



JIM GERINGER  
GOVERNOR

GORDON W. FASSETT  
STATE ENGINEER

## State Engineer's Office

Herschler Building, 4-E  
(307) 777-7354

Cheyenne, Wyoming 82002  
FAX (307) 777-5451

RECEIVED

JUN 24 1996

June 19, 1996

Department of Water Resources

Ron Carlson, Watermaster  
Water District 01  
900 North Skyline Driver  
Idaho Falls, ID 83402

Dear Mr. Carlson:

It is my understanding that Jade Henderson, Wyoming Division IV Superintendent, and his staff have previously had discussions with your office as well as the Water Resources Department office in Boise regarding Idaho water rights on Teton Creek. The issue involves points of diversion in Wyoming which serve Idaho lands for which no Wyoming water right exists. I believe both of our states agree that the state in which the point of diversion is located is the state with jurisdiction over the water right, regardless of the location of the lands that are actually irrigated.

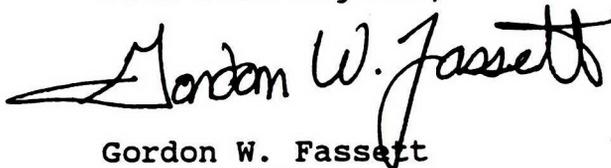
The situation on Teton Creek involves ditches that divert in Wyoming, but a full description of Idaho lands are not included as part of the Wyoming permits. There are also diversions in Wyoming which serve Idaho lands exclusively that have no Wyoming permit. It is our understanding that the current water commissioners in the basin deliver the water under the Roxanna Decree with an agreed upon delivery schedule. While we have no objection to this local understanding of the water rights that appears to be compatible with the local irrigators, Wyoming would have no choice but to deny water to unrecorded diversions if we were ever to receive a call for state regulation.

As a call for regulation would put Idaho irrigators without valid Wyoming permits at risk of losing water delivery, we would like to discuss this issue with you or your staff to explore what options may be available to resolve the problem before we receive any such call for regulation. Please feel



free to give me a call if you have any questions. I am also copying this letter to Loren Smith and to Lyle Swank of your staff as I believe they have had some preliminary discussions on this matter.

With best regards,

A handwritten signature in black ink that reads "Gordon W. Fassett". The signature is written in a cursive style with a long, sweeping underline that extends to the left.

Gordon W. Fassett  
State Engineer

cc: Jade Henderson, Superintendent Div. IV  
Loren Smith, Ass't. Superintendent  
Lyle Swank, Assistant Watermaster, District 01  
Meredith Wilson, Water Commissioner  
Sue Lowry, Director of Policy and Admin.  
Norm Young, Department of Water Resources  
Keith Burron, Wyoming Attorney General's Office

M E M O

TO: Norm Young  
FROM: Ron Carlson *RC*  
DATE: May 20, 1983

I met with John M. Wilson, Water Commissioner District 13, Water Division IV, and John A. Tiechert, Superintendent, Water Division 4 and representatives of the Leigh Creek Canal(s) on May 19, 1983. No one from the State Engineer's Office was present. I conducted the meeting and indicated three purposes for meeting:

1. Determination of Wyoming requirements for recording water right diverted in Wyoming under Idaho water rights.
2. The action necessary to get these diversions properly recorded with Wyoming.
3. Discussion of other interstate water problems.

John Tiechert indicated that "Cheyenne" was interested in getting all diversions which diverted water in Wyoming, under Idaho water rights, authorized. However, when pressed Mr. Tiechert knew of no established process to be followed in seeking authorization. He indicated that if they had a listing of the Idaho water rights (which they had) for these diversions and descriptions of the points of diversion (which they had) that probably would be satisfactory. Mr. Fullmer of the South Leigh Canal provided John Tiechert with 1898 correspondence from the Wyoming State Engineer answering their predecessor's inquiry about getting their Leigh Creek diversions recorded with Wyoming. The State Engineer's answer was, "do it and don't worry about Wyoming authorization." Mr. Tiechert said he would forward this information to Cheyenne and let them decide if further information would be required.

After the Leigh Creek water users left, John Wilson brought up some of the complaints of Levell Johnson of Grand Teton Canal. Mr. Wilson dismissed the complaint that the Grand Teton was getting less than the 50% guaranteed in the Roxana Decree. He contended that Wyoming water users rarely use all the water they are entitled to, thus leaving more water for Idaho users than is required by the decree.

RECEIVED

MAY 21 1983

STATE ENGINEER OF WYOMING

Memo: Norm Young  
Page 2

We then discussed the use of Wyoming water rights on lands in Idaho. Mr. Wilson indicated that water was being used on the LDS Church farm and at least one other tract under the theory that someone in Wyoming would shut off and let "their water" go to specific land in Idaho. John Tiechert and I both agreed that this was not in accord with either Wyoming or Idaho water laws. John Wilson implied that if Mr. Johnson wanted to press this issue, Wyoming users would start diverting their "full rights" under the Roxana Decree. I was not inclined to argue the point further.

May 3, 1983

RE: Hogg Canal & Leigh Creek Canal Company

Paul H. Thompson  
Senior Analyst  
State Engineer's Office  
Barrett Building  
Cheyenne, WY 82002

Dear Mr. Thompson:

I know of no progress that has been made in securing Wyoming authorization for the Hogg Canal and the Kilpack Ditch. While everyone in Idaho is anxious to comply with Wyoming's requirements, none of us at the present time, understand what must be done. I, therefore, have taken the liberty of scheduling a meeting for Thursday, May 19, 1983, at 1:00 p.m. in the Teton County Courthouse (room next to the Recorder's Office), Driggs, Idaho. Any parties interested in the resolution of this matter should be there.

Very truly yours,

RONALD D. CARLSON  
Watermaster

RDC:cw

cc: ✓ Norman C. Young  
Dee O'Brien  
John Teichert  
J.M. Wilson  
Jerald Gee

M E M O

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FROM: Ron Carlson *RC*  
DATE: May 20, 1983

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THE STATE



OF WYOMING

ED HERSCHLER  
GOVERNOR

## State Engineer's Office

BARRETT BUILDING

CHEYENNE, WYOMING 82002

April 14, 1983

RECEIVED

APR 18 1983

Department of Water Resources

State of Idaho  
Department of Water Resources  
150 Shoup - Suite 15  
Idaho Falls, Idaho 83401

Re: Hogg Canal  
Leigh Creek Canal Company

Attention: Ronald D. Carlson  
Snake River Watermaster

Dear Mr. Carlson:

We will appreciate being advised as to progress made toward clarification of the matters discussed in our letter of February 28, 1983, regarding Wyoming authority for diversions of water under the Hogg Canal and Kilpack Ditch.

A timely resolution of these matters is most desirable and will be beneficial to Idaho appropriators.

Your early response is requested.

Very truly yours,

A handwritten signature in cursive script that reads "Paul H. Thompson".

PAUL H. THOMPSON  
Senior Analyst

PHT/eb

cc: John Teichert  
Supt., Water Div. No. 4  
Box 238, Cokeville, Wyoming 83114

Norman C. Young ✓  
State of Idaho  
Dept. of Water Resources  
Resources Administration Division  
State Office 450 W. State Street  
Boise, Idaho 83707

J. M. Wilson  
Alta, Wyoming 83420

Jerald Gee  
Route 1  
Sugar City, Idaho 83448

THE STATE



OF WYOMING

RECEIVED

MAR ED HERSCHLER  
GOVERNOR 1983

DEPARTMENT OF WATER RESOURCES

## State Engineer's Office

BARRETT BUILDING February 28, 1983 CHEYENNE, WYOMING 82002

State of Idaho  
Department of Water Resources  
150 Shoup - Suite 15  
Idaho Falls, Idaho 83401

Attention: Ronald D. Carlson  
Snake River Watermaster

Re: Hogg Canal  
Leigh Creek Canal Company

Dear Mr. Carlson:

Thank you for your letter of February 22, 1983 and attachment thereto. By carbon copy of this letter, we are forwarding copies of same to Mr. John Teichert, Superintendent of Water Division No. 4, State of Wyoming. We will appreciate receiving copies of any resulting correspondence between you two gentlemen and will assist in any way possible toward resolution of any problems which may exist.

Our primary concern, at this point in time, is to determine whether or not the diversions made by the Hogg Canal and the Kilpack Ditch in Wyoming have ever been officially authorized by Wyoming. In searching our records in this regard, we find no such authorization. We do find references to the Hogg Canal on some documents, but nothing which addresses Wyoming authorization for the appropriation. We are enclosing a copy of our letter of December 2, 1982, to Mr. Young, which discusses this matter in more detail.

Please advise if the State of Idaho, or the Leigh Creek Canal Company has any record of Wyoming authorization for the appropriations under the Hog (Hogg) Canal or the Kilpack Ditch. If so, please provide copies of such documents and we will then be able to incorporate the information into our records and put this matter to rest. If not, we will further evaluate the situation and will advise as to action required to establish proper Wyoming authorization for the appropriations.

We have reviewed provisions of the Roxanna Decree and do not find where any diversions from South Leigh Creek are specifically identified in said decree. This decree does establish method of stream regulation and division of water.

The involvement of the State of Wyoming in the change in point of diversion and means of conveyance of the appropriation for Mr. Donald W. Lundblade from the South Leigh (Hog) Canal to the Desert Canal in Idaho will be dependent upon existence of a Wyoming authorization for the Hog Canal appropriation.

It is believed that any problems pertaining to South Leigh Creek can be resolved without detriment to existing appropriations. At the present, even a current date Wyoming priority for the Hog Canal and Kilpack Ditch may have no adverse effect on said appropriations. Existing Idaho priorities might even be retained with regard to appropriations in Idaho. This matter can probably be clarified by a detailed explanation of how Dee O'Brien and Mark Wilson administers the flow of South Leigh Creek regarding these two canals.

Due to increasing importance and demand for water, early determination or resolution of proper Wyoming authority for these appropriations from South Leigh Creek may very possibly be advantageous to the appropriators.

We appreciate your consideration in these matters.

Very truly yours,



PAUL H. THOMPSON  
Senior Analyst

PHT/llw

Encl:

cc: John Teichert (w/encl.)  
Box 238  
Cokeville, Wyoming 83114

✓ Norman C. Young  
State of Idaho  
Dept. of Water Resources  
Resources Administration Division  
State Office 450 W. State Street  
Boise, Idaho 83707

J. M. Wilson  
Alta, Wyoming 83420

Jerald Gee  
Route 1  
Sugar City, Idaho 83448

February 22, 1983

Paul H. Thompson  
Senior Analyst  
State Engineers Office  
Barrett Building  
Cheyenne, WY 82002

Dear Mr. Thompson:

Norman Young has provided me with a copy of John A. Teichert's letter of November 5, 1982, relating to water administration in the Teton Basin. I agree with him that the issue we are presently addressing is not one involving the diversion of interstate water rights but rather is one of interstate regulation of water rights. As watermaster I have the responsibility of regulating all of the diversions taking water under Idaho water rights. Canals which divert in Wyoming for use in Idaho present a special problem because the regulatory authorities are not clear. I have had a number of complaints about Wyoming farmers leasing ground in Idaho and diverting their Wyoming water rights for use in Idaho. While my deputy, Dee O'Brien measures the various diversions, and he and Mark Wilson divide the water between Idaho and Wyoming users pursuant to the Roxanna Decree, the mechanism for regulation among canals bringing water into Idaho has never been established. If we are to have an orderly distribution process, adequate headgates and measuring devices must be maintained as part of the diverting works for all canals named in the Roxanna Decree. To assure proper water distribution it should be understood that individuals from either state will not be allowed to adjust headgates after they have been set by the watermaster(s).

In his letter Mr. Teichert points out two problems that need attention. He indicates no transfer was filed to move 12½% of the Grand Teton Canal's entitlement into the North Wyoming Pipeline. My records indicate this took place over 30 years ago but I am not sure what Wyoming's transfer requirements were at that time. Let me know if recording is needed in Wyoming and I will pursue the solution.

Paul H. Thompson  
February 22, 1933  
Page 2

There are not four canals diverting in from South Leigh Creek in Wyoming, although there are four names that might be mentioned. The South Leigh Canal is sometimes referred to as the "Hogg". The Kilpack is owned by Albert Tilt who diverts 15 to 20 inches for stockwater. I have no evidence that this canal is used to divert water for irrigation purposes. The last canal is the Hopkins which has apparently been abandoned for many years. I do not know if the specific lands shown on the Hopkins' application are presently being irrigated and will probably have to wait until next summer to find out. If there are other canals diverting from Leigh Creek, I would like to know about them too.

I am presently reviewing an application for transfer in the name of Donald W. Lundblade who wishes to transfer his point of diversion from the South Leigh Canal in Wyoming to the Desert Canal in Idaho. This apparently has gone on for many years without being officially changed. If Wyoming has any problems with this proposal let me know. The notice of this proposed change was published in the Teton Valley News on February 10 and 17. I have enclosed a copy of this notice for your review.

I believe most of the problems that exist have solutions if opportunity is provided for the parties involved to address them and agree upon policy. I would be willing to meet with you and/or other appropriate representatives from Wyoming to discuss the problems of interstate regulation in an effort to work out necessary policy for an orderly regulation process in the Teton Basin.

Very truly yours,

RONALD D. CARLSON  
Snake River Watermaster

RDC:cw

Enclosure

✓ bc: Norman Young  
File 22-0600/0601



THE STATE

OF WYOMING

RECEIVED

NOV 8 1982  
ED. HERSCHLER  
GOVERNOR

Department of Water Resources

## Board of Control

November 5, 1982

Norman C. Young  
Resources Administration Div.  
State Office 450 W State St.  
Boise, Idaho 83707

Re: Water Administration on Teton Creek under the Roxanna Decree

Dear Norman,

In answer to your letter of October 29, 1982 it is admitted that there are some problems on Teton Creek, as well as South Leigh Creek that need to be addressed between Wyoming and Idaho, but don't feel an inequitable division of water between the two. State is one of them. I do understand that some repairs are needed on the headgate of the South Side Canal, which I will follow through on. Perhaps a cable way needs to be installed to measure high flows on Teton Creek, although these measurements would serve no earthly purpose for Wyoming.

The Roxanna Decree was initiated by Idaho and Wyoming has managed to live with it. The Wyoming users have practically all gone to gravity sprinkler systems, which are designed to use about 1 cfs for 70 acres, which is considerably less than the one miners inch per acre (1 cfs for 50 acres) which Wyoming is entitled to when the decree goes into effect. Your Commissioner, Dee O'Brien and our commissioner, John M. Willson make several measurements or readings on Teton Creek and the various diversions each week. Actually the records indicate and I'm sure Dee O'Brien will verify that Wyoming is not using their entitlement, even when the water is in short supply. I'm enclosing copies of John M. Willson's report for 1978 and 1980. At first I thought when the creek was dropping rapidly perhaps we were getting more than our entitlement, but then I learned that the water for 3,000 acres under the Grand Teton Canal is being diverted and accounted for in the Wyoming diversions. It is my understanding that when in regulation this is 12 1/2% of the Grand Teton canals entitlement. There has been no change in point of diversion for these lands, so I feel that this is one problem that needs to be resolved.

As to the expansion of acreage in Wyoming, I see nothing in the decree that limits Wyoming from adding additional acres or uses. The limiting factor is that there is not acreage within Wyoming that could be added. There have been few adjudications on teton Creek in the 19 years I have been Division Supt. and a couple of these have been for lands over the line into Idaho, so I feel the Grand Teton Canal Company's concern is without foundation. Wyoming could divert their full entitlement, and the excess would eventually end up in Teton River and to Idaho's benefit, but it would diminish the water available to the Grand Teton Canal.

As to the priority of rights; the Wyoming users have agreed among themselves, through the bi-laws of the various ditch and sprinkler systems to share shortages proportionately, so we do not regulate to priority within the various systems.



## *Board of Control*

My second concern is on South Leigh Creek as I find that there are 4 Idaho ditches that divert in Wyoming for which there are no recorded points of diversion in our records in Cheyenne. These are not legal diversions, and should be made a matter of record with Wyoming. One is the Hog and another is the Killpack ditch, but don't have names of the other. Any information you have with regards to these various ditches would be appreciated. I'm sure Wyoming would not agree that the water comes out of Wyoming's entitlement, but this is a matter that needs to be resolved.

cc; Wyoming state Engineer

John M. Wilson

Sincerely

A handwritten signature in cursive script that reads "John A. Teichert".

John A. Teichert  
Supt. Water Div. #4

PRIORITY REGULATED TO: ROXANNA DECREE

DITCH DATE - 1980	DEVICE	SIZE	TETON CREEK		MILL CREEK		GRAND TETON		LOWER TETON		DATE NORTH		DATE SOUTH		DATE WAPPELO		REMARKS
			GAGE	CFS	GAGE	CFS	GAGE	CFS	GAGE	CFS	GAGE	CFS	GAGE	CFS	GAGE	CFS	
2 MAY			2.18	320	14.54	23'	2.48	150	1.42	200		DRY	EST.	6'	.68	.5	UNDER MILL CREEK AND SPRING
7 "			2.48	420	14.72	29'	2.74	165	1.70	300		DRY	"	10'	.70	.5	MILL CREEK IS ON BOTTOM
10 "			2.24	350	14.72	29'	2.34	130	1.60	260		DRY	"	10'	.70	.5	OPPOSITE GAGE READING.
13 "			1.48	160	14.30	16'	2.20	125	.60	30		DRY	"	10'	1.82	9'	SPRINGS ARE ESTIMATED
16 "			1.56	180	14.30	15'	2.34	160	.46	20		DRY	"	10'	1.84	10'	FROM 9-12 MAY 2" RAIN-
20 "			2.24	350	14.66	22'	2.68	200	1.30	155		DRY	"	10'	1.94	13'	RAIN 16 MAY
23 "			3.50	780	15.30	40'	2.76	240	2.30	580		DRY	"	10'	2.02	15'	
27 "			1.96	280	14.42	16'	2.15	125	1.34	165		DRY		DRY	1.56	7'	SNOW 24-25 MAY
30 "			1.56	180	14.38	16'	2.04	120	1.06	80		DRY		DRY	1.50	6'	RAIN.
4 JUNE			1.50	160	14.30	14'	2.12	130	.84	40		DRY		DRY	1.46	5'	5.83" RAIN FELL DURING MAY
6 "			1.54	190	14.32	16'	2.10	130	.94	65		DRY		DRY	1.46	5'	
10 "			2.44	400	14.72	24'	2.42	140	1.74	310		DRY		DRY	1.60	8'	
14 "			2.76	560	14.72	24'	2.59	160	1.94	370	1.00	EST	15'	1.64	9'		
17 "			2.40	395	14.40	18'	2.54	170	1.58	255	1.00	8'	"	15'	1.68	7'	
19 "			3.10	600	14.66	22'	2.86	215	1.96	400	1.08	12'	"	20'	1.68	7'	
21 "			2.98	580	14.64	22'	2.84	190	1.96	400	1.56	17'	"	20'	1.64	7'	
24 "			2.80	500	14.46	17'	2.90	200	1.78	310	1.88	24'	"	20'	1.62	7'	
27 "			2.90	540	14.42	16'	2.90	200	1.80	325	1.88	24'	"	20'	1.60	7'	2.84" RAIN FELL DURING JUNE.
1 JULY			2.60	440	14.30	14'	2.84	190	1.44	205	2.20	34'	"	25'	1.96	11'	
4 "			2.58	435	14.28	14'	2.44	140	1.60	260	1.96	27'	"	25'	1.92	10'	1 1/4" RAIN FELL.
8 "			2.36	360	14.22	12'	2.14	135	1.42	200	1.80	23'	"	20'	1.90	10'	
11 "			2.36	360	14.12	10'	2.18	145	1.48	210	1.48	16'	"	15'	1.40	4'	
15 "			1.84	245	14.00	8'	2.08	125	1.08	90	1.28	90	"	12'	1.20	2.5'	
18 "			1.60	180	13.86	5'	2.10	130	EST	5'	1.66	20'	"	25'	1.30	3'	
22 "			1.46	163	13.74	3'	1.88	100		DRY	1.98	27'	3.06	30'	1.22	2'	
25 "			1.36	137	13.76	3'	1.58	65			1.90	26'	3.10	33'	1.70	7.5'	
28 "			1.16	98	13.62	2'	1.30	35			1.90	26'	2.82	18'	1.50	3'	

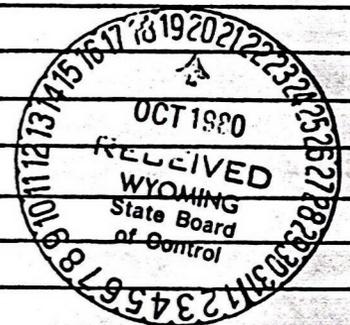


PRIORITY REGULATED TO: ROY ANNA DECREE

DATE DITCH 1980	DEVICE	SIZE	TETON CREEK		MILL CREEK		GRAND TETON		TETON		NORTH		SOUTH		COMDELL		REMARKS
			DATE	GAGE	DATE	GAGE	DATE	GAGE	DATE	GAGE	DATE	GAGE	DATE	GAGE	DATE	GAGE	
1 AUG.			1.10	87	14.68	2'	1.28	33		DRY	2.04	30'	2.70	13'	1.38	4'	
4 "			.96	63'	EST	1'	1.18	27'		"	1.86	24.5'	2.70	13'	1.16	2.5'	
6 "			.94	60'	"	1'	1.10	22'		"	1.84	24'	2.66	11'	1.14	2'	
8 "			.92	57'	"	1'	1.08	20'		"	1.80	23'	2.68	12'	1.10	2'	
11 "			.78	40'	"	1'	1.06	17'		"	1.30	14.5'	2.58	8'	1.10	2'	
13 "			.77	36'	"	1'	1.04	15'		"	1.20	12'	2.56	7'	1.06	2.5'	METERED.
15 "			.72	35'	"	1'	1.06	12'		"	1.20	15'	2.56	7'	1.10	2'	
18 "			.74	37'	"	1'	1.08	15'		"	1.20	15'	2.56	7'	1.04	2.5'	RAIN
20 "			.76	38'	"	1"	1.10	17'		"	1.22	15.5'	2.56	7'	1.14	2.5'	"
22 "			.72	32'	"	1'	1.06	15'		"	1.18	10'	2.54	6'	1.06	2'	
25 "			.68	30'	"	2"	1.12	19'		"	.86	6'	2.54	6'	1.18	3'	
27 "			.68	30'	"	2"	1.14	20'		"	.86	6'	2.54	6'	1.22	3.5'	
29 "			.66	26'	"	2"	1.14	20'		"	.86	6'	2.53	5'	1.20	3'	
1 SEPT			.64	25'	"	2"	1.12	19'		"	.86	6'	2.52	4'	1.14	2.5'	
3 "			.62	23'	"	2"	1.08	15'		"	.86	6'	2.52	14'	1.10	2'	

MAY & JUNE WERE EXTREMELY WET. WE HAD OVER 8" OF RAIN FALL DURING THIS PERIOD. BECAUSE OF THE MOISTURE FARMERS WERE LATE GETTING THEIR CROPS PLANTED. TO DATE. OCT 16, THERE IS CONSIDERABLE ACREAGE THAT HASN'T BEEN HARVESTED MAINLY GRAIN & POTATOES. DUE TO THE GRAVITY SPRINKLER SYSTEMS, WE DIDN'T SUFFER ANY FOR LACK OF WATER EVEN THOUGH THE STREAM FLOW WAS WAY DOWN DURING THE LATER PART OF THE SEASON.

*John M. Wilson*



PRIORITY REGULATED TO:

DISCHARGE INTO CANALS

DITCH	TETON DEVICE	CANAL SIZE	DATE		DATE		DATE		DATE		DATE		DATE		DATE		WADWELL		REMARKS	TOTAL FLOW CANALS
			GAGE	CFS	GAGE	CFS	GAGE	CFS	GAGE	CFS	GAGE	CFS	GAGE	CFS	GAGE	CFS	GAGE	CFS		
15 <del>MAY</del> 1978	1.76	225'	14.96	39'		10'		274	2.00	115'	1.26	145'	DRY		2.64	10'	1.92	2	272'	
20 MAY	1.40	153'	14.50	21'		5'		179	1.80	90'	1.04	80'	DRY		2.62	9'	DRY		179'	
29 MAY	2.08	310'	14.95	39'		8'		347	2.46	185'	1.34	170'	DRY		2.64	10'	DRY		365'	
4 JUNE	2.02	300'	14.74	30'		10'		340	2.65	220'	1.10	97'	1.10	10'	2.72	13.5'	1.26	3.5'	335'	
6 "	2.54	453'	15.10	41'		18'		532	2.94	270'	1.62	230'	.90	6'	2.85	26.5'	1.30	4.00	531'	
12 "	2.46	420'	14.76	32'		10'		462	2.76	235'	1.50	192'	1.32	16.5'	2.94	23.5'	DRY		472'	
17 "	2.66	490'	14.80	33'		10'		533	2.74	233'	1.70	275'	1.34	17.0'	2.80	17.0'	1.92	14'	556'	
21 "	2.70	578'	15.00	40'		15'		638	3.10	296'	1.78	315'	IN MORNING 174' 26'	2.94	23'	1.94	15'		675'	
24 "	3.20	655'	15.02	41'		20'		733	2.86	255'	1.94	400'	1.96	33'	3.06	30'	1.94	15'	733'	
27 "	2.65	500'	14.58	25'		15'		540	2.80	240'	1.56	250'	2.12	33'	3.06	30'	1.90	13'	566'	
29 "	3.34	690'	14.90	34'		20'		744	3.00	278'	1.90	380'	2.28	42'	3.10	32'	1.92	14'	746'	
1 July	3.10	640'	14.70	30'		14'		684	2.80	240'	1.86	360'	2.28	42'	3.06	30'	1.90	13'	655'	
7 "	2.72	584'	14.64	26'		14'		624	2.60	205'	1.82	350'	2.24	40'	3.06	30'	1.90	13'	635'	
11 "	2.76	595'	14.58	25'		12'		632	2.62	202'	1.84	355'	2.20	39'	3.06	29'	1.90	13'	638'	
13 "	2.90	578'	14.46	20'		10'		618	2.52	200'	1.82	350'	2.14	35'	3.02	27'	1.90	13'	625'	
17 "	2.92	584'	14.38	18'		8'		610	2.40	175'	1.84	355'	2.06	35'	3.04	29'	1.90	13'	607'	
19 "	2.60	457'	14.20	11.5'		9.5'		508	2.32	165'	1.66	285'	1.80	22.7'	3.04	29'	1.86	9'	510'	
21 "	2.50	4180'	14.16	11.0'		8'		500	2.40	175'	1.54	240'	2.28	42'	3.06	32'	1.86	9'	498'	
25 "	2.30	400'	14.16	11.0'		5'		419	2.40	175'	1.30	157'	2.26	41'	3.04	29'	1.84	8'	351'	
28 "	2.22	360'	14.08	7'		5'		374	2.38	173'	1.24	137'	2.24	40'	2.85	20'	1.84	5'	378'	
2.746	1.70	205'	13.76	3'				205	2.08	130'	.60	20'	1.92	26'	2.86	22'	1.70	10'	205'	
5 "	1.60	191'	13.78	3'				194	1.98	115'	.60	20'	1.76	22'	2.86	22'	1.66	9'	157'	
8 "	1.56	180'	13.70	3'				184	1.92	105'			1.82	23'	2.86	22'	1.62	5'	156'	
16 "	1.42	144'	13.66	3'				147	1.78	87'			1.80	23'	2.86	21'	1.58	7'	140'	
15 "	1.20	108'	13.66	3'				111	1.64	70'			1.70	21'	2.76	14'	1.42	5'	110'	
17 "	1.42	144'	13.76	4'				148	1.90	100'			1.04	8'	2.76	14'	1.62	5'	139'	

DEC 1978  
RECEIVED  
WYOMING  
State Board  
of Control

PRIORITY REGULATED TO:

DITCH DATE	TETON DEVICE GAGE	CHALK SIZE CFS	DATE MILL CREEK		DATE SPGS		DATE TOTAL FLOW		DATE GRAND TETON		DATE LOWER TETON		DATE NORTH		DATE SOUTH		WADDELL		REMARKS
			GAGE	CFS	GAGE	CFS	GAGE	CFS	GAGE	CFS	GAGE	CFS	GAGE	CFS	GAGE	CFS	GAGE	CFS	
24 August 1978	1.04	75'	13.64	3'			78'	1.60	67'			.98	5'	2.50	5	1.36	4	81'	
29 "	1.00	70'	13.62	3			73'	1.52	60'			.98	5'	2.64	10	1.26	3	78'	
2 Sept.	1.00	70'	13.64	3'			73'	1.54	62'			1.12	5'	2.64	10	.96	2	82'	
5 "	1.00	70'	13.64	3'			73'	1.40	45'			1.12	5'	2.64	10	.92	1.5	70.5'	
9 "	1.00	70'	13.62	3'			73'	1.38	44			1.06	6'	2.62	9	.90	1.5	61'	
<p>THE SEASON OF 1978 WAS VERY GOOD - THE SNOW PACK WAS GOOD DURING THE WINTER OF 1977-78. WE DIDN'T HAVE EXCESSIVE HOT WEATHER, SO THE SNOW MELTED AT A CONSISTANT RATE GIVING US AMPLIE WATER - SINCE 98% OF THE WATER USED IS THROUGH GRAVITY FLOW SPRINKLES, WE HAVE ECONOMY OF WATER, GOES A LOT FURTHER.</p>																			



October 29, 1982

RE: Water Distribution on Teton Creek

John Teichert, Superintendent  
Water Division No. 4  
Wyoming Water Division No. IV  
Box 347  
Cokeville, WY 83114

Dear John:

This department has been approached by several directors on the Grand Teton Canal Company concerning water distribution on Teton Creek in the Teton Valley. Waterusers in both Wyoming and Idaho divert from Teton Creek and distribution has been a subject of concern a number of times over the past decades. The Roxana decree was in part intended to resolve these concerns, but Idaho users have expressed dissatisfaction with some of its provisions and the methods of administration under it almost from the time it was entered. Efforts were made during the 1940's and 1950's to change the delivery administration by means of an interstate compact. These efforts were apparently never completed.

