ NW $\frac{1}{2}$ and the N $\frac{1}{2}$ SE $\frac{1}{2}$, of Section 13,
Township 5 North, Range 1 East, S. E.

AND THAT SAID Decree has been entered in the records of the
Department of Reclamation of the State of Idaho, in Book 5 of Decrees,
at page 410.

THAT THE Said FEDERAL LAND BANK became the owner of said land
and said water right by the foreclosure thereof.

THAT, NOW, UPON THE APPLICATION of THE FEDERAL LAND BANK for
a Transfer of

0.8878 c.f.s of the waters of the Boise River
made before the commissioner of Reclamation of the State of Idaho, and
the said Application having been granted, the right to the use of
0.8878 cubic feet per second of water
upon the land above described is hereby ~~ABANDONED~~, and the lands to be
irrigated under such right, and to which the right, hereby confirmed,

12-31-1934

shall become appurtenant, by this Certificate, for irrigation and domestic purposes, are described as follows:

1/2 Sec. 1, 1/2 Sec. 13, 1/2 Sec. 15, 1/2 Sec. 17, 1/2 Sec. 19, of
Section 4, Township 4 North, Range 1 East,

situate, lying and being in the County of Ada, State of Idaho, said water to be limited at any given time to an amount actually needed and beneficially used for such purposes, and shall not exceed the following amount, to wit:

0.1875 cubic feet per second.

THAT THE WATER RIGHT, hereby transferred has heretofore been diverted from the said BOISE RIVER at a point in Section 4, Township 4 North, Range 1 East, through the Farmers' Union Ditch, and thence into the pumping system of the Capital View Irrigation District, and will hereafter be diverted from the

Said Boise River at the same point but
through the Farmers' Union Ditch Company's
Ditch only.

THAT, IN ADDITION TO THE FOREGOING, The last above named lands have appurtenant to them, nine (9) shares of water from the Farmers' Union Ditch Company.

THAT THE RIGHT TO THE USE OF The Waters aforesaid, hereby confirmed, is restricted to the lands or place of use last above described, as provided by the laws of the State of Idaho.

IN WITNESS WHEREOF, I have hereunto set my hand and caused the seal of the Department of Reclamation of the State of Idaho to be hereunto affixed, at Boise, Idaho, this 31st day of December, 1954.

R. W. FARIS
Commissioner of Reclamation

Wm. H. Coffin
Wm. H. Coffin
Director of Water Resources

09/07/89 L.A.W.

* MACALISTER'S MODIFICATION OF MORITZ *
* LOSS CALCULATION FOR *
* THE FARMERS UNION *
* WATER RIGHT NO. 63-00123 *

Q DIVERTED: 272.93
Q DELIVERED: 217.50
PERCENTAGE LOSS: 25.49

TYPE OF SOIL: SANDY LOAM
SOIL CONSTANT= 1.50 (FEET/DAY)
LENGTH OF HEAD OF DITCH: 0.00
LENGTH OF DELIVERY SECTION: 27.00

LOSS TABLE FOR DELIVERY

MILE	Q (CFS)	LOSS (CFS)	Q DELIVERED (CFS)
1.00	262.34	2.53	8.06
2.00	251.77	2.52	8.06
3.00	241.22	2.50	8.06
4.00	230.68	2.48	8.06
5.00	220.16	2.46	8.06
6.00	209.66	2.44	8.06
7.00	199.19	2.42	8.06
8.00	188.73	2.40	8.06
9.00	178.31	2.37	8.06
10.00	167.91	2.34	8.06
11.00	157.54	2.31	8.06
12.00	147.20	2.28	8.06
13.00	136.89	2.25	8.06
14.00	126.63	2.21	8.06
15.00	116.40	2.17	8.06
16.00	106.23	2.12	8.06
17.00	96.10	2.07	8.06
18.00	86.03	2.01	8.06
19.00	76.02	1.95	8.06
20.00	66.09	1.88	8.06
21.00	56.24	1.80	8.06
22.00	46.48	1.70	8.06
23.00	36.84	1.59	8.06
24.00	27.32	1.46	8.06
25.00	17.98	1.29	8.06
26.00	8.84	1.08	8.06
27.00	0.00	0.78	8.06

MICROFILMED
AUG 14 1992

09/07/89 L.A.W.

* MACALLISTER'S MODIFICATION OF MORITZ *
* LOSS CALCULATION FOR *
* THE FARMERS UNION DITCH *
* WATER RIGHT NO. 63-00123 *

Q DIVERTED: 23.34
Q DELIVERED: 20.40
PERCENTAGE LOSS: 14.41

TYPE OF SOIL: SANDY LOAM
SOIL CONSTANT= 1.50 (FEET/DAY)
LENGTH OF HEAD OF DITCH: 0.00
LENGTH OF DELIVERY SECTION: 3.00

LOSS TABLE FOR DELIVERY

MILE	Q (CFS)	LOSS (CFS)	Q DELIVERED (CFS)
1.00	15.33	1.21	6.80
2.00	7.52	1.01	6.80
3.00	-0.01	0.73	6.80

MICROFILMED

AUG 14 1992

 * MACALLISTER'S MODIFICATION OF MORITZ *
 * LOSS CALCULATION FOR *
 * THE *
 * WATER RIGHT NO. *

Q DIVERTED: 253.92
 Q DELIVERED: 217.50 ←
 PERCENTAGE LOSS: 16.74

TYPE OF SOIL: CLAY LOAM AND SILT
 SOIL CONSTANT= 1.00 (FEET/DAY)
 LENGTH OF HEAD OF DITCH: 0.00
 LENGTH OF DELIVERY SECTION: 27.00

LOSS TABLE FOR DELIVERY

MILE	Q (CFS)	LOSS (CFS)	Q DELIVERED (CFS)
1.00	244.19	1.67	8.06
2.00	234.48	1.66	8.06
3.00	224.77	1.65	8.06
4.00	215.08	1.63	8.06
5.00	205.41	1.62	8.06
6.00	195.74	1.61	8.06
7.00	186.10	1.59	8.06
8.00	176.46	1.58	8.06
9.00	166.85	1.56	8.06
10.00	157.25	1.54	8.06
11.00	147.68	1.52	8.06
12.00	138.12	1.50	8.06
13.00	128.59	1.48	8.06
14.00	119.08	1.45	8.06
15.00	109.60	1.42	8.06
16.00	100.16	1.39	8.06
17.00	90.74	1.36	8.06
18.00	81.36	1.32	8.06
19.00	72.03	1.28	8.06
20.00	62.74	1.23	8.06
21.00	53.51	1.18	8.06
22.00	44.34	1.11	8.06
23.00	35.24	1.04	8.06
24.00	26.23	0.95	8.06
25.00	17.33	0.85	8.06
26.00	8.57	0.71	8.06
27.00	0.00	0.51	8.06

