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Department of Water Resources

IN THE DISTRICT COURT OF THE SEVENTH JUDICIAL DISTRICT OF THE  
STATE OF IDAHO, IN AND FOR THE COUNTY OF TETON

CLYDE J. NORD and BERNEICE S.  
NORD, husband and wife, and  
THEODORE E. BLOSCH, a single  
man,

Plantiffs,

vs.

RONALD D. CARLSON, Watermaster  
of Water District No. 01 of the  
State of Idaho, and ALL UNKNOWN  
CLAIMANTS OF 6 cfs OF THE  
WATERS OF UNNAMED CREEKS,  
TRIBUTARIES TO THE TETON RIVER,  
WHICH IS A TRIBUTARY TO THE SNAKE  
RIVER, DIVERTED FROM SAID CREEKS  
IN THE NW1/4SE1/4, THE NE1/4  
SW1/4, THE SW1/4SW1/4 OF SECTION  
20; AND THE NW1/4NE1/4 OF SECTION  
29, ALL IN THE TOWNSHIP 5 NORTH,  
RANGE 45 EAST, BOISE MERIDIAN,  
IN TETON COUNTY, IDAHO,

Defendants.

Case No. 1847

DECREE

MICROFILMED

JAN 06 1989

A Report in the Nature of Proposed Findings of Water Rights  
(hereinafter the report) was filed with this Court by the  
Director of the Idaho Department of Water Resources on June 30,  
1986. The report contains findings of fact, conclusions of law,

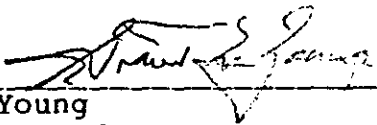
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and recommendations to the court as to the rights of Clyde J. and Berneice S. Nord and Theodore E. Blosch to the use of water from Griffith and Bell Creeks, tributary to the Teton River within Teton County. The report is hereby incorporated in this decree by this reference.

IDAHO CODE § 42-1405 (3)(f) and 42-1411(4)(f) (Supp. 1986) provide for a period of 60 days from the filing of the report in which objections to the report may be filed. The objection period ended August 29, 1986, and no objections to the report were filed.

The findings of fact and conclusions of law set forth in the report are hereby adopted, and the recommendations to the court set forth in the report are hereby decreed.

DATED this 4<sup>th</sup> day of September 1986.

  
\_\_\_\_\_  
Grant Young  
District Judge

C E R T I F I C A T I O N

I certify that these are true and correct copy  
of Deecee.

DATED this 8<sup>th</sup> day of September 1986.

Bonnie Reece, Deputy

seal

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JAN 06 1989

IN THE DISTRICT COURT OF THE SEVENTH JUDICIAL DISTRICT  
OF THE STATE OF IDAHO, IN AND FOR THE COUNTY OF TETON

CLYDE J. NORD and BERNEICE S. )  
NORD, husband and wife, and )  
THEODORE E. BLOSCHE, a single )  
man, )

Plaintiffs, )

vs. )

RONALD D. CARLSON, Watermaster of )  
Water District No. 01 of the )  
State of Idaho; ALL UNKNOWN )  
CLAIMANTS OF 6 c.f.s. OF THE )  
WATERS OF UNNAMED CREEKS, )  
TRIBUTARIES TO THE TETON RIVER, )  
WHICH IS A TRIBUTARY TO THE SNAKE )  
RIVER, DIVERTED FROM SAID CREEKS )  
IN THE NW1/4SE1/4, THE NE1/4 )  
SW1/4, THE SW1/4 SW1/4 OF SECTION )  
20; AND THE NW1/4NE1/4 OF SECTION )  
29, ALL IN THE TOWNSHIP 5 NORTH, )  
RANGE 45 EAST, BOISE MERIDIAN, )  
IN TETON COUNTY, IDAHO, )

Defendants. )

Case No. 1847

REPORT IN THE NATURE  
OF PROPOSED FINDINGS  
OF WATER RIGHTS

**MICROFILMED**

JAN 06 1989

16. This action is supplemental to the Rexburg Decree (See Finding of Fact No. 43) and the decree and the findings of fact and conclusions of law upon which it is based are binding upon the plaintiffs.

