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**UNITED STATES DISTRICT COURT  
DISTRICT OF UTAH, CENTRAL DIVISION**

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UTE INDIAN TRIBE OF THE UINTAH &  
OURAY RESERVATION,

Plaintiff,

v.

GREGORY D. MCKEE, T & L  
LIVESTOCK, INC., MCKEE FARMS, INC,  
AND GM FERTILIZER, INC.,

Defendants.

**APPENDIX TO  
PLAINTIFFS' MOTIONS FOR  
SUMMARY JUDGMENT  
VOLUME I OF IV**

Civil Case No. 2:18-cv-00314-CW

**Judge Clark Waddoups**

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DATED this 16<sup>th</sup> day of May, 2019.

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**CERTIFICATE OF SERVICE**

I hereby certify that on this 16th day of May, 2019, I electronically filed the foregoing **APPENDIX TO PLAINTIFFS' MOTIONS FOR SUMMARY JUDGMENT VOLUME I OF IV** with the Clerk of Court using the CM/ECF system.

/s/ Catherine Wiland

populated suburbs on which there exists an open well, cistern, dangerous hole, or excavation be a nonresident of the District of Columbia, then after public notice by said Commissioners, given at least twice a week for one week in one newspaper published in the city of Washington, by advertisement, describing the property, specifying the nuisance to be abated, then if such nuisance shall not be abated within one week after the expiration of such notice, said Commissioners may cause the lot or parcel of land on which the nuisance exists to be secured by fences or otherwise inclosed, and the cost and expense thereof shall be assessed by said Commissioners as a tax against the property on which such nuisance exists, and the tax so assessed shall bear interest at the rate of ten per centum per annum until paid, and shall be carried on the regular tax rolls of said District and be collected in the manner provided for the collection of general taxes.

Approved, March 1, 1899.

March 1, 1899.

**CHAP. 324.**—An Act Making appropriations for the current and contingent expenses of the Indian Department and for fulfilling treaty stipulations with various Indian tribes for the fiscal year ending June thirtieth, nineteen hundred, and for other purposes.

Indian Department  
appropriations.

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,* That the following sums be, and they are hereby, appropriated, out of any money in the Treasury not otherwise appropriated, for the purpose of paying the current and contingent expenses of the Indian Department and in full compensation for all offices the salaries for which are specially provided for herein, for the service of the fiscal year ending June thirtieth, nineteen hundred, and fulfilling treaty stipulations for the various Indian tribes, namely:

#### CURRENT AND CONTINGENT EXPENSES.

Pay of agents at  
agencies.

For pay of fifty-six agents of Indian affairs at the following-named agencies, at the rates respectively indicated, namely:

At the Blackfeet Agency, Montana, one thousand eight hundred dollars;

At the Cherokee School, North Carolina: Additional compensation to superintendent of said school for performing the duties heretofore required of the agent at the Cherokee Agency, two hundred dollars;

At the Cheyenne and Arapahoe Agency, Oklahoma Territory, one thousand eight hundred dollars;

At the Cheyenne River Agency, South Dakota, one thousand seven hundred dollars;

At the Colorado River Agency, Arizona, one thousand five hundred dollars;

At the Colville Agency, Washington, one thousand five hundred dollars;

At the Crow Creek Agency, South Dakota, one thousand six hundred dollars;

At the Crow Agency, Montana, one thousand eight hundred dollars;

At the Devils Lake Agency, North Dakota, one thousand two hundred dollars;

At the Flathead Agency, Montana, one thousand five hundred dollars;

At the Fort Apache Agency, Arizona, one thousand five hundred dollars;

At the Fort Belknap Agency, Montana, one thousand five hundred dollars;

At the Fort Berthold Agency, North Dakota, one thousand five hundred dollars;

At the Fort Hall Agency, Idaho, one thousand five hundred dollars;

At the Fort Peck Agency, Montana, one thousand eight hundred dollars;



At the Green Bay Agency, Wisconsin, one thousand eight hundred dollars; Pay of agents at agencies—Continued.  
At the Kiowa Agency, Oklahoma Territory, one thousand eight hundred dollars;  
At the Klamath Agency, Oregon, one thousand two hundred dollars;  
At the La Pointe Agency, Wisconsin, one thousand eight hundred dollars;  
At the Leech Lake Agency, Minnesota, one thousand eight hundred dollars;  
At the Lemhi Agency, Idaho, one thousand two hundred dollars;  
At the Lower Brule Agency, South Dakota, one thousand four hundred dollars;  
At the Mescalero Agency, New Mexico, one thousand six hundred dollars;  
At the Mission Tule River Agency, California, one thousand six hundred dollars;  
At the Navajo Agency, New Mexico, one thousand eight hundred dollars;  
At the Neah Bay Agency, Washington, one thousand two hundred dollars;  
At the Nevada Agency, Nevada, one thousand five hundred dollars;  
At the New York Agency, New York, one thousand dollars;  
At the Nez Percés Agency, Idaho, one thousand six hundred dollars;  
At the Omaha and Winnebago Agency, Nebraska, one thousand six hundred dollars;  
At the Osage Agency, Oklahoma Territory, one thousand six hundred dollars;  
At the Pima Agency, Arizona, one thousand eight hundred dollars;  
At the Pine Ridge Agency, South Dakota, one thousand eight hundred dollars;  
At the Pottawatomie and Great Nemaha Agency, Kansas, one thousand two hundred dollars;  
At the Ponca, Pawnee, Otoe, and Oakland Agency, Oklahoma Territory, one thousand five hundred dollars;  
At the Pueblo and Jicarilla Agency, New Mexico, one thousand five hundred dollars;  
At the Quapaw Agency, Indian Territory, one thousand four hundred dollars;  
At the Rosebud Agency, South Dakota, one thousand eight hundred dollars;  
At the Sac and Fox Agency, Iowa, one thousand dollars;  
At the Sac and Fox Agency, Oklahoma Territory, one thousand two hundred dollars;  
At the San Carlos Agency, Arizona, one thousand eight hundred dollars;  
At the Santee Agency, Nebraska, one thousand five hundred dollars;  
At the Shoshone Agency, Wyoming, one thousand five hundred dollars;  
At the Siletz Agency, Oregon, one thousand two hundred dollars;  
At the Sisseton Agency, South Dakota, one thousand five hundred dollars;  
At the Southern Ute Agency, at Navajo Springs, Colorado, one thousand four hundred dollars;  
At the Standing Rock Agency, North Dakota, one thousand eight hundred dollars;  
At the Tongue River Agency, Montana, one thousand five hundred dollars;  
At the Tulalip Agency, Washington, one thousand two hundred dollars;  
At the Uintah and Ouray Agency, Utah (consolidated), one thousand eight hundred dollars;  
At the Umatilla Agency, Oregon, one thousand two hundred dollars;

At the Union Agency, Indian Territory, one thousand five hundred dollars;

At the Warm Springs Agency, Oregon, one thousand two hundred dollars;

At the Western Shoshone Agency, Nevada, one thousand five hundred dollars;

At the White Earth Agency, Minnesota, one thousand eight hundred dollars;

At the Yakima Agency, Washington, one thousand five hundred dollars;

At the Yankton Agency, South Dakota, one thousand six hundred dollars; in all, eighty-five thousand six hundred dollars: *Provided*,

*Proviso.*  
Appropriations not available for army officers acting as agents.

That the foregoing appropriations shall not take effect nor become available in any case for or during the time in which any officer of the Army of the United States shall be engaged in the performance of the duties of Indian agent at any of the agencies above named: *Provided*

Superintendent of training school may act as agents.

*further*, That the Commissioner of Indian Affairs, with the approval of the Secretary of the Interior, may devolve the duties of any Indian agency upon the superintendent of the Indian training school located at such agency, whenever in his judgment such superintendent can properly perform the duties of such agency. And the superintendent upon whom such duties devolve shall give bond as other Indian agents.

Interpreters.

For payment of necessary interpreters, to be distributed in the discretion of the Secretary of the Interior, ten thousand dollars; but no person employed by the United States and paid for any other service shall be paid for interpreting.

Inspectors.

For pay of eight Indian inspectors, one of whom shall be an engineer competent in the location, construction, and maintenance of irrigation works, and one of whom may be located by the Secretary of the Interior in the Indian Territory, and under his direction and authority may perform any duties required by law of said Secretary in said Territory, at two thousand five hundred dollars per annum each, twenty thousand dollars.

For traveling expenses of eight Indian inspectors, at three dollars per day when actually employed on duty in the field, exclusive of transportation and sleeping-car fare, in lieu of all other expenses now authorized by law, and for incidental expenses of inspection and investigation, including telegraphing and expenses of going to and going from the seat of Government, and while remaining there under orders and direction of the Secretary of the Interior, for a period not to exceed twenty days, twelve thousand eight hundred dollars.

—traveling expenses.

For pay of one superintendent of Indian schools, three thousand dollars.

For necessary traveling expenses of one superintendent of Indian schools, including telegraphing and incidental expenses of inspection and investigation, one thousand five hundred dollars: *Provided*, That he shall be allowed three dollars per day for traveling expenses when actually on duty in the field, exclusive of cost of transportation and sleeping-car fare, in lieu of all other expenses now allowed by law: *And provided*

*further*, That he shall perform such other duties as may be imposed upon him by the Commissioner of Indian Affairs, subject to the approval of the Secretary of the Interior.

For pay of one clerk to superintendent of Indian schools, one thousand dollars.

For buildings and repairs of buildings at agencies, thirty-five thousand dollars.

For contingencies of the Indian service, including traveling and incidental expenses of Indian agents and of their offices, and of the Commissioner of Indian Affairs; also traveling and incidental expenses of five special agents, at three dollars per day when actually employed on duty in the field, exclusive of transportation and sleeping-car fare, in lieu of all other expenses now authorized by law; and expenses of going to and going from the seat of Government, and while remaining there under orders and direction of the Secretary of the Interior, for a

Superintendent of schools.

—traveling expenses.

*Proviso.*  
—per diem allowance in field.

—other duties.

Clerk to superintendent.

Agency buildings.

Contingent expenses.

Special agents.

period not to exceed twenty days, and the accounting officers of the Treasury are hereby authorized to allow per diem pay to such special agents while remaining at the seat of Government under orders and direction of the Secretary of the Interior for a period not exceeding twenty days at any one time during the fiscal years eighteen hundred and ninety-eight and eighteen hundred and ninety-nine; for pay of employees not otherwise provided for, and for pay of the five special agents, at two thousand dollars per annum each, forty thousand dollars: *Provided*, That hereafter each special agent, supervisor of schools, or other official charged with the investigation of Indian agencies and schools, in the pursuit of his official duties shall have power to administer oaths and to examine on oath all officers and persons employed in the Indian service, and all such other persons as may be deemed necessary and proper.

—per diem allowance, Washington.

*Provido.* —power to administer oaths.

To enable the Secretary of the Interior to employ practical farmers and practical stockmen in addition to the agency farmers now employed, at wages not exceeding sixty-five dollars each per month, to superintend and direct farming and stock raising among such Indians as are making effort for self-support, sixty-five thousand dollars: *Provided*, That no person shall be employed as such farmer or stockman who has not been at least two years immediately previous to such employment practically engaged in the occupation of farming within the State or Territory, or adjoining State or Territory, where such agency is located, and where practicable competent Indians shall be given the preference.

Practical farmers.

*Provido.* To have been actually engaged in farming for two years previous.

For services of officers, at fifteen dollars per month each, and privates, at ten dollars per month each, of Indian police, to be employed in maintaining order and prohibiting illegal traffic in liquor on the several Indian reservations and within the Territory of Alaska, in the discretion of the Secretary of the Interior, for the purchase of equipments, and for the purchase of rations for policemen at nonration agencies, one hundred and thirty-five thousand dollars.

Indian police.

For compensation of judges of Indian courts, twelve thousand five hundred and forty dollars.

Judges of Indian courts.

To enable the Secretary of the Interior to employ suitable persons as matrons to teach Indian girls in housekeeping and other household duties, at a rate not to exceed sixty dollars per month, and for furnishing necessary equipments, fifteen thousand dollars.

Matrons to teach housekeeping.

For pure vaccine matter and vaccination of Indians, one thousand dollars.

Vaccination.

To pay the expense of purchasing goods and supplies for the Indian Service, and pay of necessary employees; advertising, at rates not exceeding regular commercial rates; inspection, and all other expenses connected therewith, including telegraphing, forty-five thousand dollars.

Supplies, telegraphing, etc.

For necessary expenses of transportation of such goods, provisions, and other articles for the various tribes of Indians provided for by this Act, including pay and expenses of transportation agents and rent of warehouses, three hundred and twenty-five thousand dollars.

Transportation.

For expenses of the commission of citizens, serving without compensation, appointed by the President under the provisions of the Act of April tenth, eighteen hundred and sixty-nine, four thousand dollars

Citizen commission. Vol. 16, p. 40.

FULFILLING TREATY STIPULATIONS WITH, AND SUPPORT OF, INDIAN TRIBES.

Fulfilling treaties.

CHICKASAWS.

Chickasaws.

For permanent annuity, in goods, three thousand dollars.

CHIPPEWAS OF THE MISSISSIPPI.

Chippewas of the Mississippi.

For seventh of ten installments of annuity, last series, to be paid to Chief Hole in the Day or his heirs, per third article of treaty of August second, eighteen hundred and forty-seven, and fifth article of treaty of

Vol. 9, p. 904.

Vol. 16, p. 720.