While it may not be possible or timely to attempt to revise the existing decree, the purpose of this letter is to ask that distribution from the creek be reviewed to insure that the decree is being followed. Two specific concerns are that:

1. The area of lands irrigated from the Wyoming allocations must not be allowed to expand to the detriment of those entitled to use the Idaho allotment. Before the flow in Teton Creek declines to 170 cfs, Wyoming users are allowed to use as much Teton Creek water as they can beneficially use. In flow rates between 170 cfs and 90 cfs Wyoming lands are to receive no more than one miner's inch per acre. Expansions in the area of land receiving the Wyoming share could result in reduced availability to those entitled to the Idaho share. Perhaps the specific lands entitled to receive the Wyoming allotment should be identified and transfers made if necessary if places of use have been moved. Expansion areas, whether in Idaho or Wyoming, could then be identified to receive water only when those having prior rights will not be injured.

John Teichert, Superintendant

- 2 -

October 29, 1982

2. Headgates and measuring devices need to be repaired and maintained to allow the rights to be delivered accurately.

I would appreciate your review of this matter and any suggestions you have for resolving the concerns. I will be happy to meet with you and I am sure the Grand Teton Canal directors will be willing to review the concerns in the field with us if you desire.

Sincerely,

NORMAN C. YOUNG  
Administrator  
Resources Administration Division

NCY:alw



State of Idaho  
**DEPARTMENT OF WATER RESOURCES**  
STATE OFFICE, 450 W. State Street, Boise, Idaho

JOHN V. EVANS  
Governor

A. KENNETH DUNN  
Director

Mailing address:  
Statehouse  
Boise, Idaho 83720  
(208) 334-4440

MEMORANDUM

TO: Kenneth Dunn  
FROM: Norman C. Young *NCY*  
DATE: October 29, 1982  
RE: Water Distribution Concerns on Teton Creek

On July 28, 1982, Ron Carlson, Dee O'Brian (hydrographer) and I met with Lavell Johnson and Don Letham, directors for Grand Teton Canal Company, to review their complaints on water distribution from Teton Creek. Grand Teton Canal diverts just east of the Idaho-Wyoming state line and all land irrigated is in Idaho. Three diversions are located upstream from the Grand Teton Canal which irrigate land in both Idaho and Wyoming. Distribution has been administered under a stipulated agreement which is part of the Roxana decree entered in the federal district court for Wyoming in 1941.

The water users have three principle complaints:

1. That the Roxana decree and stipulation unfairly divides Teton Creek waters between Wyoming and Idaho users.
2. That the Wyoming users have expanded the area receiving water through their canals onto lands in Idaho. The users believe these new lands should receive water under a priority date junior to the lands irrigated by the Grand Teton Canal.
3. That the Wyoming users have not maintained headgates and measuring devices to allow adequate administration. We looked at the diversions, and I agree that maintenance or replacement is needed to allow adequate administration.

I have reviewed the files concerning the complaints about water distribution on Teton Creek over the years. Records contain complaints from prior to the 1930's. The stipulation and decree entered in 1941 did not resolve these complaints. Efforts were made in the late 1940's to resolve the matter as part of the Idaho-Wyoming Compact on Snake River. This idea was dropped because of:

(1) the controversial nature of the dispute detracting from the likelihood of reaching agreement on the rest of the compact issues, and (2) a question of whether a compact could supersede a federal court decree. (I am now advised that a compact can supersede a federal court decree.)

The Bureau of Reclamation was asked to study the water supply and use from Teton Creek in the early 1950's to provide factual data for a possible separate compact on legal action. This study was completed in 1951 and several compact meetings were held over the ensuing years. Apparently the controversy was never resolved, but according to the 1956 Water District 36 report, the separate compact idea was dropped because Wyoming users would not agree and because the Idaho users did not want the expense of litigation, no legal action was filed. Also Wyoming's contention that Grand Teton Canal did not have a recorded Wyoming right that could be recognized for delivery may have been a factor.

The matter has lain dormant until recent dry years and perhaps additional development in Idaho on the lower end of the Wyoming lands has caused the Grand Teton Canal users to again feel they are critically short of water.

Whether the fairness of the stipulated agreement and decree of 1941 can now be questioned and whether the expansions that occurred on the Wyoming Canal decades ago can now be considered are questions that I do not believe the department can address. However, recent expansions, if any, and the inadequate diversion facilities can be raised with the state engineer's office in Wyoming to perhaps improve the situation.

One way of reading the stipulation would limit diversions in Wyoming to one miners inch per acre for each acre of land irrigated in Wyoming during one phase of the distribution cycle. This interpretation would, I think, make a rather drastic change in the delivery pattern and could injure users in both Wyoming and Idaho who have received water for nearly a century. A variation would be to ask Wyoming not to allow diversions to more land than was being irrigated when the stipulation was signed. Some 1939 correspondence indicates this area was 2,250 acres. However, by 1949 (and confirmed by the 1951 USBR studies) the acreage, or the estimate of acreage, had increased to 3,326 acres. Transfers should be processed by the appropriate state to fully identify specific lands within the total to receive water under the stipulation.

I will write John Teichert, the water supervisor responsible for the area in Wyoming that includes Teton Creek, and ask for a review of the matter.

CERTIFICATION OF WATER RIGHT and TRANSFER

KNOW ALL MEN BY THESE PRESENTS:

That the GRAND TETON CANAL COMPANY, an IDAHO IRRIGATION CORPORATION, by and through its President and Secretary, grantor, whose P. O. Address is Driggs, Idaho; for and in consideration of One Dollar (\$1.00) and other valuable consideration, in hand paid, receipt of which is hereby acknowledged, does authorize the GRAND TETON PIPE-LINE ASSOCIATION, a group of water users, whose address is Driggs, Idaho, known as the grantee; that the following described water rights represented in shares of stock in the grantor, being in Teton County, State of Idaho, be transferred to said grantee, which are described as follows:

OWNER	CERTIFICATE NO.	NO. OF SHARES	ACREAGE
Earl E. Bainbridge	397	285	285
Herman Hastings	388	160	230
Milton Butler	366	80	80
William Sensenbach	385	80	80
Joseph M. Peacock	327 and 329	80	80
George Peacock	328	22	70
Keith Dedman	392	94	130
		(see paragraph below)	
Harold Lerwill	395	160	160
		(held in Escrow in bank)	
Douglas T. Sheets	368	80	80
Ray Moss	356	80	80
		(Under Contract)	

~~Whereas, Keith Dedman is the owner of 94 shares second feet of water of the Grand Teton Canal water of a priority date of the 15th of April, 1910, distributed through the Central Canal Company, and by these presents it is intended that said water right shall be distributed by the grantee, and its successors in interest.~~

The grantee is hereby authorized to change the point of diversion and means of conveyance of the within described shares of water to any location that may be designated by the GRAND TETON PIPE-LINE ASSOCIATION of Driggs, Idaho, grantee, and to file the necessary proceedings with the State Board of Control to make these changes; and any order or decree of the said Board of Control of confirmation of same by the Court is hereby acquiesced in by the grantor, its successors and assigns.

The grantor hereby waives any and all notices which may be required by the Statute, and especially those required in condemnation proceedings; and that

neither it or its successors or assigns shall at any time in the future, file any adverse claim or institute any proceedings in law or equity, attacking adversely, or in any manner whatsoever the equities, right, title, or interest of any of the water rights herein referred to and for which it is hereby agreed that the grantor has received full and adequate compensation.

Byron J. Curtis  
President  
Daniel J. Letham  
Secretary

STATE OF IDAHO )  
                  ) ss.  
COUNTY OF TETON )

On this \_\_\_ day of \_\_\_\_\_ 19\_\_\_, before me, H. S. Forbush, a Notary Public in and for said County and State, personally appeared Byron Curtis and Daniel Letham, the President and Secretary, respectively of the GRAND TETON CANAL CO., a domestic Water Corp. 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 hereunto set my hand and affix my official seal the day and year in this Certificate first above written.

\_\_\_\_\_  
Notary Public residing at Driggs, Idaho

My commission expires Dec. 21, 1969

IN THE DISTRICT COURT OF THE TWELFTH JUDICIAL DISTRICT OF  
THE STATE OF IDAHO, IN AND FOR THE COUNTY OF FREMONT

GEORGE H. PEIRSON & LUELLA D.  
PEIRSON, husband and wife,

plaintiffs

vs.

HENRY EAGLE, WATERMASTER  
District, 36, Idaho

defendants

D E C R E E

WHEREAS, this cause came on to be heard at Driggs, Teton County, Idaho on the 12th day of October, 1961, in open Court, and pursuant to a special letter notice given to the named defendant herein; and all other persons interested, and pursuant to a Notice of Pendency of this action, containing such matter as is required by law, having been published in the Fremont/Chronicle News, a weekly newspaper published at St. Anthony, Fremont County, Idaho; and the Teton Valley News, a weekly newspaper published at Driggs, Teton County, Idaho; in accordance with the Order issued out of this Court; and

WHEREAS, the named defendant, Henry Eagle, Watermaster of District 36 of the State of Idaho not appearing in person nor through counsel, though notice as aforesaid having been given to him, but other persons interested did appear in open Court, and were represented by counsel, Ray W. Rigby, of Rexburg, Idaho, and did offer oral testimony and submit evidence in support of their objections to the granting of the prayer of the Plaintiffs; and

WHEREAS, after having fully examined all of the evidence in the cause as presented by the Plaintiffs, represented by Attorney H. S. Forbush of Driggs, Idaho, and the testimony and evidence submitted by the objectors, represented by Ray W. Rigby, Attorney at Law, the Court made findings of fact, and therefrom conclusions of law, as follows:

(1) That prior owners of the property described as the Southeast quarter of Section 31, township 6 North, Range 45 East, Boise Meridian, did appropriate from the waters of South Leigh Creek 160 inches thereof for the

(1)

INDEXED

MAY 15 1996

irrigation of said property prior to June 1, 1898.

(2) That the use of said amount of water was necessary for the beneficial use of the property described:

(3) That the use of such water for such purpose has been continuous since said date:

(4) That the right of plaintiff to have his appropriation declared as a matter of law was not debarred by the decree entered in the Rexburg Irrigation Co. case, supra;

(5) That plaintiff by reason of the appropriation made by his predecessors in interest has a right to the use of 160 inches of water from South Leigh Creek for the lands described as the southeast quarter of section 31, township 6 north, range 45 east, Boise Meridian, with a priority date of June 1, 1898.

22 0141 NOW THEREFORE, IT IS ORDERED, ADJUDGED AND DECREED, that the plaintiffs George H. Pehrson and Luella D. Pehrson, husband and wife, are entitled to, and are hereby awarded 160 inches of water from South Leigh Creek, with a priority date of June 1, 1898 for the irrigation of their real property, described as follows, to-wit:

Southeast Quarter of Section 31, Township 6 North, Range 45 T.B. M., and

IT IS FURTHER ORDERED, ADJUDGED AND DECREED, that the foregoing adjudication of water be made subject only to the Decrees, in a certain action in the District Court of the Ninth Judicial District of the State of Idaho, in and for the County of Fremont, entitled "Rexburg Irrigation Company, et al, Plaintiffs, vs. Teton Irrigation Canal Company, et al, Defendants, "dated and filed December 16th, 1910; in a certain action instituted in the District Court of the Fourth Judicial District of the State of Idaho, in and for the County of Twin Falls, entitled "Twin Falls Canal Company, Plaintiff, vs. Charles N. Foster, et al, Defendants, "filed on the 20th day of June, 1913, and the amended decree thereto, dated September 12th, 1916, and filed September 21st, 1916, and in a certain action, instituted in the United States District Court of Idaho, Eastern Division entitled "Woodville Canal Company", a corporation, Plaintiffs vs. Clark and

RECORDED

MAY 15 1996

Edwards Canal Company, a corporation, et al, defendants," "Dated the 25th day of June, 1929, and

IT IS FURTHER ORDERED, ADJUDGED AND DECREED, That the defendant and all persons claiming by, through or under him, or either or any of his successors in office, and all persons claiming to have acquired any right or interest in or to or upon the said waters, hereinbefore decreed, by through, or under any person whatsoever, except the Plaintiffs herein, be hereby enjoined and restrained from obstructing, or in any way interfering with the flow of said waters, through the ditches of the Plaintiffs.

Done in Chambers, in the Courthouse at Rexburg, Madison County, Idaho, this 16th day of November, 1961.

s/ WILLARD C. BURTON

Judge of the District Court

STATE OF IDAHO

County of Fremont,

I, La Monte Bauer, Clerk of the District Court, and Ex-Officio Auditor and Recorder, do hereby certify the above and foregoing

to be a true and correct copy of that certain decree as the same appears on file and of record in my office as Instrument No. . . . , in Case 5665

WITNESS my hand and seal of said office this 20 day of February, 1962.

s/ LaMonte Bauer, Clerk

By: Maud Bird, Deputy

RECORDED  
MAY 15 1962

IRRIGATED LAND - SOUTH LEIGH CREEKS - IDAHO & WYOMING

Canal	Irrigated	Irrigated Pasture	Irrigated Meadow	Sub-Irrigated	Total
Mathews Ditch	10.8				10.6
Fulmer Ditch	16.0				16.0
<b>Total - Wyoming</b>	<b>26.8</b>				<b>26.8</b>
Fulmer Ditch	151.6	14.8			166.4
Little Hog Canal	37.2				37.2
Hansen Ditch	358.3				358.3
Desert Ditch	600.1	24.6	190.1		814.8
Little Ditch	56.5		63.1		119.6
Peacock Ditches (2)	163.3	13.7			182.0
Shaw Ditch	57.4	4.1	22.3		83.8
Thomas Ditch	34.2				34.2
C. Fulmer Ditch	31.9	8.7	7.3		47.9
Hopkins Ditch	75.8	11.6	17.9		105.3
Adrian Cook Ditch		19.1	183.0		207.1
Gale Moffatt Ditch	545.6		37.6		583.2
Bell Ditch	446.6	9.2	168.5	59.4	683.7
Larsen Ditch	174.0		59.3		233.3
F. Hansen Ditch			87.6		87.6
Surenson Ditch			124.5	34.2	158.7
Breckenridge Ditch	77.2	7.6	143.4	48.8	277.0
William Hansen Ditch	53.1				53.1
Big Hog Canal	1,018.5	5.6	26.0		1,050.1
Fulmer & Little Hog (Fulmer Farm)	38.3		13.5		51.8
<b>Total - Idaho</b>	<b>3,924.6</b>	<b>119.0</b>	<b>1,149.1</b>	<b>142.4</b>	<b>5,335.1</b>
<b>Total South Leigh Creek</b>	<b>3,951.4</b>	<b>119.0</b>	<b>1,149.1</b>	<b>142.4</b>	<b>5,361.9</b>

Note: All acreages shown are actual irrigated acres and do not indicate decreed rights.

SOUTH LEIGH CREEK

Canal	Section	Irrigated	Irrigated : Pasture	Irrigated : Meadow	Sub- : Irrigated
<u>WYOMING</u>					
TO # 124 T. 45 N., R. 118 W.					
Mathews Ditch	5	6.0			
Mathews Ditch	6	4.8			
Fulmer Ditch	6	16.0			
Total		26.8			
<u>IDAHO</u>					
T. 6 N., R. 46 E.					
Hansen Ditch	32	99.2			
Little Hog	32	37.2			
Fulmer	32	151.6	14.8		
Total		288.0	14.8		
<u>IDAHO</u>					
TO # 198 T. 6 N., R. 46 E.					
Fulmer & Little Hog (Fulmer Farm)	31	38.2		13.5	
Desert Ditch	31	181.9	16.0		
Hansen Ditch	31	259.1			
Total		479.3	16.0	13.5	
T. 6 N., R. 45 E.					
Desert Ditch	36	140.0	6.0		
Little Ditch	36	47.0			
Total		187.0	6.0		
<u>IDAHO</u>					
TO # 196 T. 5 N., R. 46 E.					
Peacock Ditch	5	15.4			
Peacock Ditch	6	66.7			
Peacock Ditch	7	86.2	13.7		
Total		168.3	13.7		
<u>IDAHO</u>					
TO # 172 T. 6 N., R. 45 E.					
William Hansen Ditch	35	53.1			
Shaw Ditch	35	14.4			
Thomas Ditch	35	34.2			
Desert Ditch	35	129.9	2.6		
Little Ditch	35	9.5			63.1
F. Fulmer Ditch	35		5.2		
Total		271.1	7.8		63.1

SOUTH LEIGH CREEK

Canal	Section	Irrigated	Irrigated Pasture	Irrigated Meadow	Sub- irrigated
PHOTO # 172 (Continued)					
Show Ditch	34	13.0	4.1	8.1	
C. Fulmer Ditch	34	31.9	3.5	7.3	
Desert Ditch	34	148.3			
<u>Hopkins Ditch</u>	<u>34</u>	<u>75.8</u>	<u>11.6</u>	<u>17.9</u>	
Total		269.0	19.2	33.3	
T. 5 N., R. 45 E.					
Big Hog Canal	3	603.0	5.6	26.0	
PHOTO # 137 Idaho					
T. 6 N., R. 45 E.					
Desert Ditch	33			78.6	
Shaw Ditch	33			14.2	
Adrian Cook Ditch	33			47.7	
Gale Moffat Ditch	33			20.8	
<u>Bell Ditch</u>	<u>33</u>	<u>18.9</u>			
Total		18.9		161.3	
Adrian Cook	32		19.1	140.3	
Bell Ditch	32			16.4	
Larsen Ditch	32	25.5		59.3	
Gale Moffat N. $\frac{1}{2}$ N. $\frac{1}{2}$	4	32.1		15.4	
Bell Ditch	4	4.7			
<u>Desert Ditch</u>	<u>4</u>			<u>111.5</u>	
Total		62.3	19.1	342.9	
Bell Ditch N. $\frac{1}{2}$ N. $\frac{1}{2}$	5	19.6		42.5	
Frank Hansen	5			49.6	
Gale Moffat Ditch	5	11.8		1.4	
Total		31.4		103.5	
PHOTO # 139 Idaho					
T. 5 N., R. 45 E.					
Gale Moffat Ditch	4	27.9			
<u>Big Hog Canal</u>	<u>4</u>	<u>415.5</u>			
Total		443.4			
Gale Moffat Ditch	5	351.9			
Bell Ditch	5	57.9		40.1	
<u>F. Hansen Ditch</u>	<u>5</u>			<u>38.0</u>	
Total		409.8		78.1	
Gale Moffat Ditch	8	121.9			

SOUTH LEIGH CREEK

Canal	Section	Irrigated	Irrigated Pasture	Irrigated Meadow	Sub-Irrigated
PHOTO # 98	<u>Idaho</u>				
T. 5 N., 45 E.					
Surensen Ditch	6			6.4	
Bell Ditch	6	225.0	9.2	69.5	34.2
<u>Breckenridge Ditch</u>	<u>6</u>	<u>77.2</u>	<u>7.6</u>	<u>24.8</u>	<u>28.5</u>
Total		302.2	16.8	100.7	62.7
T. 6 N., R. 45 E.					
Larsen Ditch	<u>31</u>	<u>148.5</u>			
T. 5 N., R. 44 E.					
Breckenridge Ditch	1			118.6	20.3
Surensen Ditch	1			118.1	34.2
Total				236.7	54.5
PHOTO # 96	<u>Idaho</u>				
T. 5 N., R. 45 E.					
Bell Ditch	7	120.5			25.2



IN REPLY REFER TO:

UNITED STATES  
DEPARTMENT OF THE INTERIOR  
BUREAU OF RECLAMATION

Central Snake River District  
214 Broadway, Boise, Idaho

February 7, 1952

Mr. Claude Dalley, President  
Mr. L. W. Hastings, Secretary  
Grand Teton Canal Co.  
Driggs, Idaho

Gentlemen:

Inasmuch as I have received no objections to, and some approval of the time and place tentatively set by my letter of January 16, 1952, for a meeting to consider the Teton Creek water division matter, it will be thus definitely fixed; Monday, February 18th, 10:30 A.M., Bannock Hotel, Pocatello, Idaho.

Very truly yours,

Geo. N. Carter, Chairman  
Engineering Subcommittee  
Wyoming-Idaho Compact Commission

Copy to: Ralph L. Albaugh, Atty., Idaho Falls  
L. C. Bishop, State Engineer, Cheyenne, Wyoming  
David Miller, Water Commissioner, Rock Springs, Wyoming  
Clifford S. Wilson, Driggs, Idaho  
T. Ross Wilson, Driggs, Idaho  
T. Ross Wilson, Driggs, Idaho  
R. J. Newell, Boise, Idaho  
M. V. Sharp, Filer, Idaho  
Mark R. Kulp, State Reclamation Engineer, Boise, Idaho  
Lynn Crandall, Watermaster, District #36, Idaho Falls, Idaho  
R. Willis Walker, Rexburg, Idaho  
Alex Coleman, St. Anthony, Idaho  
Ival Goslin, Aberdeen, Idaho  
F. C. Hart, Boise, Idaho  
Regional Director, Attention 120

RALPH L. ALBAUGH  
JOHN L. BLOEM  
GEORGE L. BARNARD  
ARTHUR L. SMITH

P. O. BOX 428  
TELEPHONE 326  
OR 2354

LAW OFFICES OF  
ALBAUGH, BLOEM, BARNARD & SMITH  
SUITE 201-5 ROGERS BUILDING  
IDAHO FALLS, IDAHO

February 8, 1952

Mr. L. W. Hastings  
Driggs  
Idaho

Dear Luke:

Today I received a copy of George Carter's letter to you advising us of the water meeting at the Bannock Hotel in Pocatello on February 18th.

You may not need me at that meeting, and I do not want to attend it unless you think it is necessary. I will appreciate it if you will let me know within the next few days whether it is your desire that I attend the meeting, as I have to arrange my schedule in advance.

Very truly yours,

ALBAUGH, BLOEM, BARNARD & SMITH

By   
Ralph L. Albaugh

RLA/dnh



IN REPLY REFER TO:

UNITED STATES  
DEPARTMENT OF THE INTERIOR  
BUREAU OF RECLAMATION

Central Snake River District  
214 Broadway, Boise, Idaho

January 16, 1952

Mr. Claude Dalley, President  
Mr. L. W. Hastings, Secretary  
Grand Teton Canal Co.  
Driggs, Idaho

Gentlemen:

Since receiving your letter suggesting that another meeting should now be held to consider further the Teton Creek Waterusers problem of division of the water with Wyoming, I have been thinking of a time for the meeting when all or as many as possible of the interested parties could attend.

It may be difficult to find a time satisfactory to all, but I will suggest Monday, February 18th at Pocatello, (Bannock Hotel, 10:30 A.M.) Idaho. There are to be considered and notified besides the Idaho and Wyoming waterusers in Teton Basin, Mr. L. C. Bishop and Mr. David Miller of the Wyoming State Engineer's office, possibly some of Wyoming's regularly appointed compact Commissioners, Mr. R. J. Newell, Chairman, Idaho Compact Commission, the Lower Teton Waterusers in Idaho, the Snake River Watermaster Mr. Lynn Crandall, some members of the Committee of Nine of Water District #36, Idaho, and the Idaho State Reclamation Engineer, Mr. Mark R. Kulp.

Very truly yours,

Geo. N. Carter, Chairman  
Engineering Subcommittee  
Wyoming-Idaho Compact Commission

Copy to: Ralph L. Albaugh, Atty., Idaho Falls  
L. C. Bishop, State Engineer, Cheyenne, Wyoming  
David Miller, Water Commissioner, Rock Springs, Wyoming  
Clifford S. Wilson, Driggs, Idaho  
T. Ross Wilson, Driggs, Idaho  
R. J. Newell, Boise, Idaho  
N. V. Sharp, Filer, Idaho  
Mark R. Kulp, State Reclamation Engineer, Boise, Idaho  
Lynn Crandall, Watermaster, District #36, Idaho Falls, Idaho  
R. Willis Walker, Rexburg, Idaho  
Alex Coleman, St. Anthony, Idaho  
Ival Goslin, Aberdeen, Idaho  
F. C. Hart, Boise, Idaho  
Regional Director, Attention 120

LAW OFFICES OF  
**ALBAUGH, BLOEM, BARNARD & SMITH**  
SUITE 201-5 ROGERS BUILDING  
IDAHO FALLS, IDAHO

September 28, 1951

U. S. Bureau of Reclamation  
214 Broadway  
Boise, Idaho

Attention: Mr. Hart  
Re: Teton Valley Water Dispute

Gentlemen:

This will acknowledge receipt of your letter dated September 26 enclosing report and map showing the results of the water survey made in Teton County, Idaho, and Teton County, Wyoming.

As this information is now available, it would seem that the next step in the procedure would be a meeting of the Engineering Subcommittee to consider the information obtained in your investigation. If this suggestion meets with your approval, probably a meeting can be arranged by you.

As attorney for the Idaho water users, I would appreciate it if you would keep us advised concerning same.

Very truly yours,

ALBAUGH, BLOEM, BARNARD & SMITH

BY

Ralph L. Albaugh

RLA:GF

cc: Mr. L. W. Hastings  
Mr. Lynn Crandall



UNITED STATES  
DEPARTMENT OF THE INTERIOR  
BUREAU OF RECLAMATION

Central Snake River District  
214 Broadway, Boise, Idaho

September 26, 1951

Mr. L. W. Hastings  
Driggs, Idaho

Dear Mr. Hastings:

During the past year, field forces of this office have made a survey in the field of irrigated lands in Idaho and Wyoming, receiving water from the eastside streams subject to controversy. The irrigated lands have been segregated by the ditches serving them.

Enclosed for your information is a map showing the results of this survey together with a detailed tabulation of the acreages irrigated.

Very truly yours,

A handwritten signature in dark ink, appearing to be "J. A. Hart".

District Planning Engineer

Enclosures 2

FCHart:cg

IRRIGATED LAND - TETON CREEK, IDAHO

Canal	Irrigated	Irrigated Pasture	Irrigated Meadow	Sub-Irrigated	Total
Grand Teton Canal	183.6	253.2	163.5	766.9	1,367.2
Grand Teton Central Canal	2,103.7	245.5	80.3		2,429.5
Grand Teton North Division Canal	1,324.5	425.2	60.3		1,800.0
Idaho Central Canal	205.5	4.7			210.2
Price-Fairbanks Canal	215.9	5.0	26.0		246.9
Christenson-Gordon Ditch				55.3	55.3
South Canal <i>Wyo. canal.</i>	708.7	32.0		24.3	765.0
Wyoming Central Canal <i>Wyo.</i>	181.4	15.3		18.0	214.7
Waddell Ditch <i>Wyo.</i>	402.0	14.3			416.3
South Canal Hi-Line & Spring Creek (In same ditch)	41.6	15.6			57.2
Christenson Ditch (Spring Creek)	90.7				90.7
North Side Canal <i>Wyo.</i>	195.2	11.6			206.8
Short Run (Spring Creek)	18.4			14.6	33.0
Short Run (Teton Creek)				68.0	68.0
<b>Total</b>	<b>5,661.2</b>	<b>1,022.4</b>	<b>330.1</b>	<b>947.1</b>	<b>7,960.8</b>

Note: City of Driggs has 3.2 s.f. in Price-Fairbanks Canal  
 Sec. 35 T. 5 N., R. 45 E. 441.2 acres S. I. by G. T. Canal,  
 Price-Fairbanks and Christenson-Gordon.  
 Sec. 15 T. 5 N., R. 45 E. 120.0 irrigated 88.2 T. P. 278 S. I.  
 by G. T. Central Canal without water right.  
 Sec. 22 T. 5 N., R. 45 E. 596.0 acres sub-irrigated by Grand  
 Teton Canal, Idaho, Central and Grand Teton Canal.

Note: All acreages shown are actual irrigated acres and do not indicate decreed rights.