$$14.4 \text{ of } 254 = \frac{14.4}{254} = 6\%$$

1020 20.4 cfs delivered

MICROFILMED
 AUG 14 1992

 * MACALLISTER'S MODIFICATION OF MORITZ *
 * LOSS CALCULATION FOR *
 * THE *
 * WATER RIGHT NO. *

Q DIVERTED: 22.33
 Q DELIVERED: 20.40
 PERCENTAGE LOSS: 9.46

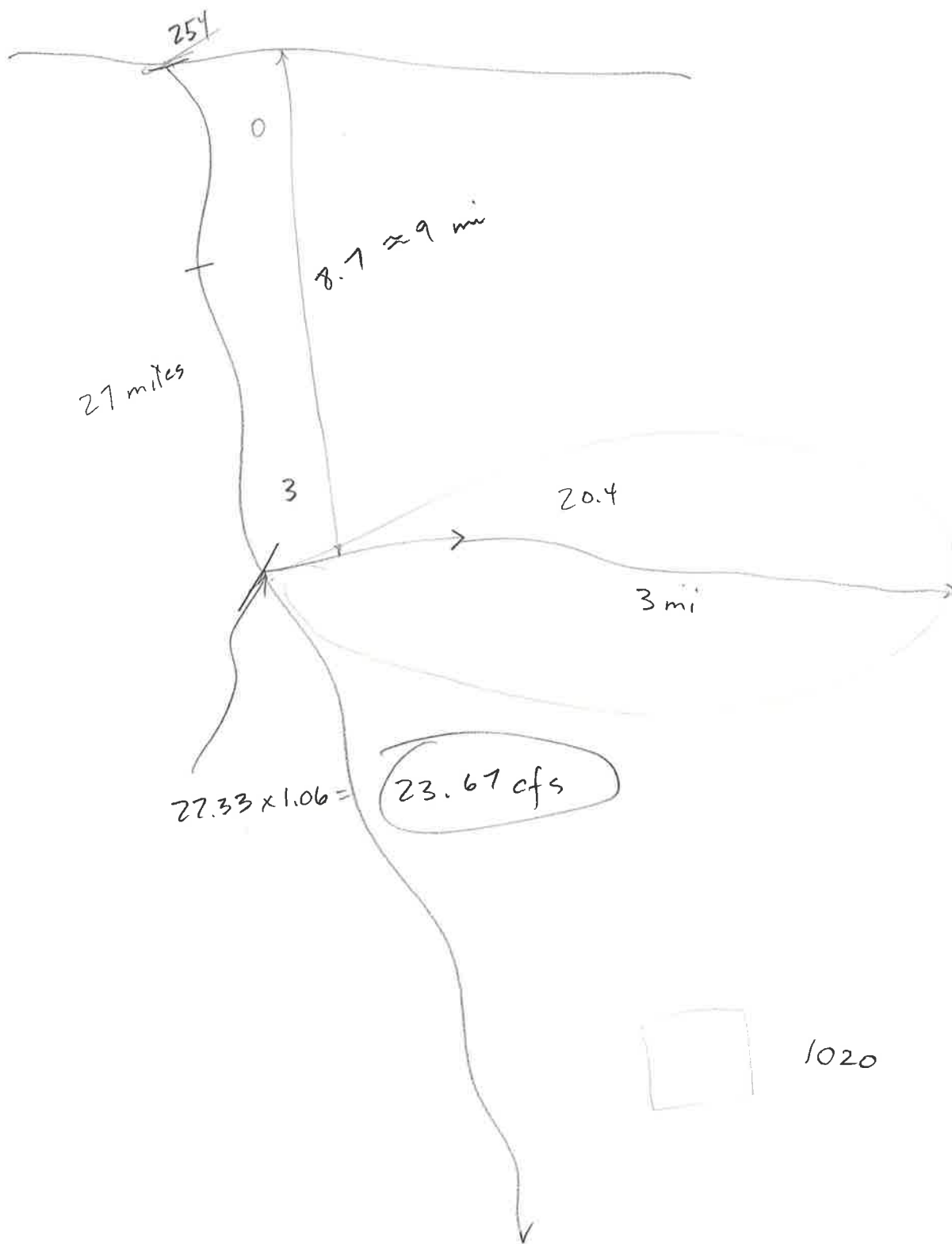
TYPE OF SOIL: CLAY LOAM AND SILT
 SOIL CONSTANT= 1.00 (FEET/DAY)
 LENGTH OF HEAD OF DITCH: 0.00
 LENGTH OF DELIVERY SECTION: 3.00

