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JUL 26 1993

Form 202
10/92

STATE OF IDAHO
DEPARTMENT OF WATER RESOURCES
APPLICATION FOR PERMIT

Ident. No. 71-07170

To appropriate the public waters of the State of Idaho

1. Name of applicant Louis F. Racine, Jr. & Jack B. Furey Phone Off. 879-4421
Hme. 876-4491
Post office address P.O. Box 280, Challis, Idaho 83226

2. Source of water supply Salmon River which is a tributary of Snake River

3. Location of point of diversion is SE $\frac{1}{4}$ of NE $\frac{1}{4}$ of SE $\frac{1}{4}$, Govt. Lot _____
Sec. 8 Township 8N. Range 14E., B.M. Custer County; additional
points of diversion if any: None.

4. Water will be used for the following purposes:

Amount .3cfs for irrigation purposes from 5/4/1 to 9/30 (both dates inclusive)
(cfs or acre-feet per annum)

Amount _____ for _____ purposes from _____ to _____ (both dates inclusive)
(cfs or acre-feet per annum)

Amount _____ for _____ purposes from _____ to _____ (both dates inclusive)
(cfs or acre-feet per annum)

Amount _____ for _____ purposes from _____ to _____ (both dates inclusive)
(cfs or acre-feet per annum)

5. Total quantity to be appropriated is (a) .3cfs and/or (b) _____
cubic feet per second acre feet per annum

6. Proposed diverting works:

a. Description of ditches, flumes, pumps, headgates, etc. Diversion box a short distance from
Salmon River is cement--approximately 300 feet on down ditch is a wooden
fish control box which is 18 feet wide--on below the wooden box the
ditch is 11 feet wide at the top.

b. Height of storage dam _____ feet; active reservoir capacity _____ acre-feet; total
reservoir capacity _____ acre-feet; period of year when water will be diverted to storage;
_____ to _____ inclusive.

c. Proposed well diameter is _____ inches; proposed depth of well is _____ feet.

d. Is ground water with a temperature of greater than 85°F being sought? _____

e. If well is already drilled, when? _____; Drilling firm _____;

Well was drilled for (well owner) _____

7. Time required for the completion of the works and application of the water to be proposed beneficial use is
Diversion works are now in existence and water may be diverted immediately.
Allow 1 years (minimum 1 year).

71-30-93

8. Description of proposed uses (if irrigation only, go to item 9):

- Hydropower; show total feet of head and proposed capacity in KW. _____
- Stockwatering; list number and kind of livestock. _____
- Municipal; show name of municipality. _____
- Domestic; show number of households. _____
- Other; describe fully. _____

9. Description of place of use:

- If water is for irrigation, indicate acreage in each subdivision in the tabulation below.
- If water is used for other purposes, place a symbol of the use (example: *D* for *Domestic*) in the corresponding place of use below. See instructions for standard symbols.

TWP	RANGE	SEC.	NE $\frac{1}{4}$				NW $\frac{1}{4}$				SW $\frac{1}{4}$				SE $\frac{1}{4}$				TOTALS
			NE $\frac{1}{4}$	NW $\frac{1}{4}$	SW $\frac{1}{4}$	SE $\frac{1}{4}$	NE $\frac{1}{4}$	NW $\frac{1}{4}$	SW $\frac{1}{4}$	SE $\frac{1}{4}$	NE $\frac{1}{4}$	NW $\frac{1}{4}$	SW $\frac{1}{4}$	SE $\frac{1}{4}$	NE $\frac{1}{4}$	NW $\frac{1}{4}$	SW $\frac{1}{4}$	SE $\frac{1}{4}$	
8N.	14E	9						10	5										

Total number of acres to be irrigated _____

10. Describe any other water rights used for the same purposes as described above. _____

- Who owns the property at the point of diversion? U. S. Government
- Who owns the land to be irrigated or place of use? Louis F. Racine, Jr., & Jack B. Furey
- If the property is owned by a person other than the applicant, describe the arrangement enabling the applicant to make this filing. _____