*Irrigates from Ditches heading in Wyo*

765.0  
 214.7  
 416.3  
 -----  
 1396.0  
 206.8  
 -----  
 1602.8

*Grand Teton and Idaho canals*

1367.2  
 2429.5  
 1800.0  
 210.2  
 246.9  
 55.3  
 68.0  
 -----  
 6177.1

TETON CREEK

Canal	Section	Irrigated	Irrigated Pasture	Irrigated Meadow	Sub- Irrigated
PHOTO # 194 <u>Idaho</u>					
T. 5 N., R. 45 E.					
Grand Teton Central	13	525.5	22.8		
Idaho Central	24	44.9			
Grand Teton Central	24	280.1			
Grand Teton Canal	24	31.5	23.0		
<u>Total</u>		<u>882.0</u>	<u>45.8</u>		
T. 5 N., R. 46 E.					
Grand Teton Central		270.9	13.0		
Grand Teton North Division	18	34.0			
Idaho Central	19	39.0			
Grand Teton Central Division	19	150.4			
Grand Teton Canal	19	131.6	91.0		
<u>Total</u>		<u>625.9</u>	<u>104.0</u>		
PHOTO # 192 <u>Idaho</u>					
T. 5 N., R. 45 E.					
Price-Fairbanks Canal	25	215.9	5.0	26.0	
Christensen-Gordon Ditch	36				55.3
Spring Creek (Shortrun)	36	18.4			14.6
Teton Creek (Shortrun)	36				68.0
<u>Total</u>		<u>234.3</u>	<u>5.0</u>	<u>26.0</u>	<u>137.9</u>
T. 5 N., R. 46 E.					
Teton Creek South Canal	30	259.0			
Teton Creek South Canal	31	114.3			24.3
<u>Total</u>		<u>373.3</u>			<u>24.3</u>
PHOTO # 196 <u>Idaho</u>					
T. 5 N., R. 46 E.					
Wyoming Central Canal	7	127.8	15.3		
Grand Teton Canal N. Division	7	107.5			
<u>Total</u>		<u>235.3</u>	<u>15.3</u>		
T. 5 N., R. 45 E.					
Grand Teton Canal N. Division	12	307.2	28.0		
PHOTO # 170 <u>Idaho</u>					
T. 5 N., R. 45 E.					
Grand Teton Canal N. Division	11	433.5	141.7	44.3	
Grand Teton Canal N. Division	10	258.3	246.7	16.0	
Grand Teton Central Canal	15 N $\frac{1}{2}$	85.0	33.2		No water right (Pick-up waste)
Grand Teton Central Canal	14 N $\frac{1}{2}$	128.7	58.5		
<u>Total</u>		<u>905.5</u>	<u>535.1</u>	<u>60.3</u>	

TETON CREEK

Canal	Section	Irrigated	Irrigated Pasture	Irrigated Meadow	Sub-Irrigated
PHOTO # 168 <u>Idaho</u>					
T. 5 N., R. 45 E. Grand Teton Central	15 S 1/2	35.0			278.0 No water right
Grand Teton Central	14 S 1/2	253.3	36.0		
Grand Teton Central	22			33.5	
Balance of Section S.I. (596 acres) by (1) Grand Teton Central (2) Idaho Central (3) Grand Teton					
Grand Teton Central	23	216.6	23.6		
Idaho Central	23	121.6	4.7		
Grand Teton	23		14.2		78.0
Grand Teton	26 N 1/2	10.5	125.0		101.5
Grand Teton	27 N 1/2				316.2
<u>Total</u>		637.0	203.5	33.5	773.7
PHOTO # 166 <u>Idaho</u>					
T. 5 N., R. 45 E. Grand Teton Canal	26 S 1/2			109.0	
Grand Teton Canal	26 village of Driggs, 3.2 s.f. in Price-Fairbanks Canal			54.5	271.2
	27 S 1/2				
	35 (Grand Teton Canal, Price-Fairbanks & Christenson - Gordon)				
	34 All S. I. Several short pick-up ditches from sloughs. (No water right)				
<u>Total</u>				163.5	712.4
T. 4 N., R. 45 E. Christenson Ditch (Spring Creek)	2	90.7			
PHOTO # 160 <u>Idaho</u>					
T. 5 N., R. 46 E. Wyoming Central	8	17.2			8.0
North Side Canal	8	195.2	11.6		
Wyoming Central	17	36.4			10.0
Grand Teton N. Division Canal	17	74.0	8.8		
Grand Teton Central	17	78.4			
Grand Teton Central	20	85.2	3.6		
Grand Teton Canal	20	29.6		46.8	
South Canal	20	42.0			
Waddell Canal	20	92.0	4.0		
<u>Total</u>		650.0	28.0	46.8	18.0
PHOTO # 229 <u>Idaho</u>					
T. 5 N., R. 46 E. Waddell	29	310.0	10.3		
South Canal	29	90.4	20.0		
South Canal	32	203.0	12.0		
Spring Creek & South Canal Hi-Line (In same ditch)	32	41.6	15.6		
<u>Total</u>		645.0	57.9		

IRRIGATED LAND \* TETON CREEK \* WYOMING

Canal	Irrigated	Irrigated Pasture	Irrigated Meadow	Sub-Irrigated	Total
Mill Creek	69.5		26.7		96.2
North Canal	411.4	28.5	12.5	16.5	471.9
Wyoming Central	339.2	14.2			353.4
South Canal	227.0	20.0			247.0
Waddell	323.1				323.1
South Canal Hi-Line	246.0	18.4	6.4		270.8
Spring Creek	226.4	49.0	54.0		329.4
<b>Total</b>	<b>1,845.6</b>	<b>130.1</b>	<b>99.6</b>	<b>16.5</b>	<b>2,091.8</b>

Note: All acreages shown are actual irrigated acres and do not indicate decreed rights.

2091.8  
 329.4  
 -----  
 1762.4

160  
 160  
 160  
 640  
 320  
 320  
 -----  
 2520

TETON CREEK, WYOMING

Canal	Section	Irrigated Pasture	Irrigated Meadow	Irrigated	Sub-Irrigated	Total
PHOTO # 72						
T. 44 N., R. 118 W.						
Mill Creek W. R. included in total of Teton Creek according to Mr. Cooper	21		26.7	20.8		47.5
	22			48.7		48.7
Total			26.7	69.5		96.2

Canal	Section	Irrigated Pasture	Irrigated Meadow	Irrigated	Sub-Irrigate
PHOTO # 140					
T. 44 N., R. 118 W.					
North Canal	16	19.4			
North Canal	17	151.4	19.5		16.5
North Canal	18	58.0	4.0	12.5	
Wyoming Central	19	99.0	11.0		
Wyoming Central	20	204.0			
North Canal	20	150.4	5.0		
North Canal	21	35.2			
South Canal	21	9.6			
Wyoming Central	30	26.2			
South Canal	30	72.6			
Waddell	30	11.2			
South Canal	29	144.8	20.0		
Waddell	29	129.6			
South Canal Hi-Line	29	176.0			
Wyoming Central	29	10.0	3.2		
South Canal Hi-Line	28	6.4			
Waddell	31	89.5			
Spring Creek	31		35.0	14.0	
Waddell	32	32.3			
South Canal Hi-Line	32	55.2			
Spring Creek	32	58.0	14.0	40.0	
Total		1599.3	111.7	66.5	16.5
PHOTO # 229					
T. 43 N., R. 118 W.					
South Canal Hi-Line	5			6.4	
Spring Creek	5	62.8			
South Canal Hi-Line	6	8.4	18.4		
Spring Creek	6	105.6			
Total		176.8	18.4	6.4	

October 12, 1949

Mr. Ralph L. Albaugh  
Attorney at Law  
Albaugh, Bloom & Hillman  
Idaho Falls, Idaho

Dear Mr. Albaugh:

This is in reply to your letter of October 6th with reference to a meeting at the Courthouse in Driggs, Idaho, Thursday October 20, 1949, at 2:00 o'clock P.M. for a discussion of the water right situation on Teton Creek.

My reply has been held up pending the outcome of the Snake River Compact meeting on October 10th in order that I might inform you definitely whether or not it would be possible to include a paragraph in that compact for settlement of the Teton Creek controversy.

The commissioners of both Idaho and Wyoming were in agreement that it would be best to settle the Teton Creek controversy by a separate compact or supplemental decree inasmuch as the matter was (1) controversial and (2) there is a doubt whether or not a compact could supercede a decree of the District Court. It was not included in the Snake River Compact.

Arrangements have been made with Clifford S. Wilson of Driggs, Idaho, and David P. Miller of Rock Springs, Wyoming, both Wyoming Compact Commissioners, to attend the Driggs meeting on October 20th. I regret that I will not be able to attend this meeting, but I feel sure that any agreement that will be satisfactory with Messrs. Wilson and Miller will meet the approval of the Wyoming water users to the extent that it may be used as a basis for a settlement of this controversy.

If an agreement is reached, I feel sure that Mr. R. J. Newell has authority to act as the Federal Representative, and that he will lend every effort to the negotiation of a compact on Teton Creek or if the legal advisors think modification or amendment of the stipulation of the District Court is better, he will assist on preparing this instrument. I hope also that you may have the advice and assistance of Mr. Howard R. Stinson, who so ably assisted the States in the Snake River Compact negotiations.

It might be well worthwhile to have Mr. Stinson attend this meeting on the 20th, and I suggest that you write him at Boise, Idaho, and invite him to be present.

Mr. Ralph Albaugh  
Idaho Falls, Idaho

-2-

October 12, 1949

Since I helped negotiate the stipulation on Teton Creek and tributaries, and I believe I understand what was intended, I am going to explain for your information how I expected the Decree would operate: (1) That during the early part of the season there would be very much more than 170 c.f.s. of water in Teton Creek to the extent that Idaho users would be able to use all they needed. (2) That when the flow diminished to 170 c.f.s., the Wyoming users would be cut down to 67.7 c.f.s. or 1 c.f.s. for each 50 acres of their water rights while at this stage Idaho users would receive 102.3 c.f.s. (3) When the flow diminished to 90 c.f.s., Wyoming users would receive one-half of the flow.

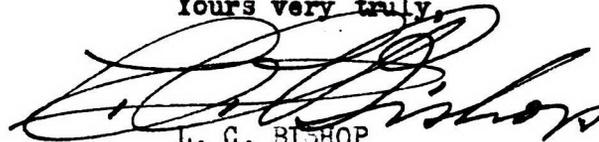
I am informed that in actual practice that prior to the time the flow diminishes to 170 c.f.s. and again prior to when it diminishes to 90 c.f.s. that there is a period when Idaho users are not receiving a fair share of the water. Wyoming should be willing to make an adjustment here that is fair and equitable to all concerned, and I suggest that careful consideration be given to an agreement based on an equal division of the water at all times.

Such an agreement would give Idaho users more water during the period just prior to when the flow recedes to 170 c.f.s. and less during the first part of the period before the flow recedes to 90 c.f.s.

According to the records of our office and the State Board of Control, there are 3386 acres of adjudicated water rights from Teton Creek in Wyoming, which on a basis of 1 c.f.s. for 50 acres as provided in the Court Decree would allow Wyoming 67.7 c.f.s. of water after the stream flow recedes to 170 c.f.s. I believe Wyoming has been using a larger amount in the administration here in order to take care of the irrigation of some Idaho lands.

In conclusion I will state that if this matter is placed before the Court that Wyoming will renew its contention to the effect that the Grand Teton Canal has no water right inasmuch as it has no filing in the State of Wyoming.

Yours very truly,



L. C. BISHOP  
State Engineer

LCB:IC

cc: L. W. Hastings, Driggs, Idaho ✓  
Lynn Crandall, Idaho Falls, Idaho  
N. V. Sharp, Filer, Idaho  
David P. Miller, Rock Springs, Wyoming  
Clifford S. Wilson, Driggs, Idaho

October 6, 1949

Mark R. Kulp  
State Reclamation Engineer  
State House  
 Boise, Idaho

Dear Mr. Kulp:

Referring to your letter to Mr. Lynn Grandall, dated September 30th concerning the Teton Basin Water users, I have discussed this letter with several of the interested parties and they suggest that we try to arrange for a meeting at the Courthouse in Driggs, Idaho, on Thursday, October 20, 1949, at 2 o'clock P.M.

It seems to us that nothing can be gained unless representatives of the State of Wyoming are present at the meeting. If representatives of the State of Wyoming are present, we can have a full and frank discussion of these water rights and possibly make a tentative agreement which can later be included in the Idaho-Wyoming Snake River Compact.

I think that at least one or more members of the Compact Commissions should also be present at the meeting.

Copies of this letter are going to the interested parties, and if this suggestion as to the date meets with the approval of the various parties, we will appreciate it if each party will reply to this letter and send copies to the other parties.

Very truly yours,

ALBAUGH, BLOEM & HILLMAN

By

Ralph L. Albaugh

RLA:mb

cc: L. W. Hastings, Driggs  
Lynn Grandall, Idaho Falls  
N. V. Sharp, Filer  
L. G. Bishop, State Engineer, Cheyenne

MEETING OF IDAHO COMPACT COMMISSION HELD AT BANNOCK  
HOTEL, POCATELLO, JULY 18, 1949  
(Committee of Nine)

All members of Committee present: N. V. Sharp, Chairman, Ival Goslin, Vice-Chairman, Leonard Graham, Roy Marquess, Chas. Walteroth, Alex Coleman, Willis Walker, A. K. Van Orden, A. E. Stanger, and Mark Kulp, also H. L. Crawford, John Moore, Luke Hastings, Lynn Crandall, and others.

CONFIDENTIAL UNTIL WYOMING NEGOTIATIONS COMPLETED.

At the request of the Chairman, Lynn Crandall described previous progress of the Committee relating to compact negotiations and read Article 4 of the second draft of a proposed compact prepared by L. C. Bishop, Wyoming State Engineer.

Discussion of various matters relating to the effect on Idaho water rights of the proposed allocation to Wyoming took place.

Ralph Albaugh, representing waterusers on the Grand Teton Canal, presented a statement of the situation on that creek and stated that Wyoming canals were taking most of the water, leaving Idaho users in a serious situation. He said that unless the matter could be handled thru a compact it would be necessary for the Idaho waterusers under the Grand Teton Canal to bring a suit in the Wyoming Federal Court against Wyoming users.

Adjourned for lunch at 12:30.

Upon reconvening the committee discussed the Teton Basin situation; it was suggested by the Chairman that the Watermaster write Mr. Bishop advising him to be prepared to discuss the situation on Teton Creek at the meeting on July 29.

Motion by Ival Goslin, second by Leonard Graham, that we recommend to the Bureau of Reclamation that 30,000 acre-feet be held in reserve in Palisades reservoir to be paid for as a percentage increase in cost by all purchasers of storage to be delivered to Idaho users who are affected by future developments in Wyoming. Carried.

It was agreed that we would propose to Wyoming that we would accept the 2% unrestricted and 2% restricted allocation provided any new irrigation developments made by federal agencies on Snake River or tributaries for use in Wyoming above Palisades dam be charged to the 2% restricted allocation until same was exhausted, after which such projects could be charged to any unused portion of the 2% unrestricted allocation.

The members of the Committee were requested to read over carefully Mr. Bishop's draft of a proposed compact and be prepared to suggest any desired revisions at a meeting of the Committee to be held at the Bannock Hotel, July 28, 7 p.m.

Mr. Moore, Minidoka Project Superintendent, said that the Bureau of Reclamation had decided to restrict its inventory of irrigation wells, for the present at least, to the area of tributary ground-water inflow between Blackfoot and Milner.

Alex Coleman was elected as Secretary of the Committee of Nine and of the Idaho Compact Committee.

Lynn Crandall,  
Watermaster.

MEETING OF IDAHO COMPACT COMMISSION HELD AT BANNOCK  
HOTEL, POCATELLO, JULY 18, 1949  
(Committee of Nine)

All members of Committee present: N. V. Sharp, Chairman, Ival Goslin, Vice-Chairman, Leonard Graham, Roy Marquess, Chas. Welteroth, Alex Coleman, Willis Walker, A. K. Van Orden, A. E. Stanger, and Mark Kulp, also H. L. Crawford, John Moore, Luke Hastings, Lynn Crandall, and others.

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Alex Coleman was elected as Secretary of the Committee of Nine and of the Idaho Compact Committee.

Lynn Crandall,  
Watermaster.

July. 27-1949

Joint meeting of Committee of Wyo.  
water users and Idaho users of Teton  
Creek.

Cloud Dalley, Pres. of the Grand Teton  
Canal Co. in Idaho, opened the meeting  
by inviting comments from the Wyo. users.  
The meeting came about because of what  
the Idaho users termed an unfair distribution  
of the irrigation water.

The problems were discussed by all  
parties interested.

Cloud Dalley Pres. of the Grand Teton Canal Co.  
stated that any agreement agreeable to  
Idaho users must be based on records  
of record.

There being no further discussion,  
motion was made for adjournment, carried

R.W. Hastings  
Sec. Grand Teton Canal

L. W. Hastings Driggs  
MINUTES OF MEETING OF ENGINEERING SUB-COMMITTEE FOR  
TETON BASIN SNAKE RIVER COMPACT COMMISSION Lawe

In accord with instructions from the Snake River Compact Commission, Engineering Sub-Committee convened in Pocatello, Idaho, at 9:15 a.m. on January 30, 1950. Meeting was held in Room 210 of the Bannock Hotel. Mr. George N. Carter, District Manager, Central Snake River District, Bureau of Reclamation, was selected as Chairman by unanimous consent.

Present at meeting were the following:

Mark Kulp, State Engineer, Boise, Idaho.  
Henry Eagle, Deputy Water Master, District No. 36,  
Idaho Falls, Idaho.  
T. Ross Wilson, Driggs, Idaho.  
Clifford S. Wilson, Driggs, Idaho.  
David Miller, District Superintendent, Wyoming Water Board,  
Rock Springs, Wyoming.  
Lynn Crandall, Water Master, District No. 36,  
Idaho Falls, Idaho.  
F. C. Hart, Planning Engineer, Central Snake River District,  
Boise, Idaho.

Mr. Hart was designated to act as Secretary.

Mr. Miller asked for information regarding Grand Teton Canal. Diverts in Wyoming but all lands irrigated are in Idaho. Waddell Canal is similarly situated, but irrigates some lands in Wyoming. Grand Teton capacity over 300 s.f. irrigates 7000 acres.

Mr. Crandall stated that Idaho water users had the impression that canal capacities in Wyoming have been increased, so that all water can be diverted in Wyoming during flood water period.

Mr. Miller - Can it be established that since 1941 curves of the would show increased diversions?

Mr. Crandall - Measurements haven't been made in Wyoming prior to end of flood season.

Discussion of location of Teton Creek gaging station established by Bureau of Reclamation with relation to Mill Creek. It was concluded that this station is upstream from Mill Creek.

Mr. Clifford Wilson asked about graphical representation of supply, diversion, and division under decree. Explained his ideas as to what results would be. Difficulties lie in period prior to 170 s.f. division, when decree becomes operative. Period when flow is between 170 and 90 s.f. averages 10 days. This is most critical period--prior to 170 s.f. not so critical. In 1949, due to character of diversion structures in Wyoming, during period when the flow was between 170 s.f. and 90 s.f. more than proper share accrued to Wyoming lands

Mr. Miller - Better administration of rights in Wyoming would prevent this difficulty. If there has been increased use in recent years, it appears that an attempt should be made to return to previous use.

Mr. Kulp, Mr. Miller, Mr. Clifford Wilson discussed difficulties of determining "beneficial use" and proper diversion duty.

Mr. Crandall told of a referee being appointed by the court to take testimony regarding water use. Total diversions exceeded the flow of Teton Creek. A commission was then appointed to review the testimony and reduce the amounts. Arrived at amount of 1" per acre (1 s.f. per 50 acres) as basis for diversion. Lands under big canals got the best of it, due to inadequate information regarding lands under stock companies. Duty has to be tailored to occurrence of supply. Need attempt to make equitable distribution of supply as it occurs, on basis of distribution of lands.

As an initial approach, Mr. Crandall suggested that whenever flow is above 210 s.f., two-thirds of flow be allotted to Idaho lands, one-third to Wyoming. When the Teton Creek flow is 210 s.f. to 90 s.f., 60% be allotted to Idaho lands and 40% to Wyoming lands.

Mr. Clifford Wilson - Commented on Grand Teton Canal being organized as a stock company with trading of shares resulting in inflation of irrigated area figure.

Mr. Crandall indicated that an increase in acreage or diversions under Grand Teton Canal would not be likely due to short supply.

Diversions in Wyoming supplying Idaho lands should be given proper credit for location of lands in division of water.

Mr. C. Wilson told about situation when his father had lands under Grand Teton Canal: one crop of hay only, due to shortage of water. Moved operations upstream into Wyoming where more water and deeper soils were available. Held surplus of stock in Grand Teton to insure better supply.

Mr. Miller - Unfortunate that proper distribution wasn't made when court decree was entered.

Mr. Crandall - Idaho users in Teton Basin didn't want to become involved in controversy with their neighbors in Wyoming as against lower users around Rexburg.

Mr. Miller - It seems that Rexburg users aren't now interested in the affair. The present controversy is between Teton Basin users, in the two states.

Discussion was had of records available and their adequacy. 1949 records are the only ones during the flood water season; prior to time decree becomes operative.

There followed a discussion of the situation regarding agreement vs. court action. Costs of court action would be burdensome. No engineers or technical advice was had in original court action on division of the waters. Lawyers weren't particularly interested in the testimony. The case was settled by stipulation; the facts weren't sought or developed.

Any new court action, to be binding, would require that Rexburg users be made a party. Advantages of compact settlement. Mr. Greenwood has been dubious of securing Congressional approval of any agreement abrogating or modifying Federal court decree.

Change in distribution during season should not be detrimental to Rexburg area. Might be benefit to them due to lag in return flow.

The swamps which have developed along Teton River from irrigation above have resulted in some added losses of flow, but this loss is offset by later return to lower area (Rexburg).

Availability of aerial maps of the area was considered.

Mr. Miller - Wyoming representatives should hold a meeting with Wyoming users to see what their attitude might be. Decree has been enforced for a number of years. Now people who weren't involved in decree, complain about situation.

Mr. Crandall - Agree to that, but unless some agreement can be reached, Idaho users will do something, even entering suit.

Mr. C. Wilson - During depression years, many acres in Idaho lay idle. Better prices have brought lands back into use with increased demand for water and the same conditions have resulted in increased use in Wyoming. Agreed to by Mr. Crandall.

Mr. Crandall - Should man be put on stream to make intensive study this year? Might aggravate the situation due to desire on part of everyone to make maximum showing. Driggs meeting proposal by Mr. Miller, viewed by Idaho users as only a delaying action on part of Wyoming users.

Mr. C. Wilson - Gave an explanation of a study of curves of declining flows. Discussion of value and interpretation followed. Means and methods available for conducting any study were discussed.

Mr. Carter - This meeting, it would appear, should attempt to determine some method of approach and preparation of suggested settlement for study and approval or disapproval of suggestions, with subsequent modifications, by interested parties on compact commissions and by water users.

Discussion of decree and interpretations thereof; does the 67.7 s.f. include Idaho lands? Belief that 1500 acres in Idaho is included.

Discussion of administration of decree and the exchange of storage to Rexburg lands. When flow on Teton Creek at State Line drops below 35 s.f., no water would reach Teton River, so exchange cuts off and Grand Teton gets all the flow.

Discussion of situation as it stands. Concluded that the sub-committee is empowered only to explore facts and suggest methods of solution.

Discussion of cost of securing records in 1950 season - method of financing and the desirability thereof.

Idaho users who got water through Wyoming ditches are now getting benefit of Wyoming distribution regulations.

Some modification of 210 s.f. figure was suggested. When flow is around 410 s.f. suggest that all rights have unrestricted diversion, perhaps based upon present capacities, or on a proportionate allocation to water right acreage.

Mr. Carter - Some definite acreage figure would seem to be needed.

Mr. C. Wilson - Compact negotiations in general recognize the right of undeveloped potentials. Doesn't agree with one-third and two-thirds division. Thinks one-half and one-half more equitable basis.

Mr. Miller asked if the Bureau of Reclamation could make studies of supply and show various proposals.

Possible use of General Investigations funds and also the use of Idaho cooperative funds to defray the cost of studies. It would appear to be an equitable use of cooperative funds from Idaho Reclamation Department, but uncertainty exists as to whether Wyoming has similar funds available.

Mr. C. Wilson - Suggests that these data would be accessible to interested local and state people during process of developing the studies.

There was discussion of need for additional records. Records now available are cooperatively secured when flow drops below 170 s.f. - 78 s.f. is allotted to Wyoming users, the balance to Idaho. Apparently this allotment should be 67.7 s.f. + 4 s.f. (Waddell ditch right for 200 acres in Idaho). Apparently some 6 + s.f. has been diverted to junior rights that should be given to Grand Teton Canal. This apparently has been due to different priorities in the two states.

Adjourned for Lunch.

AFTERNOON SESSION

It was moved by Mr. Miller and seconded by Mr. Crandall; That the water supply study, based upon the stream flow records now available, be made by the Bureau of Reclamation, showing distribution between States of Wyoming and Idaho on the basis of (a) 50% allotment to each state; (b) 40% to Wyoming and 60% to Idaho, and (c) one-third to Wyoming and two-thirds to Idaho. After some discussion, the motion was passed unanimously. =

Discussion of adequacy of the stream flow records. Should a determination of adequacy be made by the agency making the study or by review when data are available for study by the cooperating parties?

Mr. Carter requested an understanding as to the financing for studies, assuming that they can be made by the Bureau of Reclamation. No authority for commitments could be assured.

Recommendation was made that a staff-gage station be maintained near State Line for required period of time during season with readings at sufficiently frequent intervals. (Oscar Green, suggested as a possible gage reader.) Bureau of Reclamation to make field determination of areas irrigated from Teton Creek in each of two states. (Sub-irrigated lands on bottoms not to be included.)

Discussion was had as to the timing of the irrigated land survey. Mid-May or preferably mid-June seemed to be generally conceded as the best time of year to secure adequate results.

The Secretary was instructed to circulate a resume of minutes all those in attendance at this meeting.

Meeting adjourned 2:40 p.m.

Submitted February 8, 1950

F. C. HART  
Secretary

UNITED STATES  
DEPARTMENT OF THE INTERIOR  
BUREAU OF RECLAMATION

Region I  
Box 937 - Boise, Idaho

DEC 27 1946

REFER TO

Project Plans

L. W. Hastings,

Driggs, Idaho.

Dear Sir:

Enclosed for your information is a copy of our report entitled "Water Supply for Palisades Reservoir Project." I know that you, as a community leader, will have a deep interest in this report and will want to study its contents thoroughly.

The field investigation and subsequent analysis of the complicated water supply problem were undertaken at the request of the water users in Snake River Valley. The problem has been studied in detail over a period of several years. It is believed that the basic data and the results of the various reservoir operation studies presented in the report are sound.

In order that construction of the Palisades Dam may be initiated as soon as possible, we wish to begin negotiations of water savings agreements in the near future with the many water users' organizations concerned. Your personal assistance in arranging appropriate meetings for this purpose will be appreciated. Please advise me by letter when it is desired that representatives of the Bureau of Reclamation meet with officials of the water users' organizations to discuss the proposed water saving program.

Sincerely yours,

*R. M. Neill*  
Regional Director.

Enclosure

STATE OF IDAHO  
DEPARTMENT OF RECLAMATION  
Lynn Crandall, Watermaster  
Idaho Falls, Idaho

Water District No. 36

2/10/36  
M. C.

June 18, 1942

RECEIVED  
JUN 20 1942  
Department of Reclamation

Mr. Lowell A. Dalley  
Driggs, Idaho

Dear Mr. Dalley:

Replying to yours of the 15th instant; In the Wyoming Federal Court decree entitled Roxana Canal Company et al. vs. Chas. Daniels et al., in which is set out the plan to be followed in delivering water on Teton Creek, it is provided as follows: "It being understood and agreed that all ditches diverting in Wyoming and now having legal appropriations of water in Wyoming and/or Idaho, to be supplied from the one-half of said stream flow awarded to Wyoming, excepting therefrom the Grand Teton Canal.....which shall be supplied from the Idaho portion."

Apparently you do not have a legal appropriation in Wyoming because your land was not included in the list of lands when the Rigby Ditch filing was made. Under the Idaho laws, however, an appropriation of water can be made either by filing in the office of the State Commissioner of Reclamation or by actual diversion and use. In the latter case the appropriation can be decreed by bringing an action in the District Court at any subsequent time against the local watermaster as provided in Section 41-1305 Idaho Code Annotated. The date of priority and quantity of water would be determined by testimony as to when actual use on your land first occurred.

The priority of the Central Teton Canal Company is October 31, 1903, which is so late that it is only a flood water right.

Inasmuch as your land has always been watered through the Wyoming diversion and you have an Idaho appropriation by use, I would think that your water would come from Wyoming's share of the water under the Federal Court decree, provided your right is definitely fixed by decree.

In case the Wyoming watermaster and State Engineer should refuse to supply your right from Wyoming's share of the water it might be necessary for you to also bring an action in the Wyoming Federal Court to have the matter determined. In any event your first step should be to get your right decreed by the Idaho District Court.

Very truly yours,

Watermaster.

cc: L.C. Bishop, State Engineer, Cheyenne  
cc: H.V. Berg, State Com. of Reclamation, Boise

*Johnston*

*22-T*

IN THE DISTRICT COURT OF THE UNITED STATES FOR THE DISTRICT OF WYOMING

.....  
IN EQUITY NO.2447  
.....

ROXANA CANAL COMPANY, a corporation; SIDBQWAY  
IRRIGATING & MANUFACTURING COMPANY, a corporation;  
THE SALM IRRIGATION CANAL COMPANY, LIMITED, a corporation;  
ISLAND WARD CANAL COMPANY,LIMITED, a corporation;  
WILFORD IRRIGATING & MANUFACTURING COMPANY, a corporation;  
THE TETON ISLAND CANAL COMPANY, a corporation;  
WOODMANSEE-JOHNSON-REXBURG MILL DITCH,INCORPORATED, a corporation;  
NORTH SALM AGRICULTURAL & MILLING CANAL COMPANY, a corporation;  
CANYON CREEK IRRIGATION DISTRICT, a Quasi-municipal corporation;  
CHARLES SAUREY, NICHOLAS SOMMERS, KATHERINE BAKER, WHITNEY PINCOCK )  
FRANK PINCOCK, LAWRENCE GARNER, LYMAN GARNER, A.N.MURDOCK, FERN )  
PINCOCK,FRED PINCOCK, LaGRANDE SMITH and LEANORA ROW, )

Plaintiffs,

DECREE

vs.

CHARLES DANIELS, LELAND SORENSEN, D. L. WADDELL,CHARLES CHRISTENSEN )  
  
E. E. RIGBY, T.ROSS WILSON, WILLARD MORGAN, CARL CARLSON, MILTON )  
DAILLEY, FRED MORGAN, MILTON SHEETS, RUDOLPH KAUFMAN, KENT SHIPP, )  
ELMER CHRISTENSEN, RUSSELL CHRISTENSEN, WILBARD BROWN,TED BROWN, )  
JOSIAH B. BROWN, CHARLES WADDELL, MALCOLM WADDELL, FREDERICK DEUTCH, )  
L. Y. MATTHEWS, JOSEPH PEACOCK,Jr., J. E. RIGBY, LAVINIA CORD, )  
ELEANORA WADDELL and J. L.TENNANT, )

Defendants

WHEREAS,the parties to said action now appearing herein, have made and entered into, the following stipulations;

RECORDED  
MAY 15 1996

IT IS HEREBY STIPULATED by and between the above named plaintiffs and the following named defendants, Leland Sorensen, D.L. Waddell, Charles Christensen, E.E. Rigby, Willard Morgan, Carl Carlson, Milton Dalley, Fred Morgan, Milton Sheets, Rudolph Kaufman, Kent Shipp, Elmer Christensen, Russell Christensen, Willard Brown, Ted Brown, Josiah Brown, Charles Waddell, Malcolm Waddell, Frederick Deurtch, and L.Y. Matthews, through their counsel, that the following may by the Court be considered as proven facts, and as such may by the Court be incorporated into and become a part of the findings of fact in this action.

That each plaintiff whether a corporation or individual is a citizen and resident of the State of Idaho.

That these stipulating defendants are residents and citizens of the State of Wyoming.

That the parties plaintiff designated as corporations are corporations organized under the laws of the State of Idaho and formed for the purpose of diverting and distributing water to the several stockholders of the said corporations for domestic and agricultural purposes, and that each stockholder is entitled to receive of the water diverted an amount in proportion to the total amount of capital stock or acreage of land held by each such stockholder as the case may be.