LOSS TABLE FOR DELIVERY

MILE	Q (CFS)	LOSS (CFS)	Q DELIVERED (CFS)
1.00	14.74	0.79	6.80
2.00	7.28	0.66	6.80
3.00	0.00	0.48	6.80

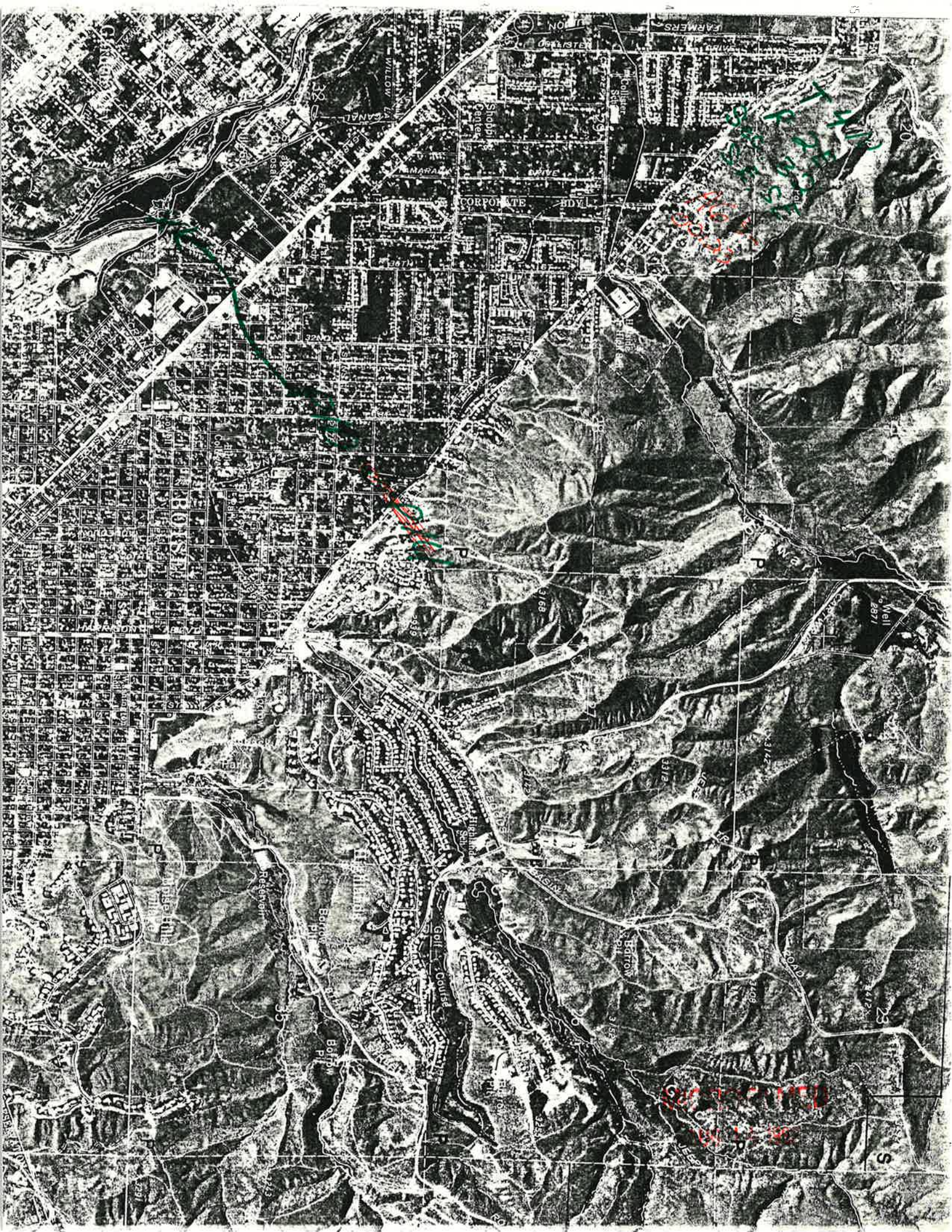
MICROFILMED

AUG 14 1992



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AUG 14 1992



IN THE DISTRICT COURT OF THE SEVENTH JUDICIAL DISTRICT
OF THE STATE OF IDAHO IN AND FOR THE COUNTY OF CANYON.

Farmers' Cooperative Ditch Company, (a corporation)

Plaintiff,

vs.

DECREE.

Riverside Irrigating District, Limited, (a corporation)

et al,

Defendants.

RECEIVED

MAR 7 1969

Department of Reclamation

STEWART DECREE

#5 63-0120 TO 0252

ALSO INCLUDES

63-0369

(pg. 38)

Decree # I.

IN THE DISTRICT COURT OF THE SEVENTH JUDICIAL DISTRICT
OF THE STATE OF IDAHO IN AND FOR THE COUNTY OF CANYON.

Farmers' Cooperative Ditch Company (a corporation)

Plaintiff,

vs.

D E C R E E

Riverside Irrigating District, Limited, (a corporation), The Siebenberg Cooperative Ditch Company, Limited (a corporation), Frank Gilbert, T. W. Doone, Prior Burnett, Thomas Andrews, H. Ray Boudinot, I. M. Tucker, C. F. J. Peterson, William McKnett, Fred J. Kiesel, Neil McCarron, Michael Gilbride, Lower Boise Ditch Company, (a corporation), R. H. Stockton, H. F. Vanderpool, D. D. Campbell, William Ross, Smith Stockton, John Atkins, Ben Ross, John Ross, D. K. McConnell, John Lemm, John Hammon, Bird Bowman, (substituted for M. B. Bowman Jr.), D. Mumford, T. T. Johnson, H. Carlyle, Charles Allen, J. Fowman, Robert McGuire, Frederick Ode, Eureka Ditch Company, (a corporation), J. Roland, Thomas J. Palmer and Noah W. Palmer (substituted for Lillian Potter, Administratrix of the Estate of L. D. Potter, deceased, Susan E. Potter, Thad. S. Potter, Elisha Potter, Lillian Potter, Ida Potter, James Baker), C. W. Cooper, Pioneer Dixie Ditch Company (a corporation), William C. Young, Lizzie Young, Estella C. Young, E. M. Kirkpatrick, S. H. Mitchell, L. F. Cook, Triphenia Jobe, administratrix of the estate of J. H. Jobe, deceased, Triphenia Jobe, Charlotte Coonrod, _____ Coonrod, her husband, Minta Lund and Frank Lund, her husband, William Jobe and Alice Jobe, Edith Jobe and Corrinna Jobe, minors, A. Holcomb, George Milner, George Hess, John Thomas, H. H. Whitney, Emma S. Lee, Edwin Curtis, Eureka Water Company, (a corporation), William Simpson, William Lewis, Huston Frost, Elijah Frost, George Goodrich, R. N. Brannan, William Frost, Adam Schindler, Pioneer Irrigation District, (a corporation), Franklin Ditch Company, (a corporation), Canyon County Water Company, (an association), Francis A. Phelps and Frances Phelps husband and wife, John D. Rutledge, James Hartley, Joseph Wilson, Daniel Mastersen, Perry Stoffle, H. McGill, C. C. Foote, J. E. Smith, John Lomp, M. F. Fowler, Thomas

Morris, James Harvey, Jacob Alchenberger, Peter Watkins, A. J. Bres-
 hears, C. G. Myers, John Langford, F. M. Ryals, Frank Hart, Mrs A.
 Moudy, A. Blossinger, Dan Shuse, S. H. Mitchell, T. Cheneworth, W. F.
 Foster, Mrs Perkel, Milt McIntyre, Perry Shafer, Hiram Payne, Jacob
 Fowler, (sub. for John Steele), J. C. Baldwin, Charles Palmer, D. F.
 Swalley, S. McDowell, Mrs E. J. McDowell, J. W. Dickson, Amos Prosser,
 William Snodgrass, (sub. for Thomas F. Martin), D. D. Shaw, (sub. for
 A. T. Thornton), Frank Hart (sub. for Joseph E. Weeks), James M. Stew-
 art, Elza Everett, (sub. for Phelps Everett), W. A. Fowler, State of
 Idaho, Snyder & McDowell, William Spielman, T. C. Creason, Ed. Bullock
 J. H. McGrath, Middleton Mill Ditch Company, (a corporation), Middle-
 ton Canal Company, (a corporation), Middleton Water Company, (a corpor-
 ation), Levi Smith, Charlotte Calhoun and David Calhoun her husband,
 Lizzie Everett and P. H. Everett her husband, Mrs E. J. Linder and
 A. V. Linder her husband, Jesse Wilson, New Union Ditch Company, (a
 corporation), New Dry Creek Ditch Company, (a corporation), Farmers'
 Union Ditch Company, (a corporation), Boise Valley Irrigation Ditch
 Company, (a corporation), John Utter, Stephen Utter, Josephine E.
 Gallagher, administratrix of the estate of J. H. Gallagher, (sub. for
 J. H. Gallagher), Charles Rein, William Bubb, Barber Lumber Company,
 (sub. for I. N. Costen), The Nampa & Meridian Irrigation District,
 (sub. for The Boise City Irrigation & Land Company), Settlers' Canal
 Company, Limited, (a corporation), New York Canal Company, Limited,
 (a corporation), A. Rossi, W. H. Ridenbaugh, R. Z. Johnson, Kate Per-
 rault and Joseph Perrault her husband, Boise City Canal Company, (a
 corporation), Jacobs Canal Company, Limited, (a corporation), (sub.
 for Boise Rapid Transit Company), The Canyon County Irrigation Company
 Limited, (a corporation), Denver & Idaho Land Company, (a corporation)
 Thomas Davis, T. C. Catlin, Polette Macé, C. C. Havird, Draper &
 Wells, James L. Graham, Frank N. Graham, William Gilbert, Martha Bow-
 man, G. W. Gess, Allen V. Webster, William P. Kennedy, Frank L. Leon-
 ard, Edna E. Leonard, J. S. D. Manville, Estate of Albert Sherwin,
 Martha E. McCarthy, H. D. Goodman and Dora Goodman, C. B. Ross,