March nineteenth, eighteen hundred and sixty-seven, one thousand dollars;

For support of a school or schools upon said reservation, during the pleasure of the President, in accordance with third article of treaty of March nineteenth, eighteen hundred and sixty-seven, four thousand dollars; in all, five thousand dollars.

Choctaws.

CHOCTAWS.

Vol. 7, p. 99.  
Vol. 11, p. 614.

For permanent annuity, per second article of treaty of November sixteenth, eighteen hundred and five, and thirteenth article of treaty of June twenty-second, eighteen hundred and fifty-five, three thousand dollars;

Vol. 7, p. 213.  
Vol. 11, p. 614.

For permanent annuity for support of light horsemen, per thirteenth article of treaty of October eighteenth, eighteen hundred and twenty, and thirteenth article of treaty of June twenty-second, eighteen hundred and fifty-five, six hundred dollars;

Vol. 7, pp. 212, 236.  
Vol. 7, p. 36.

For permanent annuity for support of blacksmith, per sixth article of treaty of October eighteenth, eighteen hundred and twenty, ninth article of treaty of January twentieth, eighteen hundred and twenty-five, and thirteenth article of treaty of June twenty-second, eighteen hundred and fifty-five, six hundred dollars;

Vol. 11, p. 614.

For permanent annuity for education, per second and thirteenth articles of last two treaties named above, six thousand dollars;

Vol. 7, p. 236.

For permanent annuity for iron and steel, per ninth article of treaty of January twentieth, eighteen hundred and twenty-five, and thirteenth article of treaty of June twenty-second, eighteen hundred and fifty-five, three hundred and twenty dollars;

Vol. 11, p. 614

Interest.

For interest on three hundred and ninety thousand two hundred and fifty-seven dollars and ninety-two cents, at five per centum per annum, for education, support of the government, and other beneficial purposes, under the direction of the general council of the Choctaws, in conformity with the provisions contained in the ninth and thirteenth articles of treaty of January twentieth, eighteen hundred and twenty-five, and treaty of June twenty-second, eighteen hundred and fifty-five, nineteen thousand five hundred and twelve dollars and eighty-nine cents; in all, thirty thousand and thirty-two dollars and eighty-nine cents.

Vol. 7, p. 236.  
Vol. 11, p. 614.

Chippewas of Minnesota, reimbursable.

CHIPPEWAS OF MINNESOTA, REIMBURSABLE.

Advance interest.  
Vol. 25, p. 645.

Advance interest to the Chippewa Indians in Minnesota, as required by section seven of "An Act for the relief and civilization of the Chippewa Indians in the State of Minnesota," approved January fourteenth, eighteen hundred and eighty-nine, to be expended under the direction of the Secretary of the Interior, in the manner required by said Act (reimbursable), ninety thousand dollars.

Expenses of civilization.  
Vol. 25, p. 642.

To enable the Commissioner of Indian Affairs, under the direction of the Secretary of the Interior, to carry out an Act entitled "An Act for the relief and civilization of the Chippewa Indians in the State of Minnesota," approved January fourteenth, eighteen hundred and eighty-nine, namely, the purchase of material and employment of labor for the erection of houses for Indians; for the purchase of agricultural implements, stock, and seeds, breaking and fencing land; for payment of expenses of delegations of Chippewa Indians to visit the White Earth Reservation; for the erection and maintenance of day and industrial schools; for subsistence and for pay of employees; for pay of commissioners and their expenses; and for removal of Indians and for their allotments, to be reimbursed to the United States out of the proceeds of sale of their lands, one hundred thousand dollars.

Industrial schools:

Surveys.

For completing the necessary surveys within the Chippewa Indian Reservation in Minnesota, including expenses of examining and appraising pine lands, under the provisions of the Act approved January four-

teenth, eighteen hundred and eighty-nine, to be reimbursed to the United States out of proceeds of the sale of their lands, forty-five thousand dollars, ten thousand dollars of which shall be immediately available.

The Secretary of the Interior is hereby authorized and directed to cause an investigation by an Indian inspector and a special Indian agent of the alleged cutting of green timber under contracts for cutting "dead and down," on the Chippewa ceded and diminished reservations in the State of Minnesota, and also whether the present plan of estimating and examining timber on said lands and sale thereof is the best that can be devised for protection of the interests of said Indians; and also in his discretion to suspend the further estimating, appraising, examining, and cutting of timber, and the sale of the same, and also suspend the sale of the lands in said reservation.

Investigation of alleged cutting of green timber, etc.

For additional amount for buildings for additional schools at points on the Chippewa Reservations in Minnesota, to be selected by the Commissioner of Indian Affairs, twenty thousand dollars, to be immediately available and to be reimbursable.

School buildings.

CŒUR D'ALENES.

Cœur d'Alenes.

For eighth of fifteen installments of eight thousand dollars each, to be expended under the direction of the Secretary of the Interior, under the sixth article of agreement of March twenty-sixth, eighteen hundred and eighty-seven, ratified by Act of March third, eighteen hundred and ninety-one, eight thousand dollars;

Vol. 26, p. 1028.

For pay of blacksmith, carpenter, and physician, and purchase of medicines, as per the eleventh article of said agreement, three thousand five hundred dollars; in all, eleven thousand five hundred dollars.

COLUMBIAS AND COLVILLES.

Columbias and Colvilles.

For annuity for Chief Moses, as per agreement of July seventh, eighteen hundred and eighty-three, ratified by Act approved July fourth, eighteen hundred and eighty-four, one thousand dollars;

Chief Moses.

Vol. 23, p. 79.

For employees as provided in said agreement, ratified by Act of July fourth, eighteen hundred and eighty-four, six thousand dollars; in all, seven thousand dollars.

CREEKS.

Creeks.

For permanent annuity, in money, per fourth article of treaty of August seventh, seventeen hundred and ninety, and fifth article of treaty of August seventh, eighteen hundred and fifty-six, one thousand five hundred dollars;

Permanent annuities.

Vol. 7, p. 36.

Vol. 11, p. 700.

For permanent annuity, in money, per second article of treaty of June sixteenth, eighteen hundred and two, and fifth article of treaty of August seventh, eighteen hundred and fifty-six, three thousand dollars;

Vol. 7, p. 69.

Vol. 11, p. 700.

For permanent annuity, in money, per fourth article of treaty of January twenty-fourth, eighteen hundred and twenty-six, and fifth article of treaty of August seventh, eighteen hundred and fifty-six, twenty thousand dollars;

Vol. 7, p. 287.

Vol. 11, p. 700.

For permanent annuity for blacksmith and assistant, and for shops and tools, per eighth article of treaty of January twenty-fourth, eighteen hundred and twenty-six, and fifth article of treaty of August seventh, eighteen hundred and fifty-six, eight hundred and forty dollars;

Vol. 7, p. 287.

Vol. 11, p. 700.

For permanent annuity for iron and steel for shop, per same articles and treaties, two hundred and seventy dollars;

For permanent annuity for the pay of a wheelwright, per same articles of same treaties, six hundred dollars;

Interest.

Vol. 11, p. 700.

For five per centum interest on two hundred thousand dollars, for purposes of education, per sixth article of treaty of August seventh, eighteen hundred and fifty-six, ten thousand dollars;

For interest on two hundred and seventy-five thousand one hundred and sixty-eight dollars, at the rate of five per centum per annum, to be expended under the direction of the Secretary of the Interior, under provisions of third article of treaty of June fourteenth, eighteen hundred and sixty-six, thirteen thousand seven hundred and fifty-eight dollars and forty cents; in all, forty-nine thousand nine hundred and sixty-eight dollars and forty cents.

Vol. 14, p. 787.

Crows.

CROWS.

Vol. 22, p. 43.

For the eighteenth of twenty-five installments, as provided in agreement with the Crows, dated June twelfth, eighteen hundred and eighty, to be used by the Secretary of the Interior in such a manner as the President may direct, thirty thousand dollars;

Vol. 15, p. 652.

For pay of physician, per tenth article of same treaty, one thousand two hundred dollars;

For pay of carpenter, miller, engineer, farmer, and blacksmith, as per tenth article of same treaty, three thousand three hundred dollars;

For pay of second blacksmith, and iron and steel, as per eighth article of same treaty, one thousand five hundred dollars;

This amount, or so much thereof as may be necessary, to furnish such articles of food as from time to time the condition and necessities of the Indians may require, thirty thousand dollars; in all, sixty-six thousand dollars.

Fort Hall Indians.

FORT HALL INDIANS.

Vol. 25, p. 688.

For eleventh of twenty installments, as provided in agreement with said Indians, approved February twenty-third, eighteen hundred and eighty-nine, to be used by the Secretary of the Interior for the benefit of the Indians in such manner as the President may direct, six thousand dollars.

Indians at Blackfeet Agency.

INDIANS AT BLACKFEET AGENCY.

Vol. 29, p. 354.

For second of nine installments, to be disposed of as provided in article two of the agreement with the Indians of the Blackfeet Reservation, ratified by Act approved June tenth, eighteen hundred and ninety-six, one hundred and fifty thousand dollars.

Indians at Fort Berthold Agency.

INDIANS AT FORT BERTHOLD AGENCY.

Vol. 26, p. 1033.

For ninth of ten installments of eighty thousand dollars each, to be expended under the direction of the Secretary of the Interior, as per second article of agreement ratified by Act approved March third, eighteen hundred and ninety-one, eighty thousand dollars.

Iowas.

IOWAS.

Interest.

For interest in lieu of investment on fifty-seven thousand five hundred dollars, balance of one hundred and fifty-seven thousand five hundred dollars, to July first, eighteen hundred and ninety-eight, at five per centum per annum, for education or other beneficial purposes, under the direction of the President, per ninth article, of treaty of May seventeenth, eighteen hundred and fifty-four, two thousand eight hundred and seventy-five dollars.

Vol. 10, p. 1071.

Iowas in Oklahoma.

IOWAS IN OKLAHOMA.

Vol. 26, p. 753.

For fourth of five installments, second series, to be paid per capita under the seventh article of agreement ratified by Act approved February thirteenth, eighteen hundred and ninety-one, three thousand dollars.

KANSAS.

Kansas.

For interest in lieu of investment on one hundred and thirty-five thousand dollars, being the amount due the Kansas tribe of Indians, per second article of treaty of January fourteenth, eighteen hundred and forty-six, six thousand seven hundred and fifty dollars.

Interest.

Vol. 9, p. 842.

KICKAPOOS IN KANSAS.

Kickapoos in Kansas.

For interest on sixty-six thousand eight hundred and ninety-two dollars and twenty-six cents, at five per centum per annum, for educational and other beneficial purposes, per treaty of May eighteenth, eighteen hundred and fifty-four, three thousand three hundred and forty-four dollars and sixty-one cents;

Interest.

Vol. 10, p. 1079.

This amount to enable the President of the United States to pay the legal representative of one deceased Kickapoo Indian, the settlement of whose estate is desired, under the provisions of section two of the Act of August fourth, eighteen hundred and eighty-six, such sum as may be the proportion of the one hundred thousand dollars provided for said tribe for education and other beneficial purposes, per treaty of May eighteenth, eighteen hundred and fifty-four, not exceeding three hundred and thirty-seven dollars and eighty-three cents; in all, three thousand six hundred and eighty-two dollars and forty-four cents.

Payment to representatives of deceased Kickapoos.

Vol. 24, p. 219.

MOLELS.

Molels.

For pay of teachers and for manual-labor schools, and for all necessary materials therefor, and for the subsistence of the pupils, per second article of treaty of December twenty-first, eighteen hundred and fifty-five, three thousand dollars.

Schools.

Vol. 12, p. 981.

NEZ PERCES.

Nez Perces.

For salaries of two matrons to take charge of the boarding schools, two assistant teachers, one farmer, one carpenter, and two millers, per fifth article of treaty of June ninth, eighteen hundred and sixty-three, six thousand dollars.

Schools.

Vol. 14, p. 650.

NORTHERN CHEYENNES AND ARAPAHOES.

Northern Cheyennes and Arapahoos.

For subsistence and civilization, as per agreement with the Sioux Indians, approved February twenty-eighth, eighteen hundred and seventy-seven, including subsistence and civilization of Northern Cheyennes removed from Pine Ridge Agency to Tongue River, Montana, ninety thousand dollars;

Subsistence, etc.  
Vol. 19, p. 256.

For pay of physician, two teachers, two carpenters, one miller, two farmers, a blacksmith, and engineer, per seventh article of same treaty, nine thousand dollars; in all, ninety-nine thousand dollars.

Vol. 15, p. 658.

OSAGES.

Osages.

For interest on sixty-nine thousand one hundred and twenty dollars, at five per centum per annum, being value of fifty-four sections of land set apart by treaty of June second, eighteen hundred and twenty-five, for educational purposes, per Senate resolution of January ninth, eighteen hundred and thirty-eight, three thousand four hundred and fifty-six dollars.

Interest.

Vol. 7, p. 242.

PAWNEES.

Pawnees.

For perpetual annuity, at least one-half of which is to be paid in goods and such articles as may be deemed necessary for them, per second article of treaty of September twenty-fourth, eighteen hundred and fifty-seven, thirty thousand dollars;

Annuity.

Vol. 11, p. 729.

For support of two manual-labor schools, per third article of same treaty, ten thousand dollars;

For pay of two farmers, two blacksmiths and two apprentices, one miller and apprentice, two teachers, one shoemaker, and one carpenter, five thousand four hundred dollars;

For pay of physician and purchase of medicines, one thousand two hundred dollars;

Vol. 11, p. 730. For purchase of iron and steel and other necessaries for the shops, as per fourth article of treaty of September twenty-fourth, eighteen hundred and fifty-seven, five hundred dollars; in all, forty-seven thousand one hundred dollars.