17. Matter herein expressed as a conclusion of law which is later deemed to be a finding of fact is hereby made a finding of fact.

#### RECOMMENDATIONS TO THE COURT

Based on the foregoing findings of fact and conclusions of law, the Director makes the following recommendations:

1. The right of plaintiffs Nord is described as follows:

- a. source: Griffith and Bell Creeks, tributary to Teton River, thence Snake River
- b. date of priority: August 1, 1904
- c. rate of diversion: 2.84 cfs
- d. nature of use: Irrigation
- e. points of diversion: NW1/4 SE1/4, Sec. 20,  
NE1/4 SW1/4, Sec. 20,  
SW1/4 SW1/4, Sec. 20,  
NW1/4 NE1/4, Sec. 29,  
All in T. 5 N., R. 45 E., B.M.

f. place of use:

Section 20: NW1/4 SW1/4 (35 acres)

SW1/4 SW1/4 (38 acres)

Section 29: NW1/4 NW1/4 (39 acres)

SW1/4 NW1/4 (30 acres)

All in T. 5 N., R. 45 E., B.M. (142 acres total)

g. period of use: April 15 to October 15 of each year

h. maximum annual volume of consumptive use: 264.1 af

22-2018 i. basis of right: Beneficial use. The right herein set forth shall supercede License No. 22-2018.

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22-0684

2. The right of plaintiff Blossch is described as follows:

- a. source: Griffith and Bell Creeks, tributary to Teton River, thence Snake River
- b. date of priority: August 1, 1904
- c. rate of diversion: 3.14 cfs
- d. nature of use: Irrigation
- e. points of diversion: NW1/4 SE1/4, Sec. 20,  
NE1/4 SW1/4, Sec. 20,  
SW1/4 SW1/4, Sec. 20,  
NW1/4 NE1/4, Sec. 29  
All in T. 5 N., R. 45 E., B.M.
- f. place of use:
  - Section 19: NE1/4 SE1/4, (38 acres)  
NW1/4 SE1/4, (40 acres)  
SE1/4 SE1/4, (40 acres)
  - Section 30: NE1/4 NE1/4, (39 acres)
  - All in T. 5 N., R. 45 E., B.M. (157 acres total)
- g. period of use: April 15 to October 15 of each year
- h. maximum annual volume of consumptive use: 292 af
- i. basis of right: Beneficial use.

3. The plaintiffs shall be required to install measurement devices and lockable headgates or other flow control devices acceptable to the Department in accordance with Idaho Code § 42-701 (1977).

DATED this 26<sup>th</sup> day of June, 1986.

Respectfully Submitted,

  
A. KENNETH DUNN  
Director, Idaho Department  
Water Resources

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JAN 06 1989

Superseded by  
Decree (22-2018)  
Blossch vs. Carlson

\*\*\*\*\*  
Fremont County  
3/5 sec. ft. Griffith Creek\*  
3/4 sec. ft. Bell Creek,  
3/4 sec. ft. Glen Creek,  
3/4 sec. ft. Duck Creek  
Irrigation  
Priority 9-7-06  
\*\*\*\*\*

S T A T E O F I D A H O

- Water License No. 2272 -

WHEREAS, On the seventh day of September, A. D. 1906, Martha V. Waite, of St. Anthony, County of Fremont, State of Idaho, duly made application (No. 3182) to me for permit to use 3/4 of one second foot of the waters of Griffith Creek, 3/4 of one second foot of the waters of Bell Creek, 3/4 of one second foot of the waters of Glen Creek, and 3/4 of one second foot of the waters of Duck Creek, County of Fremont, State of Idaho, for irrigation and domestic purposes, and

WHEREAS, On the fifteenth day of September, A. D. 1906, Permit No. 2272 was issued to said applicant for the diversion of said water, and providing for the completion of the works of diversion therein described on or before the 15th day of March, A. D. 1907, and for the application to beneficial use of said water on or before the fifteenth day of March, A. D. 1907, and,