ence with or diversion or use of the waters of said Boise River, except as provided in this decree, whenever such interference, diversion or use would in any manner interfere with the quantity of water awarded by this decree to any of the other parties to this action.

5. It is further ordered, adjudged and decreed that the complaint, answers and cross-complaints and all pleadings filed in this cause be and the same are hereby amended to conform to the facts as found by the court herein.

6. That each of the parties to this action or their predecessors in interest, whose rights are adjudicated by this action, did respectively appropriate and divert from the Boise River the quantities of water hereinafter stated, and on the dates respectively as hereinafter stated, such water being estimated and measured under a four inch pressure and did respectively appropriate and divert such quantities of water for a beneficial use, and that ever since said dates of the several appropriations such water has been by said parties and their grantors and predecessors in interest so diverted and used.

7. That the following named parties, parties to this action, are entitled to the use of the waters of Boise River upon the lands mentioned and described in the complaint and cross-complaints and answers herein, in the following amounts and from the following dates, to-wit;

W. H. Allen, Edgar Dilley, W. H. Ross, Isaac Sedak, Julia Emmen,
 Mason Creek Ditch Company, (a corporation), W. J. Hamming, Peter
 Reeves, Mary G. Davis, Edward H. Hart, S. E. Gray, Heirs of Edward and
 Mary Clark, John Cecil, Thomas H. Alkous, W. H. Conway, Isham Joylin,
 Senora Joylin, Andrew J. Joylin, Francis M. Joylin, Joseph Goble,
 Susie Campbell, J. T. Barber, (sub. for James Barber), S. W. Hutchin-
 son, Johnson, W. A. Black, (sub. for Ira B. Arney), American
 Ditch Association, (a corporation), Charles H. Miller, L. F. Graham,
 M. S. Cobb, O. F. Short, Loomis L. Heseley, C. B. Taylor, South
 Boise Mutual Irrigation Company, (sub. for William Bubb, Alexander Mc-
 Therson and L. Carrie McTherson, Annie H. Fogarty, (sub. for Gardner
 Adams and Mildred Adams), Grace Call, Samuel H. Canfield, Charles
 Boon and Jane Kech, Mathew Casey, Jacob Bingman, Canyon Ditch Company,
 (a corporation), (sub. for B. D. Campbell and Fred Sundman), J. F.
 Taryan,

Defendants.

In the above entitled cause the default of the non-answering defendants having been duly entered, to-wit;

Frank Gilbert, William McKnett, Neil McCarron, Michael Gilbride, Lower Boise Ditch Company, H. F. Vanderpool, John Atkins, Ben Ross, John Ross, D. K. McConnel, H. Carlyle, J. Bowman, E. M. Kirkpatrick, S. H. Mitchell, L. F. Cook, Triphenia Jobe, administratrix of the estate of J. H. Jobe; William Jobe, Alice Jobe, Edith Jobe and Corrinna Jobe, (minors) A. Holcomb, George Milner, George Hess, John Thomas, H. H. Whitney, Edwin Curtis, Kate Perrault, Henry Ott and John Doe et al, L. F. Graham, M. S. Cobb and O. F. Short;

and said cause having been regularly tried and submitted to the court for its decision, and the court having considered the evidence and being fully advised in the premises, makes and files its findings of fact, ^{and conclusions of law} and directs judgment to be entered in accordance therewith.

Whereupon it is ordered, adjudged and decreed as follows;

1. That each and every of the tracts of land described in the complaint, answers and cross-complaints in this action as belonging to the several parties, or tributary to the canals of certain parties plaintiff and defendant herein, are arid in character and require the artificial application of water to render them valuable for agricultural purposes.
2. That the quantity of water required for the successful irrigation and cultivation of said lands, measured at the intake of the respective ditches under a four inch pressure, is one inch per acre for bench lands, and one and one-tenth inch per acre for bottom lands.
3. That the quantity of water to which each of the parties to this action is entitled under this decree, shall be measured at the point or points of diversion thereof.
4. It is further ordered, adjudged and decreed that none of the parties hereto, or their successors in interest, shall have a right to the use of the waters of Boise River herein awarded, except for a beneficial purpose; and that whenever the beneficial use has ceased, such party or parties shall cease to divert and have no right to divert the said waters; that each and every of the parties hereto, their servants, attorneys, employees, privies and successors in interest, are hereby enjoined and restrained from any and all interfer-

I.

That the defendant THOMAS DAVIS be and is hereby awarded the use of the waters of Boise River, diverted from a point on the north bank of said river about one mile east of the east line of the original townsite of Boise City, Idaho, through what is commonly known as the Jacobs Canal, for use upon lands lying in Secs. 10 and 11, T. 3 N. R. 2 E. B.M., in the following amount from the following date;

33 0120 110 inches, from June 1, 1864; and hereby designated as Right No. 1
512, 513, 530, 595

That the defendant Thomas Davis be and is hereby awarded the use of said waters diverted from a point on the south side of said river in NW $\frac{1}{4}$ of NW $\frac{1}{4}$ of Sec. 9, T. 3 N. R. 2 E. B.M., through what is known as the Davis Canal, for use upon lands in Secs. 5, 6, 31 and 32, T. 3 N. R. 2 E. B.M., in the following amount from the following date;

33 0121 670 inches, from June 1, 1886, and hereby designated as Right No. 94.

That the defendant Thomas Davis be and is hereby awarded the use of said waters diverted from said river at a point in NW $\frac{1}{4}$ of Sec. 9, T. 3 N. R. 2 E. B.M., through what is known as the Davis private ditch, for use upon SE $\frac{1}{4}$ of Sec. 5 and SE $\frac{1}{4}$ of Secs 8 and 9, all in T. 3 N. R. 2 E. B.M., in the following amount from the following date;

3 0122 27 inches, from June 1, 1891; And hereby designated as Right No. 119
P. 32

And adjudged to pay \$56.49 costs, in addition to the costs incurred by him.

II.

JACOBS CANAL COMPANY, Limited, a corporation.

