

STATE OF IDAHO

DEPARTMENT OF RECLAMATION

In the Matter of the Application
of the Idaho Farm Development
Company for Transfer of Water
Right; Water District #48;
Case #67

ORDER GRANTING TRANSFER.

WHEREAS, Under date of September 7, 1920, Edwin Snow, acting for and on behalf of the Idaho Farm Development, petitioners herein, filed an application for the transfer of four hundred forty (440) miners inches, or eight and eight-tenths (8.8) cubic feet per second of the waters of Cedar Creek, from certain lands hereinafter described, owned by the petitioners, to certain lands hereinafter described situated in the Carey Act project of the said Idaho Farm Development Company; and,

WHEREAS, The said application, upon examination, being found to contain the necessary and required information and being in proper form, was placed on file and a hearing ordered thereunder, notice of which was duly published in the Buhl Republican for two consecutive issues, the last publication being September 30, 1920, as evidenced by the affidavit of publication on file in the office of the Commissioner of Reclamation; and,

WHEREAS, The said hearing, which was set for October 8, 1920, at the office of the Commissioner of Reclamation, at Boise, Idaho, was duly held, the only appearance being that of Walters, Hodgins & Bailey, attorneys for Frank Clark and Chester Brackett, administrators, said appearance being a protest by telegram and based upon the contention that petitioner was seeking to transfer more water than he was entitled to, and that its right to any of the said water was in litigation and not definitely defined, the said protestants requesting that a hearing be convened at Buhl, Idaho, for the purpose of hearing details of the protest, the said hearing set for October 8, 1920, was, therefore, continued to a later date, and, under date of October 9, 1920, said attorneys, Walters, Hodgins & Bailey, were notified that the hearing would be resumed at Buhl, Idaho, at the hour of 11 o'clock A. M., April 25, 1921; and,

WHEREAS, Pursuant to the said notice, hearing was held at Buhl, Idaho, April 25, 1921, by W. G. Swendsen, Commissioner of Reclamation, at which time Walters, Hodgins & Bailey, attorneys for protestant, gave notice of their withdrawal from the case and protestant made no appearance; and,

WHEREAS, Edwin Snow, attorney for petitioner, appeared and furnished Court Decree in the case of Idaho Farm Development Company, vs. Ira Brackett, et al, together with other information as evidence of title to the said water in the Idaho Farm Development Company, whereupon a consideration of the petition, together with the affidavits accompanying same, the protest, evidences of title, and data obtained through field examinations conducted by the Department of Reclamation, was had and the following state of facts found to exist, to-wit:

Micro

1. The right to the use of the water sought to be transferred is, according to the said decree, and other evidences of title produced by petitioner, vested in Idaho Farm Development Company.

2. That satisfactory evidence of rights having been produced by petitioner, protestants objection to transfer is without foundation in fact.

3. That the examination of conditions on the ground by representatives of the Department of Reclamation indicate that no one will be injured by such transfer, since the lands from which the said water is to be transferred are by reason of the construction of the impounding reservoir by the petitioner, entirely or partly submerged during the large part of the year, thus eliminating any question of injury to other appropriators on the stream through a contended loss of seepage water, or return flow, the physical conditions being such that the return flow from inundated lands, from which water is to be transferred, will in all probability be greater under present conditions than under conditions existing prior to the construction of petitioner's works.

4. That a logical and sound reason exists for the making of the transfer.

5. That the water herein sought to be transferred is only a portion of the right owned by the petitioner and heretofore made appurtenant to lands that may be submerged by the said reservoir, and that, in the event a decrease in return flow to the stream, of such character as to injure existing appropriators therefrom, exists or is found to exist, proper account may be taken thereof on or before the time of granting transfer of the balance of said water.

WHEREFORE, in view of the foregoing facts and conditions, it is hereby ordered that the said transfer be allowed and a certificate of transfer be given the petitioner herein, authorizing the transfer of

(a) 275 inches, with date of priority of May 1, 1894, from the Northwest quarter of the Northwest quarter (NW¹/₄ NW¹/₄), Southwest quarter of Northwest quarter (SW¹/₄ NW¹/₄) and Southeast quarter of Northwest quarter (SE¹/₄ NW¹/₄), Section Thirteen (13); Southeast quarter of Northeast quarter (SE¹/₄ NE¹/₄), Northeast quarter of Southeast quarter (NE¹/₄ SE¹/₄), Southeast quarter of Southeast quarter (SE¹/₄ SE¹/₄), Southwest quarter of Southeast quarter (SW¹/₄ SE¹/₄), Southeast quarter of Southwest quarter (SE¹/₄ SW¹/₄), Section Fourteen (14), all in Township Fourteen (14) South, Range Thirteen (13) East, Boise Meridian;

(b) 40 inches, with date of priority of May 1, 1894, from the West half (W¹/₂) Section Twenty-three (23), Southeast quarter of Northeast quarter (SE¹/₄ NE¹/₄), Northeast quarter of Southeast quarter (NE¹/₄ SE¹/₄), Section Twenty-two (22), Township Fourteen (14) South, Range Thirteen (13) East, Boise Meridian;

(c) 125 inches, with date of priority of May 1, 1894, from the East half of Southwest quarter (E¹/₂ SW¹/₄), West half of Southeast quarter (W¹/₂ SE¹/₄), Section Thirteen (13), Township Fourteen (14) South, Range Thirteen (13) East, Boise Meridian;

to the following described lands, to-wit:

E¹/₂ & E¹/₂ SW¹/₄ Section 34; all Section 35, Township 11 South, Range 13 East, Boise Meridian; S¹/₂ & NW¹/₄ Section 1; all Sections 2, 3, 10, 11, 12, 13, 14, 15, 23; the E¹/₂ Section 4; E¹/₂ Section 9; SE¹/₄ & E¹/₂ NE¹/₄, NW¹/₄ NE¹/₄, E¹/₂ NW¹/₄ & E¹/₂ SW¹/₄ Section 22; W¹/₂ Section 24; W¹/₂ NE¹/₄, NW¹/₄ SW¹/₄, NW¹/₄ & NE¹/₄ SW¹/₄ Section 26; E¹/₂ NE¹/₄, NW¹/₄ NE¹/₄ & E¹/₂ NW¹/₄ Section 27, in Township 12 South, Range 13 East, Boise Meridian.

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STATE OF IDAHO
DEPARTMENT OF RECLAMATION
Certificate of Water Right
Transferred Right No. 705

THIS IS TO CERTIFY THAT CEDAR MESA, INC., an Idaho corporation, of Twin Falls, Idaho, is the owner of and using a certain water right in Cedar Creek in the amount of 8.8 cubic feet per second, bearing date of priority of May 1, 1894, decreed by Judge Chas. O. Stockaleger, of the District Court of the Fourth Judicial District of the State of Idaho, in the case of

IRA BRACKETT, ET AL,

Plaintiffs,

vs.

THE CEDAR CANAL COMPANY, A CORPORATION, ET AL,

Defendants

and transferred to the IDAHO DEVELOPMENT COMPANY, of Buhl, Idaho, by Certificate of Transferred Water Right No. 302.

That said Transferred Right No. 302 bears date of April 26, 1922, and is entered in the records of the Department of Reclamation of the State of Idaho in Volume 1 of Transfers, at Page 302.

That said Transferred Right No. 302 is appurtenant to the following described lands, to-wit:

East Half ($E\frac{1}{2}$),
East Half of the Southwest Quarter ($E\frac{1}{2} SW\frac{1}{4}$),
of Section Thirty-four (34).

All of Section Thirty-five (35)
Township Eleven (11) South of Range Thirteen (13) East, Boise
Meridian

South Half ($S\frac{1}{2}$)
Northwest Quarter ($NW\frac{1}{4}$)
of Section One (1).

All of Section Two (2).

All of Section Three (3).

East Half ($E\frac{1}{2}$),
of Section Four (4).

East Half ($E\frac{1}{2}$),
of Section Nine (9).

All of Section Ten (10).

All of Section Eleven (11).

All of Section Twelve (12).

All of Section Thirteen (13).

All of Section Fourteen (14).

All of Section Fifteen (15).

Southeast Quarter (SE₁),
East Half Northeast Quarter (E₁ NE₁),
Northwest Quarter Northeast Quarter (NW₁ NE₁),
East half Northwest Quarter (E₁ NW₁),
East Half Southwest Quarter (E₁ SW₁),
of Section Twenty-two (22).

All of Section Twenty-three (23).

West Half (W₁),
of Section Twenty-four (24).

West half Northeast Quarter (W₁ NE₁),
Northwest Quarter of the Southeast Quarter (NW₁ SE₁),
Northwest Quarter (NW₁),
Northeast Quarter of the Southwest Quarter (NE₁ SW₁),
of Section Twenty-six (26).