That Charles Saurey, Nicholas Sommers and Katherine Baker have and do divert and convey water through what is known as Saurey & Sommers Ditch; that Whitney Pincock, Lawrence Garner, Lyman Garner, A.N. Murdock, Fern Pincock and Fred Pincock divert and convey water from Teton River as an association, through what is known as Wolf Ditch.

That the lands described in the pleadings of the plaintiffs and defendants are arid in character and require artificial application of water to reclaim them and to produce thereon profitable agricultural crops or afford pasturage for livestock.

That the streams mentioned and named in the pleadings of the parties to this suit, by whatsoever name, are tributaries of Teton River, an interstate, non-navigable stream and which said Teton River is a tributary of Snake River.

That the acreage of land set out in the pleadings is owned, controlled, or in which there is an estate of the several parties to this suit, plaintiffs and defendants, is substantially correct, and the said parties may be considered to

RECORDED  
MAY 15 1996

be the ownersthereof for all purposes in connection with this suit; that the lands alleged as being owned by the individual parties plaintiff, or the stockholders of the corporations plaintiff, or the residents within the irrigation district are situated in Fremont and Madison counties, Idaho, and the lands alleged to be owned by the parties defendants are situated in Teton County, Wyoming.

That any references in this stipulation to parties plaintiff or parties defendant shall be deemed to include either or each of their predecessors in interest.

That the Plaintiff Roxana Canal Company is an Idaho corporation, organized for the purpose of appropriating and diverting water for the use and benefit of its stockholders, who are approximately fifteen in number;

That the stockholders of the said corporation plaintiff are the owners of the following described lands in Idaho, to wit:

$S\frac{1}{2}SW\frac{1}{4}$  Section 25;  $S\frac{1}{2}N\frac{1}{2}$  Section 26;  $NE\frac{1}{4}$ ,  $E\frac{1}{4}NW\frac{1}{4}$  and  $SE\frac{1}{4}$  Section 35; all of Section 36, except  $E\frac{1}{2}NE\frac{1}{4}$ ; all being in township 7 North, Range 39 E.B.M.;

That the District Court of the Sixth Judicial District of Idaho, in and for Fremont County, in the case of Rexburg Irrigation Co., et al, against the Teton Irrigation and Manufacturing Co., et al, which case proceeded to final judgement, made and entered a decree on the 16th day of December 1910, wherein it was found that the plaintiff Roxana Canal Company, a corporation, on or before the 1st day of June 1885 had appropriated and diverted 16 cubic feet per second or 800 miner's inches of the waters of Teton River, and awarded to the said plaintiff 16 cubic feet per second or 800 miner's inches of the waters of said stream with date of priority June 1st, 1885, and under the terms of said decree the said plaintiff was awarded the right to take and use beneficially said amount of water;

That the said plaintiff on or before said priority date had constructed diversion works of sufficient capacity for the diversion and conveyance of the said water and on said date was diverting and conveying for the use of its stockholders the said quantity of water so appropriated and decreed for the irrigation of said lands and for domestic purposes.

That the plaintiff Siddoway Irrigating & Manufacturing Company, a corporation, is an Idaho corporation, organized for the purpose of appropriating and diverting water for the use and benefit of its stockholders, who are approximately fifty-two in number;

That the stockholders of the said corporation plaintiff are the owners of the following described lands in Idaho, to wit:

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All of Section 6; NW $\frac{1}{4}$  Section 7; Township 6 North, Range 41, E.B.M; All of Section 31 ; W $\frac{1}{2}$  Section 32; Township 7 North, Range 41 E.B.M., in Fremont and Madison Counties, Idaho;

That the District Court of the Sixth Judicial District of Idaho, in and for Fremont County, in the case of Rexburg Irrigation Co., et al, against the Teton Irrigation & Manufacturing Co., et al. which case proceeded to final judgement, made and entered a decree on the 16th day of December 1910, wherein it was found that the plaintiff Siddoway Irrigating & Manufacturing Company, a corporation, on or before July 1st, 1891 had appropriated and diverted 6 cubic feet per second or 300 miner's inches of the waters of Teton River, and on or before June 1st, 1892 had appropriated and diverted 7-17/25 cubic feet per second or 384 miner's inches of the waters of Teton River, and on or before April 1st, 1898 had appropriated and diverted 15-8/25 cubic feet per second or 766 miner's inches of waters of Teton River, and awarded to the said plaintiff 6 cubic feet per second or 300 miner's inches of waters of said stream, and with priority date of July 1st, 1891, and 7-17/25 cubic feet per second or 384 miner's inches of waters of said stream and 15-8/25 cubic feet per second or 766 miner's inches of the waters of said stream, with respective dates of priority June 1st, 1898, and under the terms of said decree the said plaintiff was awarded the right to take and use beneficially said amounts of water;

That the said plaintiff on or before said priority dates had constructed diversion works of sufficient capacity for the diversion and conveyance of the said water, and on said dates was diverting and conveying for the use of its stockholders the said quantities of water so appropriated and decreed for the irrigation of said lands and for domestic purposes;

That the Plaintiff, The Salm Irrigation Canal Company, Limited, a corporation, is an Idaho corporation, organized for the purpose of appropriating and diverting water for the use and benefit of its stockholders, who are approximately ninety-five in number;

That the stockholders of the said corporation plaintiff are the owners of the following described lands in Idaho, to wit:  
S $\frac{1}{2}$  NE $\frac{1}{4}$  Section 3, E $\frac{1}{2}$  Section 12, Township 6 North, Range 39, E.B.M.; N $\frac{1}{2}$  and SW $\frac{1}{4}$  Section 4, N $\frac{1}{2}$  Section 6, N $\frac{1}{2}$  and SW $\frac{1}{4}$  Section 7, all of Section 8, Township 6 North, Range 40 E.B.M.; SE $\frac{1}{4}$  Section 32, all of Section 33, W $\frac{1}{2}$  Section 34, Township 7 North, Range 40 E.B.M., Madison County Idaho;

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That the District Court of the Sixth Judicial District of Idaho, in and for Fremont County, in the case of Rexburg Irrigation Company, et al, against the Teton Irrigation & Manufacturing Company, et al, which case proceeded to final judgement, made and entered a decree on the 16th day of December 1910, wherein it was found that the plaintiff the Salem Irrigation Canal Company limited, a corporation, on or before the 1st, day of June, 1885 had appropriated and diverted 240 cubic feet per second or 12,000 miner's inches of the waters of Teton River, and awarded to the said plaintiff 240 cubic feet per second or 12,000 miner's inches of the waters of said stream, with date of priority June 1st, 1885. and under the terms of said decree the said plaintiff was awarded the right to take and use beneficially said amount of wter;

That the said plaintiff on or before said priority date had constructed diversion works of sufficient capacity for the diversion and conveyance of the said water, and on said date was diverting and conveying for the use of its stockholders the said quantity of water so appropriated and decreed for the irrigation of said lands and for domestic purposes;

That the plaintiff Teton Irrigation & Manufacturing Company, a corporation, is an Idaho corporation, organized for the purpose of appropriating and diverting water for the use and benefit of its stockholders, who are approximately ninety-one in number;

That the stockholders of the said corporation plaintiff are the owners of the following described lands in Idaho, to-wit: All of Section 1, E $\frac{1}{2}$  NE $\frac{1}{4}$ , and N $\frac{1}{2}$  S $\frac{1}{2}$  Section 11, all of Section 12, NW $\frac{1}{4}$  Section 13, Township 6 North, Range 40 E.B.M.; N $\frac{1}{2}$  and SW $\frac{1}{4}$  Section 6, S $\frac{1}{2}$  NW $\frac{1}{4}$ , and SE $\frac{1}{4}$  Section 7, Township 6 North, Range 41 E.B.M.; S $\frac{1}{2}$  SE $\frac{1}{4}$  Section 30, N $\frac{1}{2}$  NE $\frac{1}{4}$  and S $\frac{1}{2}$  Section 31, Nw $\frac{1}{4}$  Section 32, Township 7 North, Range 41, E.B.M.; in Fremont and Madison Counties, State of Idaho;

That the District Court of the Sixth Judicial District of Idaho, in and for Fremont County, in the case of Rexburg Irrigation Company, et al, against the Teton Irrigation & Manufacturing Company, et al, which case proceeded to final judgement, made and entered a decree on the 16th day of December 1910, wherein it was found that the plaintiff on or before June 1st, 1884 had appropriated and diverted 120 cubic feet per second or 6000 miner's inches, and that plaintiff on or before October 2nd, 1889 had appropriated and diverted 10 cubic feet per second or 500 miner's inches, of the water of Teton River, and awarded to the said

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plaintiff 120 cubic feet per second or 6000 miner's inches of the waters of said stream, and 10 cubic feet per second or 500 miner's inches of the waters of said stream, with respective dates of priority of June 1st, 1884 and October 2nd, 1889, and under the terms of said decree the said plaintiff was awarded the right to take and use beneficially said amounts of water;

That the said plaintiff on or before said priority dates had constructed diversion works of sufficient capacity for the diversion and conveyance of the said water, and on said date was diverting and conveying for the use of its stockholders the said quantities of water so appropriated and decreed for the irrigation of said lands and for domestic purposes;

That the plaintiff Island Ward Canal Company, Limited, a corporation, is an Idaho corporation, organized for the purpose of appropriating and diverting water for the use and benefit of its stockholders, who are approximately forty-five in number;

That the stockholders of the said corporation plaintiff are the owners of the following described lands in Idaho, to-wit:

S $\frac{1}{2}$  Section 4, all of Section 10, all of Section 11, W $\frac{1}{2}$  Section 12, NE $\frac{1}{4}$  and W $\frac{1}{2}$  Section 14, all of Section 15, 16, 17, N $\frac{1}{2}$  Section 21, Township 6 North, Range 39, E.B.M.; Madison County, Idaho;

That the District Court of the Sixth Judicial District of Idaho, in and for Fremont County, in the case of Rexburg Irrigation Company et al, against the Teton Irrigation & Manufacturing Company, et al, which case proceeded to final judgement, made and entered a decree on the 16th day of December 1910, wherein it was found that the plaintiff Island Ward Canal Company, Limited, on or before the 23rd, day of January 1901 had appropriated and diverted 100 cubic feet per second or 5,000 miner's inches of the waters of Teton River, and awarded to the said plaintiff 100 cubic feet per second or 5,000 miner's inches of the waters of said stream with date of priority January 23rd, 1901, and under the terms of said decree the said plaintiff was awarded the right to take and use beneficially said amounts of water;

That the said plaintiff on or before said priority date had constructed diversion works of sufficient capacity for the diversion and conveyance of the said water, and on said date was diverting and conveying for the use of the stockholders the said quantity of water so appropriated and decreed for the irrigation of said lands and for domestic purposes;

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That the plaintiff Wilford Irrigation & Manufacturing Company, a corporation, is an Idaho corporation, organized for the purpose of appropriating and diverting water for the use and benefit of its stockholders, who are approximately forty-seven in number;

That the stockholders of the corporation plaintiff are the owners of the following described lands in Idaho, to-wit;  
SE $\frac{1}{4}$  Section 22, SE $\frac{1}{4}$  Section 23, S $\frac{1}{2}$  Section 24, N $\frac{1}{2}$  Section 25, all of Section 26, E $\frac{1}{2}$ , and E $\frac{1}{2}$  NW $\frac{1}{4}$  Section 27, Township 7 North, Range 40, E.B. M.; S $\frac{1}{2}$  S $\frac{1}{2}$  Section 20, S $\frac{1}{2}$  NE $\frac{1}{4}$ , and NW $\frac{1}{4}$  Section 29, N $\frac{1}{2}$  N $\frac{1}{2}$ , N $\frac{1}{2}$  S $\frac{1}{2}$ , and SW $\frac{1}{4}$  Section 30, Township 7 North, Range 41 E.B.M.; in Fremont County, Idaho;

That the District Court of the Sixth Judicial District of Idaho, in and for Fremont County, in the case of Rexburg Irrigation Company, et al, against the Teton Irrigation & Manufacturing Company, et al, which case proceeded to final judgement, made and entered a decree on the 16th day of December 1910, wherein it was found that the plaintiff Wilford Irrigation & Manufacturing Company on or before the 1st, day of June 1884 had appropriated and diverted 67-21/25ths cubic feet per second or 3,392 miner's inches, and on or before the 1st, day of June 1898 had appropriated and diverted 132-4/25ths cubic feet per second or 6,608 miner's inches, of the waters of Teton River, and awarded to the said plaintiff 67-21/25ths cubic feet per second or 3,392 miner's inches of waters of said said stream, with date of priority June 1st, 1884, and awarded to said plaintiff 132-4/25ths cubic feet per second or 6,608 miner's inches of the waters of said stream, with date of priority April 1st, 1898, and under the terms of said decree the said plaintiff was awarded the right to take and use beneficially amounts of water;

That the said plaintiff on or before said priority dates had constructed diversion works of sufficient capacity for the diversion and conveyance of the said waters, and on said dates was diverting and conveying for the use of its stockholders the said quantities of water so appropriated and decreed for the irrigation of said lands and for domestic purposes;

That the plaintiff Teton Island Canal Company, a corporation, is an Idaho corporation, organized for the benefit of its stockholders who are approximately ninety-eight in number;

That the stockholders of the said corporation plaintiff are the owners of the following described lands in Idaho, to-wit:

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SW $\frac{1}{4}$  Section 12, all of Section 13, E $\frac{1}{2}$ , and E $\frac{1}{2}$  SW $\frac{1}{4}$  Section 14, NE $\frac{1}{4}$  and N $\frac{1}{2}$  SE $\frac{1}{4}$  Section 22, N $\frac{1}{2}$ , N $\frac{1}{2}$  SW $\frac{1}{4}$  Section 23, N $\frac{1}{2}$  Section 24, Township 6 North, Range 29, E.B.M.; SW $\frac{1}{4}$  Section 3, S $\frac{1}{2}$  Section 4, S $\frac{1}{2}$  NW $\frac{1}{4}$  and S $\frac{1}{2}$  NW $\frac{1}{4}$ , and Section 7, all of Section 8 and 9, W $\frac{1}{2}$  Section 10, NW $\frac{1}{4}$  Section 15; all of Section 16, 17, and 18, N $\frac{1}{2}$  N $\frac{1}{2}$  Section 19, NW $\frac{1}{4}$  NE $\frac{1}{4}$ , SE $\frac{1}{4}$  NW $\frac{1}{4}$ , and N $\frac{1}{2}$  NW $\frac{1}{4}$  Section 20, Township 6 North, Range 40, E.B. M.; in Madison County, Idaho;

That the District Court of the Sixth Judicial District of Idaho, in and for Fremont County, in the case of Rexburg Irrigation Company, et al, against the Teton Irrigation & Manufacturing Company, et al, which case proceeded to final judgement, made and entered a decree on the 16th day of December 1910, wherein it was found that the plaintiff Teton Island Canal Company on or before March 1st, 1883 had appropriated and diverted 10-9/25ths cubic feet per second or 518 miner's inches of the waters of Teton River, and on or before May 1st 1884 had appropriated and diverted 6-24/25ths cubic feet per second or 348 miner's inches of the waters of said river, and on or before May 22nd 1884 had appropriated and diverted 70 cubic feet per second or 3,500 miner's inches of the waters of said river, and on or before May 31st had appropriated and 4/8- 25ths cubic feet per second or 216 miner's inches of waters of said river, and on or before the 1st day of June 1888 had appropriated and diverted 3-9/25ths cubic feet per second or 168 miner's inches of the waters of said river, and on or before April 1st 1898 had appropriated and diverted 186-24/25ths cubic feet per second or 9,348 miner's inches of the waters of said river, and awarded to the plaintiff 10-9/25ths cubic feet per second, with date of priority March 1st 1883, and 6-24/25ths cubic feet per second, or 348 miner's inches, with date of priority May 1st 1884, and 70 cubic feet per second or 3,500 miner's inches, with date of Priority May 22nd, 1884, and 4-8/25ths cubic feet per second or 216 miner's inches, with date of priority May 31st, 1885, and 3-9/25ths cubic feet per second or 168 miner's inches, with date of Priority April 1st 1898, of the waters of said stream, and under the terms of said decree the said plaintiff was awarded the right to take and use beneficially said amounts of water;

That the said plaintiff on or before said priority dates had constructed diversion works of sufficient capacity for the diversion and conveyance of the said water and on said dates was diverting and conveying for the use of its stockholders the said quantities of water so appropriated and decreed for the irrigation of said lands and for domestic purposes;

That the plaintiff Woodmansee-Johnson-Rexburg Mill Ditch, Incorporated, is an Idaho corporation organized for the purpose of appropriating and diverting water for the use and benefit of its stockholders, who are approximately nineteen in number;

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That the stockholders of the said corporation plaintiff are the owners of the following decribed lands in Idaho, to-wit;

SE $\frac{1}{4}$  Section 10, SW $\frac{1}{4}$  NE $\frac{1}{4}$ , SE $\frac{1}{4}$  NW $\frac{1}{4}$ , and S $\frac{1}{2}$  Section 11, N $\frac{1}{2}$  and N $\frac{1}{2}$  S $\frac{1}{2}$  Section 14, NE $\frac{1}{4}$  and S $\frac{1}{2}$  Section 15, S $\frac{1}{2}$  SE $\frac{1}{4}$  Section 16, E $\frac{1}{2}$  NE $\frac{1}{4}$ , and W $\frac{1}{2}$  SE $\frac{1}{4}$  Section 20, N $\frac{1}{2}$  NE $\frac{1}{4}$  Section 22, Township 6 North, Range 40 E.B.M. in Madison County, Idaho;

That the District Court of the Sixth Judicial District of Idaho, in and for Fremont County, in the case of Rexburg Irrigation Company, et al, against the Teton Irrigation & Manufacturing Company, et al, which case proceeded to final judgement, made and entered a decree on the 16th day of December 1910, wherein it was found that the plaintiff Woodmansee-Johnson-Rexbug Mill Ditch, Incorporated, on or before the 1st day of June 1886 had appropriated and diverted  $\frac{1}{2}$  cubic feet per second or 25 miner's inches of the waters of Teton River, and on or before April 1st, 1889 had appropriated and diverted 12- $\frac{2}{5}$ ths cubic feet per second or miner's inches of the waters of said river, and on or before October 1st, 1889 had appropriated and diverted 69 cubic feet per second or 3450 miner's inches of <sup>the</sup> waters of said river, and on or before April 1st, 1891 had appropriated and diverted 3- $\frac{1}{5}$ th cubic feet per second or 160 miner's inches of the waters of said river, and on or before June 1st 1894 had appropriated and diverted 1/5th cubic feet per second or 10 miner's inches of the waters of said river, and on or before April 1st 1896 had appropriated and diverted 2/5ths cubic feet per second or 20 miner's inches of the waters of said river, and on or before July 15th 1896 had appropriated and diverted 1/2 cubic feet per second or 25miner's inches of the waters of said river, and on or before April 1st 1898 had appropriated and diverted 13- $\frac{3}{5}$ ths cubic feet per second or 680 miner's inches of waters of said river, and awarded to the plaintiff 1/2 cubic feet per second or 25 miner's inches, with date of priority June 1st 1886, and 12- $\frac{2}{5}$ ths cubic feet per second or 620 miner's inches, with date of priority April 1st, 1889, and 69 cubic feet per second or 3,450 miner's inches, with date of priority October 1st, 1889 and 3- $\frac{1}{5}$ th cubic feet per second or 160 miner's inches, with date of priority April 1st 1891, and 1/5th cubic feet per second or 10 miner's inches, with date of priority June 1st 1894, and 2/5ths cubic feet per second or 20 miner's inches, with date of priority April 1st 1896 and 1/2 cubic feet per second or 25 miner's inches, with date of priority July 15th 1896, and 13- $\frac{3}{5}$ ths cubic feet per second or 680 miner's inches with date of priority April 1st, 1898, of the waters of said stream, and under the terms of said decree the said plaintiff was awarded the right to take and use beneficially said amounts of water;

That the said plaintiff on or before said priority dates had constructed

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diversion works of sufficient capacity for the diversion and conveyance of the said water, and on said <sup>dates was</sup> diverting and conveying for the use of its stockholders the said quantities of water so appropriated and decreed for the irrigation of said lands and for domestic purposes;

That the plaintiff North Salm Agricultural & Milling Canal Company, a Corporation, is an Idaho corporation, organized for the purpose of appropriating and diverting water for the use and the benefit of its stockholders, who are approximately nine in number;

That the stockholders of the said corporation plaintiff are the owners of the following described lands in Idaho, to-wit:

All of Section 31, SW $\frac{1}{4}$ , and N $\frac{1}{2}$  SE $\frac{1}{4}$  Section 32, Township 7 North, Range 40 E.B.M., in Fremont and Madison Counties, Idaho;

That the District Court of the Sixth Judicial District of Idaho, in and for Fremont County, in the case of Rexburg Irrigation Company, et al, against the Teton Irrigation & Manufacturing Company, et al, which case proceeded to final judgement, made and entered a decree on the 16th day of December 1910, wherein it was found that the plaintiff North Salm Agricultural & Milling Canal Company on or before the 1st day of June 1888 had appropriated and diverted 26-1/2 cubic feet per second or 1325 miner's inches of waters of Teton River, and awarded to the said plaintiff 26-1/2 cubic feet per second or 1325 miner's inches of the waters of said stream, with date of priority June 1st 1888, and under the terms of said decree the said plaintiff was awarded the right to take and use beneficially said amount of water;

That the plaintiff on or before said priority date had constructed diversion works of sufficient capacity for the diversion and conveyance of the said water, and on said date was diverting and conveying for the use of its stockholders the said quantity of water so appropriated and decreed for the irrigation of said lands and for domestic purposes;

That the plaintiff Canyon Creek Irrigation District is an Idaho quasi-municipal corporation, organized by approximately thirty-one land owners within the boundaries of the said irrigation district for the purpose of appropriating and diverting water for the use and benefit of said land owners;

That said land owners in said irrigation district plaintiff are the owners of the following described lands in Idaho, to-wit:

N $\frac{1}{2}$  S $\frac{1}{2}$  Section 1, N $\frac{1}{2}$  SW $\frac{1}{4}$  and W $\frac{1}{2}$  SE $\frac{1}{4}$  Section 2, NE $\frac{1}{4}$ , and NW $\frac{1}{4}$  SE $\frac{1}{4}$  Section 3, lying east of Enterprise Canal, W $\frac{1}{2}$  W $\frac{1}{2}$ , NE $\frac{1}{4}$  SE $\frac{1}{4}$  Section 3, NW $\frac{1}{4}$  NW $\frac{1}{4}$ , W $\frac{1}{2}$  NE $\frac{1}{4}$  NW $\frac{1}{4}$ , NE $\frac{1}{4}$  NE $\frac{1}{4}$  NE $\frac{1}{4}$  N $\frac{1}{2}$  NW $\frac{1}{4}$  NE $\frac{1}{4}$ , Section 11, Township 6 North, Range 41 E.B.M.; W $\frac{1}{2}$  Section 25, N $\frac{1}{2}$  Section

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26, south of Enterprise Canal, E $\frac{1}{2}$  SW $\frac{1}{4}$  Section 26, south of Enterprise Canal, W $\frac{1}{2}$  SW $\frac{1}{4}$  Section 26, SE $\frac{1}{4}$  Section 34, east of Enterprise Canal, all of Sections 35 and 36, Township 7, north, Range 41, E.B.M.; W $\frac{1}{2}$ , W $\frac{1}{2}$  E $\frac{1}{2}$  NW $\frac{1}{4}$ , Section 4, N $\frac{1}{2}$  and N $\frac{1}{2}$  S $\frac{1}{2}$  Section 5, N $\frac{1}{2}$ , N $\frac{1}{2}$  SE $\frac{1}{4}$ , SW $\frac{1}{4}$  SE $\frac{1}{4}$ , E $\frac{1}{2}$  SW $\frac{1}{4}$ , Section 6, N $\frac{1}{2}$  SE $\frac{1}{4}$  NW $\frac{1}{4}$  Section 10, E $\frac{1}{2}$  SE $\frac{1}{4}$ , E $\frac{1}{4}$  E $\frac{1}{2}$ , NW $\frac{1}{4}$  SE $\frac{1}{4}$ , Section 11, W $\frac{1}{2}$  SW $\frac{1}{4}$  Section 12, W $\frac{1}{2}$  SW $\frac{1}{4}$  SE $\frac{1}{4}$  SW $\frac{1}{4}$ , SW $\frac{1}{4}$  SE $\frac{1}{4}$  Section 15, North 50 acres NE $\frac{1}{4}$  Section 25, in Township 6 North, Range 42, E.B.M. S $\frac{1}{2}$  of SW $\frac{1}{4}$  Section 21, all Sections 31 and 32, W $\frac{1}{2}$  W $\frac{1}{2}$  SW $\frac{1}{4}$  Section 33, Township 7 North, Range 42, E.B.M.; in Fremont and Madison counties, Idaho;

That the District Court of the Sixth Judicial District of Idaho, in and for Fremont County, in the case of Rexburg Irrigation Company, et al, against the Teton Irrigation & Manufacturing Company, et al, which case proceeded to final judgment, made and entered a decree on the 16th day of December 1910, wherein it was found that the plaintiff Canyon Creek Irrigation District on or before the 1st, day of June 1900 had appropriated and diverted 16 cubic feet per second or 800 miner's inches of the waters of Canyon Creek, a tributary of Teton River, and on or before the 1st day of June 1902 had appropriated and diverted 54 cubic feet per second or 2,700 miner's inches of the waters of said creek, and awarded to the plaintiff 16 cubic feet per second or 800 miner's inches of the waters of said creek, with date of priority June 1st, 1900, and 54 cubic feet per second or 2,700 miner's inches of the waters of said creek, with date of priority June 1st, 1902, and under the terms of said decree the said plaintiff was awarded the right to take and use beneficially said amounts of water;

That the said plaintiff on or before said priority dates had constructed diversion works of sufficient capacity for the diversion and conveyance of the said water, and on said dates was diverting and conveying for the use of its stockholder the said quantities of water so appropriated and decreed for the irrigation of said lands and for domestic purposes;

That the plaintiffs Charles Saurey, Nicholas Sommers and Katherine Baker are the owners of the following described lands in Idaho, to-wit: NW $\frac{1}{4}$  NW $\frac{1}{4}$  Section 2, NW $\frac{1}{4}$  Section 3, Township 6 North, Range 39 E. B.M.; E $\frac{1}{2}$  and SE $\frac{1}{4}$  NW $\frac{1}{4}$  Section 34, W $\frac{1}{2}$  NE $\frac{1}{4}$ , E $\frac{1}{2}$  NW $\frac{1}{4}$ , and S $\frac{1}{2}$  Section 35, NW $\frac{1}{4}$  SW $\frac{1}{4}$  Section 36, Township 7 North, Range 39, E. B. M. in Madison County;

That the District Court of the Sixth Judicial District of Idaho in and for Fremont county, in the case of Rexburg Irrigation Company, et al, against the Teton Irrigation & Manufacturing Company, et al, which case proceeded to final judgement, made and entered a decree on the 16th day of December 1910, wherein it was found that the plaintiff Charles Saurey on or before October 17th 1835

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had appropriated and diverted 12-8/25ths cubic feet per second or 616 miner's inches of the waters of Teton River, and awarded to the said plaintiff Charles Saurey, 12-9/25ths cubic feet per second or 616 miner's inches of the waters of said stream, with date of priority October 17th 1885, and that the plaintiff Nicholas Sommers on or before October 17th 1885 had appropriated and diverted 11-12/25ths cubic feet per second or 574 miner's inches of the waters of Teton River, and awarded to the said plaintiff 11-12/25ths cubic feet per second or 574 miner's inches of the waters of said stream, with date of priority October 17th, 1885, and that the plaintiff Katherine Baker on or before the 17th day of October 1885 had appropriated and diverted 3-1/5ths cubic feet per second or 160 miner's inches of the waters of Teton River, and awarded to the said plaintiff 3-1/5ths cubic feet per second or 160 miner's inches of the waters of said stream, with date of priority October 17th 1885, and under the terms of said decree the plaintiffs were awarded the right to take and use beneficially said amount of water;

That the said plaintiffs on or before said priority dates had constructed diversion works of sufficient capacity for the diversion and conveyance of the said water, and on said dates were diverting and conveying for their use the said quantities of water so appropriated and decreed for the irrigation of said lands and for domestic purposes;

That the plaintiffs Whitney Pincock, Lawrence Garner, Lyman Garner, A.N. Murdock, Fern Pincock and LaGrande Smith are the owners of the following described lands in Idaho, to-wit:

Section 34 and 35, Township 7 North, Range 40, E.B.M.; in Madison County;

That the District Court of the Sixth Judicial District of Idaho in and for Fremont county, in the case of Rexburg Irrigation Company et al, against the Teton Irrigation & Manufacturing Company, et al which case proceeded to final judgment, made and entered a decree on the 16th day of December 1910, wherein it was found that the plaintiffs as a copartnership operating under the name and style of Wolf Ditch on or before the 1st, day of June 1884 had appropriated and diverted 25.3 cubic feet per second or 1265 miner's inches of the waters of Teton River and on or before April 1st, 1898 had appropriated and diverted 47.7 cubic feet per second or 2385 miner's inches of the waters of Teton River, and awarded to the said plaintiffs 25.3 cubic feet per second or 1265 miner's inches of the waters of said stream, with date of priority June 1st, 1884, and 47.7 cubic feet per second or 2385 miner's inches of the waters of said stream, with date of priority April 1st,

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1898, and under the terms of said decree the said plaintiffs were awarded the right to take and use beneficially said amounts of water under the name of Wolf Ditch;

That the said plaintiffs on or before said priority date had constructed diversion works of sufficient capacity for the diversion and conveyance of the said water, and on said dates were diverting and conveying for their use under the name of the Wolf Ditch the said quantities of water so appropriated and decreed for the irrigation of said lands and for domestic purposes;

That the plaintiff Leanore Row is the owner of the following described lands in Idaho, to-wit:

$W\frac{1}{2}$   $SE\frac{1}{4}$ , and  $E\frac{1}{2}$   $SW\frac{1}{4}$  Section 2, Township 6 North, Range 40, E.B.M.; in Madison County, Idaho;

That the District Court of the Sixth Judicial District of Idaho, in and for Fremont County, in the case of Rexburg Irrigation Company, et al, against the Teton Irrigation & Manufacturing Company, et al, which case proceeded to final judgement, made and entered a decree on the 16th day of December 1910, wherein it was found that the plaintiff Leanora Row on or before the 1st day of June 1879 had appropriated and diverted 4.4 cubic feet per second or 220 miner's inches of the waters of Teton River, and on or before April 1st 1898 had appropriated and diverted 8.6 cubic feet per second or 430 miner's inches of the waters of Teton River, and awarded to the said plaintiff 4.4 cubic feet per second or 220 miner's inches of the waters of said stream, with date of priority June 1st, 1879, and 8.6 cubic feet per second or 430 miner's inches of the waters of said stream with date of priority April 1st, 1898, and under the terms of said decree said plaintiff was awarded the right to take and use beneficially said amounts of water.