That the defendant the Jacobs Canal Company, Limited, be and it is hereby awarded the use of the waters of Boise River, diverted from a point on the north side of said river about one mile east of the east boundary line of the original townsite of Boise City, Idaho, through what is commonly known as the Jacobs Canal, for use upon the town lots and lands lying under said canal in Secs. 4, 9, 10, 11, 13, 14, T. 3 N. R. 2 E. B.M., in the following amount from the following date;

3 0123 1000 inches, from June 1, 1864; and hereby designated as Right No. 2
542, 136

And adjudged to pay \$70.00 costs, in addition to the costs incurred by it.

4-9-1927

THIS AGREEMENT made and entered into this 9th day of April, 1927, by and between Farmers Union Ditch Company, Ltd., an Idaho Corporation, party of the first part, and Capital View Irrigation District, organized under the irrigation district laws of the State of Idaho, party of the second part,

WITNESSETH: That WHEREAS a portion of the lands lying within the boundaries of the party of the second part are irrigated from waters diverted from the Boise River and conveyed through the Canal of the party of the first part and

WHEREAS the boundaries of Drainage District No. 2 of Ada and Canyon Counties include said canal of the party of the first part and

WHEREAS the Commissioners of said Drainage District No. 2 levied an assessment against the party of the first part by reason of the waters carried through its canal and delivered to the lands of the party of the second part, which are situate outside the boundaries of said Drainage District, in the sum of \$1131.74 and

WHEREAS the party of the second part is liable for, and hereby admits its obligation to pay to the party of the first part said sum and such further or additional assessments as may be levied against the party of the first part by reason of conveying water to the lands within the boundaries of the party of the second part,

NOW THEREFORE it is mutually understood and agreed day of March, 1920, between the Farmers Union Ditch Company, Ltd., party of the first part and B. F. Neal and others, parties of the second part, which contract was recorded on the 28th day of April, 1924 in Book 10 of Contracts at Page 632, Records of Ada County, Idaho, and that it is the desire of the parties hereto, and it is hereby agreed, that said contract be and the

same is hereby annulled and cancelled.

IN WITNESS WHEREOF the respective parties hereto have hereunto caused its corporate name to be hereunto subscribed by its President and its corporate seal to be affixed and attested by its Secretary, pursuant to a resolution of its Board of Directors, as of the day and year in this agreement first above written.

Attest:

FARMERS UNION DITCH COMPANY, LTD.

James M. Potter
Secretary.

By

[Signature]
President.

(SEAL)

Attest:

CAPITAL VIEW IRRIGATION DISTRICT

Ed Ray
Secretary.

By

Harry Shane
President.

(SEAL)

STATE OF IDAHO)

) SS.

COUNTY OF ADA)

On this 29th day of April in the year 1927, before me Thos. L. Martin a Notary Public in and for the State, personally appeared Ed. Straus, known to me to be the President of the Farmers Union Ditch Company, Ltd., the corporation that executed the within 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.

Thos. L. Martin
Notary Public for the State
of Idaho;
Residing at Boise in said
State.

STATE OF IDAHO)
COUNTY OF ADA) SS.

On this 29th day of April in the year 1927, before me Thos. L. Martin a Notary Public in and for the State, personally appeared Harry Shano, known to me to be the President of the Capital View Irrigation District, the corporation that executed the within 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.

Thos. L. Martin
Notary Public for the State
of Idaho;
Residing at Boise in said
State.

10-14-1916

File 63-7 63.123

BEFORE THE STATE ENGINEER OF THE STATE OF IDAHO.

IN THE MATTER OF THE APPLICATION
OF BOISE FRUIT TRACTS COMPANY, FOR
THE TRANSFER OF BOISE RIVER WATER RIGHTS.

This cause came on for hearing at 2 o'clock P. M. on the 5th day of May, 1914, pursuant to a continuance from April 14, 1914, entered on request of certain protestants, upon the application of the Boise Fruit Tracts Company made under the provisions of Section 3264 of the Revised Codes of Idaho for a certificate of the State Engineer of the State of Idaho transferring the point of diversion and place of use of certain water rights in Boise River as specifically described in said application now on file in this office, and upon the joint protest of the Farmers' Co-operative Ditch Company, the Pioneer Irrigation District and the Nampa-Meridian Irrigation District, Messrs. Walter Griffiths, T. L. Martin and B. F. Neal appearing as counsel on behalf of said applicant and Messrs. R. B. Scatterday, J. M. Thompson and H. E. McElroy appearing as counsel on behalf of said protestants. Documentary evidence was introduced on behalf of said applicant in support of its application and documentary evidence was introduced by said protestants in support of their protest.

Whereupon, the said matter was submitted to the State Engineer for his consideration and decision, and, after fully considering the same, said State Engineer is of the opinion that said application should be allowed and that an order should be made transferring the point of diversion and place of use of said waters of Boise River which are appurtenant to the lands described in said application and hereinafter described, and also the entire waters of the right of the Jacobs Canal hereinafter specifically described.

NOW THEREFORE, it is hereby ordered that the points of diversion from the Boise River and the places of use of the waters hereinafter described be, and the same are hereby transferred from the points of diversion and places of use hereinafter set out to the point of diversion and place of use hereinafter described:

PRESENT POINTS OF DIVERSION AND USE AND DESCRIPTION

OF WATER RIGHTS TRANSFERRED.

ALL of the water rights hereinafter described and hereby ordered transferred are described in that certain decree entered in the case entitled: "Farmers' Co-operative Ditch Company, Plaintiff, vs. Riverside Irrigation District and others, defendants," in the District Court of the Third (now Seventh) Judicial District of the State of Idaho, in and for the County of Canyon, decree in which cause was entered and filed in the office of the Clerk of said Court on the 18th day of January, 1906. Said waters are specifically described as follows, viz:

RECEIVED
MAY 10 1914

(1) All the water rights appurtenant to that part of Lots 1, 2 and 3 in Sec. 12, T. 4 N. R. 4 W. B. M. and that part of Lots 3, 4 and 5 in Sec. 7, T. 4 N. R. 3 W. B. M. which lie on the southerly side of the present main channel of the Boise River, area 200 acres; the W 25 acres of the NE $\frac{1}{4}$ of the NW $\frac{1}{4}$ of Sec. 14; the E $\frac{1}{2}$ of the NE $\frac{1}{4}$ of Sec. 23; the E $\frac{1}{2}$ of SE $\frac{1}{4}$ of Sec. 14; the W 30 acres of the NW $\frac{1}{4}$ of the NE $\frac{1}{4}$ of Sec. 13, all in T. 4 N. R. 4 W. B. M.; and the NW $\frac{1}{4}$ of the NE $\frac{1}{4}$ of Sec. 19, T. 4 N. R. 3 W. B. M.; said water being heretofore diverted through the Pioneer Dixie Ditch, the point of diversion of which is described in said decree as follows, to-wit: The point of diversion is on the left bank of the Boise River in the SW $\frac{1}{4}$ of Sec. 20, T. 4 N. R. 3 W. B. M. Said waters appurtenant to said lands hereinabove described being part of rights Nos. 8 and 45 as set out in said decree hereinabove referred to.