East Half of the Northeast Quarter (E₁ NE₁),
Northwest Quarter of the Northeast Quarter (NW₁ NE₁),
Northeast Quarter of the Northwest Quarter (NE₁ NW₁),
of Section Twenty-seven (27).

Township Twelve (12) South of Range Thirteen (13) East,
Boise Meridian.

That the said Cedar Mesa, Inc. has become the owner of said water right by purchase.

And that now, upon the application of Cedar Mesa, Inc., an Idaho corporation, of Twin Falls, Idaho, for the transfer of 8.8 cubic feet per second of said water, made before the State Reclamation Engineer of the State of Idaho, and said application having been granted, the right to the use of 8.8 cubic feet per second of the waters of Cedar Creek upon the above described land is hereby abandoned, and the lands to be irrigated under such right, and to which the water right HEREBY CONFIRMED shall become appurtenant, by this certificate, for irrigation and domestic purposes, are described as follows, to-wit:

Southeast Quarter of the Northeast Quarter (SE₁ NE₁),
Lot Three (3),
South Half of the Northwest Quarter (S₁ NW₁),
Southwest Quarter (SW₁),
North Half of the Southeast Quarter (N₁ SE₁),
of Section Two (2).

Southeast Quarter of the Northeast Quarter (SE₁ NE₁),
East half of the Southeast Quarter (E₁ SE₁),
Southwest Quarter of the Southwest Quarter (SW₁ SW₁),
of Section Three (3).

East Half of the Northeast Quarter (E₁ NE₁),
Southeast Quarter (SE₁),
of Section Nine (9).

East Half of the Northeast Quarter (E₁ NE₁),
South Half (S₁),
of Section Ten (10).

Northeast Quarter (NE₁),
Northwest Quarter of the Southeast Quarter (NW₁ SE₁),
Southwest Quarter (SW₁),
of Section Eleven (11).

Northeast Quarter (NE₁),
West Half (W₁),
of Section Fifteen (15).

North Half ($N\frac{1}{2}$),
Northwest Quarter of the Southeast Quarter ($NE\frac{1}{4} SE\frac{1}{4}$),
Northeast Quarter of the Southwest Quarter ($NE\frac{1}{4} SW\frac{1}{4}$),
West Half of the Southwest Quarter ($W\frac{1}{2} SW\frac{1}{4}$),
of Section Fourteen (14).

Northwest Quarter of the Northeast Quarter ($NE\frac{1}{4} NE\frac{1}{4}$),
of Section Thirteen (13).

East Half ($E\frac{1}{2}$),
East Half of the Northwest Quarter ($E\frac{1}{2} NW\frac{1}{4}$),
East Half of the Southwest Quarter ($E\frac{1}{2} SW\frac{1}{4}$),
of Section Twenty-two (22).

Northeast Quarter ($NE\frac{1}{4}$),
East Half of the Northwest Quarter ($E\frac{1}{2} NW\frac{1}{4}$),
South Half ($S\frac{1}{2}$)
of Section Twenty-three (23).

Southeast Quarter of the Northwest Quarter ($SE\frac{1}{4} NW\frac{1}{4}$),
West Half of the Northwest Quarter ($W\frac{1}{2} NW\frac{1}{4}$),
Northeast Quarter of the Southwest Quarter ($NE\frac{1}{4} SW\frac{1}{4}$),
West Half of the Southwest Quarter ($W\frac{1}{2} SW\frac{1}{4}$),
of Section Twenty-four (24).

West Half ($W\frac{1}{2}$)
of Section Twenty-five (25).

East Half ($E\frac{1}{2}$),
Northwest Quarter ($NW\frac{1}{4}$),
North Half of the Southwest Quarter ($N\frac{1}{2} SW\frac{1}{4}$),
Southeast Quarter of the Southwest Quarter ($SE\frac{1}{4} SW\frac{1}{4}$),
of Section Twenty-six (26).

East Half of the Northeast Quarter ($E\frac{1}{2} NE\frac{1}{4}$),
Northwest Quarter of the Northeast Quarter ($NW\frac{1}{4} NE\frac{1}{4}$),
Northeast Quarter of the Northwest Quarter ($NE\frac{1}{4} NW\frac{1}{4}$),
of Section Twenty-seven (27).

North Half of the Northeast Quarter ($N\frac{1}{2} NE\frac{1}{4}$),
of Section Thirty-five (35).

All in Township Twelve (12) South of Range Thirteen (13)
East of the Boise Meridian, and situate in Twin Falls
County, Idaho.

That the said water is 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:

8.6 cubic feet per second, bearing date of priority of
May 1, 1894.

That the water right hereby transferred will hereafter be conducted
to the last above described lands through the same ditches and with the same
point of diversion as heretofore to the first above described lands.

That the right to the use of the water 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
official seal of the Department of Reclamation of the State of Idaho to be
hereunto affixed, at Boise, Idaho, this 10th day of February, A. D. 1947.

MARK R. GULP
State Reclamation Engineer

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S T A T E O F I D A H O
DEPARTMENT OF RECLAMATION
CERTIFICATE OF WATER RIGHT
Transferred Right No. 302

This is to certify that the Idaho Farm Development Company, of Buhl, County of Twin Falls, State of Idaho, has certain rights to the use of the waters of Cedar Creek, for irrigation and domestic purposes, and that said rights have been confirmed by decree of the District Court of the Fourth Judicial District of the State of Idaho, in and for the County of Twin Falls, in the case of Ira Brackett, et al, plaintiffs, vs. Cedar Canal Company, et al, defendants, C. O. Stockslager, District Judge, wherein the following water rights, in Water District #48, were decreed as follows:

275 inches, or $5\frac{1}{2}$ second feet, decreed to Ira Brackett, with priority of May 1, 1894, for the irrigation of the NW $\frac{1}{4}$ NW $\frac{1}{4}$, SW $\frac{1}{4}$ NW $\frac{1}{4}$, SE $\frac{1}{4}$ NW $\frac{1}{4}$, Sec. 13; SE $\frac{1}{4}$ NE $\frac{1}{4}$, NE $\frac{1}{4}$ SE $\frac{1}{4}$, SE $\frac{1}{4}$ SE $\frac{1}{4}$, SW $\frac{1}{4}$ SE $\frac{1}{4}$ and SE $\frac{1}{4}$ SW $\frac{1}{4}$, Sec. 14, T. 14 S., R. 13 E., B. M.

9 7 inches, or $7/50$ second feet, decreed to Mary Persons, with priority of May 1, 1906, for the irrigation of SE $\frac{1}{4}$ SE $\frac{1}{4}$, Sec. 22, T. 14 S., R. 13 E., B. M.

103 inches, or $2-3/50$ second feet, decreed to Robert Rogerson, John McRea and W. R. McMillan, with priority of May 1, 1894, for the irrigation of the W $\frac{1}{2}$ Sec. 23, SE $\frac{1}{4}$ NE $\frac{1}{4}$ and NE $\frac{1}{4}$ SE $\frac{1}{4}$, Sec. 22, T. 14 S., R. 13 E., B. M.

120 inches, or $2-2/5$ second feet, decreed to George Reynolds, with priority of May 1, 1897, for the irrigation of Lots 3, 4, 5 and 6, in Sec. 18; Lots 1 and 2, Sec. 19, T. 14 S., R. 14 E., B. M. and E $\frac{1}{2}$ SE $\frac{1}{4}$ Sec. 13, T. 14 S., R. 13 E., B. M.

125 inches, or $2\frac{1}{2}$ second feet, decreed to Robert Rogerson, John McRea and W. R. McMillan, with priority of May 1, 1894, for the irrigation of the E $\frac{1}{2}$ SW $\frac{1}{4}$ and W $\frac{1}{2}$ SE $\frac{1}{4}$, Sec. 13, T. 14 S., R. 13 E., B. M.

that the Idaho Farm Development Company is the successor in interest of the respective parties to whom such rights were decreed and has become the owner thereof with respect to the water rights enumerated above: that said decree has been entered at Boise, Idaho, in the records of the Department of Reclamation of the State of Idaho, in Volume 3 of Decrees, at page 853; that, upon the application of the Idaho Farm Development Company for a transfer of water rights, and

RECORDED

the said application having been granted, the right to the use of 440 inches, or 8.8 second feet of the waters of Cedar Creek upon the lands above described is hereby abandoned and a description of the lands to be irrigated under such right and to which the water right hereby confirmed shall by this certificate become appurtenant, for irrigation and domestic purposes, is shown in the ^{following} list, limited at any given time to an amount actually needed and beneficially used for such purposes, and shall not exceed

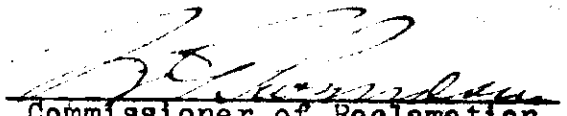
8.8 second feet:

	Acres
T. 11 S., R. 13 E., B. M.	
Sec. 34 E $\frac{1}{2}$; E $\frac{1}{2}$ SW $\frac{1}{2}$	480
Sec. 35 All	640
T. 12 S., R. 13 E., B. M.	
Sec. 1 S $\frac{1}{2}$; NW $\frac{1}{2}$	479.46
Sec. 2 All	637.86
Sec. 3 All	637.50
Sec. 4 All	318.95
Sec. 9 E $\frac{1}{2}$	320
Sec. 10 All	640
Sec. 11 All	640
Sec. 12 All	640
Sec. 13 All	640
Sec. 14 All	640
Sec. 15 All	640
Sec. 22 SE $\frac{1}{4}$; E $\frac{1}{2}$ NE $\frac{1}{4}$; NW $\frac{1}{2}$ NE $\frac{1}{4}$; E $\frac{1}{2}$ NW $\frac{1}{4}$; E $\frac{1}{2}$ SW $\frac{1}{4}$	440
Sec. 23 All	640
Sec. 24 W $\frac{1}{2}$	320
Sec. 26 W $\frac{1}{2}$ NE $\frac{1}{4}$; NW $\frac{1}{2}$ SE $\frac{1}{4}$; NW $\frac{1}{2}$; NE $\frac{1}{2}$ SW $\frac{1}{4}$	320
Sec. 27 E $\frac{1}{2}$ NE $\frac{1}{4}$; NW $\frac{1}{2}$ NE $\frac{1}{4}$; NE $\frac{1}{2}$ NW $\frac{1}{4}$	160
Total	9,233.77

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The right to the use of the waters aforesaid, hereby confirmed, is restricted to the lands above described, as provided by the laws of the State of Idaho.

WITNESS, The seal and signature of the Commissioner of Reclamation of the State of Idaho, affixed at Boise, Idaho, this 26th day of April, 1921.


Commissioner of Reclamation.

Pt. of Div: NE $\frac{1}{4}$ NE $\frac{1}{4}$ Sec.27 - T 14S R. 13 E.
Recorded in Water Dist. No. 48-5-11-21-M.E.B.

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49-C

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

Ira Brackett, Sarah E. Brackett, James B. Steele, Lewis L. Steele, W. R. McMillen, John McRae and Robert Rogerson, partners & tenants in common under the name and style of Rogerson, McRae and McMillen, L. A. Fausett, Mary Persons, George Reynolds, Jerry Emery, J. F. Clark, The Owyhee Land & Sheep Company, a corporation. M. E. Brooks, Emil C. Jantzen, P. D. Davis, and Vineyard Land and Stock Company, a corporation,

Plaintiffs,

vs.

DECEMBER

The Cedar Canal Company, a corporation; The Twin Falls West End Irrigation Company, a corporation; Albert W. Hartwell, Frank D. Hartwell, Fred H. Hartwell, Charles M. Hartwell, D. B. Hartwell, Nora M. Hartwell, G. G. Conover, Ida F. Conover, Albert J. Conover, R. E. Finleyson, E. H. Perkins, Cummings and P. J. Grimes.

Defendants.

This cause came regularly on for trial and was tried on the third day of June, 1912, to the Court without a jury, the jury having been expressly waived, and the parties plaintiff and defendant and cross-complainants and intervenors being in court with their respective counsel herein: and the court, having heard the evidence and proofs introduced by the parties herein and the argument of counsel for said parties respectively, and having made and filed his findings of fact and conclusions of law herein:

NOW, THEREFORE, In consideration of the law and the premises, and in accordance with said findings of fact and conclusions of law, it is hereby ORDERED, ADJUDGED AND DECREED, as follows, to-wit:

- 6625 1. That Ira Brackett have and enjoy the right to use five and one-half cubic feet per second of time of the flow of the waters of said Cedar Creek and its tributaries, for the irrigation of the certain tracts of land, situated in Twin Falls County, State of Idaho, and described as follows, to-wit:

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Fourteen, in Township 15 South of Range Twelve East of the Boise Meridian, and that priority of said appropriation date from the 1st day of May, 1894.

47 66294. That said plaintiff George Reynolds have and enjoy the right to use for stock and domestic purposes, and for the irrigation of a certain tract of land situated in Twin Falls County, State of Idaho, and described as follows, to-wit: Lots three, four, five, and six, in Section 18; and Lots one and two, in Section 19, in Township 14 South of Range 14 East of the Boise Meridian, and the East half of the Southeast quarter of Section 13, in Township 14 South of Range 13 East of the Boise Meridian, two and twenty-fiftieths cubic feet per second of time of the flow of the waters of said Cedar Creek, and that priority of said appropriation date from the 1st day of May, 1897.

47 66295. That plaintiff Mary Persons having the right to use and enjoy forty-fiftieths cubic feet per second of time of the flow of the waters of said Cedar Creek for stock and domestic purposes, and for the irrigation of a certain tract of land situated in Twin Falls County, State of Idaho, and described as follows, to-wit: The East half of the Northeast quarter and the Southwest quarter of the Northwest quarter, and the Northwest quarter of the Southeast quarter of Section 27; and the Southeast quarter of the Southeast quarter of Section 22, Township 14 South, Range 13 East of the Boise Meridian, and that priority of said appropriation date from the 1st day of May, 1906.

47 66300. That plaintiff Lewis Steele have and enjoy the right to use two and twenty-fiftieths cubic feet per second of time of the flow of the waters of Horse Creek and its tributaries for stock and domestic purposes, and for the irrigation of a certain tract of land situated in Twin Falls County, State of Idaho, and described as follows, to-wit: The South half of the Southeast quarter and Northwest quarter of Southeast quarter; and Southeast quarter of the Southwest quarter of Section 12 in Township 15 South of Range 12 East of the Boise Meridian, and that priority of said appropriation date from the 1st day of May, 1898.

47 66311. That plaintiff J. F. Clark have and enjoy the right to use two and twenty-firtieths cubic feet per second of time of the flow of the

County, State of Idaho, and described as follows, to-wit: The East half of the Northwest quarter, and North half of the Southeast quarter of Section 22, in Township 13 South of Range 14 East of the Boise Meridian, and that priority of said appropriation date from the 1st day of May, 1903.

47 6035 11. That plaintiff Emil CC Jantzen have and enjoy the right to use thirty-fiftieths cubic feet per second of time of the flow of the waters of Cedar creek and its tributaries, for stock and domestic purposes, and for the irrigation of a certain tract of land situated in Twin Falls County, State of Idaho, and described as follows, to-wit: the Southeast quarter of the Southwest quarter of Section 4, and the Southeast quarter of the Southwest quarter and the Southeast quarter of the Northwest quarter, and the Southwest quarter of the Northeast quarter in Section 9, in Township 13 South of Range 14 East of the Boise Meridian, and that priority of said appropriation date from the 1st day of May, 1903.

47 6036 12. That plaintiffs Robert Rogerson, John Luckas and A. R. McMillan are tenants in common, and partners under the name of Rogerson, Luckas and McMillan. That said plaintiffs Rogerson, Luckas and McMillan have and enjoy the right to use two and one-half (2½) cubic feet per second of time of the flow of the waters of Cedar Creek, for stock and domestic purposes, and for the irrigation of that certain tract of land situated in Twin Falls County, State of Idaho, and described as follows, to-wit: The East half of the Southwest quarter, and the East half of the Southeast quarter of Section 13, in Township 14 South of Range 15 East of the Boise Meridian, and that priority of said appropriation date from the 1st day of May, 1904.

47 6037 Also, that said plaintiffs Robert Rogerson, John Luckas and A. R. McMillan have and enjoy the right to use three and thirty-seven fiftieths (3 37/50) cubic feet per second of time of the flow of the waters of Cedar Creek and its tributaries, for stock and domestic purposes, and for the irrigation of those certain tracts of land situated in Twin Falls County, State of Idaho, and described as follows, to-wit: the East half of Section 23, and the Southeast quarter of the Northwest quarter, and the North half of the Southeast quarter of Section 22, Township 14 South of Range 15 East of the Boise Meridian, and that priority of said appropriation date from the 1st day of May, 1904.

DISTRICT COURT
Fifth Judicial District
County of Twin Falls - State of Idaho

OCT 12 1995

By _____ Clerk

Deputy Clerk

W. F. Ringert
RINGERT CLARK CHARTERED
455 South Third Street
P. O. Box 2773
Boise, Idaho 83701-2773
Telephone: (208) 342-4591
Fax No.: (208) 342-4657

RECEIVED

OCT 17 1995

Department of Water Resources

WEAVER and MELANSON
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Buhl, Idaho 83316
Telephone: (208) 543-8268

Attorneys for Plaintiffs

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

KENNETH TVERDY and JUNE TVERDY,)
husband and wife, and WILLIAM A.)
BROWN and BARBARA J. BROWN,)
husband and wife,)
Plaintiffs,)

Case No. 41663

-vs-

J U D G M E N T

CEDAR MESA RESERVOIR AND CANAL)
COMPANY, a corporation, and)
CEDAR CANAL COMPANY, a)
corporation, STATE OF IDAHO,)
DEPARTMENT OF WATER RESOURCES,)
R. KEITH HIGGINSON, Director,)
Defendants.)