Pottawatomies.

POTTAWATOMIES.

Annuities.  
Vol. 7, p. 51.

For permanent annuity, in silver, per fourth article of treaty of August third, seventeen hundred and ninety-five, three hundred and fifty-seven dollars and eighty cents;

Vol. 7, p. 114.

For permanent annuity, in silver, per third article of treaty of September thirtieth, eighteen hundred and nine, one hundred and seventy-eight dollars and ninety cents;

Vol. 7, p. 185.

For permanent annuity, in silver, per third article of treaty of October second, eighteen hundred and eighteen, eight hundred and ninety-four dollars and fifty cents;

Vol. 7, p. 314.

For permanent annuity, in money, per second article of treaty of September twentieth, eighteen hundred and twenty-eight, seven hundred and fifteen dollars and sixty cents;

Vol. 7, p. 320.

Vol. 7, p. 317.

For permanent annuity, in specie, per second article of treaty of July twenty-ninth, eighteen hundred and twenty-nine, and second article of treaty of September twentieth, eighteen hundred and twenty-eight, five thousand seven hundred and twenty-four dollars and seventy-seven cents;

Vol. 7, p. 318.

Vol. 9, p. 855.

For permanent provision for payment of money in lieu of tobacco, iron, and steel, per second article of treaty of September twentieth, eighteen hundred and twenty-eight, and tenth article of treaties of June fifth and seventeenth, eighteen hundred and forty-six, one hundred and seven dollars and thirty-four cents;

Vol. 7, pp. 296, 318, 321.

For permanent provision for three blacksmiths and assistants, and for iron and steel for shops, per third article of treaty of October sixteenth, eighteen hundred and twenty-six; second article of treaty of September twentieth, eighteen hundred and twenty-eight, and second article of treaty of July twenty-ninth, eighteen hundred and twenty-nine, one thousand and eight dollars and ninety-nine cents;

Vol. 7, p. 320.

For permanent provision for fifty barrels of salt, per second article of treaty of July twenty-ninth, eighteen hundred and twenty-nine, fifty dollars;

Interest.

Vol. 9, p. 854.

For interest on two hundred and thirty thousand and sixty-four dollars and twenty cents, at five per centum, in conformity with provisions of article seventh of treaties of June fifth and seventeenth, eighteen hundred and forty-six, eleven thousand five hundred and three dollars and twenty-one cents; in all, twenty thousand five hundred and forty-one dollars and eleven cents.

Quapaws.

QUAPAWS.

Vol. 7, p. 425.

For education, during the pleasure of the President, per third article of treaty of May thirteenth, eighteen hundred and thirty-three, one thousand dollars; for blacksmith and assistants, and tools, iron, and steel for blacksmith shop, per same article and treaty, five hundred dollars; in all, one thousand five hundred dollars.

Recording chattel mortgages.

That all chattel mortgages executed in the Quapaw Agency in the northern district of the Indian Territory shall be recorded in the town of Miami by the clerk of the said northern district of the Indian Territory, or his duly appointed deputy, in a book or books kept for the purpose.



SACS AND FOXES OF THE MISSISSIPPI.

For permanent annuity, in goods or otherwise, per third article of treaty of November third, eighteen hundred and four, one thousand dollars; for interest on two hundred thousand dollars, at five per centum, per second article of treaty of October twenty-first, eighteen hundred and thirty-seven, ten thousand dollars; for interest on eight hundred thousand dollars, at five per centum, per second article of treaty of October eleventh, eighteen hundred and forty-two, forty thousand dollars: *Provided*, That the sum of one thousand five hundred dollars of this amount shall be used for the pay of a physician and for purchase of medicine; in all, fifty-one thousand dollars.

Sacs and Foxes of the Mississippi.

Annuity.  
Vol. 7, p. 85.

Interest.

Vol. 7, p. 541.

Physician, etc.

SACS AND FOXES OF THE MISSOURI.

For interest on one hundred and fifty-seven thousand four hundred dollars, at five per centum, under the direction of the President, per second article of treaty of October twenty-first, eighteen hundred and thirty-seven, seven thousand eight hundred and seventy dollars;

For support of a school, per fifth article of treaty of March sixth, eighteen hundred and sixty-one, two hundred dollars; in all, eight thousand and seventy dollars.

Sacs and Foxes of the Missouri.

Interest.

Vol. 7, p. 541.

School.  
Vol. 12, p. 1173.

SEMINOLES.

For five per centum interest on two hundred and fifty thousand dollars, to be paid as annuity, per eighth article of treaty of August seventh, eighteen hundred and fifty-six, twelve thousand five hundred dollars;

For five per centum interest on two hundred and fifty thousand dollars, to be paid as annuity (they having joined their brethren West), per eighth article of treaty of August seventh, eighteen hundred and fifty-six, twelve thousand five hundred dollars;

For interest on fifty thousand dollars, at the rate of five per centum per annum, to be paid annually for the support of schools, as per third article of treaty of March twenty-first, eighteen hundred and sixty-six, two thousand five hundred dollars;

For interest on twenty thousand dollars, at the rate of five per centum per annum, to be paid annually for the support of the Seminole government, as per same article same treaty, one thousand dollars; in all, twenty-eight thousand five hundred dollars.

Seminoles.

Interest.

Vol. 11, p. 702.

Vol. 14, p. 757.

SENECAS.

For permanent annuity, in specie, per fourth article of treaty of September twenty-ninth, eighteen hundred and seventeen, five hundred dollars;

For permanent annuity, in specie, per fourth article of treaty of September seventeenth, eighteen hundred and eighteen, five hundred dollars;

For permanent annuity for blacksmith and miller, per fourth article of treaty of February twenty-eighth, eighteen hundred and thirty-one, to be annually paid to them as a national fund, to be expended by them for such articles and wants and improvements in agriculture as their chiefs (with the consent of their agent) may designate, as stipulated in the seventh article of treaty of February twenty-third, eighteen hundred and sixty-seven, one thousand six hundred and sixty dollars;

For permanent annuity, in specie, per fourth article of treaty of September seventeenth, eighteen hundred and eighteen, and fifth article of treaty of February twenty-third, eighteen hundred and sixty-seven, five hundred dollars;

For blacksmith and assistants, shops and tools, iron and steel, per fourth article of treaty of July twentieth, eighteen hundred and thirty-one, and fifth article of treaty of February twenty-third, eighteen hundred and sixty-seven, five hundred and thirty dollars; in all, three thousand six hundred and ninety dollars.

Senecas.

Annuities.

Vol. 7, p. 161.

Vol. 7, p. 179.

Vol. 15, p. 515.

Vol. 7, p. 179.

Vol. 15, p. 515.

Vol. 7, p. 352.

Vol. 15, p. 515.

Senecas of New York.

SENECAS OF NEW YORK.

Annuity.  
Vol. 4, p. 442.

For permanent annuity, in lieu of interest on stock, per Act of February nineteenth, eighteen hundred and thirty-one, six thousand dollars;

Interest.  
Vol. 9, p. 35.

For interest, in lieu of investment, on seventy-five thousand dollars, at five per centum, per Act of June twenty-seventh, eighteen hundred and forty-six, three thousand seven hundred and fifty dollars;

For interest, at five per centum, on forty-three thousand and fifty dollars, transferred from the Ontario Bank to the United States Treasury, per Act of June twenty-seventh, eighteen hundred and forty-six, two thousand one hundred and fifty-two dollars and fifty cents; in all, eleven thousand nine hundred and two dollars and fifty cents.

Eastern Shawnees.

EASTERN SHAWNEES.

Annuity.  
Vol. 7, p. 179.  
Vol. 15, p. 515.

For permanent annuity, in specie, per fourth article of treaty of September seventeenth, eighteen hundred and eighteen, and fifth article of treaty of February twenty-third, eighteen hundred and sixty-seven, five hundred dollars;

Vol. 7, p. 352.  
Vol. 15, p. 515.

For blacksmith and assistant, shops and tools, iron and steel, per fourth article of treaty of July twentieth, eighteen hundred and thirty-one, and fifth article of treaty of February twenty-third, eighteen hundred and sixty-seven, five hundred and thirty dollars; in all, one thousand and thirty dollars.

Shoshones and Arapahoes.

SHOSHONES AND ARAPAHOES.

Ante, p. 94.

For second of five installments, to be expended as provided in article three of the agreement with the Shoshones and Arapahoes in Wyoming, ratified by Act of June seventh, eighteen hundred and ninety-seven, ten thousand dollars.

Shoshones and Bannocks.

SHOSHONES AND BANNOCKS.

Shoshones.  
Supplies.

Shoshones: For last of thirty installments, to purchase suits of clothing for males over fourteen years of age; flannel, hose, calico, and domestics for females over the age of twelve years, and such goods as may be needed to make suits for boys and girls under the ages named, as per ninth article of treaty of July third, eighteen hundred and sixty-eight, ten thousand dollars;

Vol. 15, p. 676.

Physician.  
Vol. 15, p. 676.

For pay of physician, teacher, carpenter, miller, engineer, farmer, and blacksmith, as per tenth article of treaty of July third, eighteen hundred and sixty-eight, five thousand dollars;

For pay of second blacksmith, and such iron and steel and other materials as may be required, as per eighth article of same treaty, one thousand dollars;

Bannocks.  
Supplies.

Bannocks: For last of thirty installments, to purchase suits of clothing for males over fourteen years of age; flannel, hose, calico, and domestics for females over twelve years of age, and such flannel and cotton goods as may be needed to make suits for boys and girls under the ages named, as per ninth article of treaty of July third, eighteen hundred and sixty-eight, five thousand dollars;

Vol. 15, p. 676.

Physician.  
Vol. 15, p. 676.

For pay of physician, teacher, carpenter, miller, engineer, farmer, and blacksmith, as per tenth article of treaty of July third, eighteen hundred and sixty-eight, five thousand dollars; in all, twenty-six thousand dollars.

Six Nations of New York.

SIX NATIONS OF NEW YORK.

Annuity.  
Vol. 7, p. 46.

For permanent annuity, in clothing and other useful articles, per sixth article of treaty of November eleventh, seventeen hundred and ninety-four, four thousand five hundred dollars.

SIoux OF DIFFERENT TRIBES, INCLUDING SANTEE SIoux OF  
NEBRASKA.

For last of thirty installments, to purchase clothing for males over fourteen years of age; for flannel, hose, calico, and domestics required for females over twelve years of age, and for such flannel and cotton goods as may be needed to make suits for boys and girls under the ages named, per tenth article of treaty of April twenty-ninth, eighteen hundred and sixty-eight, one hundred and thirty-five thousand dollars;

For last of thirty installments, to purchase such articles as may be considered proper by the Secretary of the Interior, at twenty dollars per head, for persons engaged in agriculture, one hundred and thirty thousand dollars: *Provided*, That the Secretary, in his discretion, is authorized to pay said amount per head in money;

For pay of five teachers, one physician, one carpenter, one miller, one engineer, two farmers, and one blacksmith, per thirteenth article of same treaty, ten thousand four hundred dollars;

For pay of additional employees at the several agencies for the Sioux in Nebraska and in North Dakota and South Dakota, eighty-five thousand dollars;

For subsistence of the Sioux, and for purposes of their civilization, as per agreement ratified by Act of Congress approved February twenty-eighth, eighteen hundred and seventy-seven, nine hundred thousand dollars: *Provided*, That this sum shall include transportation of supplies from the termination of railroad or steamboat transportation; and in this service Indians shall be employed when practicable: *And provided further*, That the number of rations issued shall not exceed the number of Indians on each reservation, and any excess in the number of rations issued shall be disallowed in the settlement of the agent's account;

For pay of second blacksmith, and furnishing iron, steel, and other material, per eighth article of same treaty, one thousand six hundred dollars;

For support and maintenance of day and industrial schools, including purchase, erection, and repairs of school buildings, in accordance with article seven of the treaty of April twenty-ninth, eighteen hundred and sixty-eight, which article is continued in force for twenty years by section seventeen of the Act of March second, eighteen hundred and eighty-nine, two hundred and twenty-five thousand dollars; in all, one million four hundred and eighty-seven thousand dollars.

SIoux, YANKTON TRIBE.

For eleventh of twenty installments (last series), to be paid to them or expended for their benefit, per fourth article of treaty of April nineteenth, eighteen hundred and fifty-eight, fifteen thousand dollars;

For subsistence and civilization of two thousand Yankton Sioux, heretofore provided for in appropriations under "Fulfilling treaty with Sioux of different tribes," and so forth, thirty-five thousand dollars; in all, fifty thousand dollars.

SISETON AND WAHPETON INDIANS.

For twelfth of thirteen installments of eighteen thousand four hundred dollars each, to be paid per capita, as per third article of agreement with the Sisseton and Wahpeton Indians dated September twelfth, eighteen hundred and eighty-nine, ratified by Act of March third, eighteen hundred and ninety-one, eighteen thousand four hundred dollars.

SPOKANES.

For eighth of ten installments, to be expended under the direction of the Secretary of the Interior in the removal of the Spokane Indians to

Sioux of different  
tribes.

Clothing.

Vol. 15, p. 638

Agricultural arti-  
cles.

*Proviso.*  
Money payments.

Teachers.  
Vol. 15, p. 640.

Employees.

Subsistence.  
Vol. 19, p. 254.

*Provisos.*  
Transportation.  
Indian employment.  
Limit of rations.

Blacksmith, etc.

Schools.  
Vol. 15, p. 637.  
Vol. 25, p. 894.