(2) All the water rights appurtenant to the E $\frac{1}{2}$ of Sec. 8 and all of Sec. 9 T. 4 N. R. 4 W. B. M., said water being heretofore diverted through the Riverside Canal, the point of diversion of which from the Boise River is described in said decree as follows, to-wit: The point of diversion is on the left bank of the Boise River near the center of Sec. 20, T. 4 N. R. 3 W. B. M., said waters appurtenant to said lands hereinabove described being all of Right No. 88 as set out in said decree hereinabove referred to.

(3) All the water rights appurtenant to the SW $\frac{1}{4}$ of the SE $\frac{1}{4}$ of Sec. 31, T. 5 N., R. 4 W. B. M., said water being heretofore diverted through the Eureka No. 2 Ditch, the point of diversion of which from the Boise River is described in said decree as follows, to-wit: The point of diversion is on the left bank of the Boise River near the SW corner of Sec. 12, T. 4 N. R. 4 W. B. M. Said water appurtenant to said lands hereinabove described being a part of Right No. 89 as set out in said decree hereinabove referred to.

(4) Also all of the water right of the Jacobs Ditch Company, Limited, consisting of 1000 miners inches as the same is described in the decree hereinabove referred to, and described in said decree as used under a rental system in the irrigation of town lots and blocks, for street sprinkling, sewer flushing and other municipal purposes in Boise City and additions thereto. Said water being heretofore diverted through the Jacobs Ditch, the point of diversion of which from the Boise River is described in said decree as follows, to-wit: The point of diversion is on the right bank of the Boise River about one mile East of Boise City; said water being all of Right No. 2 as set out in said decree hereinabove referred to.

POINT TO WHICH TRANSFERRED AND PLACE OF USE.

All the water rights hereinabove described and hereby ordered transferred are hereby ordered to be diverted into the canal of the Farmers' Union Ditch Company, Limited, at the following point of diversion from the Boise River, to-wit: To be diverted into the Farmers' Union Canal on the right bank of the Boise River in the SE $\frac{1}{4}$ of the SE $\frac{1}{4}$ of Sec. 32, T. 4 N. R. 2 E. of B. M. for use, for domestic and irrigation purposes, upon the following described land to-wit:

The following lands in Twp. 5 N. of R. 1 W. of B. M. Ada County, Idaho; SW $\frac{1}{4}$ of SW $\frac{1}{4}$ of Sec. 19; W $\frac{1}{2}$ of NW $\frac{1}{4}$ of Sec. 30; SW $\frac{1}{4}$ of SW $\frac{1}{4}$ of Sec. 30; W $\frac{1}{2}$ of NW $\frac{1}{4}$ Sec. 31; and the following described lands in Twp. 5 N. of R. 2 W. of B. M. in Canyon County, Idaho, to-wit:

Return to Ed Strauss.
10-27-1921

Deliveryless
provision

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

AWARD OF ARBITRATOR
A. V. TALLMAN.

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 Irri-
gation 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 these 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. *8/23*

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

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	39.65	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	414.50	750.00
				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 \$353.30 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 \$2,173.61 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 \$2,173.61 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. TALIMAN
Arbitrator

Dated: October 27, 1921.

MINUTE BOOK "K," COMMISSIONERS ADA COUNTY, IDAHO.

Regular

Session.

February 9, 1922 A. D. 1922

633

The Board met this day in regular session at 10 o'clock A. M. with all members present as follows:

John McGrath, Chairman.

Jesse Jackson.

H. B. Illingworth.

Stephen Uter, Clerk.

After the reading and approval of the minutes of the previous session, the following proceedings were had to-wit:

In the matter of petition)
of Nellie N. Wise, et al.,)
for the Organization of an) ORDER.
Irrigation District.)

The hearing of the petition of Nellie N. Wise, et al., for the organization of an irrigation district came on for hearing on this 9th day of February, 1922, and it appearing that a mistake was made in the publication of the notice of said hearing, and upon motion of Eldridge & Morgan, counsel for petitioners,

It is hereby ORDERED, that the hearing of the petition in said cause be and is hereby continued until the 4th day of March, 1922, at which date said petition will be heard; and that

In the meantime the following notice be published in the Evening Capital News, a newspaper published at Boise, Ada County, Idaho, for the period of three weeks, said notice being as follows, to-wit:

NOTICE OF HEARING OF PETITION FOR THE ORGANIZATION OF AN IRRIGATION DISTRICT.

Notice is hereby given: That Nellie N. Wise, et al., have presented to the Board of County Commissioners their petition for the organization of an irrigation district; that it is proposed to purchase existing works already in operation, being those certain irrigation works known here as the Wise Pumping System, including pumps, canals, water rights and carriage rights, and that the lands proposed to be included in such district are situated in sections 32, 33 and 34, township 5 North, Range 1 East, Boise Meridian, Ada County, Idaho, and that said petition will be heard by the Board of County Commissioners of Ada County, Idaho, on the 4th day of March, 1922, at the office of said Board in the county court house of Ada County, State of Idaho, at 10 o'clock A. M. of said day, mountain time.

Dated this 9th day of February, 1922.

BOARD OF COUNTY COMMISSIONERS,
by John McGrath, Chairman.

Attest: Stephen Uter, Clerk.

MINUTE BOOK "K." COMMISSIONERS ADA COUNTY, IDAHO

Regular

Session

April 8th

April 1922

Page 105

The Board met this day in regular session at 10 o'clock A. M., with all members present as follows:

John Mc Grath, Chairman

Jesse Jackson

E. R. Illingworth

Stephen Utter

Clerk

After the reading and approval of the minutes of previous session, the following proceedings were had, to-wit:

IN THE MATTER OF THE PETITION OF	)	
NELLIE N. WISE, et al. FOR THE	)	ORDER
ORGANIZATION OF AN IRRIGATION	)	
DISTRICT	)	

This matter came on for hearing before the County Commissioners upon the return of the clerks and judges of election of Capitol View Irrigation District held on the 4th day of April, 1922, the Board of County Commissioners has canvassed the votes cast at said election and finds that all of the votes cast at said election, being twelve in number, were cast "Irrigation District Yes"; that all of said persons who voted and cast said ballots had, before so doing, taken the elector's oath prescribed by law relating to the organization of irrigation district, and the Board finds, that Herman Andregg received a total of all the votes cast, being twelve in number, for director from the First Division of said district; that Ed Ray received a total of all the votes cast, being twelve in number for director from the second Division of said District; That Harry Shane received a Total of all the votes cast, being Twelve in number, for director from The Third division of said district, and That said Capitol View Irrigation District has been duly organized, and The board of County Commissioners do hereby declare That said Capitol View Irrigation District has been duly organized, and That The name of said district shall be Capitol View Irrigation District. That said persons aforesaid are hereby declared To have been elected directors of said Capitol View Irrigation District as aforesaid; That said persons and each of them are duly elected members of The Board of Directors from said respective divisions. And it is further ordered That a certified copy of The within order be filed for record with The County Recorder of Ada County State of Idaho.