12. Remarks: Water appropriated is surplus originally licensed to Sherman F. Furey, Jr., and Jack B. Furey to irrigate that portion of SW $\frac{1}{4}$ NE $\frac{1}{4}$, NE $\frac{1}{4}$ SE $\frac{1}{4}$ and NE $\frac{1}{4}$ SE $\frac{1}{4}$, Section 32, Twp. 9N, Rge. 14E., B.M. lying westerly and adjoining State Hwy. 75, but which license rights were conveyed to Ernest E. Day and Fred Humphreys, together with additional appurtenant water rights to irrigate approximately 50 acres of that portion of SE $\frac{1}{4}$ NE $\frac{1}{4}$ and NE $\frac{1}{4}$ SE $\frac{1}{4}$, said Section, Twp. and Rge., lying easterly and adjacent to Highway 75. (See copy of Page 1 of original Warranty D. 1 #172209. Also, see attach copy of Water License #28070, now renumbered as #7102085, Idaho Dept. of Water Resources. Also, see copy of original Ditch and Water Agreement between Morgan C. Williams and

14E.

BM
6742
Gravel Pit
Mile
890

P.A.

SEC.
4

8N.

Sec.
9

Delivery
Ditch
P.D.

Sawtooth Valley
Ranger Station

Fourth of July
Creek

SALMON
RIVER

16

15

Champion

VALLEY

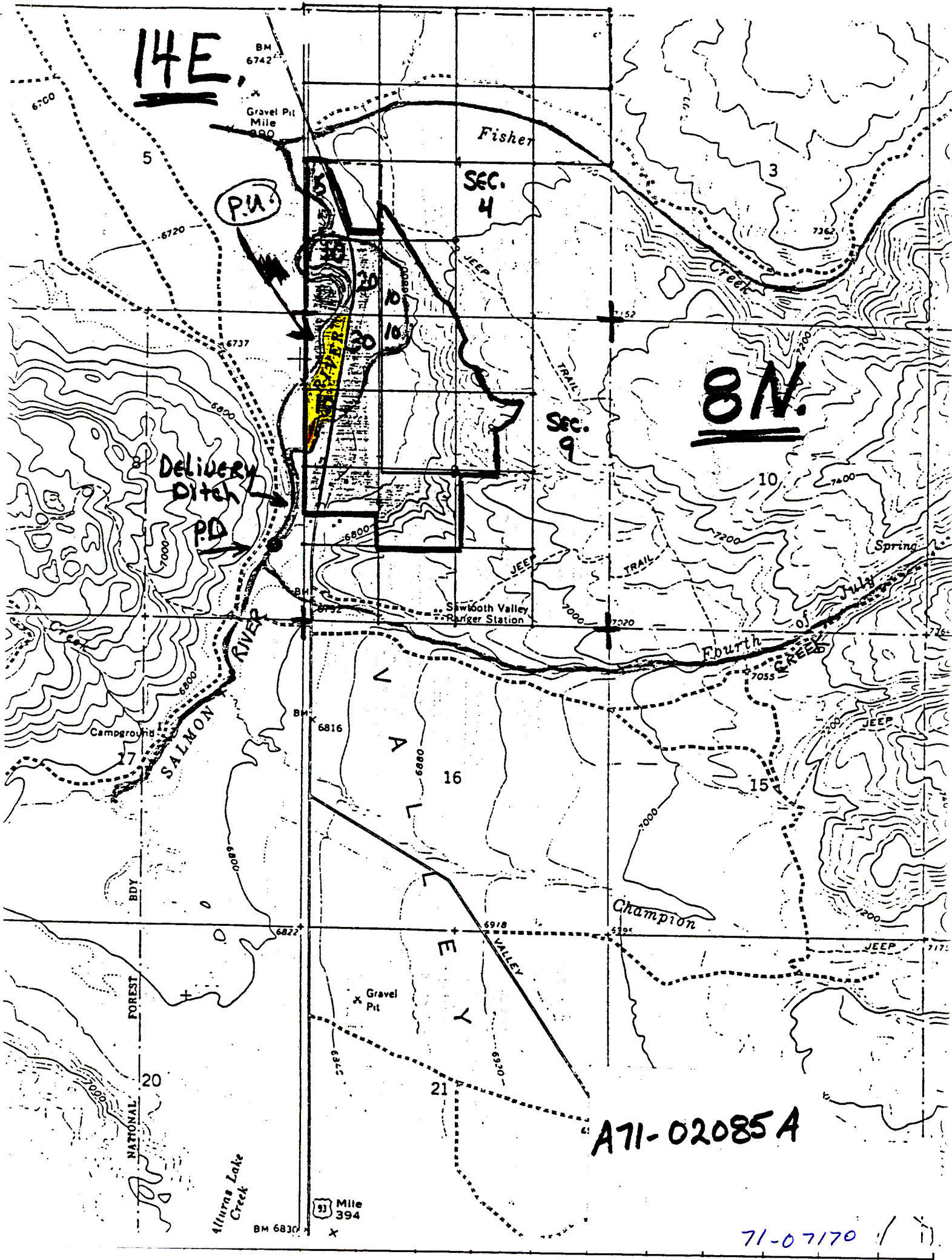
NATIONAL
FOREST

Allura Lake
Creek

37 Mile
394

A71-02085 A

71-07170



Scale: 2 inches equal 1 mile.

BE IT KNOWN that the undersigned hereby makes application for permit to appropriate the public waters of the State of Idaho as herein set forth.

Louis F. Racine Jr.

Jack B. Furey (Applicant)

Proposed Priority: 7-29-93

Received by R. Foster ^{No ch.} Date 7/24/93 Time 10:15 Preliminary check by J.F. Stanton
Fee \$ 45.00 Receipted by MTS # 5016050 Date 7-29-93
Publication prepared by _____ Date _____ Published in _____
Publication approved _____ Date _____

ACTION OF THE DIRECTOR, DEPARTMENT OF WATER RESOURCES

This is to certify that I have examined Application for Permit to appropriate the public waters of the State of Idaho No. _____, and said application is hereby _____.

1. Approval of said application is subject to the following limitations and conditions:

a. SUBJECT TO ALL PRIOR WATER RIGHTS.

b. Proof of construction of works and application of water to beneficial use shall be submitted on or before _____, 19 ____.

c. The rate of diversion, if water is to be used for irrigation under this permit, when combined with all other water rights for the same land shall not exceed 0.02 cubic feet per second for each acre of land.