The parties to this Agreement, including William A. Brown and

Barbara J. Brown, substituted for Ed Wheeler and Anna L. Wheeler (herein referred to as Tverdy and Brown), having filed in this action a Settlement Agreement and a Stipulation that judgment may be entered dismissing without prejudice the Snake River Basin Adjudication (SRBA) issues identified in the Settlement Agreement and resolving the other (non-SRBA) issues in accordance with the terms of the Settlement Agreement dated August 15, 1994, and this Court having entered an Order approving the Settlement Agreement and Stipulation and for entry of judgment in accordance with the Stipulation on August 22, 1994,

IT IS HEREBY ORDERED, ADJUDGED AND DECREED AS FOLLOWS:

1. DISMISSAL OF ISSUES WITHIN THE EXCLUSIVE JURISDICTION OF THE ABOVE ENTITLED COURT, ACTING IN ITS CAPACITY AS THE COURT FOR THE SRBA, TWIN FALLS COUNTY CASE NO. 39576.

The following issues, having been determined as being within the exclusive jurisdiction of the SRBA Court, are hereby dismissed in this action:

- (a) Whether the Plaintiffs' 1962 Storage Contract right constitutes a water storage right that may either be a later priority water right established after the existing rights were decreed, or may be an expansion or change of use of an existing right;
- (b) Whether injury to upstream appropriators on Cedar Creek

or House Creek results from exercise of the 1962 storage right;

- (c) Whether the 2.94 cfs not covered by Transfer No. 302 constitutes a new diversion post-dating Transfer No. 302 or constitutes an expansion or change in use of a decreed right and, if so, the proper allocation and the status as a separate water right, of the 2.94 cfs not covered by Transfer No. 302;
- (d) Whether reclaimed conveyance loss, if any, constitutes an expansion of use of an existing water right and whether any of these parties are entitled to the use of reclaimed conveyance loss, or whether any water resulting from savings and conveyance loss is available for appropriation or to satisfy later priority water rights;
- (e) The scope of IDWR's authority under the SRBA, including the issue of how far down the Cedar Canal IDWR's authority extends for the purpose of determining and recommending water rights and administering those water rights on an interim basis in the SRBA.

2. STORAGE RIGHTS UNDER 1962 CONTRACT.

This section of the Judgment deals with a Contract made the 21st day of September, 1962 (hereinafter referred to as the "1962

Contract"), among J. F. Clark and Inez Clark, husband and wife, Truman Clark and Gayle Clark, husband and wife, therein referred to as the "Clarks", Cedar Canal Company, and Cedar Mesa Reservoir and Canal Company, therein referred to as "Cedar Mesa."

The storage right provided in the 1962 Contract is now owned by Tverdy and Wheeler and is a perpetual right, irrespective of whether it be characterized as a license, permit or easement, to store not more than 251 acre feet of the natural flows of Cedar Creek and House Creek in the Roseworth Reservoir, each year, to be diverted into storage between April 16 and April 30 of each year. There shall be no carry-over of storage under this right. Instead of delivery from storage at the rate of 3 cfs commencing on July 1, of each year, Tverdy and Wheeler shall have the right to have the water delivered from storage through the Cedar Canal System at any time during the irrigation season at a rate that, when added to their share of the natural flow right of Cedar Canal Company, will not exceed 8.38 cfs of natural flow and stored water combined, measured at the weirs of Tverdy and Wheeler in the NE $\frac{1}{4}$ NW $\frac{1}{4}$ of Section 34, Township 12 South, Range 13 East, B.M., Twin Falls County, Idaho. This does not constitute a relinquishment or an abandonment of any part of the capacity of the irrigation system to which Tverdy and Wheeler, or either of them, are entitled by reason

of their ownership of stock in Cedar Canal Company.

The assessment to be paid by Tverdy and Wheeler for storage purposes shall remain at \$315.20 or \$.80 per Cedar Canal Company share, for 1994, and the rate of assessment shall be adjusted annually, on or about April 1, of each year, after 1994, in accordance with increases or decreases in the consumer price index established by the United States Department of Commerce.

3. ALLOCATION OF THE 2.94 CFS FLOW OF THE WATERS OF CEDAR CREEK AND HOUSE CREEK NOT COVERED BY IDWR TRANSFER NO. 302.

This section of the Judgment deals with 2.94 cfs of the flow of Cedar Creek and House Creek not covered by, or included in, Transfer No. 302 approved by the Idaho Department of Water Resources (IDWR, then designated as Department of Reclamation) on April 26, 1921.

Seventy-five percent (75%) of the 2.94 cfs of the natural flow of Cedar Creek and House Creek not covered by or included in IDWR Transfer No. 302 shall be allocated to the decreed rights of Cedar Canal, which total 25.5 cfs. The 8.8 cfs of natural flow covered by Transfer No. 302 shall not participate in the seventy-five percent (75%) of the 2.94 cfs. As among the parties to this action, except IDWR, the remaining twenty-five percent (25%) of the

2.94 cfs not covered by Transfer No. 302 shall be available pro rata and in order of priority, to all water rights under which water is diverted from Cedar Creek below the Roseworth Reservoir.

4. CONTRIBUTION BY UNMEASURED INFLOW FROM SPRINGS.

This section of the Judgment deals with inflow from certain springs and seeps which augments the natural flow of Cedar Creek by discharge into Cedar Creek at points which ordinarily are inundated by the waters of Roseworth Reservoir.

The parties have acknowledged that the natural flow of Cedar Creek is augmented by inflow from certain springs and seeps that discharge into Cedar Creek at points which ordinarily are inundated by the waters of Roseworth Reservoir. At times when the water level in the Roseworth Reservoir is extremely low, the inflow from some or all of those springs and seeps can be measured. The measuring points and method of calculation are described in Exhibit 2, attached hereto. A five year average (average flow contribution or AFC) shall be used in determining the rate of flow to be taken into account as inflow from the springs and seeps in order to determine the natural flow available for diversion from Cedar Creek below the Roseworth Reservoir. For 1994, the rate of flow based on the latest five year average was set at 5.67 cfs.

The contribution of the springs and seeps to the natural flow

of Cedar Creek shall be measured in each year in which the waters of Roseworth Reservoir are low enough to permit measurement of the discharge points of the springs and seeps. When new measurements are taken, the oldest measurements will be deleted from the five years used in determining the average, and will be replaced by the most recent measurements. If the five year average using new measurements produces a change from the AFC then being used, whether more or less than that AFC, then the AFC calculated using the new measurements shall be used in allocating water for purposes of diversion below Roseworth Reservoir.

For example, if the measurements for 1980, 1983, 1986, 1991 and 1992 produce the agreed AFC of 5.67 cfs, and measurements taken in 1995 show an AFC of 5.97 cfs, the measurements for 1980 shall be dropped, and those for 1995 shall be added, and the average of the measurements for 1983, 1986, 1991, 1992 and 1995 shall be used to determine the AFC to be credited for the springs and seeps.

In those years in which measurements cannot be taken to determine a new AFC, the flow of Reynolds Springs shall be used as the base for determining interim adjustments in the AFC. The 5.67 cfs AFC set forth above is determined from the same measurements which produce an average of 0.88 cfs for the flow of Reynolds

Springs, a series of springs arising in Lot 7 in Section 19, Township 14 South, Range 14 East, B.M., Twin Falls County, Idaho, which flow into a common channel that runs northerly to a point of confluence with the Cedar Creek Reservoir. To facilitate identification and location of Reynolds Springs, a copy of a portion of the 7½" quadrangle map designated Browns Bench North and issued by the United States Geological Survey is attached to this Judgment as Exhibit 3 and incorporated herein by this reference. Thus, if the flow of Reynolds Springs increases or decreases by a percentage which, if applied to the AFC in effect at that time, would produce a change of 1 cfs or more in the AFC, then the AFC shall be increased or decreased by the same percentage that the flow of Reynolds Springs has increased or decreased, and the temporary AFC thus determined shall be used until the flow of Reynolds Springs again increases or decreases by a percentage which, if applied to the temporary AFC then in use, would produce an increase or decrease of 1 cfs or more. In the event of such a subsequent increase or decrease of 1 cfs or more, a new temporary AFC shall be calculated in the same manner as previously specified. Any temporary AFC derived from the use of the flow of Reynolds Springs as a base, shall be superseded by an AFC based on a new average determined from measurements of the actual contributions of

the springs and seeps.