Dated This The 8th day of April, 1922.

BOARD OF COUNTY COMMISSIONERS

(SEAL)

By John Mc Grath

ATTEST

Chairman

Stephen Utter

Clerk

Whereupon The Board adjourned Sine Die.

John Mc Grath
Chairman

ATTEST

Stephen Utter
Clerk

MINUTE BOOK "K." COMMISSIONERS ADA COUNTY, IDAHO

Regular

Session, March 4th

A. D. 1922

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The Board met this day in regular session at 10 o'clock A.M. with all members present as follows:

Johr Mc Grath, Chairman

Jesse Jackson

E. B. Illingworth

Stephen Utter

Clerk

After the reading and approval of the minutes of previous session the following proceedings were had, to-wit:

IN THE MATTER OF THE PETITION OF)
NELLIE N. WISE ET AL, FOR THE OR-)
GANIZATION OF AN IRRIGATION DIS-)
TRICT)

ORDER

Nellie N. Wise et al, having filed their petition before this Board praying that an irrigation district be organized, and the matter of the hearing of said petition coming on to be heard on this the 4th day of March, 1922, before the Board, and the Board finds that due and lawful notice of the presentation of said petition was duly and regularly published by the Clerk of this Board in the Evening Capital News, a newspaper published at Boise, Idaho, in the County of Ada, State of Idaho, where the lands proposed to be organized into an irrigation district are situated, as shown by the proof of publication on file herein, and the Board finds that due and regular notice of hearing was duly and regularly published by this Board in the Evening Capital News, a newspaper published at Boise, Idaho, in the County of Ada, as shown by the proof of publication on file herein, and that both of the notices aforesaid were published at the times and in the manner specified in the proofs of publication of said notices, as aforesaid, and the Board finds that all of the signers of said petition are holders of title or evidences of title to lands situated within the boundaries of the proposed irrigation district, and that all of the owners of all of the lands situated within said boundaries signed said petition for the organization thereof, and that no one has objected to the organization of said lands into an irrigation district, and the Board finds that W. W. Swendsen, Commissioner of Reclamation of the State of Idaho, has filed with this Board a report recommending that the proposed district be organized and has approved the same.

WHEREFORE IT IS ORDERED BY UNANIMOUS vote of this Board That the lands included within the boundaries hereinafter particularly described be organized into an irrigation district, if the vote of the electors thereafter to be taken on the proposition shall be favorable to such organization, said boundaries of said irrigation district being particularly described as follows, to-wit: Beginning at the southeast corner of the southwest quarter of Section 34, township 5 North, Range 1 East, Boise Meridian, Ada County, State of Idaho; thence North along the east line of the southwest quarter of Section 34 to the Northeast corner of the Southwest Quarter of Section 34; thence East along the South line of the South-half of the Northeast Quarter of Section 34 to the Southeast corner of the Northeast Quarter of Section 34; thence North along the East line of the South-half of the Northeast Quarter of Section 34; to the Northeast corner of the Southwest Quarter of the Northeast Quarter of Section 34; thence West along the North line of the South-half of the Northeast Quarter of Section 34 to the Northwest corner of the Southwest Quarter of the Northeast Quarter of Section 34; thence South along the West line of the South-half of the Northeast Quarter of Section 34 to the Northeast corner of the Southwest Quarter of Section 34; thence West a-

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long the North line of the Southwest Quarter of Section 34 to the Northwest corner of the Southwest Quarter of Section 34; thence West along the North line of the Northeast quarter of the Southwest Quarter to the Northwest corner of the Northeast Quarter of the Southwest Quarter, Section 33; thence North along the East line of the Southwest Quarter of the Northeast quarter, to the Northeast corner of the Southwest quarter of the Northeast quarter; thence West along the North line of the Southwest Quarter of the Northeast quarter of Section 33; thence West along the North line of the South-half of the Northwest quarter of Section 33 to the Northwest corner of the Southwest Quarter of the Northwest Quarter of Section 33; thence West along the North line of the Southeast Quarter of the Northeast Quarter of the Northwest corner of the Southeast Quarter of the Northeast Quarter of section 32; thence North along the the East line of the Northwest Quarter of the Northeast Quarter of the Northeast corner of the Northwest Quarter of Section 33; thence West along the North line of Section 32, to the Northwest corner of said Section 32; thence south along the West line of Section 32 to the point where said West line of Section 32 intersects the Farmers Union Ditch; thence Southeasterly along the North Bank of the Farmers Union Ditch to a point where said Farmers Union Ditch intersects with the West line of the Southeast Quarter of the Southwest Quarter of Section 32; thence South along the West line of the Southeast Quarter of the Southwest Quarter of Section 32 to the South line of said Section; thence East along the South line of Section 32 to the Southeast corner of the Southwest Quarter of the Southeast Quarter of the Southwest Quarter of Section 32; thence North along the East line of the Southwest Quarter of the Southeast Quarter of the Southwest Quarter of Section 32 to the Northeast corner of the Southwest Quarter of the Southeast Quarter of the Southwest Quarter of Section 32; thence east along the South line of the North half of the Southeast Quarter of the Southwest Quarter of Section 32 to the Southeast corner of the North-half of the Southeast Quarter of the Southwest quarter of Section 32; thence South along the West line of the Southeast Quarter of Section 32 to the South line of said Section; thence East along the South line of Section 32 to the Southeast corner of Section 32 thence East along the South line of the West-half of the Southwest Quarter of the Southwest Quarter to the Southeast corner of the West-half of the Southwest Quarter of the Southwest Quarter of Section 33; thence North along the East line of the West-half of the Southwest quarter of the Southwest Quarter of Section 33, to the Northeast corner of the West-half of the Southwest Quarter of the Southeast Quarter of Section 33, thence East along the South line of the Northeast Quarter of the Southwest Quarter to the Southeast corner of the Northwest Quarter of the Southwest Quarter of Section 33; thence East along the South line of the Northeast Quarter of the Southwest Quarter of Section 33 a distance of 330 feet, thence South at right angles to a point where said South line at right angles intersects the section line on the South boundary of Section 33; thence East along the South boundary section line of Section 33, to the Southeast corner of Section 33; thence East along the South boundary section line of Section 34 to the point of beginning.