d. The water right acquired under this permit if for hydropower purposes shall be junior and subordinate to all rights to the use of water, other than hydropower, within the State of Idaho that are initiated later in time than the priority of this permit and shall not give rise to any right or claim against any future rights to the use of water, other than hydropower, within the State of Idaho initiated later in time than the priority of this permit.

e. Other:

172209

WARRANTY DEED

For Value Received JACK R. FUREY and NANCY J. FUREY, husband and wife, of Challis, Idaho, and SHERMAN F. FUREY, JR. and JO ANN FUREY, husband and wife, of Salmon, Idaho, the grantors, do hereby grant, bargain, sell and convey unto ERNEST E. DAY and LOIS H. DAY, husband and wife, and FRED C. HUMPHREYS and MARGARET JANE HUMPHREYS, husband and wife, all of Boise, Idaho, the grantees, the following described premises, in Custer County, Idaho, to wit:

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Department of Water Resources
Southern Region Office

The S½NE¼ and NE¼SE¼ of Section 32; S½NW¼, W½SE¼ and SW¼ of Section 33; all in Township 9 North, Range 14 E.B.M.; EXCEPTING THEREFROM the following described highway right-of-way: A strip of land 66 feet wide, being 33 feet on each side of the following described center line across the NE¼SE¼ and the S½NE¼ of Section 32 of said Township and Range: Beginning at Station 1300 + 01.7 of the Ketchum-Clayton Highway Survey, which station is approximately 1,320 feet North and 805 feet West, more or less, from the Southeast corner of said Section 32; thence running in a general northerly direction approximately 2,829.4 feet to Station 1328 + 31.1 of said survey, which station is approximately 3,960 feet North and 1,830 feet West, more or less, from the Southeast corner of said Section 32, Township 9 North, Range 14 E.B.M., as shown on the official plats of said Ketchum-Clayton Highway Survey on file in the office of the Department of Public Works of the State of Idaho. Excepting also therefrom that part of the SW¼NE¼ and that part of the NE¼SE¼ of Section 32, Township 9 North, Range 14 East, Boise Meridian; lying and being West of U. S. Highway No. 93.