That the plaintiff on or before said priority date had constructed diversion works of sufficient capacity for the diversion and conveyance the said water, and on said dates was diverting and conveying for her use the said quantities of water so appropriated and decreed for the irrigation of said lands and for domestic purposes;

That in a certain action, generally known as the Woodville Water Suit, wherein the Woodville Canal Company was plaintiff and Clark & Edwards Canal and Irrigation Company, et al, were defendants in the District Court of the United States for the District of Idaho, Eastern Division, the Court adopted, affirmed and made a part of its decree entered in said above action on June 25, 1929 the decree of said Sixth Judicial District of Idaho heretofore referred to;

That the defendant Leland Sorenson is the owner of the following described lands in Teton County, Wyoming, to-wit:

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39.54 acres, Lot 1, Section 6, Township 43 North, Range 118, West;

That the Board of Control of the State of Wyoming issued a certificate of appropriation granting and awarding to the defendant the right to take and make beneficial use of .57 cubic feet per second of the waters of Teton Creek in Teton County, Wyoming, for the irrigation of the above described lands, for domestic use, and watering of livestock, with date of priority October 2nd, 1906; that on or before the said date of priority fixed by said Board of Control the defendant had constructed diversion works, and on and before said date was diverting and conveying the said quantity of water so appropriated and adjudicated for the irrigation of said lands and for the watering of livestock and for domestic purposes;

That the defendant Leland Sorensen is also the owner of the following described lands in Teton County, Wyoming, to-wit:

15 acres in NE $\frac{1}{4}$  NW $\frac{1}{4}$ , 35 acres in NW $\frac{1}{4}$  NW $\frac{1}{4}$ , SW $\frac{1}{4}$  NW $\frac{1}{4}$  Section 5, SE $\frac{1}{4}$  NE $\frac{1}{4}$  Section 6, Township 44 North, Range 118, West;

That the Board of Control of the State of Wyoming issued a certificate of appropriation granting and awarding to the defendant the right to take and make beneficial use of 1.85 cubic feet per second of the waters of Teton Creek in Teton County, Wyoming, for the irrigation of the above described land, for domestic purposes, for the watering of livestock, with date of priority June 1st, 1907; That on or before the said date of priority fixed by said Board of Control the defendant had constructed diversion works, and on and before said date was diverting and conveying the said quantity of water so appropriated and adjudicated for the irrigation of said lands and for the watering of livestock and for domestic purposes;

That the defendant D.L. Waddell is the owner of the following described lands in Teton County, Wyoming, to-wit:

SW $\frac{1}{4}$  SW $\frac{1}{4}$ , Section 22, Township 44 North, Range 118 West;

That the Board of Control of the State of Wyoming issued a certificate of appropriation granting and awarding to the defendant the right to take and make beneficial use of .60 cubic feet per second of the waters of Teton Creek in Teton County, Wyoming, for the irrigation of the above described lands for domestic use and watering of live stock, with date of priority October 2nd, 1906; that on or before the said date of priority fixed by said Board of Control the defendant had constructed diversion works, and on and before said date was diverting and conveying the said quantity of water so appropriated and adjudicated for the irrigation of said lands and for the watering of livestock and for domestic purposes;

That the defendant D. L. Waddell is also the owner of the following described

lands in Teton County, Wyoming, to wit:

SE $\frac{1}{4}$  SW $\frac{1}{4}$ , SW $\frac{1}{4}$  SE $\frac{1}{4}$ , 32 acres in SE $\frac{1}{4}$  SE $\frac{1}{4}$ , Section 32, Township 44 North, Range 118 West;

That the Board of Control of the State of Wyoming issued a certificate of appropriation granting and awarding to the defendant the right to take and make beneficial use of 1.6 cubic feet per second of the waters of Teton Creek in Teton County, Wyoming, for the Irrigation of the above described lands, for domestic use and watering livestock, with date of priority December 9th, 1931, that on or before the said date of priority fixed by said Board of Control the defendant had constructed diversion works, and on and before said date was diverting and conveying the said quantity of water so appropriated and adjudicated for the irrigation of said lands and for the watering of livestock and for domestic purposes;

That the defendant Charles Christensen is the owner of the following described lands in Teton County, Wyoming, to-wit:

35 acres in the SE $\frac{1}{4}$  NW $\frac{1}{4}$ , NE $\frac{1}{4}$  SW $\frac{1}{4}$ , SE $\frac{1}{4}$  SW $\frac{1}{4}$ , Section 29, Township 44 North, Range 118 West;

That the Board of Control of the State of Wyoming issued a certificate of appropriation granting and awarding to the defendant the right to take and make beneficial use of 1.64 cubic feet per second of the waters of Teton Creek in Teton County, Wyoming, for the irrigation of the above described lands, for domestic use, and watering of livestock, with date of priority October 2nd, 1906; that on or before the said date of priority by said Board of Control the defendant had constructed diversion works, and on and before said date was diverting and conveying the said quantity of water so appropriated and adjudicated for the irrigation of said lands and for the watering of livestock and for domestic purposes;

That the defendant Charles Christensen is also the owner of the following described lands in Teton County, Wyoming, to-wit:

12.1 acres in SE $\frac{1}{4}$  NE $\frac{1}{4}$ , 20 acres in NE $\frac{1}{4}$  SE $\frac{1}{4}$ , 30 acres in NW $\frac{1}{4}$  SE $\frac{1}{4}$ , Section 21, 11.9 acres in SW $\frac{1}{4}$  NW $\frac{1}{4}$ , 6 acres in NE $\frac{1}{4}$  NW $\frac{1}{4}$ , 5.5 acres in NE $\frac{1}{4}$  SW $\frac{1}{4}$ , 20 acres in NW $\frac{1}{4}$  SW $\frac{1}{4}$ , Section 22, Township 44 North, Range 118 West;

That the Board of Control of the State of Wyoming issued a certificate of appropriation granting and awarding to the defendant the right to take and make beneficial use of 1.5 cubic feet per second of the waters of Teton Creek in Teton County, Wyoming, for the irrigation of the above described lands, for domestic use, and watering of livestock, with date of priority March 12th, 1918; that on or before the said date of priority fixed by said Board of Control the defendant had constructed diversion works, and on and before said date was diverting and conveying the said quantity of water so appropriated and adjudicated for the irrigation

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of said lands and for the watering of livestock and for domestic purposes;

That the defendant E. E. Rigby is the owner of the following described lands in Teton County, Wyoming, to-wit:

15 acres SW $\frac{1}{4}$  NW $\frac{1}{4}$ , SE $\frac{1}{4}$  NW $\frac{1}{4}$ , 15 acres SW $\frac{1}{4}$  NE $\frac{1}{4}$ , 10 acres NW $\frac{1}{4}$  SW $\frac{1}{4}$ , 5 acres SE $\frac{1}{4}$  SW $\frac{1}{4}$ , 20 acres SW $\frac{1}{4}$  SE $\frac{1}{4}$ , Section 20, Township 44 North, Range 118 West;

That the Board of Control of the State of Wyoming issued a certificate of appropriation granting and awarding to the defendant the right to take and make beneficial use of 1.5 cubic feet per second of the waters of Teton Creek in Teton County, Wyoming, for the irrigation of the above described lands for domestic use, and watering of livestock, with date priority April 11th 1896; that on or before the said date of priority fixed by said Board of Control the defendant had constructed diversion works, and on and before said date was diverting and conveying the said quantity of water so appropriated and adjudicated for the irrigation of said lands and for the watering of livestock and for domestic purposes;

That the defendant E. E. Rigby is the owner of the following described lands in Teton County, Wyoming, to-wit:

25 acres in SW $\frac{1}{4}$  NE $\frac{1}{4}$ , 12.5 acres NW $\frac{1}{4}$  SE $\frac{1}{4}$ , 20 acres SW $\frac{1}{4}$  SE $\frac{1}{4}$ , Section 20, Township 44 North, Range 118 West;

That the Board of Control of the State of Wyoming issued a certificate of appropriation granting and awarding to the defendant the right to take and make beneficial use of .82 cubic feet per second of the waters of Teton Creek, in Teton County, Wyoming, for the irrigation of the above described lands, for domestic use, and watering of livestock, with date of priority August 5th, 1905, that on or before the said date priority fixed by said Board of Control the defendant had constructed diversion works, and on and before said date was diverting and conveying the said quantity of water so appropriated and adjudicated for the irrigation of said lands and for the watering of livestock and for domestic purposes;

That the defendant Carl Carlson is owner of the following described lands in Teton County, Wyoming, to-wit:

Lot 2 and 3, Section 18, NW $\frac{1}{4}$  SW $\frac{1}{4}$ , 22.5 acres SW $\frac{1}{4}$  NW $\frac{1}{4}$ , Section 17, Township 44 North, Range 118 West;

That the Board of Control of the State of Wyoming issued a certificate of appropriation granting and awarding to the defendant the right to take and make beneficial use of 1.78 cubic feet per second of the waters of Teton Creek in Teton County, Wyoming, for the irrigation of the above described lands, for domestic use,

and watering of livestock, with date of priority August 5th, 19-5; that on or before the said date of priority fixed by said Board of Control the defendant had constructed diversion works, and on and before said date was diverting and conveying the said quantity of water so appropriated and adjudicated for the irrigation of said lands and for the watering of livestock and for domestic purposes;

That the defendant Fred Morgan is the Owner of the following described lands in Teton County, Wyoming, to-wit:

SW $\frac{1}{4}$  NW $\frac{1}{4}$ , NW $\frac{1}{4}$  SW $\frac{1}{4}$ , Section 21, Township 44 North, Range 118 West;

That the Board of Control of the State of Wyoming issued a certificate of appropriation granting and awarding to the defendant the right to take and make beneficial use of 1.14 cubic feet per second of the waters of Teton Creek in Teton county, Wyoming, for the irrigation of the above described lands, for domestic use, and watering of livestock, with date of priority August 5th 1905; that on or before the said date priority fixed by said Board of Control the defendant had constructed diversion works, and on and before said date was diverting and conveying the said quantity of water so appropriated and adjudicated for the irrigation of said lands and for the watering of livestock and for domestic purposes;

That the defendant Fred Morgan is also the owner of the following described lands in Teton County, Wyoming, to-wit:

14 acres SW $\frac{1}{4}$  SW $\frac{1}{4}$ , Section 21, Township 44 North, Range 118 West;

That the Board of Control of the State of Wyoming issued a certificate of appropriation granting and awarding to the defendant the right to take and make beneficial use of .20 cubic feet per second of the waters of Teton Creek in Teton county, Wyoming, for the irrigation of the above described lands, for watering of livestock and for domestic purposes, with date of priority August 4th 1915; that on or before the said date of priority fixed by said Board of Control the defendant had constructed diversion works, and on and before said date was diverting and conveying the said quantity of water so appropriated and adjudicated for the irrigation of said lands and for the watering livestock and for domestic purposes;

That the defendant Rudolph Kaufman is the owner of the following described lands in Teton County, Wyoming, to-wit.

E $\frac{1}{2}$ SE $\frac{1}{4}$ , Section 8, SW $\frac{1}{4}$ NW $\frac{1}{4}$ , NW $\frac{1}{4}$  SW $\frac{1}{4}$ , 28 acres in SE $\frac{1}{4}$  NW $\frac{1}{4}$ , 20 acres in NW $\frac{1}{4}$  SW $\frac{1}{4}$ , 25 acres in SW $\frac{1}{4}$  SW $\frac{1}{4}$ , Section 9, Township 44 North, Range 118 West;

That the Board of Control of the State of Wyoming issued a certificate of appropriation granting and awarding to the defendant the right to take and make

beneficial use of 3,33 cubic feet per second of the waters of Dry Creek in Teton County, Wyoming, for the irrigation of the above described lands, for domestic use, and watering of live stock, with date of priority December 5th, 1891; that on or before the said date of priority fixed by said Board of Control the defendant had constructed diversion works, and on and before said date was diverting and conveying the said quantity of water so appropriated and adjudicated for the irrigation of said lands and for the watering of livestock and for domestic purposes;

That the defendant Rudolph Kaufman is also the owner of the following described lands in Teton county, Wyoming, to-wit:

NE $\frac{1}{4}$  SW $\frac{1}{4}$ , NW $\frac{1}{4}$  SE $\frac{1}{4}$ , 7.6 acres in NW $\frac{1}{4}$  NW $\frac{1}{4}$ , Section 17, Lot 1, Section 18, Township 44 North, Range 118 West;

That the Board of Control of the State of Wyoming issued a certificate of appropriation granting and awarding to the defendant the right to take and make beneficial use of 1.68 cubic feet per second of the waters of Teton Creek in Teton county, Wyoming, for the irrigation of the above described lands, for domestic use, and watering of livestock, with date of priority August 5th 1905; that on or before the said date of priority fixed by said Board of Control the defendant had constructed diversion works, and on and before said date was diverting and conveying the said quantity of water so appropriated and adjudicated for the irrigation of said lands and for the watering of livestock and for domestic purposes;

That the defendant Josiah Brown is the owner of the following described lands in Teton County, Wyoming, to-wit:

SE $\frac{1}{4}$ SW $\frac{1}{4}$ , SW $\frac{1}{4}$ SE $\frac{1}{4}$ , Section 8, W $\frac{1}{2}$  NW $\frac{1}{4}$ , section 17, Township 44 North, Range 118 West;

That the Board of Control of the State of Wyoming issued a certificate of appropriation granting and awarding to the defendant the right to take and make beneficial use of 2,28 cubic feet per second of the waters of Teton Creek in Teton county, Wyoming, for the irrigation of the above described lands, for domestic use and watering of livestock, with date of priority April 20th 1912; that on or before the said date of priority fixed by said Board of Control the defendant had constructed diversion works, and on and before said date was diverting and conveying the said quantity of water so appropriated and adjudicated for the irrigation of said lands and for the watering of livestock and for domestic purposes;

That the defendant Frederrick Deurtch is owner of the following described lands in Teton County, Wyoming, to-wit;

Lot 2, Section 19, 25 acres in SW $\frac{1}{4}$  NW $\frac{1}{4}$  Section 20, Township 44 North, Range 118 West;

That the Board of Control of the State of Wyoming issued a certificate of appropriation granting and awarding to the defendant the right to take and make beneficial use of .93 cubic feet per second of the waters of Teton Creek, in Teton county, Wyoming, for the irrigation of the above described lands, for domestic use, and watering of livestock, with date of priority April 11th, 1896; that on or before the said date of priority fixed by said Board of Control the defendant had constructed diversion works, and on and before said date was diverting conveying the said quantity of water so appropriated and adjudicated for the irrigation of said lands and for the watering of livestock and for domestic purposes;

That the defendant L. Y. Mathews is the owner of the following described lands in Teton county, Wyoming, to-wit:

6 acres in NW $\frac{1}{4}$  NW $\frac{1}{4}$ , 39 acres SW $\frac{1}{4}$  NW $\frac{1}{4}$ , 25 acres SE $\frac{1}{4}$  NW $\frac{1}{4}$ , 21 acres in NE $\frac{1}{4}$  SW $\frac{1}{4}$ , W $\frac{1}{2}$ SW $\frac{1}{4}$ , 18 acres in SE $\frac{1}{4}$  SW $\frac{1}{4}$ , Section 5, 21 acres in Lot 2, Lots 3 and 4, Section 6, NE $\frac{1}{4}$  NW $\frac{1}{4}$ , Section 8, Township 54 North, Range 118 West;

That the Board of Control of the State of Wyoming issued a certificate of appropriation granting and awarding to the defendant the right to take and make beneficial use of 4.71 cubic feet per second of waters of South Leigh Creek in Teton county, Wyoming, for the irrigation of the above described lands, for domestic use, and watering of livestock, with date of priority September 16th 1914; that on or before the said date of priority fixed by said Board of Control the defendant had constructed diversion works and on and before said date was diverting and conveying the said quantity of water so appropriated and adjudicated for the irrigation of said lands and for the watering of livestock and for domestic purposes;

That the points of diversion of water, as set out in the pleadings of the several parties of this suit are substantially correct, and the canals and ditches of the respective parties are of sufficient size and carrying capacity to convey to the places of use the quantity of water or stream flow decreed or awarded to each of the parties hereto.

That the laws of the State of Wyoming limit the quantity of water or natural stream flow that may be appropriated and diverted by a land owner or appropriator to one cubic foot per second of time to each seventy acres of land irrigated; that there is no statutory restriction as to the amount of water that may be diverted within the State of Idaho, for irrigation other than beneficial use, that waste or excessive use of water is prohibited by statute of Idaho.

That the Commissioner of Reclamation of the State of Idaho is charged, under the laws of the State of Idaho, with distributing, through and by watermasters

elected in the several districts, with the distribution of the public waters of the State of Idaho, according to the dates of priority fixed by decrees of Court.

That the Engineer of the State of Wyoming, the four Water Diversion Superintendents of the Four Water Diversions, within the State of Wyoming, and the several water commissioners and such additional deputy water commissioners as may be from time to time appointed for such purposes have the exclusive duty of diverting, regulating and controlling the take use of appropriated waters from the natural streams and tributaries thereof within the State of Wyoming to satisfy all demands for beneficial use of water within the State of Wyoming, and said officials are required to divide, regulate and control the taking of appropriated water in accordance with the decreed priorities of appropriations made from the natural streams within the State of Wyoming.

Otto McCutcheon

F.A. Miller  
Attorney for plaintiffs

James A. Greenwood  
Attorney for defendants

RECORDED

MAY 15 1996

### STIPULATION

IT IS HEREBY STIPULATED and agreed by and between the above named plaintiffs and defendants in the above entitled suit that the following shall be the basis of a decree to be entered in the above entitled cause, and the Court is hereby authorized to enter a decree fixing the rights of the several parties, plaintiff and defendant, in accordance with the terms of this stipulation.

That for the purpose of effecting a compromise and agreement, and to terminate the pending litigation, and to definitely establish the rights of the parties litigant, it is hereby agreed that the appropriators and water users in the State of Wyoming, who divert and use the waters of Teton Creek shall be permitted to use as much water from said stream as they can apply to a beneficial use until the total stream flow of the said Teton Creek and its tributaries in the State of Wyoming shall recede to one hundred seventy (170) cubic feet per second of time; that in the determination of said stream flow all diversions in Wyoming, including the Grand Teton Canal, shall be and constitute a part of the said stream flow in determining the total of the said stream flow; that when the said stream flow of the said Teton Creek, and its tributaries in Wyoming; shall recede to said one hundred seventy (170) cubic feet per second of time, the Wyoming users, who divert water above the diversion of the Grand Teton Canal, shall thereafter be limited and permitted to divert one cubic foot per second of time for each fifty (50) acres of land (being one miner's inch per acre) for Wyoming lands of the said users in the State of Wyoming, and to continue to be so regulated until the flow of the said Teton Creek and its tributaries in Wyoming, including all the Wyoming diversions to ninety (90) cubic feet per second of time, after which time the stream flow of the said Teton Creek, and its tributaries, is to be divided between the Wyoming and Idaho areas for the benefit of their appropriators, on a fifty-fifty basis, that is, - that Wyoming shall be entitled to divert one-half of said stream flow and one-half of said stream flow shall be permitted to flow down said stream for Idaho. It being understood and agreed that ditches diverting in Wyoming and having legal appropriations of water in Wyoming and/or Idaho, to be supplied from the one-half of said stream flow awarded to Wyoming, excepting therefrom the Grand Teton Canal which, for the sake of this agreement, although having its diversion works in the State of Wyoming, is to be considered as an Idaho appropriation and if entitled under the laws of the State of Idaho to any of the stream flow of Teton Creek, shall be supplied from any portion or percentage herein agreed as to the portion or percentage to which Idaho shall be entitled for the benefit of its appropriators.

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It is agreed by the Wyoming users that what is known as the Southside Canal which canal supplies water to both states, Wyoming and Idaho, appropriators along

the boundary line of the states, and which has been granted Wyoming permit No.7420 for the diversion of water from Teton Creek, in Wyoming, is to be considered as a Wyoming diversion and the users in both Wyoming and Idaho supplied with water from it are to be furnished and supplied from the part or portion of the stream flow of said Teton Creek awarded Wyoming.

It is agreed that the waters of South Leigh Creek shall be distributed as follows:- the Wyoming appropriators may divert as much of the stream flow of South Leigh Creek as they can apply to beneficial use upon their lands until the natural flow of said stream, at the Idaho-Wyoming boundry line including all diversions from said stream above said boundary line, diminishes to a total of sixteen (16) cubic feet per second of time, at which time the Wyoming users shall be permitted and may d÷vert one-half of the stream flow of said South Leigh Creek, the balance to flow down said stream for Idaho users,

The determination of the amount of the stream flow of the said streams, and the diversion of waters thereof, as between the states, as herein agreed, shall be under the supervision and direction of the Commissioner of Reclamation of the State of Idaho, and the State Engineer of the State of Wyoming.

The distribution of water among the users of wyoming of the part or portion of the waters of said streams which they shall be entitled to shall be under the direction and supervision of the State Engineer of Wyoming, or other proper Wyoming officer; the distribution among and to Idaho users of the part or portion herein to which they may be entitled of said stream flow shall be under the direction and super- vision of the Commissioner of Reclamation of Idaho, or other proper Idaho officer.

It is hereby agreed that all diversions within the State of Wyoming shall install diversion works and measuring devices, approved by the State Engineer of Wyoming, on all ditches and canals to make possible accurate measurements and proper administration and distribution of the waters of said creeks,

Dated this \_\_\_\_\_ day of \_\_\_\_\_, 1940.

PLAINTIFFS IN EQUITY NO. 2447

ROXANA CANAL COMPANY  
By O. E. Peterson, Pres.

SIDDOWAY IRRIGATING & MANUFACTURING COMPANY  
By S. H. Welch, Pres.

SALM IRRIGATING CANAL CO., LTD.  
By Joseph Bohi, Pres.

TETON IRRIGATING & MANUFACTURING COMPANY  
By J. C. Siddoway, Pres.

ISLAND WARD CANAL COMPANY, LTD.  
By J. F. Sellers, Pres.

WILFBRD IRRIGATION & MANUFACTURING COMPANY  
By C. C. Bauer, Pres.

TETON ISLAND CANAL COMPANY  
By Ephraim Ricks, Pres.

WOODMANSEE\*JOHNSON REXBURG MILL DITCH  
By Martin L. Nave, Pres.

MAY 15 1996

NORTH SALM AGRICULTURAL & MILLING  
CANAL COMPANY

By Milon Luke  
Leroy Saurey,  
CHARLES SAUEY Trustee  
Katherine Baker No signature  
FRANK GARNER Lyman Garner  
FERN PINCOCK Fern Pincock  
LaGRANDE SMITH LeGrande Smith

CANYON CREEK IRRIGATION DISTRICT

By Lee Martineau, Pres.  
Nicholas Sommers Nick Sommer  
WHITNEY PINCOCK Whitney Pincock  
A. N. MURDOCK No signature  
FRED PINCOCK Fred Pincock  
LEANORE ROW No signature

DEFENDANTS IN EQUITY NO. 2447

CHARLES DANIELS No signature  
D. L. WADDELL D. L. Waddell  
E. F. RIGBY E. E. Rigby  
WILLARD MORGAN No signature  
MILTON DALLEY No signature  
MILTON SHEETS No signature  
KENT SHIPP No signature  
RUSSELL CHRISTENSEN No signature  
TED BROWN No signature  
CHARLES WADDELL No signature  
FREDERICK DEURTCH Frederich Deurtch  
JOSEPH PEACOCK Jr. No signature  
Milton L. Sheets  
W. E. RIGBY Purchaser  
ELEANORA WADDELL No signature

LeLAND SORENSEN LeLand Sorensen  
CHARLES CHRISTENSEN Charles Christensen  
T. ROSS WILSON T. Ross Wilson  
CARL CARLSON Carl A. Carlson  
Irvin Christensen  
FRED MORGAN PURCHASER  
RUDOLPH KAUFMAN Rudolph Kaufman  
ELMER CHRISTENSEN No signature  
WILLARD BROWN No signature  
JOSIAH BROWN NO Signature  
MALCOLM WADDELL No signature  
L. Y. MATTHEWS L.Y. Matthews  
Sidney E. Mulcock  
J. E. RIGBY OWNER  
LAVINIA CORN No signature  
J. L. TENNANT No signature

Approved as tob form:

Attorneys for Plaintiffs:

O. E. McCUTCHEON, IDAHO FALLS, IDAHO

F. A. MILLER, ST. ANTHONY, IDAHO

Attorney for Defendants:

JAMES A. GREENWOOD, CHEYENNE, WYOMING.

RECORDED

MAY 15 1996

It being represented and made to appear to the Court that the following named plaintiffs, to-wit:

Katherine Baker, A. N. Murdock, and Leanora Row; are now deceased and no one has been authorized to represent them and that the defendant, Josiah Brown, has disposed of his land and water right to Willis Brown; that Fred Morgan, one of the defendants, has disposed of all of his interests to one Irvin Christensen, who has signed the last mentioned stipulation as the purchaser of the rights of the said Fred Morgan; that W.E. Rigby and J.E. Rigby, who were named as defendants, but not served, have disposed of all of their interests to Milton L. Sheets and Sidney E. Mulcock, respectively, who have signed the last stipulation as the purchasers and owners of the rights of the said W. E. Rigby and J. E. Rigby.

Now, therefore, the said first stipulation filed \_\_\_\_\_ IS HEREBY ADOPTED AS PROOF OF THE RIGHTS of said parties plaintiff and defendant, and the second stipulation filed July \_\_\_\_, 1940, is approved, confirmed and adopted as a part of this decree; and the Court being fully informed and advised in the premises;-

It is ordered, adjudged, and decreed, that:-

The waters of Teton Creek, a tributary of Teton River, Idaho, an interstate stream, shall be distributed to the appropriators and water users in the State of Wyoming and they shall be permitted to use all the waters from said Teton Creek as they can apply to beneficial use, until the total stream flow of said Teton Creek and its tributaries in the State of Wyoming shall recede to one hundred seventy (170) cubic feet per second of time; that in the determination of said stream flow all diversions, in Wyoming, including the Grand Teton Canal, shall be and constitute a part of the said stream flow in determining the total of the said flow; that when the said stream flow of the said Teton Creek, and its tributaries in Wyoming shall recede to one hundred seventy (170) cubic feet per second of time, the Wyoming users, who divert water above the diversion of the Grand Teton Canal, shall therefore be limited and permitted to divert one cubic foot per second of time for each fifty (50) acres of land (being one miner's inch per acre) for Wyoming lands of the users in the State of Wyoming, and to continue to be so regulated until the flow of the said Teton Creek, and its tributaries in Wyoming, including all the Wyoming diversions, diminishes to ninety (90) cubic feet per second of time, which time the stream flow of said Teton Creek, and its tributaries, is to be diverted between the Wyoming and

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Idaho areas for the benefit of their appropriators, on a fifty-fifty basis, that is,- that Wyoming shall be entitled to divert one-half of said stream flow and one-half of said stream flow shall be permitted to flow down said stream for Idaho. It being understood and agreed that all ditches diverting in Wyoming and now legal appropriations of water in Wyoming and/Or Idaho, to be supplied from the one-half of said stream flow awarded to Wyoming, excepting therefrom the Grand Teton Canal, which for the sake of this decree, although having its diversion works in the State of Wyoming, is to be considered as an Idaho appropriation, and if entitled under the laws of the State of Idaho to any of the stream flow of Teton Creek, shall be supplied from any portion or percentage herein agreed as the portion or percentage to which Idaho shall be entitled for the benefit of its appropriators.

It is further decreed that what is known as the Southside Canal, which canal supplies water to both Wyoming and Idaho appropriators along the boundary line of the States, and which has been granted Wyoming permit No.7420 for the diversion of water from Teton Creek, in Wyoming, is to be considered as a Wyoming diversion and the users in both Wyoming and Idaho supplied with water from it are to be furnished and supplied from the part or portion of the stream flow of said Teton Creek awarded Wyoming.

It is ordered, adjudged, and decreed that the waters of South Leigh Creek shall be distributed as follows;- the Wyoming appropriators may divert as much of the stream flow of South Leigh Creek as they can apply to a beneficial use upon their lands until the natural flow of said stream, at the Idaho-Wyoming boundary line, including all diversions from said stream above said boundary line, diminishes to a total of sixteen (16) cubic feet per second of time, at which time the Wyoming users shall be permitted and may divert one-half of the stream flow of said South Leigh Creek, the balance of flow down said stream for Idaho users.

The determination of the amount of the stream flow of said streams, and the diversion of the waters thereof, as between the states, as herein decreed, shall be under the supervision and direction of the Commissioner of Reclamation of the State of Idaho, and the State Engineer of the State of Wyoming,

The distribution of water among the users of Wyoming of the part or portion of the waters of said streams which they shall be entitled to shall be under the direction and supervision of the State Engineer of Wyoming, or other proper Wyoming officer; the distribution among and to Idaho users of the part or portion herein to which they may be entitled of said stream flow shall be under the direction and

MAY 15 1996

supervision of the Commissioner of Reclamation of Idaho, or other proper Idaho officer.

It is decreed that all diversions within the State of Wyoming shall install diversion works and measuring devices, approved by the State Engineer of Wyoming, on all ditches and canals to make possible accurate measurements and proper administration and distribution of the waters of said creeks.