Sioux, Yankton  
tribe.

Vol. 11, p. 744.

Vol. 19, p. 287.

Sisseton and Wah-  
peton Indians.

Vol. 26, p. 1037.

Spokanes.

Removal to Cœur  
d'Alene Reservation.

the Oœur d'Alene Reservation, in erecting suitable houses, in assisting them in breaking lands, in furnishing them with cattle, seeds, agricultural implements, say and grist mills, threshing machines, mowers, clothing, and provisions; in taking care of the old, sick, and infirm; in affording educational facilities, and in any other manner tending to their civilization and self-support, as per article five of agreement with said Indians dated March eighteenth, eighteen hundred and eighty-seven, ratified by Act of Congress approved July thirteenth, eighteen hundred and ninety-two, five thousand dollars;

Vol. 27, p. 139.

For pay of a blacksmith and carpenter to do necessary work and to instruct the said Indians in those trades, one thousand dollars each, per sixth article of said agreement, two thousand dollars;

Chief Louis and Enoch.

For seventh of ten installments of one hundred dollars each to Chiefs Louis and Enoch, as per article nine of said agreement, two hundred dollars; in all, seven thousand two hundred dollars.

Confederated Bands of Utes.

CONFEDERATED BANDS OF UTES.

Carpenters, etc.

For pay of two carpenters, two millers, two farmers, and two blacksmiths, as per tenth article of treaty of October seventh, eighteen hundred and sixty-three, and fifteenth article of treaty of March second, eighteen hundred and sixty-eight, six thousand seven hundred and twenty dollars;

Vol. 13, p. 675.

Vol. 15, p. 622.

Vol. 15, p. 621.

For pay of two teachers, as per same article of same treaty, one thousand eight hundred dollars;

Food.

For purchase of iron and steel and the necessary tools for blacksmith shop, per ninth article of same treaty, two hundred and twenty dollars;

Vol. 15, p. 622.

For annual amount for the purchase of beef, mutton, wheat, flour, beans, and potatoes, or other necessary articles of food, as per twelfth article of same treaty, thirty thousand dollars;

Employees.

For pay of employees at the several Ute agencies, fifteen thousand dollars; in all, fifty-three thousand seven hundred and forty dollars.

Winnebagoes.

WINNEBAGOES.

Interest.

For interest on eight hundred and four thousand nine hundred and nine dollars and seventeen cents, at five per centum per annum, per fourth article of treaty of November first, eighteen hundred and thirty-seven, and joint resolution of July seventeenth, eighteen hundred and sixty-two, forty thousand two hundred and forty-five dollars and forty-five cents; and the Secretary of the Interior is hereby directed to expend said interest for the support, education, and civilization of said Indians;

Vol. 7, p. 545.

Vol. 12, p. 628.

Vol. 10, p. 355.

For interest on seventy-eight thousand three hundred and forty dollars and forty-one cents, at five per centum per annum, to be expended under the direction of the Secretary of the Interior for the erection of houses, improvement of their allotments of land, purchase of stock, agricultural implements, seeds, and other beneficial objects, three thousand nine hundred and seventeen dollars and two cents; in all, forty-four thousand one hundred and sixty-two dollars and forty-seven cents.

Miscellaneous supports.

MISCELLANEOUS SUPPORTS.

Apaches, Kiowas, Comanches, Wichitas, etc.

For subsistence and civilization of the Apaches, Kiowas, Comanches, Wichitas, and affiliated bands who have been collected in the reservations set apart for their use and occupation, seventy-five thousand dollars: *Provided*, That ten thousand dollars of this amount may, in the discretion of the Secretary of the Interior, be expended as required by article nine of the treaty of October twenty-first, eighteen hundred and sixty-seven, with the Kiowa and Comanche tribes of Indians, for the benefit of said Indians, and also of the Apache Indians, as per treaty of October twenty-first, eighteen hundred and sixty-seven, with the Kiowa, Comanche, and Apache tribes of Indians.

*Proviso.*  
Amount available for Kiowas and Comanches.

—Apaches.  
Vol. 15, pp. 584, 590.

For subsistence and civilization of the Arapahoes and Cheyennes who have been collected on the reservations set apart for their use and occupation, one hundred thousand dollars: *Provided*, That ten thousand dollars of this amount may, in the discretion of the Secretary of the Interior, be expended as required by article nine of the treaty of October twenty-eighth, eighteen hundred and sixty-seven, with the Cheyenne and Arapahoe tribes of Indians.

Arapahoes and Cheyennes.

*Proviso.*  
Expenditure.  
Vol. 15, p. 595.

For support and civilization of the Chippewas of Lake Superior, Wisconsin, to be expended for agricultural and educational purposes, pay of employees, including pay of physician, at one thousand two hundred dollars, purchase of goods and provisions, and for such other purposes as may be deemed for the best interests of said Indians, seven thousand one hundred and twenty-five dollars.

Chippewas of Lake Superior, Wisconsin.

For support and civilization of Chippewas of Red Lake and Pembina tribe of Chippewas, Minnesota, and for pay of employees, ten thousand dollars.

Chippewas of Red Lake and Pembina Tribe, Minnesota.

For support of the Otter-Tail, Pillager, Pembina, and Mississippi Chippewa Indians on the White Earth Reservation in Minnesota, to assist them in their agricultural operations, and for pay of physician, not to exceed one thousand two hundred dollars, ten thousand dollars.

Otter-Tail, Pillager, Pembina and Mississippi Chippewas.

For support and civilization of Turtle Mountain Band of Chippewas, North Dakota, including seeds, thirteen thousand dollars.

Turtle Mountain Chippewas.

For support and civilization of the confederated tribes and bands in middle Oregon, and for pay of employees, six thousand dollars.

Confederated bands, middle Oregon.

For support and civilization of Digger Indians of California, and for locating them on lands purchased for them, two thousand five hundred dollars.

Digger Indians, California.

For support and civilization of the D'Wamish and other allied tribes in Washington, including pay of employees, seven thousand dollars.

D'Wamish, etc., Washington.

For support and civilization of Carlos's Band of Flatheads, Montana, including pay of employees, ten thousand dollars.

Carlos's Band of Flatheads.

For support and civilization of the Flatheads and other confederated tribes, Montana, including pay of employees, ten thousand dollars.

Flatheads, etc., Montana.

To enable the Secretary of the Interior to purchase subsistence and other necessities for the support of the Hualpais in Arizona, seven thousand five hundred dollars.

Hualpais, Arizona.

For support and civilization of the Apache and other Indians in Arizona and New Mexico, who have been or may be collected on reservations in Arizona and New Mexico, two hundred and twenty-five thousand dollars, of which amount the sum of two thousand five hundred dollars shall be used, in the discretion of the Secretary of the Interior, for the temporary support and civilization of the Kaibab tribe of Indians in Utah in the purchase of animals, implements, seeds, clothing, and other necessary articles, to enable them to become self-supporting.

Apaches, etc., Arizona and New Mexico.

Kaibab Indians, Utah.

For support, civilization, and instruction of the Shoshones and Ban-nocks, and other Indians of the Fort Hall Reservation in Idaho, including pay of employees, thirty thousand dollars.

Shoshones and Ban-nocks, Fort Hall Reservation.

For support, civilization, and instruction of the Shoshones, Ban-nocks, Sheepeaters, and other Indians of the Lemhi Agency, Idaho, including pay of employees, thirteen thousand dollars.

Lemhi Agency, Idaho.

For support, civilization, and instruction of the Klamaths, Modocs, and other Indians of the Klamath Agency, Oregon, including pay of employees, five thousand dollars.

Klamath Agency, Oregon.

For support and civilization of the Kansas Indians, Oklahoma Territory, including agricultural assistance and pay of employees, two thousand five hundred dollars.

Kansas Indians, Oklahoma.

For support and civilization of the Kickapoo Indians in Oklahoma Territory, five thousand dollars.

Kickapoos, Oklahoma.

For the purchase of teams, farming implements, seeds, and other necessary articles, for the Mexican Kickapoo Indians, known as the "Kicking Kickapoos," in Oklahoma Territory, in the discretion of the Secretary of the Interior, three thousand dollars, to be immediately available.

Kicking Kickapoos, Oklahoma.

- Makahs, Wash-  
ton. For support and civilization of the Makahs, Washington, including pay of employees, three thousand dollars.
- Mission Agency,  
California. For support and civilization of Indians at the Mission Agency, California, including pay of employees, three thousand dollars.
- Modoc Indians, In-  
dian Territory. For support and civilization of the Modoc Indians now residing within the Indian Territory, two thousand five hundred dollars.
- Joseph's Band of  
Nez Perce Indians. For purchase of agricultural implements, and support and civilization of Joseph's Band of Nez Perce Indians, seven thousand five hundred dollars.
- Nez Perce Indians,  
Idaho. For support and civilization of Nez Perce Indians in Idaho, including pay of physician, five thousand dollars.
- Ponca Indians.  
Provido.  
Division. For support and civilization of the Ponca Indians, including pay of employees, fifteen thousand dollars : *Provided*, That this amount, after paying employees authorized by law, shall be expended per capita among all the members of said tribe in Oklahoma Territory, South Dakota, and Nebraska.
- Qui-nai-elts and  
Quil-leh-utes. For support and civilization of the Qui-nai-elts and Quil-leh-utes, Washington, including pay of employees, one thousand dollars.
- Shebit Indians,  
Utah. For support and civilization of the Shebit Indians in Utah, two thousand five hundred dollars.
- Shoshones, Wyo-  
ming. For support and civilization of Shoshone Indians in Wyoming, twenty-five thousand dollars.
- Arapahoes, Wyo-  
ming. For support and civilization of the Arapahoes in Wyoming, five thousand dollars.
- Telephone from sub-  
agency, etc. For construction of telephone line to connect Arapaho Sub-Agency with Shoshone and Arapaho main agency in Wyoming, seven hundred and fifty dollars.
- Shoshones, Nevada. For support and civilization of Shoshone Indians in Nevada, including pay of employees, ten thousand dollars.
- Seminoles, Florida. For support, civilization, and instruction of the Seminole Indians in Florida, six thousand dollars, one-half of which sum may be expended, in the discretion of the Secretary of the Interior, in procuring permanent homes for said Indians.
- Big Jim Band, Ab-  
senteé Shawnees,  
Oklahoma. For purchase of teams, farming implements, seeds, and other necessary articles for the Big Jim's Band of Absenteé Shawnee Indians in Oklahoma Territory, in the discretion of the Secretary of the Interior, five thousand dollars, to be immediately available.
- Sioux of Devils  
Lake, N. Dak. For support and civilization of Sioux of Devils Lake, North Dakota, including pay of employees, and for the purchase of seeds, ten thousand dollars.
- Sioux, Medawakan-  
ton Band. For support and civilization of Sioux, Medawakanton Band, in Minnesota, five thousand dollars.
- Toukawa Indians,  
Oklahoma. For support and civilization of Toukawa Indians, Oklahoma Territory, and for seeds and agricultural implements, two thousand dollars.
- Walla Walla, Cay-  
use, and Umatilla  
tribes, Oregon. For support and civilization of the Walla Walla, Cayuse, and Umatilla tribes, Oregon, including pay of employees, five thousand dollars.
- Yakima Agency,  
Indians. For support and civilization of the Yakimas and other Indians at said agency, including pay of employees, eight thousand dollars.
- Food for Indians in  
emergencies. To supply food and other necessities of life in cases of distress among Indians arising from emergencies not foreseen or otherwise provided for, to be used in the discretion and under the direction of the Secretary of the Interior, twenty thousand dollars, to be available until expended.

Incidental expenses. **GENERAL INCIDENTAL EXPENSES OF THE INDIAN SERVICE.**

- Arizona. **ARIZONA:** For general incidental expenses of the Indian Service in Arizona, including traveling expenses of agents, one thousand five hundred dollars.
- California. **CALIFORNIA:** For general incidental expenses of the Indian Service in California, including traveling expenses of agents, and support and civilization of Indians at the Round Valley, Hoopa Valley, and Tule

River agencies, thirteen thousand dollars; and pay of employees at same agencies, eight thousand dollars; in all, twenty-one thousand dollars.

**COLORADO:** For general incidental expenses of the Indian Service in Colorado, including traveling expenses of agents, one thousand five hundred dollars.

Colorado.

**NORTH DAKOTA:** For general incidental expenses of the Indian Service in North Dakota, including traveling expenses of agents at three agencies, one thousand five hundred dollars.

North Dakota.

**SOUTH DAKOTA:** For general incidental expenses of the Indian Service in South Dakota, including traveling expenses of agents at seven agencies, three thousand five hundred dollars.

South Dakota.

**IDAHO:** For general incidental expenses of the Indian Service in Idaho, including traveling expenses of agents, one thousand dollars.

Idaho.

**MONTANA:** For general incidental expenses of the Indian Service in Montana, including traveling expenses of agents, two thousand five hundred dollars.

Montana.

**NEVADA:** For general incidental expenses of the Indian Service in Nevada, including traveling expenses of agents, and support and civilization of Indians located on the Piute, Walker River, and Pyramid Lake reservations, and Piutes on the Western Shoshone Reservation, twelve thousand dollars; and pay of employees, including physician for the Walker River Reservation, at nine hundred dollars per annum, same agency, four thousand nine hundred dollars; in all, sixteen thousand nine hundred dollars.

Nevada.

**NEW MEXICO:** For general incidental expenses of the Indian Service in New Mexico, including traveling expenses of agents, one thousand five hundred dollars.

New Mexico.