Also, decreed water rights for 210 inches with date of priority June 19, 1908, and 112.5 inches with date of priority March 22, 1910, all from Fisher Creek as provided in decree in the case of Cavanaugh vs. Merritt et al; also a water right licensed by the Department of Reclamation, State of Idaho, being license No. 28070 for irrigation water from Salmon River, to be conveyed through the Williams-Furey Canal, and together with all of sellers' rights in and to said Williams-Furey Canal.

EXCEPTING THEREFROM, the following tract of land and right-of-way: A tract of land lying and being in the W½SE¼ and the NE¼SW¼ of Section 33, T. 9 N., R. 14 E., Boise Meridian, more particularly described as follows, to-wit: Commencing

FUREY, FUREY &
SHERMITS
ATTORNEYS AT LAW
SALMON, IDAHO

FUREY, FUREY &
SHERMITS
ATTORNEYS AT LAW
SALMON, IDAHO

71-07170

78003
462

State of Idaho
License and Certificate of Water Right

Water License No. 28070

Amount 2.16 c.f.s.

Water District No.

Priority July 27, 1959

THIS IS TO CERTIFY that JACK B. FUREY & SHEPHERD F. FUREY, Jr.
of Salmon, Idaho, made application for a permit to appropriate the
public waters of the State of Idaho, dated July 27, 1959; that Permit No. 28070
was issued under said application; that Certificate of Completion of works, with a carrying capacity of
2.16 second feet, was issued thereunder on November 29, 1966, showing that said works
were completed on the 2nd day of October, 1962; and that on the 2nd
day of October, 1962,

JACK B. FUREY & SHEPHERD F. FUREY, Jr.

of Salmon, State of Idaho, made proof to the satisfaction of the
State Reclamation Engineer of Idaho, of the right to use the waters of Salmon
River, a tributary of Columbia River, for the purpose of irrigation

, under Use Permit No. 28070 of the Department of Reclamation,
and that said right to the use of said waters has been perfected in accordance with the laws of Idaho,
and is hereby confirmed by the State Reclamation Engineer of Idaho and entered of record in Volume

14 of Licenses at page 8605, on the 29 day of November, 1966;

The right hereby confirmed dates from July 27, 1959;

The Point of Diversion is located

in the NE 1/4 SE 1/4, Sec. 8, Tp. 8N, R. 14E, B. M. County of Custer.

That the amount of water to which such right is entitled and hereby confirmed, for the purposes
aforesaid, is limited to an amount actually needed and beneficially used for said purposes, and shall
not exceed 2.16 cubic feet per second.

Description and location of use:

Twp.	Range	Sec.	Forty-acre Tract	No. Acres Described in Permit	No. Acres Actually Irrigated
9 N	14 E	32	SW ¹ / ₄ NE ¹ / ₄	40	18
			SE ¹ / ₄ NE ¹ / ₄	40	30
			NE ¹ / ₄ SE ¹ / ₄	40	20
			NW ¹ / ₄ SE ¹ / ₄	40	<u>40</u>
			Total number of acres to be irrigated:		108
This is supplemental to the Fisher Creek Decree and no more than 1 (one) miner's inch per acre will be allowed from the combined sources.					

The right to the use of the water aforesaid hereby confirmed is restricted to the lands or place
of use herein described, as provided by the laws of Idaho.

WITNESS the seal and signature of the State Reclamation Engineer, affixed at Boise, Idaho, this

27th day of November, 1966.