That in carrying out this decree and the distribution of the waters of said streams, the part or portion of said stream flow to which the water users and appropriators in the State of Wyoming shall be distributed in accordance with the rights of priority, as fixed and determined by the Board of Control, or Court of the State of Wyoming.

That the distribution of the water of said creeks to which the appropriators and water users of the State of Idaho shall be entitled under this decree shall be distributed to the Idaho users by the proper officer of the State of Idaho according to the rights and priorities as fixed by the Court of the State of Idaho.

That the rights fixed and decreed to the parties who have joined in the foregoing stipulations, or their predecessors in interests, either by the Board of Control of the State of Wyoming or the Court of Wyoming, and by the Courts of the State of Idaho are hereby recognized and decreed as binding upon all of the parties who have signed the foregoing stipulation as the same effects the quantity of stream flow and dates of priorities of said creeks as awarded to the Wyoming appropriators and users and the Idaho appropriators and users.

The Court retains jurisdiction of this cause for a period of one year for the purpose of making any correction to the decree or the determining of the rights of any parties who may have an interest in the waters of said streams who are not now parties to this action and desire to become parties hereto.

Each party shall pay his own costs.

Done in open court this 6 day of Feb. 1941.

(Signed) Blake Kennedy  
Judge

MAY 15 1941

THE FOLLOWING MEMORANDUM IS TO CLARIFY CERTAIN POINTS IN THE AGREEMENT  
BETWEEN THE IDAHO AND WYOMING APPROPRIATORS DEVERTING WATER FROM TETON CREEK  
AND TRIBUTARIES.

1. That at all times when the flow of water in Teton Creek in Wyoming exceeds 90 cubic feet per second of time and is less than 170 cubic feet per second of time, the parties to this settlement who divert water in Wyoming, whether such diversion is for Wyoming or Idaho users, are to be limited to the diversion of not more than 1 cubic foot of water per second of time for each 50 acres of land ( 1 inch per acre as expressed by some); and at all times when the stream flow of said Creek in Wyoming is less than 90 cubic feet per second of time, the available supply is to be diverted equally between the two States; it being understood that all ditches diverting in Wyoming, from Teton Creek, and now having legal appropriations of water in Wyoming and/or Idaho, to be supplied from the one-half of said stream flow awarded to Wyoming, excepting therefrom the Grand Teton Canal, which, for the sake of this agreement, is to be considered as an Idaho appropriation and receive any water to which it may be entitled, under the laws of State of Idaho, from the Idaho portion of said stream flow; the administration of said rights shall be by each state, in accordance with their existing laws.

2. That the water supply of the town of Driggs, Idaho, now diverted and conveyed to said town from a diversion in the State of Wyoming shall be taken from the portion of the water allotted to Idaho to the extent of the right of said town, but shall be limited to such right as now established by permit or decree by the Board of Control or other proper department of the State of Wyoming and such right not to be recognized in an amount in excess of said permit or decree or in excess of the amount heretofore diverted by said town, through any diversion made from Teton Creek or tributaries in the State of Wyoming.

The undersigned agrees to the foregoing interpretation of the portion of the agreement referred to.

James A. Greenwood, Attorney for the  
Wyoming appropriators, Signed \_\_\_\_\_

L.C. Bishop, Interstate Streams Commissioner  
for Wyoming. Signed \_\_\_\_\_

F. A. MILLER, Attorney for the Idaho  
appropriators, Signed Dec. 19, 1940

James Spofford, Commissioner of Reclamation  
for Idaho. Signed Dec. 19, 1940

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IN THE DISTRICT COURT OF THE UNITED STATES FOR THE DISTRICT OF WYOMING

IN EQUITY NO. 2447

FILED  
FEB. 4, 1941

Charles J. Onnhaus  
Clerk

PLAINTIFF OR IDAHO USERS

PLAINTIFF NAME	NO. USERS IN COMPANY OR DISTRICT	AMOUNT OF SEC. FT.	DATE
Ropana Canal Co.	15	16.	6/1/1885
Siddoway Irrigating & Mfg. Co.	52	6.	7/1/1891
" " " "	" "	7 17/25	6/1/1892
" " " "	" "	15 8/25	4/1/1898
" " " "	" "	6.	7/1/1891
" " " "	" "	7 17/25	6/1/1892
" " " "	" "	15 8/25	4/1/1898
The Salmon Irrigation and Canal Company		240.	6/1/1885
Teton Irrig. & Mfg. Co.	91	120.	6/1/1884
" " " "	" "	10.	10/2/1887
Island Ward Canal Co.	45	100.	1/23/1901
Wilford Irrig. & Mfg. Co.	47	.67. 21/25	6/1/1884
" " " "	" "	132 4/5	4/1/1898
Teton Island Canal Co.	98	10 9/25	3/1/1883
" " " "	" "	6 24/25	5/1/1884
" " " "	" "	70.	5/22/1884
" " " "	" "	4 8/25	5/31/1885
" " " "	" "	3 9/25	6/1/1883
" " " "	" "	186 24/25	4/1/1898
Woodmansee-Johnson Rexburg Mill Ditch	19	1/2	1/1/1886
" " " "	" "	12 2/5	4/1/1887
" " " "	" "	69	10/1/1889
" " " "	" "	3 1/5	4/1/1891
" " " "	" "	1/5	6/1/1894
" " " "	" "	2/5	4/1/1896
" " " "	" "	1/2	7/15/1896
" " " "	" "	13 3/5	4/1/1898
North Salem Agricultural and Milling Canal Co.	9	26 1/2	6/1/1888
Canyon Creek Irrig. District	31	.16.00	6/1/1900
" " " "	" "	54.	6/1/1902

RECORDED

MAY 15 1941

PLAINTIFF NAME	NO. USERS IN COMPANY OR DISTRICT	AMOUNT OF SEC. FT.	DATE
Charles Sourey		12 8/25	10/17/1885
Nicholas Sommers		11 12/25	10/17/1885
Katherine Baker		3 1/5	10/17/1885
Wolf Ditch	8	25 3/10	6/1/1884
" "		47.7	4/1/1898
Leanore Row		4.4	6/1/1879
" "		8.6	4/1/1898
TOTAL SECOND FEET		<u>1348.22</u>	

DEFENDENTS IN WYOMING

Leland Sorensen	1	.57	10/2/1906
" "		1.85	6/1/1907
D. L. Waddell		.60	10/2/1906
" "		1.6	12/9/1931
Charles Christensen		1.64	10/2/1906
" "		1.5	3/12/1918
C. E. Rigby		1.5	4/11/1896
" "		.82	8/5/1905
Carl Carlson		1.78	8/5/1905
Fred Morgan		1.14	8/5/1905
" "		.20	8/4/1915
Rudolph Kaufman		3.33	12/5/1881
" "		1.68	8/5/1905
Joseph Brown		2.28	4/20/1912
Frederich Deurch		.93	4/11/1896
L. Y. Matthews		4.71	9/16/1914
TOTAL SECOND FEET		<u>25.59</u>	

MAY 15 1996

IN THE DISTRICT COURT OF THE UNITED STATES FOR THE DISTRICT  
OF WYOMING

IN EQUITY NO. 2447

FILED  
FEB. 4, 1941

Charles J. Onnhaus  
Clerk

PLAINTIFF OR IDAHO USERS

PLAINTIFF NAME	NO. USERS IN COMPANY OR DISTRICT	AMOUNT OF SEC. FT.	DATE
Ropana Canal Co.	15	16.	6/1/1885
Siddoway Irrigating & Mfg. Co.	52	6.	7/1/1891
" " " "	"	7 17/25	6/1/1892
" " " "	"	15 8/25	4/1/1898
" " " "	"	6.	7/1/1891
" " " "	"	7 17/25	6/1/1892
" " " "	"	15 8/25	4/1/1898
The Salmon Irrigation and Canal Company		240.	6/1/1885
Teton Irrig. & Mfg. Co.	91	120.	6/1/1884
" " " "	"	10.	10/2/1889
Island Ward Canal Co.	45	100.	1/23/1901
Wilford Irrig. & Mfg. Co.	47	67.21/25	6/1/1884
" " " "	"	132 4/5	4/1/1898
Teton Island Canal Co.	98	10 9/25	3/1/1883
" " " "	"	6 24/25	5/1/1884
" " " "	"	70.	5/22/1884
" " " "	"	4 8/25	5/31/1885
" " " "	"	3 9/25	6/1/1888
" " " "	"	186 24/25	4/1/1898
Woodmansee-Johnson Rexburg Mill Ditch	19	1/2	1/1/1886
" " " "	"	12 2/5	4/1/1889
" " " "	"	69	10/1/1889
" " " "	"	3 1/5	4/1/1891
" " " "	"	1/5	6/1/1894
" " " "	"	2/5	4/1/1896
" " " "	"	1/2	7/15/1896
" " " "	"	13 3/5	4/1/1898
North Salem Agricultural and Milling Canal Co.	9	26 1/2	6/1/1888
Canyon Creek Irrig. District	31	.16.	6/1/1900
" " " "	"	54.	6/1/1902

RECORDED

MAY 15 1946

F. A. MILLER  
ATTORNEY-AT-LAW  
ST. ANTHONY, IDAHO

December 18, 1940

RECEIVED  
DEC 19 1940  
Department of Reclamation

Mr. James Spofford  
Commissioner of Reclamation  
Boise, Idaho

Dear Mr. Spofford:

Since receiving your letter of the 14th, and a copy of Mr. Crandall's letter of the 16th, I have prepared and am submitting for your approval and signature a memorandum which I hope will clarify any questions in the agreement that the Wyoming parties think should be cleared up.

In the decree I prepared, the limitation of a cubic foot for each 50 acres applied only to Wyoming landowners and I think the memorandum submitted to us by them was to also limit the Idaho users who diverted in Wyoming to the same amount of stream flow.

Mr. Crandall's letter seemed to indicate that all Idaho users would be limited to 1 cubic foot for each 50 acres when the stream flow of Teton Creek was less than 170 and more than 90 cubic feet. This, I think, was not the purpose of the memorandum submitted us. The memorandum I am enclosing limits the Wyoming users as well as the Idaho users who divert in Wyoming to 1 cubic foot for each 50 acres and I think that this will be acceptable to the Wyoming parties.

As to the town of Driggs, - Driggs is diverting water from a spring in Wyoming that discharges into Teton Creek. The town has a 6-inch pipe leading from the spring to the Village and I am assured that this pipe line does not divert or will not divert 1 cubic foot per second of time. The town also is the owner of capital stock of the Grand Teton Canal and diverts a part of its water from that source. A limitation is imposed upon the diversion for the Village which is agreeable to my clients.

I believe the memorandum I am submitting you will be approved by the Wyoming parties and it is satisfactory to the litigants I represent.

Why you and the State Engineer of Wyoming are asked to sign I can account for only on the ground or reason that your offices will be charged with carrying out the terms and conditions of any adjudication that may be handed down.

If this meets your approval, I wish you would hurry it to me.

Yours very truly,

F. A. Miller

fam.en  
Enclosure

December 14, 1940

Mr. Frank A. Miller  
Attorney at Law  
St. Anthony, Idaho

Dear Mr. Miller:

I am in receipt of your December 12th letter enclosing a memorandum to clarify certain points in the agreement between the Idaho and Wyoming appropriators diverting water from Teton Creek and tributaries.

I am not entirely satisfied with paragraph one of this memorandum, as it seems to me this statement should include the following sentence from the stipulation that was originally agreed upon "It being understood and agreed that all ditches diverting in Wyoming, and not having legal appropriations of water in Wyoming and/or Idaho to be supplied from the half of said stream flow awarded to Wyoming, excepting, therefore, the Grand Teton canal which, for the sake of this agreement although having its diversion works in Idaho in the State of Wyoming is to be considered as a Idaho appropriation."

Paragraph two in this memorandum states that the water supply of the town of Driggs is to be taken from the portion of water allotted to Idaho, and I believe there has been no misunderstanding relative to this diversion. As I understand it the town of Driggs has a pipe line which extends from Teton Creek about one and one-half miles inside the Wyoming line.

I certainly am very anxious to see you get this matter clarified and will do anything within my authority to expedite the same.

I certainly appreciate a letter from you giving further ideas in regard to this clarification memorandum.

In case that you do not have a copy of this memorandum before you, I will enclose a copy in this letter.

Very truly yours,

JAMES SPOFFORD,  
Commissioner of Reclamation

JS/nm

RECEIVED

F. A. MILLER  
ATTORNEY-AT-LAW  
ST. ANTHONY, IDAHO

December 12, 1940

RECEIVED

DEC 13 1940

Department of Reclamation

Mr. James Spofford  
Commissioner of Reclamation  
Boise, Idaho

Dear Mr. Spofford:

I am enclosing for your signature a memorandum which is supposed to clarify certain points in the proposed decree which was based upon the signed agreement between the litigants and others in the suit seeking adjudication of the waters of Teton creek and its tributaries.

If you will sign this memorandum and return to me, I think I will now be in a position to close the case and seek a decree from the Federal Government. The enclosed was sent to me by Mr. Bishop, ~~the~~ Wyoming engineer.

Yours truly,

  
F. A. Miller

fam.en

Enclosure

James A. Greenwood  
October 9, 1940  
Page 2

proposed, would be subject to receiving water according to their proper priority from the portion or waters within the state of Idaho being regulated by the proper officials of the state of Idaho.

May I further call your attention to the fact that this insertion is sought to be placed in a part of the stipulation already signed by all of the parties to this action.

I await your further reply.

Yours very truly,

F. A. Miller

fam.en

RECEIVED

OCT 19 1940

Department of Reclamation

October 9, 1940

James A. Greenwood  
Attorney at Law  
Cheyenne, Wyoming

Dear Mr. Greenwood:

Replying to yours of the 7th, I am unable to reconcile the suggested change in the decree with the facts as stated in the stipulation. In other words, the stipulation signed by all of the parties and being the second and last stipulation set out in the proposed decree, was and is to the effect that the Southside Canal is to furnish water to the users taking from it in both Wyoming and Idaho from that part or portion of the stream flow awarded to Wyoming and, if I read the stipulation correctly, it would make no difference whether the stream flow was above or below 90 second feet.

The proposal set out in your letter, it seems to me, would shut these users out of the use of any water, except when the stream flow of Teton Creek fell below 90 second feet. If I read and understand your letter, the paragraph of the proposed decree would read as follows:

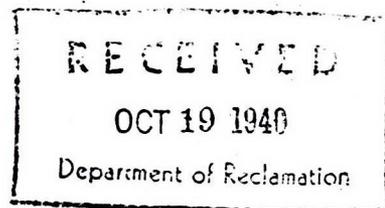
"It is agreed by the Wyoming users that what is known as the Southside Canal, which canal supplies water to both states, Wyoming and Idaho, appropriators along the boundary line of the states, and which has been granted Wyoming per it No. 7420 for the diversion of water from Teton Creek, in Wyoming, is to be considered as a Wyoming diversion and the users in both Wyoming and Idaho supplied with water from it are to be furnished and supplied from the part or portion of the stream flow of said Teton Creek awarded Wyoming, (suggested addition) only when the stream flows supplying said appropriators are less than 90 cubic feet per second of time."

Instead of clarifying it, it seems to me that it does just the reverse. As I have previously stated, it strikes me as an absolute restriction on the owners and users from the Southside Canal, if the addition is made, and they would be entitled to no water, except when the stream flow is less than 90 cubic feet per second.

Again, I do not understand why the city or village of Briggs should be injected into the case. If the municipality has a water right they, of course, according to the terms of the decree as now

F. A. MILLER  
ATTORNEY-AT-LAW  
ST. ANTHONY, IDAHO

October 18, 1940



Mr. James Spofford  
Commissioner of Reclamation  
Boise, Idaho

Dear Mr. Spofford:

Re: Teton River litigation

Following our conversation of yesterday, in which I told you that Mr. Greenwood, attorney for the Wyoming users, had made certain suggestions regarding the proposed decree, I have to state that he suggested an addition on page 24, by inserting after the word "Wyoming", at the close of the second paragraph, the following, -

"only when the stream flows supplying said appropriators are less than 90 cubic feet per second of time,"

which would make the paragraph read as follows:

"It is agreed by the Wyoming users that what is known as the Southside Canal, which canal supplies water to both states, Wyoming and Idaho, appropriators along the boundary line of the states, and which has been granted Wyoming permit No. 7420 for the diversion of water from Teton Creek, in Wyoming, is to be considered as a Wyoming diversion and the users in both Wyoming and Idaho supplied with water from it are to be furnished and supplied from the part or portion of the stream flow of said Teton Creek awarded Wyoming, (suggested addition) only when the stream flows supplying said appropriators are less than 90 cubic feet per second of time."

He further suggested that there be inserted after the word "appropriator" at the end of the first paragraph, on the same page, a provision to the effect that the water furnished to the town of Driggs, Idaho, is to be charged to Idaho's share in the waters of these streams. To this letter, I replied as per copy of my letter enclosed.

I was hopeful that after you called on Young and Potter, you would come back to the office and inform me what their objections were, or complaint to the distribution of waters and Fall the Fall River canal was being deprived of its rights.

Yours truly,  
F. A. Miller

October 23, 1940

Mr. L. C. Bishop  
State Engineer  
Cheyenne, Wyoming

Dear Mr. Bishop:

While at St. Anthony, Idaho, last week I interviewed Mr. F. A. Miller, Attorney at Law, who represented many of the canal companies and water users in the water suit that was brought before the District Court of the United States of the District of Wyoming, and on which the court has not rendered a decree.

Mr. Miller is very much disappointed that the stipulation which was prepared for the court and signed by all parties, plaintiff and defendants, in the case has not been presented to the court. Mr. Miller discussed several matters that Mr. Greenwood, Attorney, for the defendants has taken up with him during the past several weeks, and to give you as complete a memorandum as is available, I herewith enclose a copy of Mr. Miller's letter to Mr. Greenwood, dated October 9, 1940, and also a copy of Mr. Miller's letter to this office as of October 18, 1940, which is self explanatory. This office would appreciate anything that you can do to bring this stipulation before the court, as I believe it only awaits the signature of Mr. Greenwood.

Thanking you for your cooperation and past favors, I remain,

Very truly yours,

JAMES SPOFFORD,  
Commissioner of Reclamation

JS/m  
Encl.

July 8, 1940

Mr. LEEN CRANDALL, Watermaster,  
Water District No. 36,  
Idaho Falls, Idaho.

Dear Mr. Crandall:

Please find enclosed herewith a copy of a letter from Mr. L. C. Bishop regarding the distribution of water from Teton Creek, which letter is self-explanatory.

This office concurs with Mr. Bishop in the opinion that the water on Teton Creek and other creeks designated in the temporary compact agreement should be administered this year as agreed upon by the water users of the two states. The final order of the court in this matter will be available at an early date.

Very truly yours,

JAMES SPOFFORD,  
Commissioner of Reclamation

JE/K

cc- F.A. Miller  
Eph Richs  
L. W. Hastings

STIPULATION

IT IS HEREBY STIPULATED and agreed by and between the above named plaintiffs and defendants in the above entitled suit that the following shall be the basis of a decree to be entered in the above entitled cause, and the Court is hereby authorized to enter a decree fixing the rights of the several parties, plaintiff and defendant, in accordance with the terms of this stipulation.

That for the purpose of effecting a compromise and agreement, and to terminate the pending litigation, and to definitely establish the rights of the parties litigant, it is hereby agreed that the appropriators and water users in the State of Wyoming, who divert and use the waters of Teton Creek shall be permitted to use as much water from said stream as they can apply to a beneficial use until the total stream flow of the said Teton Creek and its tributaries in the State of Wyoming shall recede to one hundred seventy (170) cubic feet per second of time; that in the determination of said stream flow all diversions in Wyoming, including the grand Teton Canal, shall be and constitute a part of the said stream flow in determining the total of the said stream flow; that when the said stream flow of the said Teton Creek, and its tributaries in Wyoming; shall recede to said one hundred seventy (170) cubic feet per second of time, the Wyoming users, who divert water above the diversion of the Grand Teton Canal, shall thereafter be limited and permitted to divert one cubic foot per second of time for each fifty (50) acres of land (being one miner's inch per acre) for Wyoming lands of the said users in the State of Wyoming, and to continue to be so regulated until the flow of the said Teton Creek and its tributaries in Wyoming, including all the Wyoming diversions to ninety (90) cubic feet per second of time, after which time the stream flow of the said Teton Creek, and its tributaries, is to be divided between the Wyoming and Idaho areas for the benefit of their appropriators, on a fifty-fifty basis, that is, - that Wyoming shall be entitled to divert one-half of said stream flow and one-half of said stream flow shall be permitted to flow down said stream for Idaho. It being understood and agreed that ditches diverting in Wyoming and having legal appropriations of water in Wyoming and/or Idaho, to be supplied from the one-half of said stream flow awarded to Wyoming, excepting therefrom the Grand Teton Canal which, for the sake of this agreement, although having its diversion works in the State of Wyoming, is to be considered as an Idaho appropriation and if entitled under the laws of the State of Idaho to any of the stream flow of Teton Creek, shall be supplied from any portion or percentage herein agreed as to the portion or percentage to which Idaho shall be entitled for the benefit of its appropriators.

It is agreed by the Wyoming users that what is known as the Southside Canal which canal supplies water to both states, Wyoming and Idaho, appropriators along

the boundary line of the states, and which has been granted Wyoming permit No.7420 for the diversion of water from Teton Creek, in Wyoming, is to be considered as a Wyoming diversion and the users in both Wyoming and Idaho supplied with water from it are to be furnished and supplied from the part or portion of the stream flow of said Teton Creek awarded Wyoming.

It is agreed that the waters of South Leigh Creek shall be distributed as follows:- the Wyoming appropriators may divert as much of the stream flow of South Leigh Creek as they can apply to beneficial use upon their lands until the natural flow of said stream, at the Idaho-Wyoming boundry line including all diversions from said stream above said boundary line, diminishes to a total of sixteen (16) cubic feet per second of time, at which time the Wyoming users shall be permitted and may divert one-half of the stream flow of said South Leigh Creek, the balance to flow down said stream for Idaho users,

The determination of the amount of the stream flow of the said streams, and the diversion of waters thereof, as between the states, as herein agreed, shall be under the supervision and direction of the Commissioner of Reclamation of the State of Idaho, and the State Engineer of the State of Wyoming.

The distribution of water among the users of wyoming of the part or portion of the waters of said streams which they shall be entitled to shall be under the direction and supervision of the State Engineer of Wyoming, or other proper Wyoming officer; the distribution among and to Idaho users of the part or portion herein to which they may be entitled of said stream flow shall be under the direction and supervision of the Commissioner of Reclamation of Idaho, or other proper Idaho officer.

It is hereby agreed that all diversions within the State of Wyoming shall install diversion works and measuring devices, approved by the State Engineer of Wyoming, on all ditches and canals to make possible accurate measurements and proper administration and distribution of the waters of said creeks,

Dated this \_\_\_\_\_ day of \_\_\_\_\_, 1940.

PLAINTIFFS IN EQUITY NO. 2447

ROXANA CANAL COMPANY  
By O. E. Peterson, Pres.

SIDDOWAY IRRIGATING & MANUFACTURING COMPANY  
By S. H. Welch, Pres.

SALM IRRIGATING CANAL CO., LTD.

TETON IRRIGATING & MANUFACTURING COMPANY

By Joseph Bohi, Pres.

By J. C. Siddoway, Pres.

ISLAND WARD CANAL COMPANY, LTD.

WILFRD IRRIGATION & MANUFACTURING COMPANY

By J. F. Sellers, Pres.

By C. C. Bauer, Pres.

TETON ISLAND CANAL COMPANY

WOODMANSEE\*JOHNSON REXBURG MILL DITCH

By Ephraim Ricks, Pres.

By Martin L. Nave, Pres.

Ephraim Ricks, Pres.

IN THE DISTRICT COURT OF THE UNITED STATES FOR THE DISTRICT OF WYOMING

IN EQUITY NO. 2447

FILED  
FEB. 4, 1941

Charles J. Conbaas  
Clerk

PLAINTIFF OR IDAHO USERS

PLAINTIFF NAME	NO. USERS IN COMPANY OR DISTRICT	AMOUNT OF SEC. FT.	DATE
Royana Canal Co.	15	16.	6/1/1885
Siddoway Irrigating & Mfg. Co.	52	6.	7/1/1891
" " " "	" "	7 17/25	6/1/1892
" " " "	" "	15 8/25	4/1/1898
" " " "	" "	6.	7/1/1891
" " " "	" "	7 17/25	6/1/1892
" " " "	" "	15 8/25	4/1/1898
The Salmon Irrigation and Canal Company		240.	6/1/1885
Teton Irrig. & Mfg. Co.	91	120.	6/1/1884
" " " "	" "	10.	10/2/1889
Island Ward Canal Co.	45	100.	1/23/1901
Wilford Irrig. & Mfg. Co.	47	.67, 21/25	6/1/1884
" " " "	" "	132 4/5	4/1/1898
Teton Island Canal Co.	98	10 9/25	3/1/1883
" " " "	" "	6 24/25	5/1/1884
" " " "	" "	70.	5/22/1884
" " " "	" "	4 8/25	5/31/1885
" " " "	" "	3 9/25	6/1/1888
" " " "	" "	186 24/25	4/1/1898
Woodmanssee-Johnson Rexburg Mill Ditch	19	1/2	1/1/1886
" " " "	" "	12 2/5	4/1/1889
" " " "	" "	69	10/1/1889
" " " "	" "	3 1/5	4/1/1891
" " " "	" "	1/5	6/1/1894
" " " "	" "	2/5	4/1/1896
" " " "	" "	1/2	7/15/1896
" " " "	" "	13 3/5	4/1/1898
North Salem Agricultural and Milling Canal Co.	9	26 1/2	6/1/1888
Canyon Creek Irrig. District	31	.16.00	6/1/1900
" " " "	" "	54.	6/1/1902

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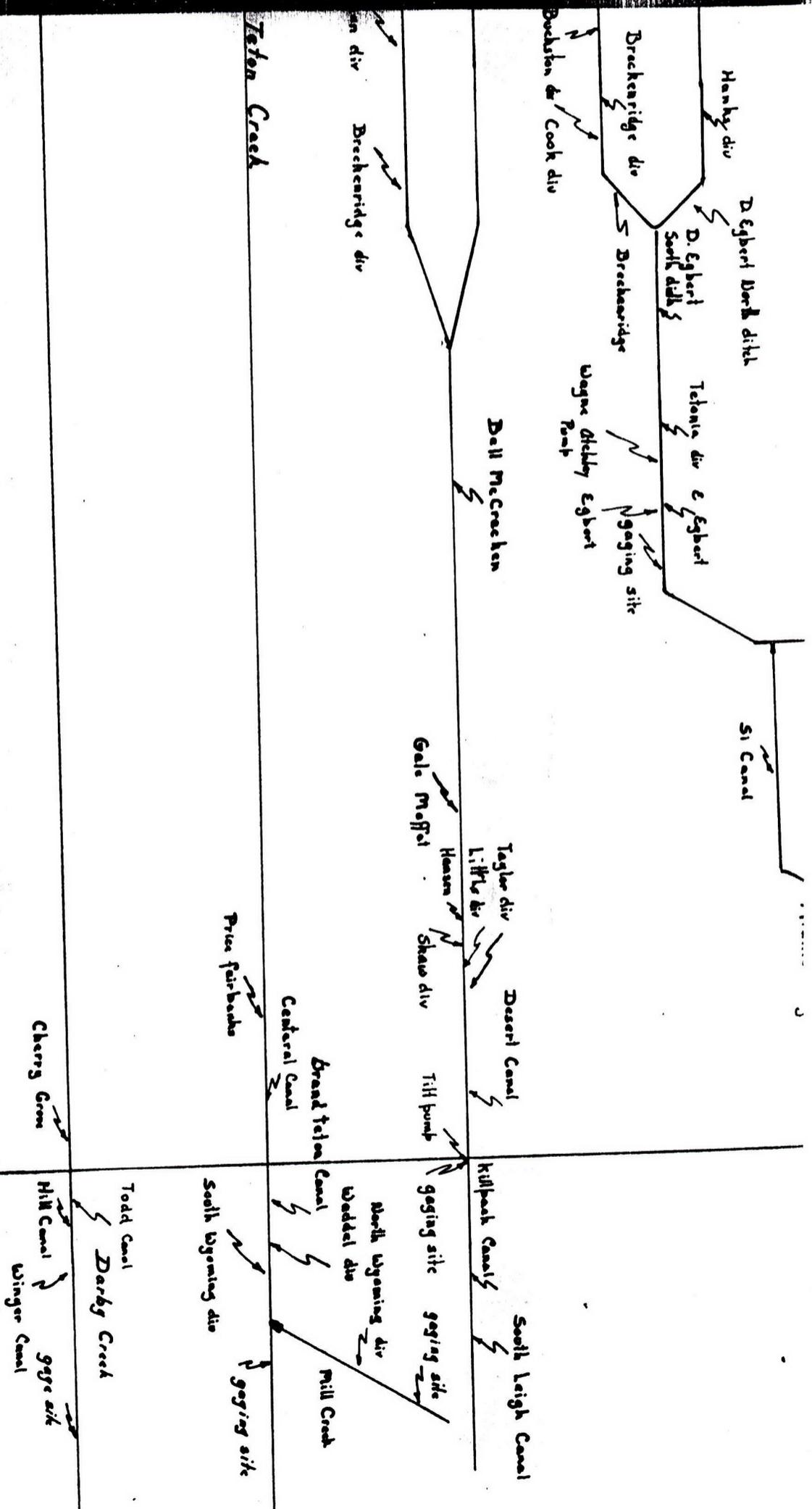
PLAINTIFF NAME	NO. USERS IN COMPANY OR DISTRICT	AMOUNT OF SEC. FT.	DATE
Charles Sourey		12 8/25	10/17/1885
Nicholas Sommers		11 12/25	10/17/1885
Katherine Baker		3 1/5	10/17/1885
Wolf Ditch	8	25 3/10	6/1/1884
" "		47.7	4/1/1898
" "		4.4	6/1/1879
Leanore Row		8.6	4/1/1898
" "			
TOTAL SECOND FEET		1348.22	