**OREGON:** For general incidental expenses of the Indian Service in Oregon, including traveling expenses of agents, and support and civilization of Indians of Grand Ronde and Siletz agencies, eight thousand dollars; and pay of employees at the same agencies, four thousand dollars; in all, twelve thousand dollars.

Oregon.

**UTAH:** For general incidental expenses of the Indian Service in Utah, including traveling expenses of agents; support and civilization of Indians at Uintah Valley and Ouray agencies, three thousand dollars.

Utah.

**WASHINGTON:** For general incidental expenses of the Indian Service in Washington, including traveling expenses of agents at seven agencies, and support and civilization of Indians at Colville and Puyallup agencies, and for pay of employees, fourteen thousand dollars.

Washington.

**WYOMING:** For general incidental expenses of the Indian Service in Wyoming, including traveling expenses of agents, one thousand dollars.

Wyoming.

MISCELLANEOUS.

Miscellaneous.

For salaries of four commissioners, appointed under Acts of Congress approved March third, eighteen hundred and ninety-three, and March second, eighteen hundred and ninety-five, to negotiate with the Five Civilized Tribes in the Indian Territory, twenty thousand dollars: *Provided*, That the number of said commissioners is hereby fixed at four. For expenses of commissioners and necessary expenses of employees, sixty thousand dollars: *And provided further*, That three dollars per diem for expenses of a clerk detailed as special disbursing agent by Interior Department, while on duty with the commission, shall be paid therefrom; for clerical help, including secretary of the commission and interpreters, thirty-nine thousand nine hundred and eighty dollars; for contingent expenses of the commission, three thousand five hundred dollars; in all, one hundred and twenty-three thousand four hundred and eighty dollars.

Commission to Five Civilized Tribes. Vol. 27, p. 645. Vol. 28, p. 939.

*Provisos.* Number of commissioners fixed. Special disbursing agent, clerks, etc.

That said commission shall continue to exercise all authority heretofore conferred on it by law.

Continuance of authority.

For operating and repairing the flour mill at Pima Agency, Arizona, one thousand five hundred dollars.

Mill, Pima Agency, Ariz.

Nez Perce Reserva-  
tion, Idaho.

For operating two portable steam sawmills on the Nez Percé Indian Reservation, Idaho, and for necessary repairs to the same, three thousand dollars.

Repairs to Govern-  
ment bridge, Niobrara  
River, Nebraska.

For the purpose of making necessary repairs on the Government bridge across the Niobrara River, near Niobrara, Nebraska, also one span of sixty feet over the back channel of the Niobrara River, and three spans of sixty feet each over the Bazile Creek, the sum of three thousand dollars, said sum to be expended under the direction of the Secretary of the Interior.

New York Agency.

For pay of physician, New York Agency, six hundred dollars.

Surveying and al-  
lotting lands in sev-  
eralty.  
Vol. 24, p. 388.

To enable the President to cause, under the provisions of the Act of February eighth, eighteen hundred and eighty-seven, entitled "An Act to provide for the allotment of lands in severalty to Indians," such Indian reservations as in his judgment are advantageous for agricultural and grazing purposes to be surveyed or resurveyed, for the purposes of said Act, and to complete the allotment of the same, including the necessary clerical work incident thereto in the field and in the Office of Indian Affairs, and delivery of trust patents, so far as allotments shall have been selected under said Act, thirty thousand dollars.

Works of irrigation.

For construction of ditches and reservoirs, purchase and use of irrigating tools and appliances, and purchase of water rights on Indian reservations, in the discretion of the Secretary of the Interior and subject to his control, forty thousand dollars.

Surveys and allot-  
ments.

For survey and subdivision of Indian reservations and of lands to be allotted to Indians, and to make allotments in severalty, to be expended by the Commissioner of Indian Affairs, under the direction of the Secretary of the Interior, twenty thousand dollars.

Puyallup Reserva-  
tion, Wash.  
Compensation of  
commissioner to sell  
lands.  
Ante, p. 87.

For compensation of the commissioner authorized by the Indian appropriation Act approved June seventh, eighteen hundred and ninety-seven, to superintend the sale of land, and so forth, of the Puyallup Indian Reservation, Washington, who shall continue the work as therein provided, two thousand dollars.

Indian depredation  
claims.  
Transfer to Court of  
Claims.

For continuing the work of transferring the Indian depredation claims from the Office of Indian Affairs to the Court of Claims and making a record of the same, and for the proper care and custody of the papers and records relating thereto, under the provisions of the Act approved March third, eighteen hundred and ninety-one (Twenty-sixth Statutes at Large, page eight hundred and fifty-one), four thousand six hundred dollars.

Vol. 26, p. 851.

Pueblo Indians,  
New Mexico.  
Special attorney for.

To enable the Secretary of the Interior to employ a special attorney for the Pueblo Indians of New Mexico, one thousand five hundred dollars.

Allotments reserva-  
tion of Sioux Nation,  
Dakota.  
Vol. 25, p. 890.

To enable the President to cause, under the provisions of the Act of March second, eighteen hundred and eighty-nine, entitled "An Act to divide a portion of the reservation of the Sioux Nation of Indians in Dakota into separate reservations and to secure the relinquishment of the Indian title to the remainder, and for other purposes," to be allotted the land in said separate reservations as provided in said Act, including the necessary resurveys, ten thousand dollars.

Surveys, Cheyenne  
River, etc., reserva-  
tions, South Dakota.

For the survey of lands in the Cheyenne River, Pine Ridge, and Standing Rock Indian reservations, in South Dakota, and for examination in the field of the surveys, twenty-five thousand dollars, to be immediately available.

— clerical work, etc.

For clerical work and stationery in the office of surveyor-general, required on surveys within the Cheyenne River, Pine Ridge, and Standing Rock Indian reservations, in South Dakota, three thousand two hundred dollars.

Approval of allot-  
ments to Uncompah-  
gre Ute Indians.

The Secretary of the Interior is hereby authorized, in his discretion, to approve eighty-three allotments made by the Uncompahgre commission to Uncompahgre Ute Indians, within the former Uncompahgre Indian Reservation in Utah, after the first day of April, eighteen hundred and ninety-eight, and to issue patents therefore in manner and



form as provided by existing law: *Provided*, That no allotment which conflicts with any entry or location under the Act approved June seventh, eighteen hundred and ninety-seven, declaring the unallotted lands of said reservation, except those containing gilsonite, asphalt, elaterite, or other like substances, open for entry and location on said date, shall be approved.

*Proviso.*  
Limitation.  
*Ante*, p. 87.

That the Secretary of the Interior be, and he is hereby authorized, in his discretion, to grant rights of way for the construction and maintenance of dams, ditches, and canals, on or through the Uintah Indian Reservation in Utah, for the purpose of diverting and appropriating the waters of the streams in said reservation for useful purposes: *Provided*, That all such grants shall be subject at all times to the paramount rights of the Indians on said reservation to so much of said waters as may have been appropriated, or may hereafter be appropriated or needed by them for agricultural and domestic purposes; and it shall be the duty of the Secretary of the Interior to prescribe such rules and regulations as he may deem necessary to secure to the Indians the quantity of water needed for their present and prospective wants, and to otherwise protect the rights and interests of the Indians and the Indian service.

Uintah Reservation,  
Utah.  
Grant of water  
rights in.

*Proviso.*  
Rights of Indians  
paramount.

Regulations.

For the purchase of not to exceed one hundred acres of land, at a price not to exceed thirty dollars per acre, in the vicinity of Canton, in the State of South Dakota, and for the erection thereon of an asylum for insane Indians, said building to be constructed under the direction of the Secretary of the Interior, forty-five thousand dollars.

Canton, S. Dak.  
Erection of Indian  
insane asylum authorized  
at.

For the erection of suitable buildings, and for fencing, water supply, means of locomotion, and other things necessary to properly establish and conduct an agency at Leech Lake, Minnesota, fifteen thousand dollars, to be immediately available.

Leech Lake, Minn.  
Agency established  
at.

That the Indians of the Yakima Indian Reservation, to whom lands have been allotted under the laws of the United States, may lease their lands so allotted for agricultural purposes for a term not exceeding five years, under such rules and regulations as are or may be prescribed by the Secretary of the Interior, anything in the law now limiting the term to a shorter term notwithstanding.

Yakima Reserva-  
tion.  
Leases of agricul-  
tural lands by Indians  
authorized.

That the provision in the Indian appropriation Act approved July first, eighteen hundred and ninety-eight, relating to a water supply for irrigation purposes to be used on a portion of the reservation of the Southern Utes in Colorado, is hereby continued in force for and during the fiscal year nineteen hundred, and is hereby amended so as to read as follows:

Southern Ute Res-  
ervation, Colo.

“That the Secretary of the Interior shall make investigation as to the practicability of providing a water supply for irrigation purposes, to be used on a portion of the reservation of the Southern Utes in Colorado, and he is authorized, in his discretion, to contract for, and to expend from the funds of said Southern Utes in the purchase of, perpetual water rights sufficient to irrigate not exceeding ten thousand acres on the western part of the Southern Ute Reservation, and for annual charges for maintenance of such water thereon, such amount and upon such terms and conditions as to him may seem just and reasonable, not exceeding one hundred and fifty thousand dollars for the purchase of such perpetual water rights, and not exceeding a maximum of fifty cents per acre per annum for the maintenance of water upon the land to be irrigated: *Provided*, That after such an investigation he shall find all the essential conditions relative to the water supply and to the perpetuity of its availability for use upon said lands, such as in his judgment will justify a contract for its perpetual use: *Provided*, That the Secretary of the Interior, upon making all such contracts, shall require from the person or persons entering into such contract a bond of indemnity, to be approved by him, for the faithful and continuous execution of such contract as provided therein.”

Authority to pur-  
chase water rights for  
irrigation continued.  
*Ante*, p. 593.

*Provisos.*  
Availability of sup-  
ply, etc.

Indemnity bond,  
contracts.

Support of schools.

SUPPORT OF SCHOOLS.

- Day and industrial. For support of Indian day and industrial schools, and for other educational purposes not hereinafter provided for, including pay of an architect, a draftsman, and a laborer, to be employed in the office of the Commissioner of Indian Affairs, one million one hundred thousand dollars, of which amount the Secretary of the Interior may, in his discretion, use five thousand dollars for the education of Indians in Alaska, and of which amount the sum of twenty-five thousand dollars shall be used for the erection of a girls' dormitory, kitchen, dining room, and hospital, and for necessary repairs and improvements, for the Fort Lewis Indian School, Colorado, to be immediately available: *Provided*, That the Secretary of the Interior may make contracts with contract schools, apportioning as near as may be the amount so contracted for among schools of various denominations, for the education of Indian pupils during the fiscal year nineteen hundred, but shall only make such contracts at places where nonsectarian schools can not be provided for such Indian children, and to an amount not exceeding fifteen per centum of the amount so used for the fiscal year eighteen hundred and ninety-five, the same to be divided proportionately among the said several contract schools, this being the final appropriation for sectarian schools: *Provided further*, That the foregoing shall not apply to public schools of any State, Territory, county, or city, or to schools herein or hereafter specifically provided for.
- Alaska Indians.
- Promisos.*  
*Contracts.*
- Public schools not included.
- Buildings and sites. For construction, purchase, lease, and repair of school buildings and purchase of school sites, three hundred thousand dollars.
- Farm animals. For purchase of horses, cattle, sheep, goats, swine, poultry, and so forth, for schools, ten thousand dollars.
- Support of pupils.  
Albuquerque,  
N. Mex. For support and education of three hundred Indian pupils at Albuquerque, New Mexico, at one hundred and sixty-seven dollars per annum for each pupil, fifty thousand one hundred dollars; for pay of superintendent of said school, one thousand seven hundred dollars; for general repairs and improvements, two thousand dollars; in all, fifty-three thousand eight hundred dollars.
- Chamberlain, S. Dak. For the support and education of one hundred Indian pupils at Chamberlain, South Dakota, at one hundred and sixty-seven dollars per annum for each pupil, sixteen thousand seven hundred dollars; pay of superintendent of said school, one thousand two hundred dollars; equipments and improvements, one thousand dollars; in all, eighteen thousand nine hundred dollars.
- Cherokee, N. C. For support of one hundred and fifty pupils at the training school at Cherokee, North Carolina, at one hundred and sixty-seven dollars per annum each, twenty-five thousand and fifty dollars; for pay of superintendent of said school, one thousand three hundred dollars; and for general repairs and minor improvements, one thousand five hundred dollars; in all, twenty-seven thousand eight hundred and fifty dollars.
- Carlisle, Pa. For support of Indian industrial school at Carlisle, Pennsylvania, at not exceeding one hundred and sixty-seven dollars per annum for each pupil; and for transportation of pupils to and from said school, and for general repairs and improvements, one hundred and forty-nine thousand dollars; for additional to the salary of any military officer of Carlisle Indian School while acting as superintendent of said school, one thousand dollars; in all, one hundred and fifty thousand dollars.
- Carson City, Nev. For support and education of one hundred and fifty Indian pupils, at one hundred and sixty-seven dollars per annum each, at the Indian school at Carson City, Nevada, twenty-five thousand and fifty dollars; for pay of superintendent at said school, one thousand five hundred dollars; for general repairs and improvements, five thousand dollars; for erection of boys' dormitory, ten thousand dollars; in all, forty-one thousand five hundred and fifty dollars.
- Chillico, Okla. For support of three hundred and fifty Indian pupils, at one hundred and sixty-seven dollars per annum each, at the Indian school at Chillico, Oklahoma Territory, fifty-eight thousand four hundred and fifty

dollars; for pay of superintendent at said school, one thousand eight hundred dollars; for steam heating system for school and hospital, two thousand five hundred dollars; for general repairs and improvements, four thousand dollars; in all, sixty-six thousand seven hundred and fifty dollars.