WHEREAS, On the seventeenth day of November, A. D. 1906, the holder of said permit duly made proof of the completion of adequate works for the diversion of three cubic feet per second of said waters, as evidenced by my Certificate No. 2272, dated December 1, 1906, confirming the completion of works of sufficient capacity for diverting and conveying to the place of intended use 3/4 of one second foot of the waters of Griffith Creek, 3/4 of one second foot of the waters of Bell Creek, 3/4 of one second foot of the waters of Glen Creek, and 3/4 of one second foot of the waters of Duck Creek, with date of priority of September 7, 1906, and,

WHEREAS, On the seventeenth day of November, A. D. 1906, the holder of said permit duly made proof of the application to beneficial use of two and 85/100 cubic feet per second of said water:

NOW, THEREFORE, By virtue of authority vested in me by the laws of the State of Idaho, I hereby grant and confirm to MARTHA V. WAITE of St. Anthony, County of Fremont, State of Idaho, the holder and owner of said Permit No. 2272, a perpetual right dating from September 7, 1906, to the use of 3/5 of one second foot of the waters of Griffith Creek, 3/4 of one second foot of the waters of Bell Creek, 3/4 of one second foot of the waters of Glen Creek, and 3/4 of one second foot of the waters of Duck Creek, in the County of Fremont, and State of Idaho, or so much thereof as may be necessary for the purposes hereinbelow mentioned, to be diverted from Griffith Creek on or near the east line of NE 1/4 of SW 1/4 Sec. 20; from Bell Creek in the NE 1/4 of NW 1/4 of Sec. 29; from Glen Creek in SE 1/4 of NW 1/4 of Sec. 29, and from Duck Creek in SE 1/4 of SW 1/4 of Sec. 29, all in Tp. 5 N., R. 45 E. B. M.; and conducted to and upon thirty ((30) acres in NW 1/4 of SW 1/4 of Section 20 twenty (20); Forty (40) acres in SW 1/4 of SW 1/4 of Section Twenty (20); Forty (40) acres in NW 1/4 of NW 1/4 of Section Twenty-nine (29), and Forty (40) acres in SW 1/4 of NW 1/4 of Section 29 twenty-nine (29), T. 5 N., R. 45 E., for the purpose of irrigation and domestic use,

22-2018

subject, however, to the laws of the State of Idaho applicable to a license for the use of the waters of the State, and subject, also, to the local or community customs, rules and regulations which have been or may be adopted from time to time by a majority of the users from a common source of supply, canal or lateral from which such water may be taken, when such rules and regulations have for the object the economical use of such water.

WITNESS, My hand and the seal of my office at Boise, Idaho, this twenty-first day of December, A. D. Nineteen hundred and six.

Jas. Stephenson, Jr.

(Seal)

State Engineer.

Recorded December 21, 1906.

21-2018

No. 3182

A P P L I C A T I O N   F O R   P E R M I T

To Appropriate the Public Waters of the State of Idaho.

1. Name of applicant - MARTHA V. WAITE  
Postoffice address: P. O. St. Anthony.  
County Fremont.
2. The quantity of water claimed is 3 cubic feet per second, or  $3/4$  of a foot from each stream.
3. Source of water supply - See remarks.  
County of ~~Fremont~~ *Letia*.
4. Location of point of diversion - See remarks.
5. To be used for:
  - I. Irrigation and domestic use:
    - (a) Number of acres to be irrigated 150 acres.
    - (b) In the following legal subdivisions - W2 NW4 Sec. 29; W2 SW4 Sec. 20, Twp. 5 N., R. 45 E. B. M.
6. Estimated cost of works - \$500.00
7. Description of Works for Diversion:
  - I. Kinds of works - dams and ditches.
  - II. Dimensions of Works:
    - (a) Height of dams 2 feet, length of dam at top 6 feet, length of dam at bottom 10 feet, material used in construction earth and stone.
    - (c) Size of headgates, width 3 feet, height 2 feet.
    - (d) Ditch (flume or pipe) width at bottom 3 feet, width at water line 5 feet, depth of water 2 feet. Average grade per mile is 2 feet. Length of ditches is 3 miles, and it crosses the following quarter sections - as shown in remarks - to W2 NW4 Sec. 29; W2 SW4 Sec. 20, T. 5 N., R. 45 E., which is the point of intended use.
8. Time required for the completion of the construction of such work is - finished.
9. Time required for the complete application of the water to the proposed use is - finished.