DEFENDENTS IN WYOMING

Leland Sorensen	1	.57	10/2/1906
" "		1.85	6/1/1907
" "		.60	10/2/1906
D. L. Waddell		1.6	12/9/1931
" "		1.64	10/2/1906
Charles Christensen		1.5	3/22/1918
" "		1.5	4/11/1896
C. E. Rigby		.82	8/5/1905
" "		1.78	8/5/1905
Carl Carlson		1.14	8/5/1905
Fred Morgan		.20	8/4/1915
" "		3.33	12/5/1881
Rudolph Kaufman		1.68	8/5/1905
" "		2.28	4/20/1912
Joseph Brown		.93	4/11/1896
Frederich Deurtch		4.71	9/16/1914
L. Y. Matthews			
TOTAL SECOND FEET		25.59	

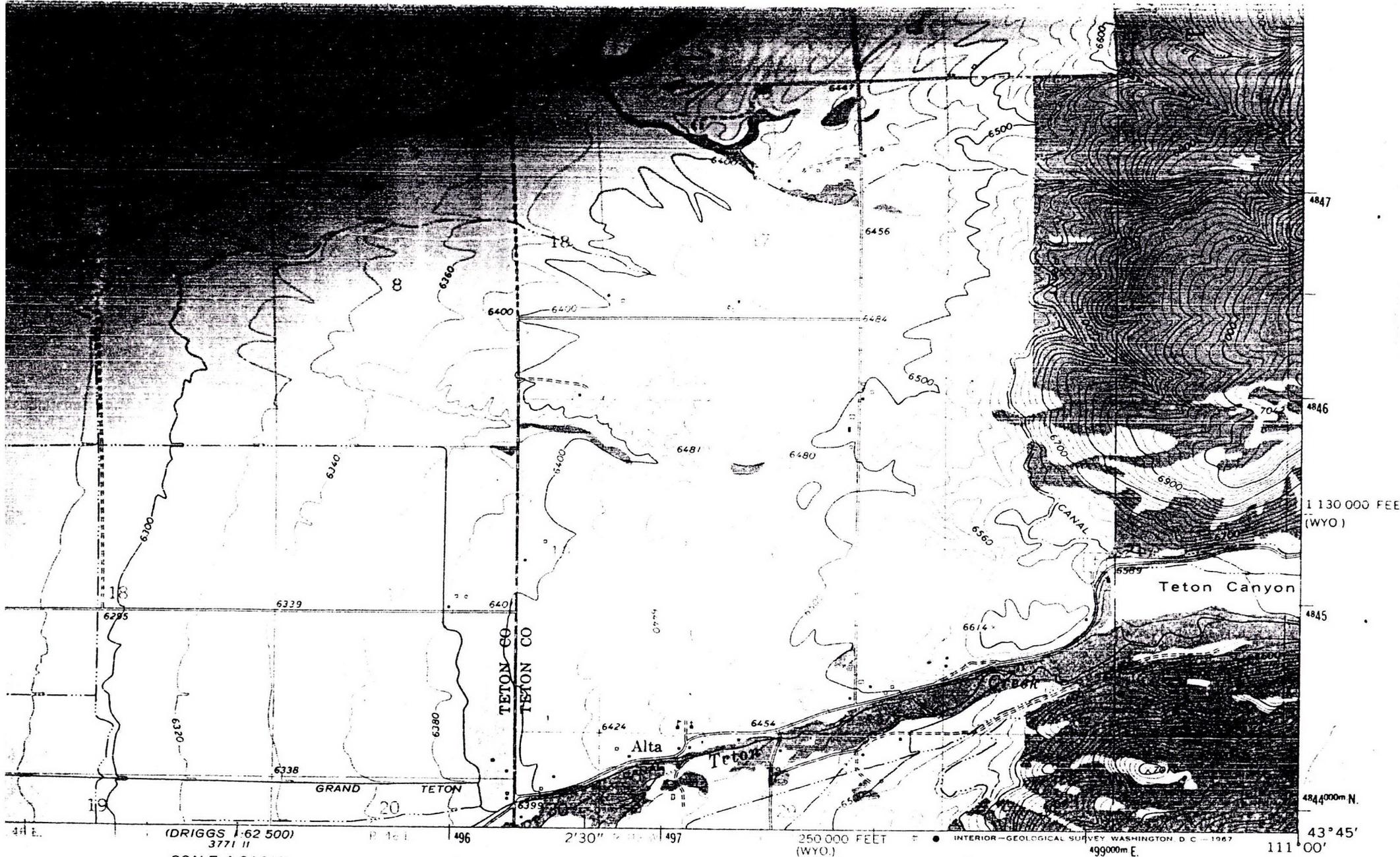
Defendents

WHEREAS, the parties to said action now appearing herein, have made and entered into, the following stipulations;



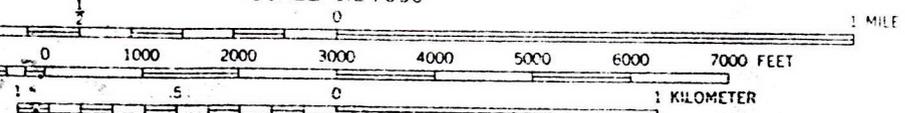
1980 Miscellaneous Streamflow Records, Upper Teton Basin - July  
(cfs)

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11 Ck abv String			173						132							108						90	90			83				83			
12 Ck nr Mouth			83						65							39						31	26			22				22			
13 Ck Pipeline			23						17							16						21	18			17				17			
14 Ck Pipeline (Incl Warm Ck)			20						18							11						10	10			10				11			
15 Ck Pipeline			60						54							46						57	63			63				63			
16 Ck																																	
17 Ck abv Diversions									54							42						20.5	20										
18 Ck abv Pipe									30							25						13.5	13										
19 Ck abv Pipe									10							7						7	7										
20 Ck abv Div									120							74						50											
21 Ck abv Div									6.4							7						9											
22 Ck abv Div									17.5							10						14											
23 Ck abv Div									31							28						17											
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26 Ck	15		14						12		10					8						3			3								
27 Ck	34		35						23		16					12						27			26								
28 Ck	25		25						20		15					20						30			33								
29 Ck	11		10						10		4					2.5						2			7.5								
30 Ck	70		70						53		35					34						2			6.6								
31 Ck	235		180						135		145					125						100			65								
32 Ck	205		260						200		210					90						0			58								
33 Ck	23		30						4		4					4						0			38								
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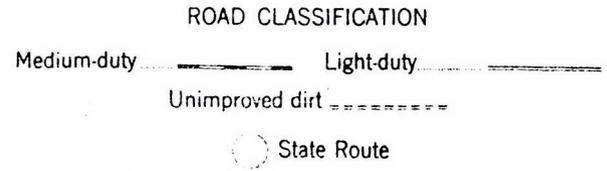


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SCALE 1:24 000



CONTOUR INTERVAL 20 FEET  
DOTTED LINES REPRESENT 10-FOOT CONTOURS  
DATUM IS MEAN SEA LEVEL



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1 130 000 FEET  
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4844 000m N.

43° 45' 111' 00'

250 000 FEET  
(WYO.)

● INTERIOR—GEOLOGICAL SURVEY WASHINGTON, D. C. — 1967

499000m E.

the water rights under said applications upon proper showing of completion of construction and completion of beneficial use of water. This authorization is made to conform with Section 71-265 and 71-266, Wyoming Compiled Statutes, 1945.

Approved February 11, 1955.

CHAPTER 106

DIVERSION OF WATER—TETON CREEK

Sec. 1. Diversion of Water for Use in Idaho—Adjudication of Water Rights. That the State Engineer of the State of Wyoming is hereby authorized to approve, when prepared in proper form, the application of Joseph W. Peacock of Driggs, Idaho, for permit to divert and appropriate water in the State of Wyoming from Teton Creek, tributary of Teton River, through the Brown-Clement Ditch for the irrigation of approximately 116 acres of land in the State of Idaho, located adjacent to the Wyoming-Idaho State Line.

Provided, however, that this permit shall contain a limitation that it is valid only if this appropriation be charged against that part of the flow of Teton Creek allocated to Idaho by the stipulation which is a part of the so-called "Roxana Decree" of the United States District Court, entered February 4, 1941.

The Board of Control is hereby authorized to adjudicate the water rights under said application upon proper showing of completion of construction and completion of beneficial use of water. This authorization is made to conform with Section 71-265 and 71-266, Wyoming Compiled Statutes, 1945. (Sec. 71-3305, W. C. S. 1945, Cum. P. S.)

Approved February 15, 1955.

TABULATIONS OF ADJUDICATED WATER RIGHTS

Sec. 71-276. Compilation and Tabulation—Supplements—Appropriation. The President of the State Board of Control shall upon the taking effect of this Act, employ competent assistants to compile and edit a revised Tabulation of Adjudicated Water Rights in Water Division No. 1 and Supplements to the Tabulations of Adjudicated Water Rights in Water Divisions Nos. 2, 3 and 4 of the State of Wyoming, and shall furnish the necessary supplies for such compilation. These Tabulations shall contain the information on adjudicated water rights according to prece-

of the waters covered in conformity with 71-266 of the Wyoming

CHAPTER 86

WATER RIGHTS—THOMAS FORK

To Store Additional Water. That the State of Wyoming is hereby authorized upon a proper showing of fact and when to perform the applications of John and Peter of Laramie, Wyoming, for permit to store water of the State of Wyoming from Teton Creek, tributary of Bear River in the Ennis Reservoir, to an additional five hundred sixty eight and five tenths (568.5) acres and for secondary irrigation of lands, a portion of which is in the State of Idaho.

The Board of Control is hereby authorized to adjudicate

10, 1955.

## TABULATION OF ADJUDICATED RIGHTS

dated  
7/1/44

## RANDOLPH CREEK—Tributary Buffalo Fork, Tributary Snake River

Permit	DITCH	APPROPRIATOR	Priority	USE	C.F.S.	ACRES	H.G.LOC. S. T. R.
15197	Smith No. 2 -----	Snake River Land Co. ----	8-29-18	I, D	.84	59	24-45-113

## PACIFIC CREEK Tributary Snake River

12667	Arthur -----	Elmer C. Arthur -----	8-27-14	I, D	1.81	127	13-45-114
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## EMMA MATILDA CREEK Tributary Pacific Creek and Markham Reservoir (Springs and Runoff)

15569	*Markham -----	Joseph Markham -----	8-18-19	I, D	1.88	131.61	14-45-114
15569	* Do. -----	Roy B. Lozier -----	8-18-19	I, D	1.86	130	14-45-114
15569	* Do. -----	O. W. Snell -----	8-18-19	I, D	1.78	124.9	14-45-114

\*Stored water for these appropriations from Markham Res. with priority of May 1, 1919.

## SPRINGS and RUNOFF Tributary Pacific Creek, Tributary Snake River

3487 R	Two Ocean Res. -----	H. C. McKinstry, et al ----	5- 9-18	I	512 a.f.		2-45-113
15185	*Two Ocean -----	H. C. McKinstry -----	5- 9-18	I	1.96	137	12-45-114
15185	*Two Ocean -----	Osgood Land & Live Stock Co. -----	5- 9-18	I	1.06	74.4	12-45-114
3561 R	Markham Res. -----	Joseph Markham, et al ----	5- 1-19	I, D	1710 a.f.		2-45-114 et al

\*Water for these appropriations stored in Two Ocean Reservoir.

## KIN SPRING Tributary Pacific Creek, Tributary Snake River

15142	Kin Spring -----	H. C. McKinstry -----	5- 1-18	S, D	.013		7-45-113
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## MEADOW CREEK Tributary Snake River

2234	Meadow Creek -----	Charles J. Allen -----	8- 9-99	I	2.28	160	17-45-114
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## GRASSY CREEK—Tributary Snake River

15829	Herbert -----	Herbert G. Whiteman ----	7-23-20	I, S	1.00	70.1	7-45-114
15830	Whiteman -----	Do. -----	7-23-20	I, S, D	.79	55.9	7-45-114

## LEIGH CREEK Tributary Teton River, Tributary Snake River

12701	North Alta Irr. Co. --	North Alta Irrigation Co. --	9-16-14	I, D	8.14	570.3	5-44-118
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## DRY CREEK Tributary Bear Creek, Tributary Teton River

193	D. E. Rigby (Dry Creek) -----	R. W. Brown, Jr. -----	12- 5-91	I, S, D	1.04	73	9-44-118
193	Do. -----	Rudolph Kaufman -----	12- 5-91	I	2.28	160	9-44-118

## TETON CREEK—Tributary Teton River, Tributary Snake River

1190	Central -----	Sophia E. Rigby -----	4-11-96	I, D, Mfg.	3.92	275	21-44-118
1199	Do. -----	H. E. Rigby -----	4-11-96	I, D	1.92	135	21-44-118
1199	Do. -----	Lavonia C. Rigby -----	4-11-96	I, D	1.85	130	21-44-118
6340	Pratt -----	Pratt Ditch Co. -----	8- 8-05	I, D	9.78	685	22-44-118
7168	Brown-Clement -----	Roland W. Brown -----	1-15-06	I	1.07	75	22-44-118
7120	Southside -----	Robert B. Palley -----	10- 2-06	I, D	.57	40	22-44-118
7120	Do. -----	J. L. Tennant -----	10- 2-06	I	1.14	80	22-44-118
7420	Do. -----	Geo. B. Green, Admin. -----	10- 2-06	I	.24	17	22-44-118

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TETON CREEK Tributary Teton River, Tributary Snake River Continued

Permit	DITCH	APPROPRIATOR	Priority	USE	C.F.S.	ACRES	H.G.LOC. S. T. R.
7420	Southside	Geo. B. Green	10- 2-06	I	1.14	80	22-44-118
7420	Do.	Green Bros.	10- 2-06	I	1.87	131	22-44-118
7420	Do.	M. Leland Sorensen	10- 2-06	I	.57	39.54	22-44-118
7420	Do.	Charles Christensen	10- 2-06	I	1.64	115	22-44-118
7420	Do.	C. Greeley Green	10- 2-06	I	.93	65	22-44-118
7420	Do.	George B. Green	10- 2-06	I	.57	40	22-44-118
7420	Do.	B. Rigby Young	10- 2-06	I	.21	15	22-44-118
7421	R. B. Dalley	Robert B. Dalley	10- 2-06	I, D	.60	42	29-44-118
7428	Dalley-Hulett	Do.	10- 2-06	I	.48	34	21-44-118
14413	Brown-Clement	Brown-Clement Ditch Co.	4-20-12	I, D	9.14	640.12	23-44-118
18275	Walker Pipe Line	William Walker	6-23-33	Power	18.00		19-44-117
18837	Charles Christensen	Charles Christensen	9- 6-35	I, D	.07	5	29-14-118
5093 E	Enl. Southside	Do.	9- 6-35	I, D	.57	40	22-44- 18

SPRING CREEK Tributary Teton Creek, Tributary Teton River

Terr.	Hulett	S. S. Hulett	9-90	I, S, D	1.57	110	5-43-118
15603	Durtschi No. 1	Edward Durtschi	9- 8-19	I, D	.19	13.4	5-43-118
15605	Durtschi No. 3	Do.	9- 8-19	I, D	.37	26.1	4-43-118

SLOCUM CREEK Tributary Spring Creek, Tributary Teton Creek

17042	Simmons	Charles H. Daniels	12-10-25	I, D	1.64	115.18	5-43-118
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NORTH SPRING CREEK Tributary Spring Creek, Tributary Teton Creek

15604	Durtschi No. 2	Edward Durtschi	9- 8-19	I, D	.02	1.6	5-43-118
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NORTH and SOUTH SPRING CREEKS Tributaries Spring Creek, Tributary Teton Creek

7799	Eli Hill	Eli Hill	6- 1-07	I, D	1.85	130	5-43-118
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RAPID CREEK Tributary Spring Creek, Tributary Teton Creek

18643	*D. L. Wadell	D. L. Wadell	12- 9-31	I	1.60	112	
19573	Rapid Creek R. S. Water System	U.S.A. Forest Service	6-20-41	D	.04	40	33-44-118
							5-43-118

\*Supplemental supply for lands under Permit 7420.

MILL CREEK Tributary Teton Creek, Tributary Teton River

15014	Christensen	Charles Christensen	3-12-18	I	1.50	105.5	22-44-118
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NORTH FORK TETON CREEK Tributary Teton Creek, Tributary Teton River

19578	Teton Canyon Camp Water System	U.S.A. Forest Service	6-20-41	D, Rec.	.05		20-44-118
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DARBY or GOOD FELLOW CREEK Tributary Teton River, Tributary Snake River

8752	Holden	Edward H. Holden	12-15-06	I	2.28	160	20-43-118
14642	Do.	Arthur Winger	2-19-17	I, D	.62	43.8	20-43-118

SALT RIVER Tributary Snake River

Terr.	Henderson & Harmon	Wm. A. Harmon	5- 1-86	I	.60	40	34-32-119
Do.	Do.	Marion Henderson	5- 1-86	I	.60	40	34-32-119
Do.	Child	Wm. A. Harmon	5- 3-86	I	1.30	90	2-31-119
Do.	Anglesey	Wm. Anglesey	5- 8-86	I	1.30	90	35-32-119
Do.	Do.	James W. Nield	5- 8-86	I	1.20	80	35-32-119
Do.	Salt River	M. S. Moffett	6- 1-86	I	1.20	80	7-30-118
Do.	Do.	J. F. Brown	6- 1-86	I	1.80	120	7-30-118
Do.	Do.	John C. Dewey	6- 1-86	I	.50	35	7-30-118

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STATE OF WYOMING

State Engineer's Office

Cheyenne

July 5, 1940

Mr. James Spofford  
Commissioner of Reclamation  
Boise, Idaho

Dear Mr. Spofford:

This will acknowledge receipt of your letter of July 2, in which you enclose a letter from Mr. Grandall, Watermaster of Water District No. 36 of your state, and in which you request my opinion concerning the matter of the distribution of water from Teton Creek.

Upon receipt of your letter, I called Mr. James Greenwood, Attorney for the Teton users and inquired of him concerning the status of this agreement.

Mr. Greenwood informed me that he has received the agreement containing the approval of all concerned and that Judge Kennedy has been consulted and agrees to enter his order in accordance with the stipulation as signed by the water users.

It is my opinion that we should go ahead and operate under this agreement the same as though it had been entered, as everything has now been agreed upon between the users of the two states and the final order of the Court merely awaits the formal draft and acceptance by the attorneys from both sides. The Water Commissioner of the Teton District is being so advised.

Very truly yours,

/s/ E. C. BISHOP  
State Engineer

LDB/eb

cc: Mr. L. Y. Matthews  
Water Commissioner  
District No. 13

# State of Wyoming



STATE ENGINEER'S OFFICE

Cheyenne

October 21, 1939

Mr. L. W. Hastings  
Driggs, Idaho

Dear Mr. Hastings:

This will acknowledge receipt of your letter of October 20th in which you call my attention to objections to certain details of the agreement recently forwarded to me by Mr. Christensen.

You may be assured that the agreement will not be approved by me until you people have compromised all of your differences, as I do want it to be agreeable to all concerned, in order that it may later be workable.

It would seem that the 170 cubic feet per second as incorporated in the agreement, to me is reasonable; however, I will expect you people to decide on this point, but I do believe that a specific amount in "cubic feet per second" should be stipulated.

I have written Mr. Christensen concerning two of the paragraphs which were not entirely clear, and I suggest that you take this matter up with him and try and have everything agreed upon before he writes me, in order that I may be able to complete a revised copy that will be acceptable to the representatives of both states, whom I am going to ask to sign before asking Mr. Spofford or myself to approve of the agreement.

Very truly yours,

A handwritten signature in cursive script, appearing to read "L. C. Bishop".

L. C. BISHOP,  
State Engineer

LCB:rj

Driggs, Idaho  
October 30, 1930

Mr. L. C. Bishop  
State Engineer  
Cheyenne, Wyoming

Dear Mr. Bishop:

Since the water meeting at Driggs which you attended in August, 1930, at which time a temporary compact was entered into between the Wyoming and Idaho users, I believe the division of the water has been considered satisfactory. Recently, in order to clarify the understanding of both parties concerned, an attempt has been made to arrive at an understanding when regulation should start on the Wyoming side or those canals diverting water on the Teton Creek above the head of the Grand Teton Canal Company's canal.

Recently Charles Christensen submitted a proposition whereby no regulation would be applied to the Wyoming users in the canals above mentioned above the Grand Teton Canal Company's canal until the natural stream flow of Teton Creek above all diversions had receded to 170 cubic feet per second. I now understand that Mr. Christensen has notified you that the Idaho users have agreed to the above proposition. I am sorry to say that there must be some misunderstanding as this is not the case. However, it would possibly simplify matters for all concerned if there was a definite point agreed on at which time regulation of the Wyoming rights would start. We think that regulation should start in Wyoming at the same time that our Idaho rights are regulated. In fact, that has been our understanding.

The water rights represented by decrees in Idaho and permits in Wyoming to the best of my knowledge approximate 30,000 miner's inches of water. As far as the local agreement between the water users of Idaho adjacent to the Wyoming line and the water users of Wyoming adjacent to the Wyoming line are concerned, priorities are given little consideration. We are trying to arrive at an agreement that will be equitable to everyone concerned.

According to our temporary compact the users of both States are to use all the water they can put to beneficial use during the flood water period when regulation is not necessary. When regulation starts in Idaho, there are 8,262 inches of water representing decreed rights on the Teton Creek which will be affected, not counting the diversions in

2 - Mr. L. C. Bishop - October 20, 1939

Wyoming above the head of the Grand Teton Canal Company's canal. My understanding is that the rights represented by the diversions above the head of the Grand Teton Canal Company's canal amount to some 2,250 miner's inches of permitted water.

It is our request that the Wyoming rights be regulated in such manner that the Idaho rights will be furnished the 8,262 inches of water until such a point is reached in the Creek that the Wyoming rights are cut to the 2,250 inches or one inch per acre as the case may be. At this time, it has been agreed upon, the Wyoming rights will stand at one inch per acre until the natural flow of the stream above all diversions has reached to 50 cubic feet per second, at which point a fifty-fifty division will be made as provided in the compact. It will be noticed that as the waters recede, the Idaho users with the 8,262 inches of decreed water will take the loss entirely until this 8,262 inches has diminished to 2,250 inches. Some of our users think that we are taking too much of a loss during this recession period. However, this is the concession that we propose to make in order to arrive at an agreement and a fixed program that we can work to in the future.

The day you left Driggs, I am mindful of your request that we do everything possible consistent with a fair division of the water to make this plan work. This I promised to do. That is why this letter is being written at this time for fear that due to Mr. Christensen's anxiety in submitting his report some misunderstanding might arise. It is regretted that his report could not have been closely studied by us Idaho folks before it was submitted to you.

As to the lower Teton River users, plaintiffs in the suit now pending in Federal Court, they appear to be satisfied with any stipulation that the users on Teton Creek can agree on provided the administration of the water is regulated as before stated. The Idaho users on the Teton Creek, not including those diversions above the head of the Grand Teton Canal Company's canal, are arranging to secure storage space in the Island Park Reservoir sufficient to compensate the lower Teton users for any claim they may have on account of prior rights. When this is done, our problems will be purely local, and we are very anxious at this time and earnestly request that you aid in every way possible to bring about an equitable agreement in this section. We are informed that if such an agreement can be reached, the same can be submitted to Judge Kennedy in the form of a stipulation in the now pending case in Federal Court.

In addition to the above-mentioned Idaho decrees, the Grand Teton Canal Company has an additional Idaho decree amounting to 210 second feet with a priority date of January 22, 1916. This is considered a high water or flood water decree. However, in the future, should it be

B - Mr. L. C. Bishop - October 20, 1939

possible for the users on Teton Creek to construct a reservoir in Teton  
Creek Canyon, it is requested that this desire be taken into consideration  
and the water users of the Grand Teton Canal Company be given a chance  
to share in such storage reservoir.

I would consider it a favor to receive any suggestions from you in  
this matter.

Very truly yours,

L. W. Hastings

LWH:ls

Idaho Falls, Idaho  
October 11, 1939

Mr. Frank A. Miller  
St. Anthony, Idaho.

Dear Mr. Miller:

Following are some comments by Mr. Dobbler relative to the proposed Idaho-Wyoming compact in Teton Basin. These refer to the mimeograph draft dated 9/7/39.

"In items 4 and 5 I would suggest inserting the words "and others" immediately after the word "behalf" in the second line, and in the sixth line eliminate the words "to any citizen of Idaho" or "Wyoming". The first change is for the purpose of permitting filings to be made by people not citizens of Idaho or Wyoming and by Government agencies other than the United States. In article 11 under Teton Creek in line 3, I would suggest inserting the words "total of the" immediately ahead of the word "natural"; and in line 4 for the word "after" substitute the words "immediately below"; and in line 5 for the words "diminishes to" substitute the words "is less than". A similar change will be needed in connection with each of the other creeks.

In article 11, item B under Teton Creek, I believe it advisable to eliminate the provision which directs the Wyoming State Board of Control to do something. It is always difficult to make anyone do something he does not desire to do, and I suggest that some other method be found of accomplishing the desired result by means of a findings stated in the contract or some other way.

With reference to South Leigh Creek, the last clause is not intelligible to me, since there is no definition of what constitutes a "regular" appropriation.

In article 14, line 1, change "citizens" to "interests".

In article 15, line 2, after the word "installation" insert the words "and proper operation". At the end of this article add the words "The information so obtained shall at all times be available to representatives of both States". The changes in this article are prompted by the situation that has developed on Laramie River as between Wyoming and Colorado."

Very truly yours,

*Lynn Handall*  
Watermaster.

cc: F.A. Davis, Rexburg  
L.W. Hastings, Clerk, Driggs

Driggs, Idaho  
October 4, 1939

Driggs, Idaho

Dear Mr. Christensen:

Pursuant to our conversation regarding Paragraph 3 under Article 3 of the Idaho-Montana Compact, please find enclosed an Amendment which I believe states the facts as agreed upon at our meeting recently held at Mr. O. O. Knight's.

The problem of domestic or culinary water at the end of the irrigation season is not mentioned in this amendment, but I think it should be studied more carefully so that the maximum benefits may be had by all parties concerned, and I would be glad at any time to help make a more thorough study of the situation.

Very truly yours,

L. W. Hastings

LWH:ls  
Enc.

F. A. MILLER  
Counselor and Attorney-at-Law  
St. Anthony, Idaho

Received 7/24/39  
Department of Reclamation

July 21, 1939

Honorable James L. Spofford,  
Commissioner of Reclamation,  
Boise, Idaho.

Dear Mr. Spofford:

By way of introduction, will say that I am the present chairman of what is known as the Committee of Nine-Water District No. 36, Idaho, and have also been acting as attorney for many of the lower users on the Teton River.

These water users, through their canal corporations, several years ago, instituted a suit in the United States District Court of Wyoming for an adjudication of the rights of the various users on the Teton River particularly, which heads in Wyoming, and along which a number of Wyoming residents divert and use water before it reaches into Idaho. There are some 1,500 acres of land cultivated just over the Idaho line supplied by water from Teton Creek.

This case has been tried and submitted to District Judge Kennedy, the United States District Judge for the State of Wyoming; all of the testimony, exhibits and proof having been completed and the case submitted in January a year ago. Judge Kennedy has withheld a decision in the case, due to the fact that the Supreme Court of the United States, about the time this case was submitted to him, handed down a decision up-holding a compact that was entered into and completed between the states of Colorado and New Mexico in what is known as the Hinderlider v. LaPlata River and Cherry Creek Ditch Company, reported in 58 Sup. Ct. Reporter 803.

The Judge is withholding a decision on the ground that regardless of what he might hold in the case, it might be upset by the action of the then existing Compact Commission authorized by a Resolution of Congress; As stated, a decision has not been handed down up to this time because of the fact that there still exists a Idaho-Wyoming Commission, even though nothing has been accomplished as to an agreement establishing or agreeing upon the rights of the users on the inter-state streams affected under the compact agreement. These compacts, when ratified under the Supreme Court decision, replaced or superseded any court adjudications.

During the pendency of the Teton River case the Wyoming users, through their attorneys, have inferred to Judge Kennedy that the Idaho users have not made any demand upon the State Engineer of Wyoming or any Control Board of Wyoming to enforce the rights of the Wyoming users and restrict them to the amount or quantity of water allotted to them by the Board of Control of Wyoming or their rights under the Wyoming statute; there had been proof that the Wyoming users had wasted quantities of water and had connived at various uses to deprive the lower users of their rights.

The Lower Teton River users, and particularly the plaintiffs in the action against the Wyoming users are most desirous of having the Compact Commission fix the rights of the users or be discharged; they wish the rights fixed by some commission or tribunal. The reasons for this are, - The Wyoming users divert the waters of Teton Creek in Wyoming, carry these waters through their respective lands, and either sell, lease or give these waters to the Idaho users across the line. Particularly has this been true in the past with companies engaged in the raising of green peas in Teton County, Idaho, on lands near the state boundary line.

A number of the canal companies who divert water in Wyoming for use on Idaho lands have been enjoined from any such practice, but there are a great number of individuals owning land who have not been enjoined in this manner, and perhaps an injunction suit would be futile because a claim would undoubtedly be set up that they were using waste waters from the Wyoming lands.

I have this week investigated the situation along Teton Creek, and find that the Wyoming land owners are diverting three times as much water as would be accorded them under the Wyoming statute, regardless of whether they have been awarded water or not, and a great deal of this water is being conveyed across and over the lands of Wyoming users on to Idaho lands, some of which are as much as three miles or more from the boundary line.

From the fact that the Wyoming defendants attempted to make something of the fact that no demand had been made for the regulation in Wyoming of the waters of Teton Creek, we wish very much that your office would ask an immediate investigation by the State Engineer of Wyoming and a regulation of the water and a correction of the abuses that are being practiced along the Idaho-Wyoming boundary line. If no immediate agreement under the compact is to be had or an adjudication made, the Idaho users on the Lower Teton River will institute proceedings against the land owners in Wyoming along Teton Creek. These Wyoming users must come into Idaho, as there are no roads leading to their properties except those of Idaho. Service can be made upon them in the Idaho Courts, and while the Idaho courts might not effect an adjudication, whenever the Wyoming users violate the terms of any award made by the Idaho courts these Wyoming users can be punished for contempt, and this remedy will be resorted to if it is finally determined that such procedure must be taken.