For support and education of two hundred and fifty Indian pupils at Flandreau, South Dakota, at one hundred and sixty-seven dollars each per annum, forty-one thousand seven hundred and fifty dollars; for general repairs and improvements, one thousand dollars; for pay of superintendent of said school, one thousand six hundred dollars; water rent, one thousand dollars; and for electric-light plant, two thousand five hundred dollars; in all, forty-seven thousand eight hundred and fifty dollars.

Flandreau, S. Dak.

For support and education of one hundred and fifty Indian pupils at the Indian school, Fort Mojave, Arizona, at one hundred and sixty-seven dollars per annum each, twenty five thousand and fifty dollars; for pay of superintendent of said school, one thousand five hundred dollars; for general repairs and improvements, two thousand dollars; for sewerage system and waterworks, eight thousand dollars; in all, thirty-six thousand five hundred and fifty dollars.

Fort Mojave, Ariz.

For support and education of two hundred and fifty Indian pupils, at one hundred and sixty-seven dollars per annum each, at Indian school, Fort Totten, North Dakota, forty-one thousand seven hundred and fifty dollars; for pay of superintendent at said school, one thousand six hundred dollars; for steam heating system, five thousand dollars; for electric-light plant and complete system, one thousand eight hundred dollars; for general repairs and improvements, five thousand dollars; in all, fifty-five thousand one hundred and fifty dollars.

Fort Totten, N. Dak.

For support and education of three hundred Indian pupils at the Indian school, Genoa, Nebraska, at one hundred and sixty-seven dollars per annum each, fifty thousand one hundred dollars; for general repairs and improvements, three thousand dollars; for pay of superintendent of said school, one thousand seven hundred dollars; for erection of warehouse, three thousand five hundred dollars; for extension of sewerage system, one thousand dollars; in all, fifty-nine thousand three hundred dollars.

Genoa, Nebr.

For support and education of one hundred and fifty Indian pupils at the Indian school at Grand Junction, Colorado, at one hundred and sixty-seven dollars per annum each, twenty-five thousand and fifty dollars; for pay of superintendent at said school, one thousand five hundred dollars; for general repairs and improvements, two thousand dollars; for sewerage system, five thousand five hundred dollars, to be immediately available; for construction of ice plant, two thousand five hundred dollars, to be immediately available; in all, thirty-six thousand five hundred and fifty dollars: *Provided*, That in making the repairs and improvements herein provided for at said school, the superintendent shall make such repairs and improvements, as far as practicable, by the labor of the Indian pupils, and the superintendent may, with the approval of the Commissioner of Indian Affairs, buy the material for such repairs and improvements in the open market.

Grand Junction Colo.

*Provido.*  
Preference to Indian labor.

For support and education of one hundred and twenty Indian pupils at the school at Hampton, Virginia, twenty thousand and forty dollars.

Hampton, Va.

For support and education of two hundred Indian pupils at Lincoln Institution, Philadelphia, Pennsylvania, at one hundred and sixty-seven dollars per annum each, thirty-three thousand four hundred dollars.

Lincoln Institution, Philadelphia, Pa.

For support and education of fifty Indian pupils at the Indian school, Kickapoo Reservation, Kansas, at not to exceed one hundred and sixty-seven dollars per annum each; for pay of superintendent, eight hundred and forty dollars; general repairs and improvements, three thousand dollars; in all, twelve thousand one hundred and ninety dollars.

Kickapoo Reservation, Kans.

For support and education of five hundred Indian pupils at the Indian school, Haskell Institute, Lawrence Kansas, at not exceeding

Haskell Institute Lawrence, Kans.

one hundred and sixty-seven dollars per annum each; for transportation of pupils to and from said school, and for general repairs and improvements, eighty-eight thousand dollars; for pay of superintendent at said school, two thousand dollars; for new school building, fifteen thousand dollars; for erection and equipment of laundry, five thousand dollars; for erection of additional shop room, two thousand dollars; in all, one hundred and twelve thousand dollars.

Mount Pleasant,  
Mich.

For support and education of three hundred Indian pupils at the Indian school, Mount Pleasant, Michigan, at one hundred and sixty-seven dollars each per annum, fifty thousand one hundred dollars; for pay of superintendent of said school, one thousand seven hundred dollars; for general repairs and improvements, three thousand dollars; in all, fifty-four thousand eight hundred dollars.

Perris, Cal.

For support and education of one hundred and fifty Indian pupils at the Indian school at Perris, California, at one hundred and sixty-seven dollars each per annum, twenty-five thousand and fifty dollars; for pay of superintendent of said school, one thousand five hundred dollars; for general repairs and improvements, one thousand dollars; in all, twenty-seven thousand five hundred and fifty dollars.

Phoenix, Ariz.

For support and education of six hundred Indian pupils at the Indian school at Phoenix, Arizona, at one hundred and sixty-seven dollars per annum each, and for general repairs and improvements, one hundred thousand two hundred dollars; for pay of superintendent at said school, two thousand dollars; for erection of manual training school, ten thousand dollars; in all, one hundred and twelve thousand two hundred dollars.

Hackberry, Ariz.

For the erection of the necessary buildings and the equipment thereof for an Indian school at or near Hackberry, Arizona, sixty thousand dollars, to be immediately available.

Pierre, S. Dak.

For support and education of one hundred and fifty Indian pupils at Indian industrial school at Pierre, South Dakota, at not to exceed one hundred and sixty-seven dollars per annum for each pupil, twenty-five thousand and fifty dollars; for pay of superintendent of said school, one thousand five hundred dollars; for general repairs and improvements, two thousand dollars; in all, twenty-eight thousand five hundred and fifty dollars.

Pipestone, Minn.

For support and education of one hundred and fifty Indian pupils at the Indian school, Pipestone, Minnesota, at one hundred and sixty-seven dollars per annum each, twenty-five thousand and fifty dollars; for pay of superintendent at said school, one thousand five hundred dollars; for erection of additional buildings, and for general repairs and improvements, six thousand dollars: *Provided*, That the sum of twenty-five thousand dollars appropriated for a new stone building by the Indian appropriation Act of eighteen hundred and ninety-nine may be used for the erection of one or more buildings, in the discretion of the Secretary of the Interior, and so much of said sum as is not expended during the fiscal year eighteen hundred and ninety-nine is hereby appropriated for that purpose; in all, thirty-two thousand five hundred and fifty dollars.

*Proviso.*

*Ante*, p. 589.

Clontarf, Minn.  
Sale of lands authorized.

The Secretary of the Interior is authorized and directed to sell the lands and properties known as the Indian school, at Clontarf, Minnesota, purchased by the Government from Archbishop Ireland, the proceeds of such sale to be used for the improvement of Indian schools at the discretion of the Secretary of the Interior.

Morris, Minn.

For the support and education of one hundred and fifty Indian pupils at the Indian school at Morris, Minnesota, at one hundred and sixty-seven dollars each per annum, twenty-five thousand and fifty dollars; for pay of superintendent, one thousand five hundred dollars; for general repairs and improvements, one thousand dollars; for the erection of a dormitory and school building, twenty-one thousand dollars; in all, forty-eight thousand five hundred and fifty dollars.

Rapid City, S. Dak.

For support and education of one hundred Indian pupils, Rapid City, South Dakota, at one hundred and sixty-seven dollars per annum each,

sixteen thousand seven hundred dollars; for pay of superintendent, one thousand two hundred dollars; for the erection of an ice house and for general repairs and improvements, one thousand five hundred dollars; for equipment and minor improvements, three thousand dollars; in all, twenty-two thousand four hundred dollars.

For support and education of four hundred pupils at the Indian school, Salem, Oregon, at one hundred and sixty-seven dollars per annum each, sixty-six thousand eight hundred dollars; for pay of superintendent at said school, one thousand eight hundred dollars; for steam heating and electric lighting plants, nineteen thousand dollars; for general repairs and improvements, five thousand dollars; in all, ninety-two thousand six hundred dollars.

Salem, Oreg.

For the support and education of seventy-five Indian pupils, Sac and Fox Reservation, Iowa, at one hundred and sixty-seven dollars per annum each, twelve thousand five hundred and twenty-five dollars; for pay of superintendent, one thousand dollars; in all, thirteen thousand five hundred and twenty-five dollars.

Sac and Fox Reser-  
vation, Iowa.

For support and education of three hundred Indian pupils at the Indian school at Santa Fe, New Mexico, at one hundred and sixty-seven dollars each per annum, fifty thousand one hundred dollars; for pay of superintendent at said school, one thousand seven hundred dollars; for water supply and sewerage, three thousand dollars; for general repairs and improvements, three thousand dollars; in all, fifty-seven thousand eight hundred dollars.

Santa Fe, N. Mex.

For support and education of one hundred and seventy-five Indian pupils at the Indian school, Shoshone Reservation, Wyoming, at one hundred and sixty-seven dollars per annum each, twenty-nine thousand two hundred and twenty-five dollars; for pay of superintendent at said school, one thousand four hundred dollars; for general repairs and improvements, four thousand dollars; for erection and equipment of laundry, two thousand five hundred dollars; in all, thirty-seven thousand one hundred and twenty-five dollars.

Shoshone Reserva-  
tion, Wyo.

For the erection of the necessary buildings and the equipment of the same, providing a water, sewerage, lighting, and heating plant, for a boarding school at or near Hayward, Wisconsin, sixty thousand dollars.

Hayward, Wis.

For the support and education of one hundred and fifty Indian pupils at the Indian school, Tomah, Wisconsin, at one hundred and sixty-seven dollars per annum each, twenty-five thousand and fifty dollars; for pay of superintendent at said school, one thousand five hundred dollars; for general repairs and improvements, three thousand dollars; for hospital building, three thousand dollars; for girls' dormitory, fourteen thousand dollars; in all, forty-six thousand five hundred and fifty dollars: *Provided*, That the sum of ten thousand dollars heretofore appropriated for new school building by the Indian appropriation bill approved July first, eighteen hundred and ninety-eight, known as Public, Numbered One hundred and seventy-five, may be expended, applied, and used for the erection, construction, and completion of a new dining hall and kitchen in lieu of a new school building.

Tomah, Wis.

*Proviso.*  
Diversion of ap-  
propriation for new  
dining hall.  
*Ante*, p. 590.

For the education and support of the children of the Shebit, Cedar City, Muddy, Panaca, and other Indians in the southern part of the State of Utah, and for the purchase of the necessary land and building sites, the erection of all necessary buildings, and the equipment and furnishing of the same, the sum of twenty-five thousand dollars, to be expended under the direction and discretion of the Secretary of the Interior.

Shebit, etc., Indians,  
Utah.

For collection and transportation of pupils to and from Indian schools, and also for the transportation of Indian pupils from all the Indian schools and placing of them, with the consent of their parents, under the care and control of such suitable white families as may in all respects be qualified to give such pupils moral, industrial, and educational training, under arrangements in which their proper care, support, and education shall be in exchange for their labor, thirty-five thousand dollars.

Transporting pupils.

Expenditures under direction of Commissioner, etc.

That all expenditure of money appropriated for school purposes in this Act shall be at all times under the supervision and direction of the Commissioner of Indian Affairs and in all respects in conformity with such conditions, rules, and regulations as to the conduct and methods of instruction and expenditure of money as may be from time to time prescribed by him, subject to the supervision of the Secretary of the Interior:

Sisseton and Wabpeton Bands, Dakota, or Sioux Indians, etc.

Restrictions on attorneys' contracts for services.

Vol. 26, pp. 1038, 1039.

— not applicable to contracts allowed within time stated in contract, etc.

Legal effect of contract to date from approval, etc.

R. S., sec. 2103, p. 367.

SEC. 2. And nothing in section twenty-seven of chapter five hundred and forty-three, volume twenty-six, of the United States Statutes at Large, pages one thousand and thirty-eight and one thousand and thirty-nine, shall be construed to apply to any contract for services for the prosecution of any claim against the United States, or the Indians named in said section, and which had been prosecuted to its final allowance by the Department before which it was prosecuted within the period stated in said contracts; and said contracts shall not be deemed or taken to have been in full force and legal effect until the date of their official approval by the Secretary of the Interior and the Commissioner of Indian Affairs, and the date of the approval thereof officially indorsed thereon by said Secretary of the Interior and Commissioner of Indian Affairs, as required by the provisions of the fourth paragraph of section twenty-one hundred and three of the Revised Statutes of the United States; and in cases mentioned in said section twenty-seven the Secretary of the Interior shall cause all claims for service under agreements mentioned in said section twenty-seven to be adjusted, audited, allowed, and paid out of any moneys in the Treasury belonging to the bands or tribes to which such Indians belong; and so much money as is necessary for that purpose is hereby appropriated out of their funds in the Treasury, and the amount so paid shall be charged against any fund to the credit of said Indians, tribes, bands, or individuals in the Treasury of the United States: *Provided*, That the amount so audited, allowed, and paid shall not exceed the sum of forty-five thousand dollars.

Adjustment and allowance of.

Appropriation for payment.

*Proviso*. — limit.

Supplies, purchase after advertisement.