## Remarks:

Water asked for under this application is taken from 4 small creeks, viz: Griffith, Bell, Glen and Duck, all of which head in the "Swamps".

The main ditch from Griffith Creek is 200 rds long, 5 ft. wide on top, with dam at head, 6 ft. long, 2 ft. high.

The point of diversion is on the East line of SW4 Sec. 20, about 20 rds from SE corner NE4 SW4.

All dams are same dimensions, and all ditches are 5 ft. wide on top x 2 ft. wide.

Water is diverted from Bell Creek near the center of NE4 NW4 Sec. 29, by a ditch 200 rds long.

Water from Glen Creek is diverted near the center of the SE4 NW4 Sec. 29, by a ditch 95 rds long.

Water from Duck Creek is diverted near the center of the SE4 SW4 Sec. 29, in T. 5 N., R. 45 E. B. M. by ditch 160 rds long.

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Approval of state Engineer.

The number of this permit is 2272.

Date of first receipt of application 9 a. m. September 7, 1906.

Returned to applicant for correction September 8, 1906.

Corrected application received September 12, 1906.

Recorded in Book 7, page 2272. Approved September 15, 1906.

This is to certify that I have examined the within application for a permit to appropriate the public waters of the State of Idaho and hereby grant the same, subject to the following limitations and conditions:

Work to begin on or before November 14, 1906, and to continue diligently and uninterruptedly to completion, unless temporarily interrupted by circumstances over which permit holder has no control.

One-fifth of the work above specified to be completed on or before December 15, 1906.

The whole of said work to be completed on or before March 15, 1907.

The time for the proof of beneficial use of water appropriated in accordance herewith, to extend to March 15, 1907.

Witness my hand this 15 day of September, 1906.

Jas. Stephenson, Jr.

State Engineer.

✓ Notice of proof of completion of works and application of water to beneficial use mailed Fremont County News, St. Anthony, Idaho, October 12, 1906, and deposition blanks mailed Mrs. Rose D. Miller, St. Anthony, Idaho same date.

Depositions for both proofs received November 21, 1906, and fee of \$13 received same date.

Affidavit of publication of notice received December 1, 1906.

Report of examiner received December 15, 1906.

✓ Certificate of completion of works and license issued December 21, 1906.

Permit No. 2272

C E R T I F I C A T E   O F   C O M P L E T I O N   O F   W O R K S

To All Whom It May Concern:

This is to certify that MARTHA V. WAITE of St. Anthony, County of Fremont, and State of Idaho, the holder of Permit No. 2272, issued upon Application No. 3182, bearing date of priority of September 7, 1906, authorizing the diversion of three-fourths of one second foot of the waters of Griffith Creek, three-fourths of one second-foot of the waters of Bell Creek, three-fourths of one second-foot of the waters of Glen Creek, and three-fourths of one second foot of the waters of Duck Creek, County of Fremont, State of Idaho, for irrigation and domestic purposes, has fully complied with the provisions of the laws of the State of Idaho relating to the proof of

completion of the works of diversion set out and described in said Permit; that said works are adequate for diverting and conveying to the place of intended use three-fourths of one second-foot of the waters of each of the above mentioned streams; that the point of diversion of said waters from Griffith creek is on or near the east line of NE $\frac{1}{4}$  of SW $\frac{1}{4}$  of Section 20; from Bell Creek in the NE $\frac{1}{4}$  of NW $\frac{1}{4}$  of Section 29; from Glen Creek in SE $\frac{1}{4}$  of NW $\frac{1}{4}$  of section 29, and from Duck Creek in SE $\frac{1}{4}$  of SW $\frac{1}{4}$  of Section 29, all in Township 5 North, Range 45 East of Boise Meridian; and that the lands proposed to be irrigated by the use of said water are described as follows, to-wit: W $\frac{1}{2}$  of NW $\frac{1}{4}$  of Section 29, and W $\frac{1}{2}$  of SW $\frac{1}{4}$  of Section 20, Tp. 5 N., R. 45 E. B. M.

Witness my hand this twenty-first day of December, A. D. 1906.

Jas. Stephenson, Jr.

State Engineer of the State of Idaho.

License issued for 285 second feet  
P. 115