The following is an example of the method of determining an AFC by using Reynolds Springs as the base:

Assuming 5.67 cfs AFC, and Reynolds Springs flow of 0.88 cfs --

Flow of Reynolds Springs increases to 1.08 cfs

1.08 cfs is 123% (rounded) of 0.88 cfs

5.67 cfs times 123% equals 6.97 cfs (rounded)

6.97 cfs becomes the temporary AFC.

5. PAYMENT FOR MEASURING DEVICES.

The cost of the measuring devices installed during 1993 on Cedar Creek and House Creek, up to \$15,000.00, and \$1,500.00 in attorney fees and engineering fees incurred in connection with the installation of the measuring devices and the acquisition of right-of-way from the United States of America for the location of the measuring devices, shall be paid seventy-five percent (75%) by Cedar Mesa and twenty-five percent (25%) by Cedar Canal, and Tverdy and Wheeler shall pay their respective shares of the portion allocated to Cedar Canal in accordance with their stock ownership in Cedar Canal.

6. DISTRIBUTION FORMULA.

The formula for distribution of the natural flow of Cedar Creek at the point of diversion for the joint system of Cedar Canal

and Cedar Mesa has been prepared by Dr. Charles Brockway, P.E., and a copy of the formula is attached to this Judgment as Exhibit 1. The formula set forth in Exhibit 1 shall be used by the State Watermaster in distributing the waters of Cedar Creek under I.C. § 42-607, until and unless otherwise determined in the SRBA, and shall be used by the Watermaster for the joint system of Cedar Canal and Cedar Mesa in measuring water from the Cedar Canal under I.C. § 42-901.

In order to avoid future conflicts over the cost of frequent examinations to determine the amount of ditch loss between the head of the Cedar Canal and the Cedar Mesa holding pond, and between that holding pond and the weirs of Tverdy and Wheeler in the NE 1/4 NW 1/4 Section 34, Township 12 South, Range 13 East, B.M., the measuring device installed at the point where the Cedar Canal discharges into the Cedar Mesa holding pond shall be modified so as to provide accurate measurements at that point which can be used, with the measuring device immediately downstream in the Cedar Canal, to determine actual ditch loss between the staff gage at the point of diversion from Cedar Creek and the discharge into the holding pond, it being assumed there is no loss in the pipe between the point of diversion and the head of the Cedar

Canal. If that staff gage cannot be made accurate, then a measuring device shall be installed in the Cedar Canal as close as possible to the end of the pipe that discharges into the head of the Cedar Canal. The percentages of ditch loss thus determined shall be used as items 6 and 6A in the Brockway formula. The measuring device in the Cedar Canal downstream from the diversion to the Cedar Mesa holding pond shall be modified so as to provide accurate measurements and that measuring device, together with the Tverdy and Wheeler weirs, shall be used to determine the percentage of ditch loss between the holding pond and the Tverdy and Wheeler weirs, and the percentage thus determined also shall be used in the Brockway formula.

Cost of installation, modification or construction of measuring devices referred to above shall be paid seventy-five percent (75%) by Cedar Mesa and twenty-five percent (25%) by Cedar Canal, with stockholders of Cedar Canal paying their pro rata shares in accordance with their stock ownership.

7. STOCK WATER DURING THE IRRIGATION SEASON.

If it is necessary for Tverdy to pump stock water from the main ditch, above the holding pond, at any time during the irrigation season, the rate of diversion from the ditch for that

purpose is not great enough to warrant adjustments in the irrigation water deliveries so long as the pumping facilities used by Tverdy do not exceed their present (1994) capacity of 10 gallons per minute and a 20,000 gallon holding tank.

8. AMENDED NOTICE OF CLAIM IN SRBA.

Tverdy and Wheeler shall prepare, and submit to Cedar Canal for approval, an Amended Notice of Claim in the SRBA to include the optional storage right of Tverdy and Wheeler as modified by this Agreement, not to exceed 251 acre feet annually, with no carry-over. Any additional filing fees resulting from the filing of the amended notice of claim shall be paid by Tverdy and Wheeler in proportion to their respective Cedar Canal water rights.

9. DISMISSAL OF CROP DAMAGE CLAIMS.

The crop damage claims of the Plaintiffs are hereby dismissed.

10. ATTORNEY FEES AND COSTS.

All claims for costs and attorney fees against other parties have been waived, and the respective parties shall bear their or its attorney fees and costs in this action,

Dated ^{October}~~September~~ 12, 1995.

/s/ Daniel Hurlbutt Jr.
Daniel C. Hurlbutt
District Judge

CEDAR CREEK WATER DISTRIBUTION
COMPARISON OF METHODS OF CALCULATING DIVERSION ALLOCATION
OF CEDAR CREEK BETWEEN CEDAR MESA CANAL AND RESERVOIR CO AND CEDAR CANAL

DISBR010.XLS C.E. BROCKWAY 9/8/95

METHOD 1 IS THAT PROPOSED BY LOREN HOLMES OF IDWR

METHOD 2 IS THAT PROPOSED BY W. RINGERT, ATTORNEY FOR K. TVERDY

METHOD 3 IS THAT PROPOSED BY C.E. BROCKWAY

METHOD 3

1 CEDAR CREEK INFLOW	ENTER	19.13	14.83	9.83	9.83	4.83	4.33
2 HOUSE CREEK INFLOW	ENTER	9.5	9.5	9.5	4.5	4.5	0
3 UNGAGED SPRING INFLOW	ENTER	5.67	5.67	5.67	5.67	5.67	5.67
4 TOTAL INFLOW		34.3	30	25	20	15	10

5
6 CANAL LOSS TO HOLDING POND AS A DECI 1
0.1 <<<ENTER

6A LOSS HOLDING POND TO T-W HEADGATE 0.02 <<<ENTER

7 SUBTRACT LINE 6 FROM LINE 5
FRACTION OF WATER CONVEYED TO PON 0.9

7A SUBTRACT LINE 6 AND LINE 6A FROM LINE 0.88
FRACTION OF WATER CONVEYED TO T-W HEADGATE

8 CEDAR CANAL RIGHT AT CANAL END 17 <<<ENTER

9 DVIDE LINE 8 BY LINE 7A TO GET 19.32 19.32 19.32 19.32 19.32 19.32
CEDAR CANAL AT HEAD

CEDAR MESA RIGHT AT CANAL HEAD 8.8 <<<ENTER

ADD LINES 9 AND 10 TO GET TOTAL Q 28.12 28.12 28.12 28.12 28.12 28.12
NEEDED TO FILL 1894 RIGHTS

DVIDE LINE 4 BY LINE 11 TO GET 1.22 1.07 0.89 0.71 0.53 0.36
FRACTION OF 1894 RIGHTS DELIVERABLE

2 RETURN FLOW CREDIT TO CEDAR MESA R 2.205

2 MULTIPLY LINE 12A BY LINE 12 TO GET 2.69 2.35 1.96 1.57 1.18 0.78
PORTION OF RETURN FLOW RIGHT APPLICABLE

2 SUBTRACT LINE 12B FROM LINE 4 TO GET 31.61 27.65 23.04 18.43 13.82 9.22
ADJUSTED AVAILABLE FLOW

2 DVIDE LINE 12C BY LINE11 TO GET 1.12 0.98 0.82 0.66 0.49 0.33
ADJUSTED FRACTION OF RIGHTS AVAILABLE

MULTIPLY LINE 12D BY LINE10 TO GET 9.89 8.65 7.21 5.77 4.33 2.88
CEDAR MESA PORTION OF NATURAL FLOW
AT CANAL HEAD

SUBTRACT LINE 13 FROM LINE 4 TO GET 24.41 21.35 17.79 14.23 10.67 7.12
CEDAR CANAL PORTION OF NATURAL FLOW
AT CANAL HEAD

MULTIPLY LINE 13 BY LINE 7 TO GET 7.92 7.79 6.49 5.19 3.89 2.60
CEDAR MESA NATURAL FLOW
AT CANAL END(NOT GREATER THAN 8.8 MINUS SEEPAGE)

MULTIPLY LINE 14 BY LINE 7A TO GET 17.00 17.00 15.65 12.52 9.39 6.26
CEDAR CANAL NATURAL FLOW
AT T-W HEADGATE(NOT GREATER THAN 17)

APPORTIONMENT CALCULATION

MULTIPLY LINE 16 BY 50.7 PERCENT 8.62 8.62 7.94 6.35 4.76 3.17
TO GET CEDAR MESA SHARE OF
CEDAR CANALNATURAL FLOW AT CANAL END

ADD LINE 15 PLUS LINE 17 TO GET 16.54 16.41 14.43 11.54 8.66 5.77
TOTAL CEDAR MESA DIVERSION
AT CANAL END

MULTIPLY LINE 16 BY 49.3 PERCENT TO GET 8.38 8.38 7.72 6.17 4.63 3.09
TOTAL TVERDY-WHEELER DIVERSION AT
CANAL END

**CEDAR CREEK WATER DISTRIBUTION
COMPARISON OF METHODS OF CALCULATING DIVERSION ALLOCATION
OF CEDAR CREEK BETWEEN CEDAR MESA CANAL AND RESERVOIR CO AND CEDAR CANAL**