SEC. 3. That no purchase of supplies for which appropriations are herein made, exceeding in the aggregate five hundred dollars in value at any one time, shall be made without first giving at least three weeks' public notice by advertisement, except in case of exigency, when, in the discretion of the Secretary of the Interior, who shall make official record of the facts constituting the exigency and shall report the same to Congress at its next session, he may direct that purchases may be made in open market in amount not exceeding three thousand dollars at any one purchase: *Provided*, That funds herein and heretofore appropriated for construction of artesian wells, ditches, and other works for irrigating may, in the discretion of the Secretary of the Interior, be expended in open market: *Provided further*, That purchase in open market shall, as far as practicable, be made from Indians, under the direction of the Secretary of the Interior: *Provided further*, That the Secretary of the Interior may, when practicable, arrange for the manufacture, by Indians upon the reservation, of shoes, clothing, leather, harness, and wagons, and such other articles as the Secretary of the Interior may deem advisable.

— exception, exigency.

*Provisos*. Works of irrigation.

Purchases from Indians.

Manufactures by Indians.

Diversion of surplus for subsistence.

SEC. 4. That the Secretary of the Interior, under the direction of the President, may use any surplus that may remain in any of the said appropriations herein made for the purchase of subsistence for the several Indian tribes, to an amount not exceeding twenty-five thousand dollars in the aggregate, to supply any subsistence deficiency that may occur: *Provided*, That any diversions which shall be made under authority of this section shall be reported in detail, and the reason therefor, to Congress, at the session of Congress next succeeding such diversion: *Provided further*, That the Secretary of the Interior, under direction of the President, may use any sums appropriated in this Act for subsistence, and not absolutely necessary for that purpose, for the purchase of stock cattle for the benefit of the tribe for which such appropriation is made, and shall report to Congress, at its next session thereafter, an

*Provisos*. — report.

Purchase of stock cattle.

account of his action under this provision: *Provided further*, That funds appropriated to fulfill treaty obligations shall not be used.

Treaty funds.

SEC. 5. That when not required for the purpose for which appropriated, the funds herein provided for the pay of specified employees at any agency may be used by the Secretary of the Interior for the pay of other employees at such agency, but no deficiency shall be thereby created; and, when necessary, specified employees may be detailed for other service when not required for the duty for which they were engaged; and that the several appropriations herein or heretofore made for millers, blacksmiths, engineers, carpenters, physicians, and other persons, and for various articles provided for by treaty stipulation for the several Indian tribes, may be diverted to other uses for the benefit of said tribes, respectively, within the discretion of the President, and with the consent of said tribes, expressed in the usual manner; and that he cause report to be made to Congress, at its next session thereafter, of his action under this provision: *Provided*, That with the consent of the Crow Indians in Montana, to be obtained in the usual way, the Secretary of the Interior, in his discretion, may use the annuity money due or to become due said Indians to complete the irrigation system heretofore commenced on said Crow Indian Reservation.

Transfer of funds for employees.

Diversions.

Proviso. Crow Reservation, Mont.

Use of annuity money of Indians for irrigation.

Rejection of bids.

SEC. 6. That whenever, after advertising for bids for supplies, in accordance with sections three and four of this Act, those received for any article contain conditions detrimental to the interest of the Government, they may be rejected, and the articles specified in such bids purchased in open market, at prices not to exceed those of the lowest bidder, and not to exceed the market price of the same, until such time as satisfactory bids can be obtained, for which immediate advertisement shall be made.

—purchases in open market.

SEC. 7. That the Commissioner of Indian Affairs shall report annually to Congress, specifically showing the number of employees at each agency, industrial, and boarding school, which are supported in whole or in part out of the appropriations in this Act, giving name, when employed, in what capacity employed, male or female, whether white or Indian, amount of compensation paid, and out of what item or fund of the appropriation paid, and whether, in the opinion of such Commissioner, any of such employees are unnecessary.

Report on employees to be made annually.

SEC. 8. That hereafter all Indians, when they shall arrive at the age of eighteen years, shall have the right to receive and receipt for all annuity money that may be due or become due to them, if not otherwise incapacitated under the regulations of the Indian Office.

Indians may receipt for annuity money at 18 years of age.

Approved, March 1, 1899.

CHAP. 325.—An Act Making appropriations for the Department of Agriculture for the fiscal year ending June thirtieth, nineteen hundred.

March 1, 1899.

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled*, That the following sums be, and they are hereby, appropriated, out of any money in the Treasury of the United States not otherwise appropriated, in full compensation for the fiscal year ending June thirtieth, nineteen hundred, for the purposes and objects hereinafter expressed, namely:

Agricultural Department appropriations.

DEPARTMENT OF AGRICULTURE.

OFFICE OF THE SECRETARY: For compensation of Secretary of Agriculture, eight thousand dollars; Assistant Secretary of Agriculture, four thousand five hundred dollars; chief clerk, who shall be superintendent of the Department buildings, two thousand five hundred dollars; private secretary to the Secretary of Agriculture, two thousand two hundred and fifty dollars; stenographer to the Secretary of Agriculture, one thousand four hundred dollars; private secretary to

Pay of Secretary, Assistant, clerks, etc.

heretofore been found by the Department of the Interior and reported in estimates for appropriations required for the service of the fiscal year ending June thirtieth, nineteen hundred and five, and prior years, by the Indian Service, the sum of six thousand three hundred and twenty dollars.

UTAH.

Utah.

For pay of Indian agent at the Uintah and Ouray Agency, Utah (consolidated), one thousand eight hundred dollars.

Agent, Uintah and Ouray Agency.

That the Secretary of the Interior is hereby authorized, in his discretion, to sell, at such price as he may deem fair and reasonable, one hundred and sixty acres of land of the tract now occupied by the Shebit Indians in Washington County, Utah, to the Utah and Eastern Copper Company, including the twenty acres of land leased by the Secretary of the Interior to the said Utah and Eastern Copper Company on November fifth, nineteen hundred and three, under the authority of the Indian appropriation Act, approved March third, nineteen hundred and three; and the Secretary of the Interior is hereby authorized to make, execute, and deliver proper deeds of conveyance therefor and to expend the proceeds of the sale for the use and benefit of the Shebit Indians in such manner as he may deem best: *Provided*, That said deed shall contain the following conditions or covenants, to wit: Prohibiting the sale or use of intoxicating liquor on any part of the land sold so long as the adjoining territory is used for an Indian reservation, and also prohibiting the pollution of the water after it leaves the smelters of the Utah and Eastern Copper Company, and also prohibiting the commission of nuisances of any kind whatsoever on the tract of land sold.

Shebit Indians. Sale of tract to Utah and Eastern Copper Company.

*Proviso.* Prohibition no liquor selling, etc.

SOUTHERN UTAH SCHOOL.

For support and education of seventy-five pupils at the Panguitch Indian school in southern Utah, twelve thousand five hundred and twenty-five dollars;

Panguitch school.

Pay of superintendent, nine hundred dollars;  
 General repairs and improvements, four thousand dollars;  
 For warehouse, two thousand dollars;  
 In all, nineteen thousand four hundred and twenty-five dollars.

For general incidental expenses of the Indian Service in Utah, including traveling expenses of agents, one thousand dollars.

Incidentals.

IRRIGATION.

Irrigation.

For constructing irrigation systems to irrigate the allotted lands of the Uncompahgre, Uintah, and White River Utes in Utah, the limit of cost of which is hereby fixed at six hundred thousand dollars, one hundred and twenty-five thousand dollars which shall be immediately available, the cost of said entire work to be reimbursed from the proceeds of the sale of the lands within the former Uintah Reservation: *Provided*, That such irrigation systems shall be constructed and completed and held and operated, and water therefor appropriated under the laws of the State of Utah, and the title thereto until otherwise provided by law shall be in the Secretary of the Interior in trust for the Indians, and he may sue and be sued in matters relating thereto: *And provided further*, That the ditches and canals of such irrigation systems may be used, extended, or enlarged for the purpose of conveying water by any person, association, or corporation under and upon compliance with the provisions of the laws of the State of Utah: *And provided further*, That when said irrigation systems are in successful operation the cost of operating same shall be equitably apportioned upon the lands irrigated, and, when the Indians have become

Lands of Uncompahgre, Uintah, and White River Utes.

*Provisos.* Construction and operation.

Use of ditches by other persons.

Payment of charges



self-supporting, to the annual charge shall be added an amount sufficient to pay back into the Treasury the cost of the work done, in their behalf, within thirty years, suitable deduction being made for the amounts received from disposal of the lands within the former Uintah Reservation.

|                                                                               |                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                       |
|-------------------------------------------------------------------------------|---------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| Utes, confederated bands.                                                     | CONFEDERATED BANDS OF UTES. (Treaty.)                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                 |
| Carpenters, etc.<br>Vol. 13, p. 675.<br>Vol. 15, p. 622.                      | For pay of two carpenters, two millers, two farmers, and two blacksmiths, as per tenth article of treaty of October seventh, eighteen hundred and sixty-three, and fifteenth article of treaty of March second, eighteen hundred and sixty-eight, six thousand seven hundred and twenty dollars;<br>For pay of two teachers, as per same article of same treaty, one thousand eight hundred dollars;<br>For purchase of iron and steel and the necessary tools for blacksmith shop, per ninth article of same treaty, two hundred and twenty dollars;                                                                                                                                                                                                                                                                                                                                                                                 |
| Food.<br>Vol. 15, p. 622.                                                     | For annual amount for the purchase of beef, mutton, wheat, flour, beans, and potatoes, or other necessary articles of food, as per twelfth article of same treaty, thirty thousand dollars;                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                           |
| Employees.                                                                    | For pay of employees at the several Ute agencies, fifteen thousand dollars;<br>In all, fifty-three thousand seven hundred and forty dollars.                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                          |
| Mining claims, Uncompahgre Reservation.<br>Vol. 32, p. 998, amended.          | That the Act entitled "An Act making appropriations for the current and contingent expenses of the Indian Department and for fulfilling treaty stipulations with various Indian tribes for the fiscal year ending June thirtieth, nineteen hundred and four, and for other purposes," approved March third, nineteen hundred and three, be amended by adding after the words " Uintah County, Utah," in the thirty-fourth line of page nine hundred and ninety-eight of part one of volume thirty-two of the United States Statutes at Large, the words " or in the office of the county recorder of Wasatch County, Utah, or with the recorder of the mining district in which such mining claims are situate," and by adding after the words " Uintah County," in the fortieth line of page nine hundred and ninety-eight of part one of volume thirty-two of the United States Statutes at Large, the words " or Wasatch County ": |
| Recording claims.                                                             | <i>Provided, however,</i> That where patents have been issued prior to March third, nineteen hundred and three, upon locations made prior to January first, eighteen hundred and ninety-one, of mining claims within the said Uncompahgre Reservation, said patents are hereby validated and confirmed as against any claim or title of the United States.                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                            |
| <i>Proviso.</i><br>Prior patents validated.                                   |                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                       |
| Uintah Reservation.<br>Sale of timber from grazing lands.<br>Vol. 32, p. 744. | That the Secretary of the Interior may authorize the Indians of the former Uintah Reservation, in the State of Utah, to cut and sell cedar and pine timber for posts or fuel from the tracts reserved for grazing purposes for said Indians under joint resolution of June nineteenth, nineteen hundred and two, in such quantities and upon such terms and under such rules and regulations as the said Secretary of the Interior may prescribe.                                                                                                                                                                                                                                                                                                                                                                                                                                                                                     |
| San Juan Pah-Utes.<br>Post, p. 1049.                                          | For the purchase of lands and sheep for the San Juan Pah-Ute Indians, five thousand dollars.                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                          |
| Kaibabe.<br>Support, etc.<br>Post, p. 1049.                                   | For the support and civilization of the Kaibab Indians in Utah, and for the purchase and acquiring of land and water, together with the necessary farming implements and machinery and live stock for their use, ten thousand five hundred dollars, to be immediately available.                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                      |

Virginia.

## VIRGINIA.

Hampton school.

For the support and education of one hundred and twenty Indian pupils at the school at Hampton, Virginia, twenty thousand and forty dollars.

## WASHINGTON.

For pay of Indian agent at the Colville Agency, Washington, one thousand five hundred dollars;

For support and civilization of the D'Wamish and other allied tribes in Washington, including pay of employees, five thousand dollars;

For support and civilization of the Makahs, Washington, including pay of employees, two thousand dollars;

For support and civilization of the Qui-nai-elts and Quil-leh-utes, including pay of employees, one thousand dollars;

For support and civilization of Yakimas, and other Indians at said agency, including pay of employees, five thousand dollars;

For general incidental expenses of the Indian Service in Washington, including traveling expenses of agents, and support and civilization of Indians at Colville and Puyallup agencies, and for pay of employees, thirteen thousand dollars.

That the Secretary of the Interior, in his discretion, is hereby authorized to sell, under rules and regulations to be prescribed by him, any tract or tracts of land heretofore reserved for the Puyallup Indian School not now needed for school purposes, and to use the proceeds of said sale for the establishment of an industrial and manual training school for the Puyallup and allied tribes and bands of Indians at the site of the present Puyallup Indian School.

## SPOKANES. (Treaty.)

For pay of a blacksmith and carpenter to do necessary work and to instruct the said Indians in those trades, one thousand dollars each, per sixth article of agreement with said Indians, dated March eighteenth, eighteen hundred and eighty-seven, ratified by Act of Congress approved July thirteenth, eighteen hundred and ninety-two, two thousand dollars;

For purchase of agricultural implements, and support and civilization of Joseph's Band of Nez Perce Indians, one thousand dollars;

For the extension of the irrigation system on lands allotted to Yakima Indians in Washington, fifteen thousand dollars, to be reimbursed from the proceeds of the sale of surplus lands, as provided by the Act of December twenty-first, nineteen hundred and four, entitled "An Act to authorize the sale and disposition of surplus or unallotted lands of the Yakima Indian Reservation in the State of Washington;" in all, fifteen thousand dollars.