S/ R. KEITH HIGGINSON

State Reclamation Engineer.

(SEAL)

DITCH AND WATER AGREEMENT

THIS AGREEMENT, Made and entered into, in duplicate, this 30th day of September, 1958, by and between MORGAN C. WILLIAMS and JEAN MARIE WILLIAMS, husband and wife, of Obsidian, County of Custer, State of Idaho, hereinafter referred to as "First Parties" and SHERMAN F. FUREY, JR. AND JOANN FUREY, husband and wife, of Salmon, County of Lemhi, State of Idaho, and JACK B. FUREY and NANCY J. FUREY, husband and wife, of Challis, County of Custer, State of Idaho, hereinafter referred to as "Second Parties";

W I T N E S S E T H:

THAT WHEREAS, First Parties and their predecessors in interest have heretofore constructed and maintained and are now using a canal, known as the "Williams Canal", which diverts water for the irrigation of Real Property of First Parties described as follows, to-wit:

NW $\frac{1}{4}$ NW $\frac{1}{4}$, Section 33; NE $\frac{1}{4}$ NE $\frac{1}{4}$, Section 32; SE $\frac{1}{4}$ SE $\frac{1}{4}$, Section 29; Tract 1095, being that portion of the SW $\frac{1}{4}$ SE $\frac{1}{4}$, Section 29, lying East of U. S. Highway #93; and Tract 832, being that portion of the NW $\frac{1}{4}$ NE $\frac{1}{4}$, Section 32, lying East of U. S. Highway #93; all in Township 9 North, Range 14 E., B. M.; in Custer County, Idaho.

said diversion of waters being made from the Salmon River in Custer County, State of Idaho, in the Northwest Quarter of the Southeast Quarter of Section 8, Township 8 North, Range 14, E., B. M. and extending to and upon the described lands of First Parties and which canal has an approximate present capacity to deliver to First Parties, a flow of water 24 inches in depth and five feet in width, and;

WHEREAS, Second Parties are the contract purchasers and entitled to possession of lands adjacent to the above-described Real Property of First Parties, and which said lands, or the greater

portion thereof, may be placed under irrigation from waters flowing in said Williams Canal, and described as follows, to-wit:

S $\frac{1}{2}$ NE $\frac{1}{4}$, and N $\frac{1}{2}$ SE $\frac{1}{4}$, Section 32, Township 9 North, Range 14, E., B. M.;

AND WHEREAS, Second Parties desire to obtain a right in said Williams Canal, to convey water for the irrigation of Second Parties lands to the extent of a *one-half* interest in said Canal when enlarged as hereinafter provided, and First Parties are willing to permit Second Parties to increase the capacity of the Williams Canal to deliver a flow of water eleven feet wide at the top of the bank and eight feet wide at the bottom of said Williams Canal, from the point of diversion to Second Parties last turn out box on Second Parties' premises, and to take through said Williams Canal, Second Parties' proportionate amount of water based upon a *one-half* right to the use of the water thus delivered at the point of first diversion, it being understood that Second Parties may have *four* boxes in said Canal, and;

WHEREAS, Second Parties desire to enlarge the capacity of said Williams Canal from the point of Second Parties last Diversion to the head thereof at the Salmon River and to acquire a right to convey water for the irrigation of Second Parties' land through the said Canal, to the extent of a *one-half* interest in the Canal as enlarged.

NOW THEREFORE, THIS AGREEMENT WITNESSETH:

That the Parties hereto, for and in consideration of the covenants, promises and agreements to be kept and performed and in further consideration of ONE DOLLAR (\$1.00) each Party paid to the other, the receipt of which is hereby acknowledged, all Parties hereto mutually agree as follows, to-wit:

1. That the said Second Parties shall without delay undertake the construction work in the enlargement of the said Williams Canal from the north boundary of the Southeast Quarter Northeast

Quarter, Section 32, Township 9 North, Range 14, E., B. M., through to the head of said Williams Canal at the Salmon River, and shall have a safe capacity and shall safely carry from its head to the point of the first diversion of Second Parties, a flow of water, eleven feet wide at the top of the bank and eight feet wide at the ditch bottom, and such construction^{and}/enlargement work shall be done in a good and workman-like manner and the said work shall be prosecuted diligently until completed; that Second Parties, upon the completion of said construction work, in the enlargement of said canal in the manner herein specified, shall have the right to convey through the said Williams Canal from its head to and through Second Parties diversion boxes, Second Parties proportionate part of the waters flowing therein based upon their right to the use of *one-half* of the waters thereof.