DISBR020.XLS C.E. BROCKWAY 9/8/95

METHOD 1 IS THAT PROPOSED BY LOREN HOLMES OF IDWR
METHOD 2 IS THAT PROPOSED BY W. RINGERT, ATTORNEY FOR K. TVERDY
METHOD 3 IS THAT PROPOSED BY C.E. BROCKWAY
METHOD 3

1 CEDAR CREEK INFLOW	ENTER>>	19.13	14.83	9.83	9.83	4.83	4.33
2 HOUSE CREEK INFLOW	ENTER>>	9.5	9.5	9.5	4.5	4.5	0
3 UNGAGED SPRING INFLOW	ENTER>>	5.67	5.67	5.67	5.67	5.67	5.67
4 TOTAL INFLOW		34.3	30	25	20	15	10
5	1						
6 CANAL LOSS TO HOLDING POND AS A DECIMAL	0.2 <<<ENTER						
6A LOSS HOLDING POND TO T-W HEADGATE	0.02 <<<ENTER						
7 SUBTRACT LINE 6 FROM LINE 5 FRACTION OF WATER CONVEYED TO POND	0.8						
7A SUBTRACT LINE 6 AND LINE 6A FROM LINE 5 FRACTION OF WATER CONVEYED TO T-W HEADGATE	0.78						
8 CEDAR CANAL RIGHT AT CANAL END	17 <<<ENTER						
9 DIVIDE LINE 8 BY LINE 7A TO GET CEDAR CANAL AT HEAD		21.79	21.79	21.79	21.79	21.79	21.79
10 CEDAR MESA RIGHT AT CANAL HEAD	8.8 <<<ENTER						
11 ADD LINES 9 AND 10 TO GET TOTAL Q NEEDED TO FILL 1894 RIGHTS		30.59	30.59	30.59	30.59	30.59	30.59
12 DIVIDE LINE 4 BY LINE 11 TO GET FRACTION OF 1894 RIGHTS DELIVERABLE		1.12	0.98	0.82	0.65	0.49	0.33
12 RETURN FLOW CREDIT TO CEDAR MESA RIGHT	2.205 or 75% of 2.94 cfs						
12 MULTIPLY LINE 12A BY LINE 12 TO GET PORTION OF RETURN FLOW RIGHT APPLICABLE		2.47	2.16	1.80	1.44	1.08	0.72
12 SUBTRACT LINE 12B FROM LINE 4 TO GET ADJUSTED AVAILABLE FLOW		31.83	27.84	23.20	18.56	13.92	9.28
12 DIVIDE LINE 12C BY LINE 11 TO GET ADJUSTED FRACTION OF RIGHTS AVAILABLE		1.04	0.91	0.76	0.61	0.45	0.30
13 MULTIPLY LINE 12D BY LINE 10 TO GET CEDAR MESA PORTION OF NATURAL FLOW AT CANAL HEAD		9.15	8.01	6.67	5.34	4.00	2.67
14 SUBTRACT LINE 13 FROM LINE 4 TO GET CEDAR CANAL PORTION OF NATURAL FLOW AT CANAL HEAD		25.15	21.99	18.33	14.66	11.00	7.33
15 MULTIPLY LINE 13 BY LINE 7 TO GET CEDAR MESA NATURAL FLOW AT CANAL END(NOT GREATER THAN 8.8 MINUS SEEPAGE))		7.04	6.41	5.34	4.27	3.20	2.14
16 MULTIPLY LINE 14 BY LINE 7A TO GET CEDAR CANAL NATURAL FLOW AT T-W HEADGATE(NOT GREATER THAN 17)		17.00	17.00	14.30	11.44	8.58	5.72
APPORTIONMENT CALCULATION							
17 MULTIPLY LINE 16 BY 50.7 PERCENT TO GET CEDAR MESA SHARE OF CEDAR CANAL NATURAL FLOW AT CANAL END		8.62	8.62	7.25	5.80	4.35	2.90
18 ADD LINE 15 PLUS LINE 17 TO GET TOTAL CEDAR MESA DIVERSION AT CANAL END		15.66	15.02	12.59	10.07	7.55	5.03
19 MULTIPLY LINE 16 BY 49.3 PERCENT TO GET TOTAL TVERDY-WHEELER DIVERSION AT CANAL END		8.38	8.38	7.05	5.64	4.23	2.82

**CEDAR CREEK WATER DISTRIBUTION
COMPARISON OF METHODS OF CALCULATING DIVERSION ALLOCATION
OF CEDAR CREEK BETWEEN CEDAR MESA CANAL AND RESERVOIR CO AND CEDAR CANAL**

DISBR030.XLS C.E. BROCKWAY 9/8/95

METHOD 1 IS THAT PROPOSED BY LOREN HOLMES OF IDWR
METHOD 2 IS THAT PROPOSED BY W. RINGERT, ATTORNEY FOR K. TVERDY
METHOD 3 IS THAT PROPOSED BY C.E. BROCKWAY
METHOD 3

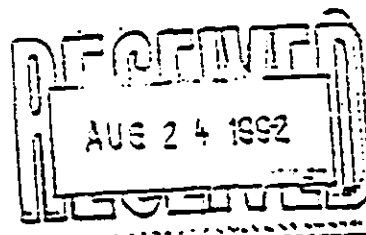
1 CEDAR CREEK INFLOW	ENTER>>	19.13	14.83	9.83	9.83	4.83	4.33
2 HOUSE CREEK INFLOW	ENTER>>	9.5	9.5	9.5	4.5	4.5	0
3 UNGAGED SPRING INFLOW	ENTER>>	5.67	5.67	5.67	5.67	5.67	5.67
4 TOTAL INFLOW		34.3	30	25	20	15	10
5	1						
6 CANAL LOSS TO HOLDING POND AS A DECIMAL	0.3 <<<ENTER						
6A LOSS HOLDING POND TO T-W HEADGATE	0.02 <<<ENTER						
7 SUBTRACT LINE 6 FROM LINE 5 FRACTION OF WATER CONVEYED TO POND	0.7						
7A SUBTRACT LINE 6 AND LINE 6A FROM LINE 5 FRACTION OF WATER CONVEYED TO T-W HEADGATE	0.68						
8 CEDAR CANAL RIGHT AT CANAL END	17 <<<ENTER						
9 DIVIDE LINE 8 BY LINE 7A TO GET CEDAR CANAL AT HEAD		25.00	25.00	25.00	25.00	25.00	25.00
10 CEDAR MESA RIGHT AT CANAL HEAD	8.8 <<<ENTER						
11 ADD LINES 9 AND 10 TO GET TOTAL Q NEEDED TO FILL 1894 RIGHTS		33.80	33.80	33.80	33.80	33.80	33.80
12 DIVIDE LINE 4 BY LINE 11 TO GET FRACTION OF 1894 RIGHTS DELIVERABLE		1.01	0.89	0.74	0.59	0.44	0.30
12 RETURN FLOW CREDIT TO CEDAR MESA RIGHT	2.205						
12 MULTIPLY LINE 12A BY LINE 12 TO GET PORTION OF RETURN FLOW RIGHT APPLICABLE		2.24	1.96	1.63	1.30	0.98	0.65
12 SUBTRACT LINE 12B FROM LINE 4 TO GET ADJUSTED AVAILABLE FLOW		32.06	28.04	23.37	18.70	14.02	9.35
12 DIVIDE LINE 12C BY LINE 11 TO GET ADJUSTED FRACTION OF RIGHTS AVAILABLE		0.95	0.83	0.69	0.55	0.41	0.28
13 MULTIPLY LINE 12D BY LINE 10 TO GET CEDAR MESA PORTION OF NATURAL FLOW AT CANAL HEAD		8.35	7.30	6.08	4.87	3.65	2.43
14 SUBTRACT LINE 13 FROM LINE 4 TO GET CEDAR CANAL PORTION OF NATURAL FLOW AT CANAL HEAD		25.95	22.70	18.92	15.13	11.35	7.57
15 MULTIPLY LINE 13 BY LINE 7 TO GET CEDAR MESA NATURAL FLOW AT CANAL END(NOT GREATER THAN 8.8 MINUS SEEPAGE))		5.84	5.11	4.26	3.41	2.56	1.70
16 MULTIPLY LINE 14 BY LINE 7A TO GET CEDAR CANAL NATURAL FLOW AT T-W HEADGATE(NOT GREATER THAN 17)		17.00	15.44	12.86	10.29	7.72	5.15
APPORTIONMENT CALCULATION							
17 MULTIPLY LINE 16 BY 50.7 PERCENT TO GET CEDAR MESA SHARE OF CEDAR CANAL NATURAL FLOW AT CANAL END		8.62	7.83	6.52	5.22	3.91	2.61
18 ADD LINE 15 PLUS LINE 17 TO GET TOTAL CEDAR MESA DIVERSION AT CANAL END		14.46	12.94	10.78	8.62	6.47	4.31
19 MULTIPLY LINE 16 BY 49.3 PERCENT TO GET TOTAL TVERDY-WHEELER DIVERSION AT CANAL END		8.38	7.61	6.34	5.07	3.80	2.54



CHARLES
BROCKWAY
ENGINEERING

August 23, 1992

Mr. John Coleman
Coleman, McIntyre & Ritchie
156 2nd Avenue West
P.O. Box 525
Twin Falls, Idaho 83303-0525



Subject: Water Measurements, Cedar Creek 1991

Dear John:

Discharge measurements were made on Cedar Creek on September 20, 1991 to again determine the unmeasured ground-water inflow or reach gain to the reservoir. Measurements were made using a current meter and standard measurement procedures. I was assisted in the measurements by Mr. Loren Holmes, Idaho Department of Water Resources Southern Region Manager. Mr. Jack Eastman, Watermaster, Mr. Ken Tverdy, Mr. John Bryant and Mr. John Coleman, attorney were also present.