I have written at much length in order that you may have some understanding of the position of the Idaho users and I might add that all of the waters of the Teton River were appropriated and the Teton users have an adjudication from the Idaho court covering all of these waters, of a date of priority long prior to any settlement upon the interstate stream in Wyoming, and these Idaho users suffer every year from scarcity of irrigation water, and to see it wasted and diverted to Wyoming users with rights much inferior to theirs, and the further unlawful diversion through the connivance of Wyoming users to Idaho lands has become a serious and aggravating question with Lower Teton River users.

May we have your co-operation in this matter?

Very truly yours,

/s/ F. A. MILLER

REVISED OUTLINE OF PROPOSED IDAHO-WYOMING COMPACT FOR  
DISCUSSION OF ALL INTERESTED PARTIES PRIOR TO THE  
MEETING TO BE HELD AT ASTOR, WYOMING, SEPTEMBER 12,  
1922, THE PURPOSE OF WHICH IS TO OFFER A BASIS FOR  
DISCUSSION OF THE SEVERAL SECTIONS OF THE PROPOSED  
COMPACT.

Revised and re-written by L. G. KIMMOP, State Engineer of Wyoming.

ARTICLE I.

1. The State of Wyoming and the State of Idaho are, and shall hereinafter in this instrument, be designated respectively as Wyoming and Idaho and the United States of America shall be designated as the United States.

2. Whenever in this compact the word "citizen of Idaho" or "citizen of Wyoming" is used, the word is intended to mean and shall be construed to mean any person, association, or corporation whose residence or principal place of business is in the respective state referred to.

3. The provisions hereof respecting each signatory State shall include and bind the citizens and all others engaged or interested in the location, diversion, use and distribution of the waters of the Snake River and its tributaries in the areas covered by the terms of this compact.

4. The Wyoming State Engineer shall approve no applications from Idaho, Idaho citizens, nor the United States Bureau of Reclamation, as agent or trustee thereof, for the construction of reservoirs, as hereinafter provided, within the areas embraced in this compact, lying within the State of Wyoming, until the county, or counties, in which such proposed reservoirs are located, have received written and lawfully binding assurance of adequate compensation in lieu of lands to be lost due to the construction of such reservoirs.

5. Idaho guarantees that no ditches, canals, dams, reservoirs, or appurtenant works constructed or maintained in Wyoming by Idaho, or Idaho citizens, under the terms of this compact shall be so operated as to create a hazard to life or property, nor to exceed the capacity of natural channels used for transporting water in connection with such works, nor to in any way

cause any additional burden to be placed on Wyoming or political subdivisions thereof, through the policing or control of such works.

6. The Idaho Commissioner of Reclamation shall approve no applications from Wyoming, Wyoming Citizens, nor the United States Bureau of Reclamation as agent or trustee therefor, for the construction of reservoirs, as hereinafter provided, within the areas embraced in this compact, lying within the State of Idaho, until the county, or counties, in which such proposed reservoirs are located have received written and lawfully binding assurance of adequate compensation in lieu of taxes to be lost due to the construction of such reservoirs.

7. Wyoming guarantees that no ditches, canals, dams, reservoir, or appurtenant works constructed or maintained in Idaho by Wyoming, or Wyoming citizens, under the terms of this compact shall be so operated as to create a hazard to life or property, nor to overtax the capacity of natural channels used for transporting water in connection with such works, nor to in any way cause any additional burden to be placed on Idaho or political subdivisions thereof, through the policing or control of such works.

8. Idaho agrees that from any electrical power developed at dams, reservoirs or appurtenant works constructed or maintained within the Snake River water shed in Wyoming, as provided herein, by Idaho, Idaho citizens, or the United States Bureau of Reclamation as agent or trustee therefor in excess of that needed for the operation of such works, Wyoming or any county, town, city, village, or association, situated principally within the Snake River water shed in Wyoming, shall be allowed to purchase at the place of generation such portion of such excess power as may be needed or desired for transmission or sale principally within the Snake River water shed in Wyoming, at the same rate as such power is sold at the place of generation for use in Idaho. And further provided that Wyoming, or any county, town, city, village or association, situated principally within the Snake River water shed in Wyoming, may, by giving notice and assuming an obligation to pay a proportionate share of the cost of construction, operation, and maintenance of

such works, before the beginning of construction, obtain a proportionate interest in such works for generating electric power.

9. All measurements in the administration and distribution of water under this compact shall be made as near the points of diversion from the streams as practicable.

#### ARTICLE II.

1. **FALLS RIVER SECTION:** The following area situated in Wyoming shall hereinafter in this compact, be referred to as the "Falls River Section" and whenever that term is used herein, it refers to the area in Wyoming drained by Falls River and tributaries from the South Boundary of the Yellowstone National Park, to about the South Boundary of Township 46 North.

2. The physical conditions of the area in Wyoming designated as the "Falls River Section" are such that only a relatively small amount of the water originating therein can be used in Wyoming, therefore the use thereof in Wyoming for any and all purposes shall be unrestricted.

3. The use of water from the "Falls River Section" in Idaho and the number and location of water filings and permits and reservoir sites within said "Falls River Section" shall also not be restricted but shall be subject to the unrestricted first use of the water by Wyoming, within the Basin of the "Falls River Section."

4. The citizens of Idaho shall have the right, by complying with the laws of Wyoming, to locate, file upon and receive permits for the appropriation of water within said "Falls River Section" for use in Idaho and such location, appropriation, filing and Permit shall not be denied by Wyoming to any citizen of Idaho for any reason other than would apply to a citizen of Wyoming and the said permits when complied with shall be adjudicated by the State Board of Control of Wyoming, the same as though the use of the water was in the State of Wyoming.

5. Citizens of Idaho shall have the right, by complying with the laws of Wyoming, to file upon and locate reservoir sites within said "Falls River

Section" and to construct, build and maintain reservoirs upon said sites for storing the water located and used as herein provided, and to construct and maintain ditches and other diversion works within said area and to use the natural streams to convey such stored water, provided, however, that a permit from the Forest Service is first secured where any of the contemplated irrigation works are located within the boundaries of the National Forest.

6. The water which originates in the State of Wyoming within the "Falls River Section" shall be administered and distributed as follows:

a. Beneficial use shall be the limit until such time as it becomes necessary to make regulation of the flow of the streams between the individual users therefrom at which time the distribution of the direct flow shall be in accordance with priority and as between the States on a basis of 1 c.f.s. for each 80 acres of land for which legal appropriation has been secured in either State.

b. The distribution of the water of the "Falls River Section" shall be under the direction of a water Master or Deputy appointed by the Commissioner of Reclamation of Idaho, with the consent and advice of the State Engineer of Wyoming. And it shall be the duty of the Commissioner of Reclamation of Idaho and the State Engineer of Wyoming, to require the installation of suitable diversion works and measuring devices on the canals and ditches in their respective States by the water users therein.

c. The expenses to be incurred in the distribution of the waters between the States in the "Falls River Section" shall be borne equally by the respective States, and the users therein shall pay in proportion to the areas adjudicated and unadjudicated, on an acreage or share basis that will be satisfactory to the Commissioner of Reclamation of Idaho and the State Engineer of Wyoming.

### ARTICLE III.

#### TETON SECTION

1. The following area situated in the State of Wyoming, shall be hereinafter in this compact, referred to as the "Teton Section" and whenever herein,

that term is used it refers to the area in Wyoming, drained by Teton Creek, South Leigh Creek, Spring Creek and tributaries, ~~Shoem or Rapid Creek~~, Hill *Darby Creek*, Creek, and Dry Creek, all originating in Wyoming and being tributaries of the Teton River in Idaho.

2. Water may be stored in this section only when not needed for direct flow irrigation.

3. TETON CREEK. In the administration of the water of Teton Creek, the appropriators of each State are to use as much water as they can apply to a beneficial use until the natural stream flow diverted in all ditches and in the stream at the last point of diversion diminishes to 90 c.f.s., *at this time the flow should be regulated to 1 inch per acre* after which time the water is to be divided on a 50-50 basis between the users of the two States, all ditches diverting in Wyoming *having* with legal appropriations in Wyoming and/or Idaho, to be supplied from Wyoming's 50 (%) percent, except the Grand Teton Canal, *and Biggs City water supply* which is to be considered the same as though it diverted in Idaho and which is to be supplied from Idaho's 50 (%) per cent and the regulation and administration of which is conceded to Idaho and the water right and priority of same is recognized by Wyoming in accordance with the appropriation which has been recognized by Idaho and as though it diverted in said State.

4. The portion of the lands under the South Side Canal as described in Permit No. 7480, and located in the State of Idaho, is hereby recognized by Wyoming as having a priority of October 2, 1906, and the State Engineer of the State of Wyoming shall after securing the proper authority from the Wyoming Legislature, endorse upon said Permit No. 7480, a proper notation showing an allowance for irrigation of lands in the State of Idaho under said Permit, the same as in Wyoming, and the State Board of Control of Wyoming is directed to adjudicate the same.

5. SOUTH LEIGH CREEK. The waters of which originate in the State of Wyoming and flow into the Teton River in the State of Idaho, shall be administered and distributed as follows:

a. The water users of each State to use as much water as they can apply to beneficial use until the natural flow diverted in all ditches and in the stream at last point of diversion diminishes

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4300

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Teton  
Teton

to 18 c.f.s., at which time the water is to be divided on a 50-50 basis between the users of the two States, all ditches diverting in Wyoming with regular appropriations in Wyoming and/or Idaho to be supplied from Wyoming's 50 (%) per cent. *cut*

6. DARBY CREEK: The waters of which originate in the State of Wyoming and flow into the Snake River in Idaho, shall be administered and distributed as follows: *Darby Creek Permit #14642 in Wyo. irrigating 65,78 acres shall be allowed said Wyo. decree, regardless of priority*

a. Between the States according to priority and on a basis of 1 c.f.s. for each 80 acres of land for which a legal appropriation has been secured in either State.

7. SPRING CREEK AND TRIBUTARIES: The waters of which originate in the State of Wyoming and flow into the Teton River in Idaho, the direct flow of which shall be administered and distributed as follows:

a. *There available supply of water in Spring creek and tributaries shall be divided according to total appropriation in either state, regardless of priority*  
Between the States according to priority and on a basis of 1 c.f.s. for each 80 acres of land for which a legal appropriation has been secured in either State.

8. SLOCUM OR DAVID CREEK: The waters of which originate in Wyoming and flow into the Teton River in Idaho, the direct flow of which shall be distributed and administered as follows:

a. Between the States according to priority and on a basis of 1 c.f.s. for each 80 acres of land for which legal appropriation has been secured in either State.

9. HILL CREEK: The waters of which originate in Wyoming and flow into the Teton River in Idaho, the direct flow of which shall be distributed and administered as follows:

a. Between the two States according to priority and on a basis of 1 c.f.s. for each 80 acres of land for which a legal appropriation has been secured in either State.

10. DRY CREEK: The waters of which originate in Wyoming and flow into Teton River in Idaho, the direct flow of which shall be distributed and administered as follows:

a. Between the two States according to priority and on a basis of 1 c.f.s. for each 80 acres of land for which a legal appropriation has been

*to lower priority c.f.s. only 6.5 c.f.s. This should be allowed to stand*

*Spring*

*Creek*

*Water to be measured at point of diversion for Wyo. users and at State line for Idaho users*

secured in either State.

11. The administration and distribution of the "Teton Section" including Teton Creek, Leigh Creek, Darby Creek, Spring Creek, and its tributaries, Slocum or Rapid Creek, Hill Creek, and Dry Creek, shall be under the direction of a water master or deputy appointed by the Commissioner of Reclamation of Idaho, with the consent and advice of the State Engineer of Wyoming.

12. It shall be the duty of the Commissioner of Reclamation of Idaho and the State Engineer of Wyoming, to require the installation of suitable diversion works and measuring devices on all canals and ditches in their respective States by the water users therein in order to make possible the administration and distribution of water under this compact.

13. The expenses to be incurred in the administration and distribution of the water of the "Teton Section" shall be borne equally by the respective States, and the users therein shall pay in proportion to the acres adjudicated and unadjudicated, on an acreage or share basis that will be satisfactory to the Commissioner of Reclamation of Idaho and the State Engineer of Wyoming.

#### ARTICLE IV.

##### SALT RIVER SECTION:

1. Embracing the area drained by Grey's River and tributaries, entirely located within the State of Wyoming, and Salt River and tributaries located principally within the State of Wyoming, but a small portion being in the State of Idaho, shall be known and designated as the "Salt River Section" and whenever in this compact the words "Salt River Section" are used, they shall be construed to be all of said area.

2. That any citizen or corporation of either State shall have the right to file upon reservoir sites within said "Salt River Section" and to construct, maintain and use said reservoir within said area and to construct ditches and other diversion works to conduct the water from said reservoirs to the place of use, whether within Wyoming or Idaho and within said area. The citizens of either

State shall have the same rights for the purposes above outlined as the citizens of the other State, provided that the State Engineer of Wyoming or the Commissioner of Reclamation of Idaho shall issue no permits for the construction of reservoirs on Stamp Creek, Snow Creek, Swift Creek, Tincup Creek, or Salt River, above Sweet, Wyoming, except for those proposing to store water exclusively for use within the "Salt River Section" of Wyoming and Idaho, as described herein and that the development of reservoirs on said streams and the appropriation of unappropriated water to fill such reservoirs in an amount not exceeding 100,000 acre-feet in the aggregate, is hereby reserved for the citizens in the "Salt River Section" for use in this Section. *out*

3. That any unappropriated water within said "Salt River Section" whether the source of the same is located in Wyoming or in Idaho, is appropriated and used either in Wyoming or in Idaho or in both of said States by citizens of either or both of said States and the respective authorized officials of said States shall issue permits for such diversions and/or storage and use within the "Salt River Section," without distinction or discrimination and the diversion of the water as between the States, shall be in accordance with priority and on a basis of 1 c.f.s. for each 50 acres of land. In the case of any reservoir constructed by either State within the boundaries of the adjoining State, it is understood that the appropriators of the stream upon which said reservoir is located shall have unrestricted use of the water of said stream within the basin or drainage area above said reservoir, insofar as the State constructing the reservoir is concerned.

4. That whenever citizens of either State shall undertake to construct reservoirs on Salt River or its tributaries in the "Salt River Section" to provide water for lands in either State and it shall be practicable to extend the benefits of such storage to lands within the water shed of Salt River other than the lands specified in the application for permit originally filed, the owners of such other lands as might be benefitted shall have the right to participate in the benefits of such reservoirs, by assuming their proportionate share of the cost of construction, operation and maintenance of such reservoirs prior to starting of construction.

5. The right to divert unused and unappropriated water from Grey's River, in an amount not exceeding one hundred and sixty second feet, for future development of Wyoming lands within this section is hereby reserved to Wyoming and Wyoming citizens.

6. Nothing in this article, nor elsewhere in this compact, providing for the construction of reservoirs within this section by Idaho, Idaho citizens, or the United States Bureau of Reclamation as agent or trustee therefor, shall be construed to limit the right of appropriators within this section to less water than can be beneficially used.

#### ARTICLE V

1. The area embracing the water shed of the South Fork of Snake River above the mouth of Grey's River shall be known and designated as the "Jackson Hole Section" and whenever in this compact the words "Jackson Hole Section" are used, they shall include and be construed to mean all of said area.

2. The continued enjoyment and use by Idaho citizens, or the United States Bureau of Reclamation as agent or trustee therefor, of the existing storage works at Jackson Lake Reservoir, and the privilege of storing water therein and conducting same down the south Fork of Snake River for use in Idaho, is hereby guaranteed by Wyoming. Provided, that the necessary deeds, and other instruments required by Wyoming statutes and regulations of the Wyoming State Engineer and Board of Control are properly executed and filed.

3. The right is hereby granted to citizens of Idaho, or the United States Bureau of Reclamation as agent or trustee therefor, by complying with Wyoming statutes and regulations of the Wyoming State Engineer, to file applications for the construction of dams, reservoirs, and appurtenant storage works to be located within this section. Wyoming guarantees that such applications shall not be denied except on grounds which would be lawfully applicable to applications filed by citizens of Wyoming. Provided, that no applications, filed by citizens of Idaho, or the United States Bureau of Reclamation as agent or trustee

therefor, shall be approved which propose the construction of reservoirs on Spread Creek, Ditch Creek, Gros Ventre River, or Flat Creek, or their tributaries. And further provided, that whenever the citizens of Idaho, or the United States Bureau of Reclamation as agent or trustee therefor, shall undertake to construct reservoirs within this section, as here-  
in provided, the State of Wyoming, Wyoming citizens, or permittees under Wyoming law, by assuming a proportionate share of the cost of constructing such reservoir or reservoirs, shall be entitled to reserve therein not to exceed twenty per cent of the capacity for any beneficial use in Wyoming.

4. Idaho guarantees that the use of water within this section for any beneficial purpose recognized by Wyoming law shall not be contested or jeopardized in any manner nor upon any grounds whatsoever by Idaho, nor any one acting in behalf thereof, when the total diversions for beneficial use within this section do not exceed twenty-five hundred second feet of water, and that in any event, only the diversions in excess of this rate of flow will be subject to contest.

5. Idaho guarantees that the construction of reservoirs within this section by Wyoming, Wyoming citizens, or permittees under Wyoming Law, either upon streams designated in paragraph 3 of this article as being reserved for Wyoming or elsewhere upon undeveloped sites, the impounding of water in such reservoirs in an amount not exceeding forty thousand acre-feet in the aggregate, and the release and use of such stored water for any beneficial purpose recognized by Wyoming law, shall not be contested or jeopardized in any manner nor upon any grounds whatsoever by Idaho, nor any one acting in behalf thereof, and that in any event only such storage or use in excess of the aforesaid quantity will be subject to contest. And further provided, that any diversions from reservoirs constructed or maintained under the provisions of this paragraph shall be considered supplemental to, and not to be included with, the permissible maximum direct-flow diversions of twenty-five hundred second feet of water provided for in paragraph 4 of this article.

6. Wyoming retains, for the use of lands within Wyoming or other beneficial purpose, Twin Lakes, better known as Emma Matilda and Two Ocean Lakes, except as to any valid rights that may have, at the present time, been acquired in said Lakes by citizens of Idaho, which rights are hereby recognized by Wyoming.

#### ARTICLE VI

1. The following streams shall be known as "Interstate Streams."

Salt River from its source to its mouth near Alpine, Idaho, together with all of its tributaries and sub-tributaries in Wyoming and Idaho.

2. All adjudicated water rights in Idaho and Wyoming within the areas directly served from said Interstate Streams are hereby ratified and confirmed with respect to the areas of land irrigated and priorities of the rights. The priorities of said water rights shall prevail in the administration and distribution of waters so appropriated regardless of whether the areas irrigated are in Idaho or in Wyoming. As soon as practical, and within six months, after the ratification of the Compact, the State Engineer of Wyoming shall certify to the Commissioner of Reclamation of Idaho a full, true and complete tabulation of all such water rights in Wyoming, and the Commissioner of Reclamation of Idaho shall in like manner certify to the State Engineer of Wyoming, a like tabulation of all such water rights in Idaho. Thereupon the said State officers shall compile a tabulation of all said adjudicated water rights in the order of their priorities for use in the administration of said streams.

3. Distribution of direct flow of all streams of this section shall be made as between the states on a basis of one c.f.s. of water for each 50 acres of land.

4. The water rights in each State that are unadjudicated shall be adjudicated by the proper officers of each State and in accord with the laws of that State, and where the water diverts in one State and irrigates lands in the adjoining State, permits covering the lands in the adjoining State, shall be adjudicated by the State in which the diversion is made, and the regulation of the water under same shall be made in accordance with priority, and the distribution will be made on the same as if the State line did not exist, and as between the States on a basis of one cubic foot for each 50 acres of land. This provision shall also apply to all rights hereafter acquired in accord with the terms of this compact.

Where the water right is in both States the proofs of appropriation shall be advertised in the nearest newspaper of general circulation in both States.

5. All water rights hereinafter initiated in the Interstate Streams area shall be adjudicated as herein provided for adjudicating existing claims.

6. Beneficial use of water shall be the measure of, and the limit to, all existing rights and rights hereinafter acquired within the areas embraced in this compact, and the Commissioners having the administration and distribution of such water shall be charged with the duty of preventing its waste.

7. Water rights for power purposes shall be inferior and subservient to all water rights for domestic, municipal, and irrigation uses, in the area embraced by this compact; provided, however, that this section shall not be held to restrict power rights vested prior to the approval of this compact.

#### ARTICLE VII

1. Each "Interstate Stream" as herein defined, with respect to direct flow and storage rights, for lands irrigated by diversions from these streams, shall be administered without regard to water rights on streams to which these "Interstate Streams" are tributary, and without regard to State Lines, in accord with recognized priorities and as between the States on a basis of 1 c.f.s. for each 50 acres.

2. Administration of said Interstate Streams shall be by Commissioners or deputies designated jointly by the State Engineer of Wyoming and the Commissioner of Reclamation of Idaho. The salaries and expenses of said Commissioner shall be fixed by said officials; the total of such salary and expenses to be pro-rated between the two States according to areas under the rights administered in each State and to be collected under the applicable provisions of the laws of each State.

3. Each "Interstate Stream" shall be administered as follows: No diversion shall be limited to less than amounts which can be beneficially used as long as there is available water therefor. Whenever the available direct flow water supply falls below the amount so required, each acre of land with water rights shall be entitled to an equal rate of diversion until such supply falls to 1 c.f.s. for each fifty acres of land. Whenever the available water supply falls

BELOW this requirement, then the water shall be delivered in the order of the priorities of the respective water rights at the rate of one second foot for each seventy acres of land.

4. All reservoirs located in Wyoming and serving Idaho lands other than those canals diverting from "Interstate Streams" shall be deemed to have the same priorities in relation to water rights in Idaho as would prevail in the absence of State boundaries; provided, however, that water shall not be stored when needed for beneficial use on the herein designated "Interstate Streams" without regard to statutory limitation on the duty of water and that such part of the capacity as may be serving the lands on the "Interstate Streams" shall be operated with regard only for the water rights on such "Interstate Streams."

5. All reservoirs located in Idaho and serving Wyoming lands other than those canals diverting from "Interstate Streams" shall be deemed to have the same priorities in relation to water rights in Wyoming as would prevail in the absence of State boundaries; provided, however, that water shall not be stored when needed for beneficial use on the herein designated "Interstate Streams" without regard to statutory limitations on the duty of water and that such part of the capacity as may be serving the lands on the "Interstate Streams" shall be operated with regard only for the water rights on such "Interstate Streams."

#### ARTICLE VIII

1. Nothing in this compact shall be understood or construed to in any way limit or restrict the rights of the United States which have been acquired in accordance with law.

#### ARTICLE IX

1. Except as modified by the terms of this compact, the acquisition of water rights, the construction, maintenance and operation of reservoirs, ditches and other irrigation and diversion works in Wyoming by any citizen of Idaho, under the authority herein granted, shall be in full compliance with the laws of Wyoming.

2. Except as modified by the terms of this compact the acquisition of water rights, the construction, maintenance and operation of reservoirs, ditches and other irrigation and diversion works in Idaho by any citizens of Wyoming, under

the authority herein granted, shall be in full compliance with the laws of Idaho.

ARTICLE X

1. It is agreed between the states of Wyoming and Idaho that the State Engineer of Wyoming and the Commissioner of Reclamation of Idaho may formulate and agree upon such rules and regulations as may be necessary for carrying out all the provisions of this compact and not expressly provided for herein and such rules and regulations when agreed upon, signed and promulgated by said officials, shall be binding upon each of the said states until amended or abolished by agreement between them.

2. Whenever any official of either state is designated to perform any duty under this compact such designation shall be interpreted to include the state official or officials upon whom the duties now performed by such officials may hereinafter devolve by law.

3. Whenever the Commissioner of Reclamation of Idaho and the State Engineer of Wyoming shall fail to agree in any matter which they are required to decide under this compact, then they shall call in some disinterested person not a resident of either state, to act with them in considering such matter upon which they fail to agree and such person shall have full power to act and the decision of the majority shall be binding upon all parties in such matters.

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Vertical handwritten notes on the left margin, including "10/10/10" and "10/10/10".

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Vertical handwritten notes at the bottom center, including "10/10/10".

IN THE DISTRICT COURT OF THE NINTH JUDICIAL DISTRICT OF IDAHO,  
 IN AND FOR THE COUNTY OF FREMONT.

\* \* \* \* \*

GRAND TETON CANAL COMPANY, Limited,  
 a corporation,

Plaintiff,

-vs-

Lynn Crandall, Watermaster,  
 District 36, Idaho.

Defendant.

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C O P Y

J U D G M E N T.

This cause coming on to be heard and tried by the Court this 16 day of November, 1937, F. A. Miller, of St. Anthony, Idaho, appearing as counsel for the plaintiff, and it appearing to the satisfaction of the Court that the defendant was served with a copy of the Summons and a copy of the Complaint in this action, and that he failed to appear and plead to said Complaint, and that the default of the said defendant has been entered, and, -

It further appearing that an order was made on the 17th day of September, 1937, directing the publication of a Notice, once a week for not less than three weeks successively, in the Teton Valley News, a weekly newspaper published at Driggs, Teton County, Idaho, containing the title of the Court and Cause, the name of the stream in the waters of which the plaintiff claims an interest, the date of priority claimed by it, as is required, and the date and short title of the decree of this court heretofore entered, fixing the permanent rights in and to the waters of Snake River and its tributaries; that the said notice was published in accordance with said order and the proof of publication has been filed in this action; that no person or persons have appeared to defend against said action.

The plaintiff introduced oral and documentary proof in support of its complaint and the Court, after hearing the evidence and examining the proof submitted, finds as follows:

That the plaintiff is a corporation organized and existing under the laws of the State of Idaho, with its principal place of business in Teton County, Idaho; the sole object and purpose of its organization is for the benefit of its several stockholders in the diversion and conveyance of agricultural and domestic waters for the irrigation of their lands and domestic purposes, and that the stockholders of the said corporation are entitled to the use of the quantity of water diverted by the said corporation in proportion to the amount of capital stock or acreage of land owned by them.

That the stockholders of the plaintiff are the owners of, and the lands

irrigated under the ditch or canal system of the plaintiff, are situate in Teton County, Idaho, and particularly described, to-wit:

The E $\frac{1}{2}$  of section 10;  
Section 11;  
NW $\frac{1}{4}$  and S $\frac{1}{2}$  of section 12;  
Sections 13 and 14;  
E $\frac{1}{2}$  and SW $\frac{1}{4}$  of section 15;  
SE $\frac{1}{4}$ SE $\frac{1}{4}$  of section 16,  
NE $\frac{1}{4}$  and N $\frac{1}{2}$ SE $\frac{1}{4}$  of section 22;  
Sections 23, 24, and 25;  
N $\frac{1}{2}$ , SE $\frac{1}{4}$ , E $\frac{1}{2}$ SW $\frac{1}{4}$  of section 26;  
E $\frac{1}{2}$ NE $\frac{1}{4}$  of section 27;  
NE $\frac{1}{4}$  and E $\frac{1}{2}$ NW $\frac{1}{4}$  of section 35, all in  
township 5 north, range 45 E.B.M.  
S $\frac{1}{2}$  of Section 7;  
SW $\frac{1}{4}$ SW $\frac{1}{4}$  of section 8;  
W $\frac{1}{2}$  of section 17;  
Section 18;  
N $\frac{1}{2}$  and N $\frac{1}{2}$ S $\frac{1}{2}$  of section 19;  
NW $\frac{1}{4}$ NE $\frac{1}{4}$  and NW $\frac{1}{4}$  of section 20, all in  
township 5 north, range 46 E.B.M.

That the lands are arid in character and require artificial application of water by irrigation to produce agricultural crops; that the plaintiff, through its stockholders and predecessors in interest, ever since the 22d day of January, 1916, have diverted 210 second feet or 10,500 miner's inches of the unappropriated waters of Teton Creek; that the diversion works of the plaintiff are located on the north side or right hand bank of Teton Creek approximately one-half mile east of the Idaho-Wyoming State line; that ever since the said 22d day of January, 1916, have applied said quantity of water, during the irrigating seasons, to beneficial use in the irrigation of crops grown upon the above described lands, and which said quantity or stream flow has been in addition to any other rights fixed, decreed or in any manner granted to the plaintiff through its stockholders and/or predecessors in interest.

From the above findings the Court concludes that the plaintiff is entitled, and, -

IT IS HEREBY ORDERED, ADJUDGED AND DECREED, That the plaintiff, for the use of its stockholders, and for the irrigation of the hereinbefore described lands, is awarded the use of 210 cubic feet per second of time, with a priority date of January 22, 1916, of the waters of Teton Creek.

IT IS FURTHER ORDERED, That the rights awarded and decreed in that certain decree commonly known as the "Rexburg or Snake River Decree," made and entered in this Court December 16, 1910, both as to dates of priority and the amounts of the rights awarded, are binding upon the plaintiff in this action.

Done in open court this 16th day of November, 1937.

C J Taylor  
District Judge.

July 24, 1939

*New State  
F. Miller - C*

Mr. F. A. MILLER,  
Attorney-At-Law,  
St. Anthony, Idaho.

Dear Mr. Miller:

I was very glad to receive your letter of the 21st explaining in detail the present status of the misuse of the distribution of water on the Teton River. I certainly appreciate your letter, as it sets forth the different phases of this compact in a clear and definite manner.

While in Salt Lake in June, I met Mr. Bishop, State Engineer of Wyoming, and discussed this matter with him in some detail, but at that time he had no particular knowledge of the difficulties involved in the distribution of water from the Teton River between the water users of Wyoming and Idaho. I am sure, therefore, that he would be very glad to get this report as set forth in your letter, as I am mailing a copy of the same to him. This office is very anxious to cooperate in working out a satisfactory agreement between the two states, whereby irrigation water may be successfully distributed to all water users.

Very truly yours,

JAMES SPENCER,  
Commissioner of Reclamation

JS/jf  
encl.