2. That after said Williams Canal is enlarged as herein above specified, the said Williams Canal shall be owned and controlled in the following proportions: First Parties shall have an undivided *one-half* interest therein and to the waters flowing therein, and Second Parties shall have a *one-half* interest therein and to the waters flowing therein. And after the terms and conditions of this Ditch and Water Agreement shall have been complied with by Second Parties, and after said Williams Canal shall have been so enlarged as above specified, the said Parties hereto shall use the same in the proportion and manner set forth and First Parties and Second Parties shall thereafter pay such proportionate part of the cost of maintenance, operation, and repairs of said Williams Canal according to First Parties and Second Parties interest therein as herein set forth.

3. That Second Parties shall do and perform or have done and performed, all of said construction and enlargement work and all other work that may be necessary in order to fully comply with the terms and conditions hereof on their part at their own cost and expense and they shall promptly pay for all materials used in

said work, and for all labor done, and shall protect and save First Parties free from any liability on account thereof, and shall protect them in keeping the said Williams Canal clear from any liens, claims or demands for said work or materials used in and about the said Williams Canal in the performance hereof on their part.

4. That the terms, conditions, covenants and agreements herein contained shall run with the lands herein above-described and shall bind the heirs, executors, administrators and assigns of all Parties hereto.

IN WITNESS WHEREOF, The Parties hereto have hereunto set their hands and seals the day and year first above written.

Morgan C. Williams

Jean Marie Williams
First Parties

Anna J. Furey

John Furey

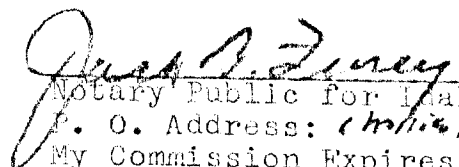
Jack B. Furey

Nancy J. Furey
Second Parties

STATE OF IDAHO)
 : ss.
County of Custer)

On this 30th day of September, 1958, before me, the undersigned, a Notary Public in and for said State, personally appeared MORGAN C. WILLIAMS and JEAN MARIE WILLIAMS, husband and wife, known to me to be the persons whose names are subscribed to the within instrument and acknowledged to me that they executed the same.

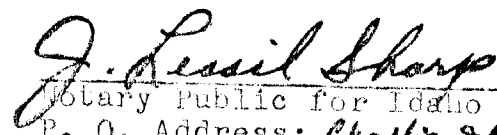
IN WITNESS WHEREOF, I have hereunto set my hand and affixed my official seal the day and year in this certificate first above written.


Notary Public for Idaho
P. O. Address: Challis, Idaho
My Commission Expires: 4/4/61

STATE OF IDAHO)
 : ss.
County of Custer)

On this 8th day of October, 1958, before me, the undersigned, a Notary Public in and for said State, personally appeared SHERMAN F. FUREY, JR. and JOANN FUREY, husband and wife, and JACK B. FUREY and NANCY J. FUREY, husband and wife, known to me to be the persons whose names are subscribed to the within instrument and acknowledged to me that they executed the same.

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


Notary Public for Idaho
P. O. Address: Challis, Idaho
My Commission Expires:
March 17, 1959

No. 112450

State of Idaho }
County of Custer } 38.

This instrument was filed for
record at the request of

Frank B. Smith

at 10:45 o'clock A. M.

November 19, 1958

and duly recorded in Vol. 5

of Book of Records

Page 303

Records of Custer County, Idaho

Frank B. Smith
Contract
Bought

Ex-Officio Recorder

By

Frank B. Smith

Fee \$2.50