Measurements were made of Reynolds Spring and Cedar Creek at two sites: Above the reservoir just below the old Three Creek Road, and within the reservoir between the north boat ramp and the old Brackett homestead. There was no flow from House Creek entering the reservoir.

The attached tables show the calculation of discharge at the three sites on August 17, 1992 and the summary of discharge measurements made on Cedar Creek and springs since 1972.

On August 17, 1992 the reservoir was higher than during the 1990 measurements but somewhat lower than the September 20, 1991 measurement. The reservoir pool began at a point approximately 100 yds upstream of the old Brackett homestead and the discharge measurement of Cedar Creek within the reservoir was about 100 yds 200 yds upstream of the homestead.

Cedar Creek inflow below the old Three Creek Road was lower than any previous measurements at 3.5 cfs and the measurement of Cedar Creek within the reservoir was also the lowest at 7.52 cfs. Likewise, the Reynolds spring discharge of 0.72 cfs is the lowest of the series of measurements. The total ground-water inflow or reach gain into Cedar Creek, including Reynolds Spring, from Three Creek Road to point of measurement within the reservoir was 4.74 cfs on August 17, 1992. Average total ground-water inflow for the five measurements is 5.37 cfs.

CHARLES E.
BROCKWAY,
PH.D., P.E.

706 SUNRISE
BOULEVARD
NORTH

TWIN FALLS,
IDAHO 83301

208-733-0933

cc. J. Bryant
L. Holmes, IDWR

Sincerely,

C.E. Brockway
C.E. Brockway P.E.

SUMMARY OF DISCHARGE MEASUREMENTS
CEDAR CREEK AND SPRINGS
THROUGH 3/17/92

FILE SUM92.WR1
C.E. BROCKWAY P.E.

LOCATION	DISCH. 11/3/88	DISCH. 9/12/90	DISCH. 10/8/90	DISCH. 9/20/91	DISCH. 3/17/92	AVG GAIN
CEDAR CREEK AT THREE CR. RD.	7.00	5.56	6.48	5.48	3.50	
HOUSE CREEK AT CONFLUENCE	5.90	0.00	1.73	0.00	0.00	
CEDAR CR. NR BRACKETT HOME	18.56	11.22	13.47	10.73 *	7.52 *	
UNMEASURED GAIN (THREE CR. RD TO BRACKETTS)	5.76	4.56	5.25	4.25	4.02	4.79
REYNOLDS SPRING	0.38	0.31	0.90	0.99	0.72	0.36
TOTAL GROUNDWATER REACH GAIN (THREE CREEK ROAD TO BELOW REYNOLD'S SPRING)	6.54	5.57	6.16	5.24	4.74	5.67
CEDAR CREEK AT 3 MILE XING	NM	15.53	14.23			
APPARENT GAIN BRACKETT HOME-3MILE		3.45	-0.14			
CEDAR CREEK 3/8 MILE BELOW DAM			16.12			
SPRING NR THREE CREEK ROAD	2.49		2.70			

* MEASUREMENT MADE UPSTREAM OF WATER SURFACE NR NORTH BOAT RAMP

REYNOLD'S SPRING MEASUREMENTS C.E. BROCKWAY P.E.

DATE	DISCHARGE	GAGE	BY
3-Nov-72	1.4	NA	CEB; M. STEEL
10-Nov-77	1.73	NA	CEB; J. COLEMAN, J. LEWIS
3-Nov-88	0.38	NA	CEB; L. HOLMES ET AL
12-Sep-90	0.31	0.43	CEB; L. HOLMES ET AL
3-Oct-90	0.3	0.39	CEB; L. HOLMES ET AL
20-Sep-91	0.39	NA	CEB; L. HOLMES ET AL
17-Aug-92	0.72	NA	CEB, L. HOLMES ET AL

STAGE HOUSE SPRING MEASUREMENTS (DOWNSTREAM OF THREE CREEK RD.)

DATE	DISCHARGE	GAGE	BY
3-Nov-72	1.25	NA	CEB; M. STEEL
10-Nov-77	0.34	NA	CEB; L. HOLMES, J. LEWIS
3-Nov-88	2.49	NA	CEB; L. HOLMES ET AL
3-Oct-90	2.70	NA	CEB; L. HOLMES ET AL

CURRENT METER CALCULATIONS

CEDAR MESA RESERVOIR AND CANAL SYSTEM

REYNOLDS SPRING TRIBUTARY TO CEDAR MESA RESERVOIR

AUGUST 17, 1992 C.E. BROCKWAY, L. HOLMES, J. EASTMAN, K

OTT METER 47366* GAGE DESTROYED TVERDY & J. COLEMAN

SECT.	DIST.	DEPT	REV .6-2	REV .3	TIME SEC	ANGLE CORR.	VEL	DELTA AREA	DELTA Q	SUM Q
1	0.3	0.34	0		50	1	0.00	0.00	0.00	0.00
2	0.3	0.35	87		50	1	1.50	0.10	0.08	0.08
3	1.2	0.40	105		50	1	1.30	0.11	0.19	0.25
4	1.5	0.39	106		50	1	1.32	0.12	0.21	0.43
5	1.3	0.35	91		50	1	1.40	0.11	0.13	0.56
6	2.1	0.30	0		50	1	0.00	0.10	0.07	0.72

* CALIBRATION V=(REV/SEC) FT/SEC

AVG. VEL. 1.33 FPS
AREA 0.54 SQ FT
DISCHARG 0.72 CFS

CURRENT METER CALCULATIONS

CEDAR MESA RESERVOIR AND CANAL SYSTEM

CEDAR CREEK IN RESERVOIR 200 YD UPSTREAM OF BRACKETT HOMESTEAD

AUGUST 17, 1992 C.E. BROCKWAY, L. HOLMES, J. EASTMAN, K

OTT METER 47366* TVERDY AND J. COLEMAN

SECT.	DIST.	DEPT	REV .6-2	REV .3	TIME SEC	ANGLE CORR.	VEL	DELTA AREA	DELTA Q	SUM Q
1	7.9	0.00	0		50	1	0.00	0.00	0.00	0.00
2	8.3	0.25	0		50	1	0.00	0.09	0.00	0.00
3	8.3	0.73	82		50	1	1.41	0.10	0.07	0.07
4	9.0	0.76	90		50	1	1.55	0.15	0.22	0.29
5	9.5	0.73	120		50	1	2.06	0.39	0.39	0.98
6	10.0	0.30	117		50	1	2.01	0.40	0.30	1.79
7	10.5	0.79	105		50	1	1.30	0.40	0.76	2.55
8	11.0	0.75	103		50	1	1.77	0.39	0.69	3.23
9	11.5	0.74	101		50	1	1.74	0.37	0.65	3.39
10	12.0	0.30	104		50	1	1.79	0.39	0.33	4.56
11	12.5	0.76	106		50	1	1.32	0.39	0.70	5.27
12	13.0	0.76	97		50	1	1.67	0.38	0.66	5.93
13	13.5	0.70	95		50	1	1.53	0.37	0.60	6.53
14	14.0	0.61	39		50	1	1.53	0.33	0.52	7.05
15	14.5	0.50	66		50	1	1.14	0.28	0.37	7.42
16	15.0	0.20	0		50	1	0.00	0.18	0.10	7.52
17	15.2	0.00	0		50	1	0.00	0.02	0.00	7.52