There shall be included in said irrigation district the following described lands, to-wit: The South-half of the Northeast Quarter of Section 34; The Southwest Quarter of Section 34; the Southeast Quarter of Section 33; the Southwest Quarter of the Northeast Quarter of Section 33; the South-half of the Northeast Quarter of Section 33; the North-half of the Southwest Quarter of Section 33; the Southeast Quarter of the Southwest Quarter of Section 33, except a strip along the West side 350 feet wide, containing ten

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across the East-half of the Southeast Quarter of the Southwest Quarter of Section 31; the Southeast Quarter of Section 32; the South half of the Northeast Quarter of the Northwest Quarter of the Northeast Quarter, Section 32; the Northwest Quarter of Section 31; the Northeast Quarter of the Southwest Quarter and all that part of the Northeast quarter of the Southwest Quarter lying North of Farmers Union Ditch, and the North half of the Southeast Quarter of the Southwest Quarter and the Southwest Quarter of the Southeast Quarter of the Southwest Quarter of Section 32, all in Township 5 North, Range 1 East, 12th Meridian, Ada County, State of Idaho.

And it is further Ordered by unanimous vote of this Board, That said proposed irrigation District be and is hereby divided into three districts as follows:

All of that portion of said proposed district situate and lying within Section 34 is hereby designated as District No. 1 and all of that portion of said proposed district situate and lying within Section 33 is hereby designated as District No. 2, and all that portion of said proposed district situate and lying within Section 32 is hereby designated as District No. 3, and that said proposed irrigation district is hereby divided into three divisions accordingly as aforesaid.

And it is further Ordered, by unanimous vote of this Board That Notice be given in manner provided by law of an election to be held in such proposed district for the purpose of determining whether or not the same shall be organized.

And it is Further Ordered by unanimous vote of this Board, that said proposed irrigation district be and is hereby named and designated as CAPITOL VIEW IRRIGATION DISTRICT.

And it is further Ordered by unanimous vote of this Board, that such notice shall describe the lands in said district in the manner provided by law and shall state the name of the proposed district as designated by the Board of Commissioners, and shall state that a map showing the lands in said district is on file in the office of the Board of County Commissioners, and that said notice shall be published for four weeks prior to such election in the Evening Capital News, a newspaper published at Boise, Idaho, and that such notice shall require the electors to cast ballots which shall contain the words "Irrigation District. Yes" or "Irrigation District, No", or words equivalent thereto, and also the name of one person from each division for director of said district.

And it is further Ordered by unanimous vote of this Board that said irrigation district be and is hereby created into one election precinct and that the boundary of said election precinct is hereby defined and declared to be the same as the boundary line of said irrigation district hereinbefore particularly described and that said area within said boundary shall constitute one election precinct.

And it is further ordered by unanimous vote of this Board That Adrian Littlefield Andrew Hansen and Harry Shane are hereby appointed Judges of election for said precinct.

And it is further ordered by unanimous vote of this Board, That said election for the purpose of determining whether or not said proposed irrigation district shall be organized shall be held on Tuesday the 4th day of April, 1922.

Dated this 4th day of March, 1922.

BOARD OF COUNTY COMMISSIONERS
By John Mc Grath, Chairman

Attest,
Stephen Oster, Clerk
(SEAL)

Whereupon the Board recessed till 2 o'clock P. M. March 6th, 1922

Attest

Clock

Chairman

MINUTE BOOK "K." COMMISSIONERS ADA COUNTY, IDAHO

Regular

Session, Jan'y 9, 1922

A. D. 192

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The Board met this day in regular session at 10 o'clock A. M. with all members present as follows:

John McGrath, Chairman,

Jesse Jackson,

F B Illingworth,

Stephen Utter, Clerk,

After the reading and approval of the minutes of the previous session, the following proceedings were had to-wit:

In the matter of petition of)
Nellis N. Wise et al, for the)
organization of an Irrigation)
District,)

Nellis N. Wise et al, having filed with the Clerk of the Board of County Commissioners of Ada County their petition for the organization of an irrigation district, and it appearing from the proofs on file herein that the clerk of this Board of County Commissioners gave notice of the presentation to this board of said petition, and that the same has been published in the Evening Capital News, of Boise, Idaho, for fifteen consecutive days, beginning the 21st day of December, 1921 and having been published each day thereafter until the 5th day of January, 1922, inclusive, and it appearing to the Board that said petition on file with the clerk of this board is regular in form and that said petition has been signed by all of the owners of land within the boundaries of the proposed irrigation district, and that Monday, the 9th day of January, 1922, at the hour of ten o'clock A. M. of said date, was fixed in said notice as the time for presenting said petition to this board and that the Courthouse of Ada County, State of Idaho, was named in said notice as the place for presenting said petition.

WHEREFORE, it is ORDERED, That said petition shall be heard at the office of this Board in the county Court house of Ada County, State of Idaho, on the 9th day of February, 1922 at the hour of ten o'clock A.M. of said day, Mountain Time, and that notice of the time of such hearing shall be published for not less than three weeks before the time of such hearing in the Evening Capital News, a newspaper of general circulation published at Boise, Idaho.

And it is further ordered that the bond executed by Nellis N. Wise, J. B. Eldridge, and Harry Shane, in the sum of Two hundred Dollars, and duly filed with the Clerk of this Board, be and the same is hereby approved;

It is further ordered, That a copy of the petition on file in this cause be filed with the Commissioner of reclamation of the State of Idaho forthwith:

Dated this the 9th day of January, 1922.

BOARD OF COUNTY COMMISSIONERS,
By John McGrath, Chairman.

Attest:

Stephen Utter, Clerk.

STATE OF
I, John Gast
that the A
Inst. No. A
as it appears
IN WITNESS
official seal th
JOHN G

first part the said party of the second part hereby covenants and agrees to pay to the party of the first part said sum of \$1131.74, together with penalties and interest thereon, if any, and all other and further sums which may be assessed against said party of the first part by reason of said party conveying water to the lands within the boundaries of the party of the second part.

II.

That all assessments levied by the Commissioners of Drainage District No. 2 for the purpose of paying the principal and interest of said sums, shall be considered as a part of the operation and maintenance cost to be paid by the party of the second part to the party of the first part for conveying and delivering water to said party of the second part and all such assessments shall be paid at the same time and in the same manner as other operation and maintenance charges are paid, provided, however, that the party of the second part shall pay interest to the party of the first part on any sums advanced by it to pay said drainage assessments at the rate of 8% per annum from the date paid to Ada County by the party of the first part until re-paid by the party of the second part.

III.

IT IS FURTHER UNDERSTOOD AND AGREED between the parties hereto that a certain contract involving the subject matter of this contract was entered into on or about the 1st day of March, 1920, between the Farmers Union Ditch Company, Ltd., party of the first part and B. F. Neal and others, parties of the second part, which contract was recorded on the 28th day of April, 1924 in Book 10 of Contracts at Page 632, Records of Ada County, Idaho, and that it is the desire of the parties hereto, and it is hereby agreed, that said contract be and the