AVG. VEL. 1.54 FPS
AREA 4.59 SQ FT
DISCHARG 7.52 CFS

001-1.223

CURRENT METER CALCULATIONS

CEDAR MESA RESERVOIR AND CANAL SYSTEM

CEDAR CREEK ABOVE THE RESERVOIR BELOW THE OLD ROAD

AUGUST 17, 1992

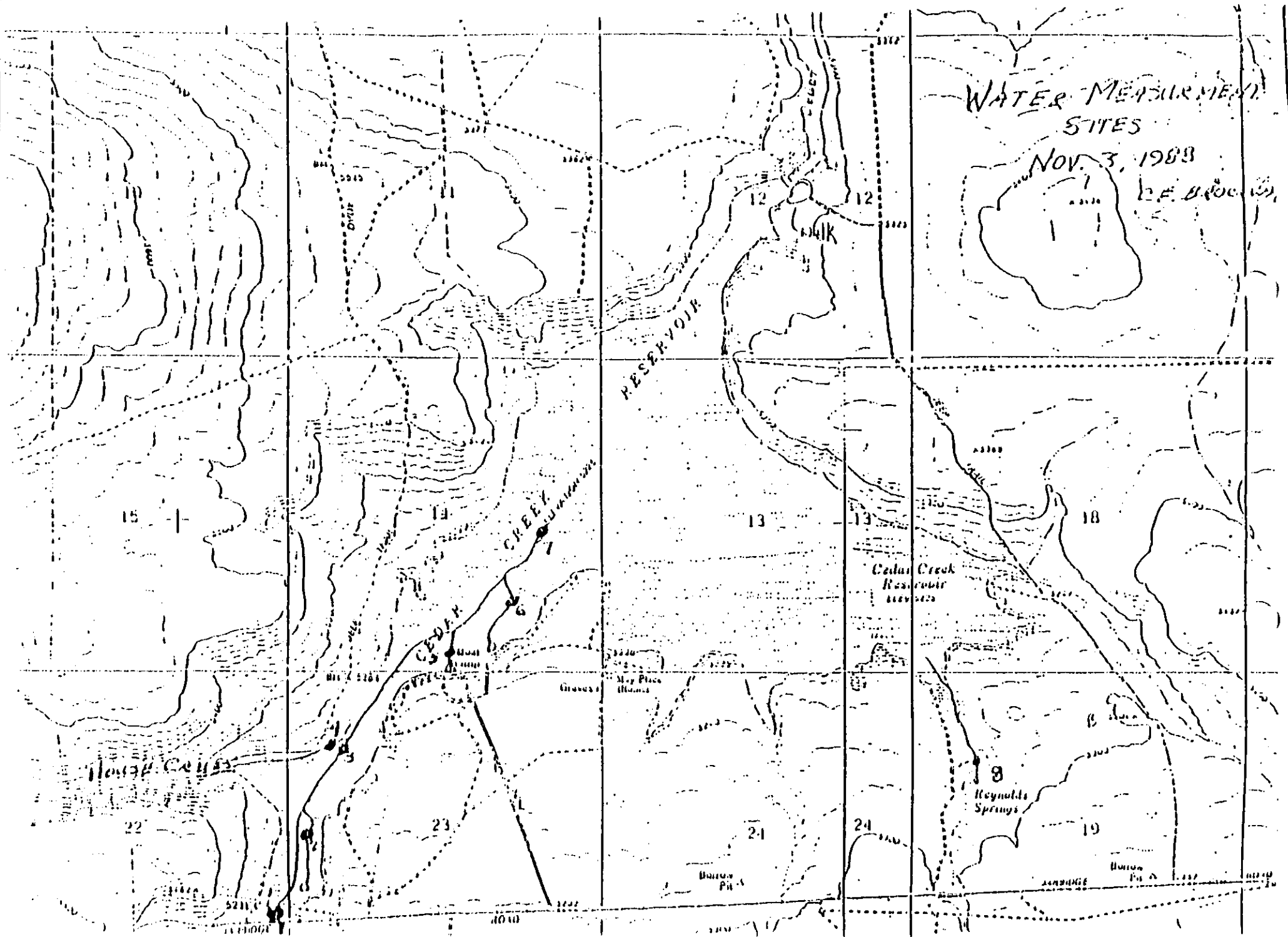
C.E. BROCKWAY, L. HOLMES, J. EASTMAN,

OTT METER 47966"

K. TVERDY AND J. COLEMAN

SECT.	DIST.	DEPT	REV .6-2	REV .3	TIME SEC	ANGLE CORR.	VEL	DELTA AREA	DELTA Q	SUM Q
1	1.7	0.30	0		50	1	0.00	0.00	0.00	0.00
2	2.0	0.33	0		50	1	0.00	0.24	0.00	0.00
3	2.3	0.91	17		50	1	0.33	0.25	0.04	0.04
4	2.6	0.96	53		50	1	0.92	0.23	0.18	0.22
5	2.9	1.04	80		50	1	1.38	0.30	0.34	0.56
6	3.2	1.04	94		50	1	1.62	0.31	0.47	1.03
7	3.5	1.04	93		50	1	1.60	0.31	0.50	1.53
8	3.8	1.04	80		50	1	1.38	0.31	0.46	2.00
9	4.1	1.04	65		50	1	1.12	0.31	0.39	2.39
10	4.4	1.06	58		50	1	1.01	0.32	0.34	2.72
11	4.7	0.98	51		50	1	0.89	0.31	0.29	3.01
12	5.0	0.94	37		50	1	0.65	0.29	0.22	3.23
13	5.3	0.95	19		50	1	0.36	0.29	0.14	3.38
14	5.6	0.95	12		50	1	0.25	0.29	0.09	3.46
15	5.9	0.38	0		50	1	0.00	0.27	0.03	3.50
16	6.2	0.72	0		50	1	0.00	0.24	0.00	3.50

AVG. VEL 0.31 FPS
AREA 4.33 SQ FT
DISCHARGE 3.50 CFS





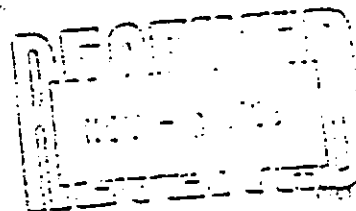
CHARLES
BROCKWAY
ENGINEERING

CHARLES E.
BROCKWAY,
PH.D., P.E.

706 SUNRISE
BOULEVARD
NORTH

TWIN FALLS,
IDAHO 83301

208-733-4938



November 3, 1988

Mr. John Bryant
Cedar Mesa Canal and Reservoir Co.
1055 Redbud Road
Redding, CA 96001

Subject: Water Measurements. Cedar Mesa Reservoir

Dear John:

On November 3, 1988, I measured the various flows into the reservoir. I was accompanied and assisted by: Mr. Loren Holmes (IDWR), John Coleman, Frank Rogers, and Ken Tverdy. Truman Clark and his son were present but did not assist in any measurements. The sources measured included Cedar Creek, four major springs and House Creek. Discharge measurements were made utilizing a current meter with standard procedures as recommended by the U.S. Geological Survey.

Measurements were made at eight (8) locations as indicated on the enclosed map with magnitudes as shown on Table 1. All measurements except the last measurement on Cedar Creek can be rated as 'good' in that the stream sections were stable and flow was reasonably uniform. The measurement of Cedar Creek near the reservoir water line (site No 7) might be rated as 'fair' (site No 70) since the channel bottom was not uniform.

Table 1 Discharge Measurement-Cedar Mesa Reservoir-
November 3, 1988

Site No.	Location	Discharge cfs
1	Cedar Creek below Three Creek Road	7.00
2	Spring downstream of Three Creek Road (stage house spring), tributary to Cedar Creek	2.49
3	Cedar Creek upstream of confluence with House Creek	12.35
4	House Creek upstream of confluence with Cedar Creek	5.90
5	Spring directly below boat dock tributary to Cedar Creek	0.34
6	Spring downstream of boat dock tributary to Cedar Creek	0.77
7	Cedar Cr. nr. res. water level	18.68
8	Spring east of reservoir near large tree (Reynolds spring)	0.86
	Total individual spring flow into Cedar Creek	3.31
	House Creek	5.90
	Total Cedar Creek measured gain	11.68
	Unmeasured Cedar Creek gain	1.79

The unmeasured gain in Cedar Creek can be accounted for by the numerous seeps visible along the east side of the reservoir. The gain in the reach of Cedar Creek from House Creek to the reservoir water level as measured with the current meter is less than the measured inflow in that reach by .38 cfs. This is likely due to inaccuracy of the current meter measurement at the reservoir water level site due to the uneven bottom at the measuring section. The total Cedar Creek inflow to the reservoir could therefore be as much as 19.56 cfs. The total spring flow including measured individual springs and ground-water gain to Cedar Creek is between 6.66 and 7.34 cfs.

Sincerely,

C. E. Brockway
C. E. Brockway, P.E.

CEB:
cc: J. Coleman, L. Holmes
Enclosures

TWP. 14S. R14E B17

3068 W NW
(CEDAR CREEK RES)

THREE CREEK 19 MI