That the Secretary of the Interior be, and he is hereby, authorized, in his discretion, to sell and convey by patent with such reservations as to flowage rights, dam sites, and mill sites appurtenant to water powers, as he may prescribe, such tract or tracts of lands of the Spokane Indian Reservation, State of Washington, lying at or near the junction of the Columbia and Spokane rivers, not exceeding three hundred and sixty acres in extent, for town-site and terminal purposes, upon the payment of such price as may be fixed by him, and that the money received therefrom shall be deposited in the Treasury of the United States to the credit of the Spokane Indians.

## COLVILLE RESERVATION.

To carry into effect the agreement bearing date May ninth, eighteen hundred and ninety-one, entered into between the Indians residing on the Colville Reservation and commissioners appointed by the President of the United States under authority of the Act of Congress approved August nineteenth, eighteen hundred and ninety, to negotiate with the Colville and other bands of Indians on said Colville Reservation for the

Washington.

Agent. Colville Agency.

Support, etc. D'Wamish, etc. Indians.

Makahs.

Qui-nai-elts and Quil-leh-utes.

Yakimas, etc.

Incidentals.

Puyallup school. Sale of lands.

Proceeds for industrial, etc., school.

Spokanes.

Blacksmith, etc.

Vol. 27, p. 139.

Joseph's Band, Nez Perces.

Yakimas. Irrigating allotments. Vol. 33, p. 597.

Spokane Reservation. Sale of flowage rights.

Proceeds for Indians.

Colville Reservation.

Cession of portion of.

Vol. 26, p. 355.

Cession of such portion of said reservation as said Indians might be willing to dispose of, there shall be set aside and held in the Treasury of the United States for the use and benefit of said Indians, which shall at all times be subject to the appropriation of Congress and payment to said Indians, in full payment for one million five hundred thousand acres of land opened to settlement by the Act of Congress "To provide for the opening of a part of the Colville Reservation, in the State of Washington, and for other purposes," approved July first, eighteen hundred and ninety-two, the sum of one million five hundred thousand dollars, and jurisdiction is hereby conferred upon the Court of Claims to hear, determine and render final judgment in the name of Butler and Vale (Marion Butler and Josiah M. Vale), attorneys and counsellors at law, of the city of Washington, District of Columbia, for the amount of compensation which shall be paid to the attorneys who have performed services as counsel on behalf of said Indians in the prosecution of the claim of said Indians for payment for said land, and in determining the amount of compensation for such services the court may consider all contracts or agreements heretofore entered into by said Indians with attorneys who have represented them in the prosecution of said claim, and also all services rendered by said attorneys for said Indians in the matter of said claim. Petition hereunder shall be filed in said court by the said attorneys (Butler and Vale), within thirty days from the passage of this Act, and the Attorney-General shall appear on behalf of the defendants, and said cause shall be given preference for immediate hearing in said court, and the Secretary of the Treasury is hereby authorized and directed to pay the sum of money so awarded by said court to the said attorneys (Butler and Vale), upon the rendition of final judgment, out of the said sum herein set apart or appropriated for the benefit of said Indians, and payment of said judgment shall be in full compensation to all attorneys who have rendered services to said Indians in the matter of their said claim, the same to be apportioned among said attorneys by said Butler and Vale as agreed among themselves: *Provided*, That before any money is paid to any attorney having an agreement with Butler and Vale as to the distribution of said fees, each of the same shall execute and deliver to the Secretary of the Interior a satisfaction and discharge of all claims and demands for services rendered said Indians in the matter of their said claim.

That the Secretary of the Interior be, and he is hereby, authorized and directed to issue a patent, under the general allotment Act, to Ignas, a grandson of Doc Jim, for the east half of the southeast quarter of section five, township twenty-three north, range nineteen east, Willamette meridian, Washington: *Provided*, That the patentee may sell and convey all or a part of the land under the supervision of the Secretary of the Interior, and that any deed of conveyance shall be approved by him to pass title.

That the Secretary of the Interior be, and he is hereby, authorized, in his discretion, to issue fee-simple patents to the following parties for the lands heretofore allotted to them: George Bowen, Charles Finkbonner, Tee ah Ligh or George, Tang Weah or Louis, Tom Wha-quiskun, Yab Him Aloo or Mary, Descanum or Albert, Kwina or Henry, Lummi allottees numbered one, two, three, eleven, sixteen, twenty-two, twenty-eight, and thirty, respectively, on the schedule of allotments approved by the President October fourteenth, eighteen hundred and eighty-four, and the issuance of said patents shall operate as a removal of all restrictions as to the sale, incumbrance, or taxation of the lands so patented.

That Charles Sheestal, Swinomish allottee numbered twenty-three, to whom a patent has been issued in accordance with the provisions of the seventh article of the treaty of January twenty-second, eighteen hundred and fifty-five, with the Dwamish and other Indians (Twelfth

Credit to Indians.

Vol. 27, p 62.

Marion Butler and Josiah M. Vale. Claim for services to Indians, referred to Court of Claims.

Proceedings.

Payment of judgment.

*Proviso.*  
Release of claims.

Ignas. Trust patent to.

*Proviso.*  
Sales permitted.

Lummi allottees. Fee-simple patents to certain.

Charles Sheestal. May sell part of allotment.

Statutes, page nine hundred and twenty-seven), containing restrictions upon sale and alienation, may sell and convey the northwest quarter of the southwest quarter of section twenty-four, township thirty-four north, range two east, Willamette meridian, Washington, being forty acres of his allotment, but that such conveyance shall be under the supervision and subject to the approval of the Secretary of the Interior, and when so approved shall convey full title to the purchaser; also the south half of the north half of the southeast quarter of section twenty-three, township thirty-four north, range two east, Willamette meridian, or any part thereof, in the discretion of the Secretary of the Interior; and this conveyance, if any, shall be under the supervision and subject to the approval of the Secretary of the Interior, and when so approved shall convey full title to the purchaser.

That Lizzie Peone, allottee numbered three hundred and thirty-one in what was formerly the north half of the Colville Indian Reservation, in the State of Washington, and to whom a trust patent has been issued containing restrictions upon alienation, may sell and convey any part of her allotment, but such conveyance shall be subject to the approval of the Secretary of the Interior, under such rules and regulations as he may prescribe, and when so approved shall convey full title to the purchaser the same as if a final patent without restriction had been issued to the allottee.

Lizzie Peone.  
May sell part of allotment.

That the Secretary of the Interior be, and he is hereby, authorized, in his discretion, to issue fee-simple patents to the following parties for the lands heretofore allotted them: L. F. Laqua, a Yakima Indian, to his allotment, numbered seven hundred and eighty; Susan Stone (Swasey), a Yakima Indian, to her allotment, numbered two hundred and eighty-six; Suis Sis Kin, or Loupe Loupe Charley, numbered four, Yakima, now Waterville, Washington; Charles Wannassy, Yakima allottee, numbered one thousand six hundred and eighteen; Margaret Sar Sarp Kin, numbered six, Washington; and the issuance of said patents shall operate as a removal of all restrictions as to the sale, incumbrance, or taxation of the lands so patented.

Yakima allottees.  
Fee-simple patents to certain.

That the Secretary of the Interior be, and he is hereby, authorized, in his discretion, to issue a patent in fee simple to Franklin P. Olney, a Yakima Indian, for the land covered by his allotment numbered five hundred and eighty-three; and the issuance of said patent shall operate as the removal of all restrictions as to sale, incumbrance, or taxation of the land so patented.

Franklin P. Olney.  
Fee-simple patent to.

WISCONSIN.

Wisconsin.

For pay of Indian agent at the La Pointe Agency, Wisconsin, one thousand eight hundred dollars.

Agent, La Pointe Agency.

HAYWARD SCHOOL.

For the support and education of two hundred pupils at the Indian school at Hayward, Wisconsin, thirty-three thousand four hundred dollars;

Hayward school.

Pay of superintendent, one thousand five hundred dollars;  
General repairs and improvements, five thousand dollars;  
Shop building, four thousand dollars;  
In all, forty-three thousand nine hundred dollars.

TOMAH SCHOOL.

For support and education of two hundred and fifty Indian pupils at the Indian school, Tomah, Wisconsin, forty-one thousand seven hundred and fifty dollars;

Tomah school.

For pay of superintendent at said school, one thousand seven hundred dollars;

For general repairs and improvements, three thousand dollars;

In all, forty-six thousand four hundred and fifty dollars.

Chippewas of Lake Superior. Support, etc.

For support and civilization of the Chippewas of Lake Superior, Wisconsin, to be expended for agricultural and educational purposes; pay of employees, including pay of physician, at one thousand two hundred dollars; purchase of goods and provisions, and for such other purposes as may be deemed for the best interest of said Indians, seven thousand dollars.

Pottawatomies. Investigation of claims for unpaid annuities.

That the Secretary of the Interior be, and he is hereby, directed to cause an investigation to be made of the claims of the Pottawatomie Indians of Wisconsin, as set forth in their memorial to Congress, printed in Senate Document Numbered One hundred and eighty-five, Fifty-seventh Congress, second session, and to report thereon to Congress at the beginning of the next session thereof, showing on the best information now obtainable what number of said Indians continued to reside in the State of Wisconsin after the treaty of September twenty-sixth, eighteen hundred and thirty-three, their proportionate shares of the annuities, trust funds, and other moneys paid to or expended for the tribe to which they belong, in which the claimant Indians have not shared, the amount of such moneys retained in the Treasury of the United States to the credit of the claimant Indians as directed by the provision of the Act of Congress approved June twenty-fifth, eighteen hundred and sixty-four; if none have been so retained the amount that should have been annually so retained under said law, showing also what disposition has been made of the annuities, trust funds, and other moneys of said tribe, with the amounts and the status of any now remaining to their credit in the Treasury or otherwise. He will also cause an enrollment to be made of said Pottawatomie Indians.

Vol. 13, p. 172.

Enrollment.

Oneida allottees. Fee-simple patents to certain.

That the Secretary of the Interior be, and he is hereby, authorized, in his discretion, to issue fee-simple patents to the following parties for the lands heretofore allotted to them: (Compson) Doxtater, William Cornelius, Ida Powless, Daniel H. Cooper, Charles Elm, Abram Elm, Catherine Nynham, Joshua Cornelius, Levi Wheelock, Dennison Wheelock, Rachel Peters Jones, Jerusha Peters, and Alice Cornelius, Oneida allottees numbered one hundred and thirty seven, fifty-seven, two hundred and twenty-four, seven hundred and sixty-nine, twelve hundred and seventy-two, twelve hundred and seventy-one, thirteen hundred and ninety-eight, fifteen hundred and fourteen, three hundred and seventy-three, twenty-one, three hundred and ten, eleven hundred and thirty-seven, and sixty-two, respectively; Jacob Doxtater, allottee numbered one thousand and ninety-nine; Rachel Elm, allottee numbered eight hundred and seventy-nine; Jerusha Powless, allottee numbered fourteen hundred and eighty-three; Hendrix Skenandooh, allottee numbered eight hundred and four; Hannah Hayes, allottee numbered three hundred and five; Dolly Ann Doxtater, allottee numbered one hundred and seventy-four; Martin Williams, allottee numbered four hundred and twenty; Moses Webster, allottee numbered eleven hundred and thirty-five; Adam King, allottee numbered one hundred and twenty-one; Elizabeth Nynham, allottee numbered one thousand and seventy-five; Elijah John, allottee numbered five hundred and six; Silas Webster, allottee numbered thirteen hundred and fifty; Henry Cooper, allottee numbered three hundred and thirty-eight; David King, allottee numbered two hundred and one; Job Silas, allottee numbered three hundred and thirty-three; Joseph Skenandooh, allottee numbered five hundred and seventy-three; James Silas, allottee numbered two hundred and fifty-five; John Parkhurst, allottee numbered two hundred and thirty-six, and David Adams, allottee numbered five hundred and

ninety-four, Oneida Indians; Isaiah Sycles, Schuyler Nynham, Archie Wheelock, Truman Doxtater, Sophia Webster, Mary Webster, Jane Parkhurst, Henry Wheelock, Eva Jourdan, William Archquette, Sarah Hill, Frank Button, Sylvester Button, Margaret Thomas, William Christjohn, Frank Cornelius, Alice Cornelius, Hannah Hill, Sarah Sycles, Adam P. Cornelius, Thomas John, Esther Christjohn, Joseph Metozen, and James Wheelock, Oneida allottees numbered six hundred and seventy-seven, thirteen hundred and ninety-nine, ten hundred and sixty-one, ten hundred and seventy-nine, one hundred and eighty-four, eleven hundred and eighty-three, twelve hundred and seventy-seven, three hundred and forty-four, eight hundred and thirty-nine, seven hundred and twenty, four hundred and seventy-one, three hundred and seventy-six, twelve hundred and sixty-eight, eight hundred and seventy-six, twelve hundred and thirty-eight, seven hundred and seventeen, seven hundred and eighteen, one hundred and forty-eight, fourteen hundred and eighty-six, seven hundred and thirteen, seven hundred and thirty-three, three hundred and sixty-four, one hundred and forty-two, and sixteen, respectively, and Michel Buffalo, Red Cliff allottee numbered twenty-eight, and the issuance of said patents shall operate as a removal of all restrictions as to the sale, incumbrance, or taxation of the lands so patented.

Michel Buffalo.

That the Secretary of the Interior be, and he is hereby, authorized, in his discretion, to issue a patent in fee to any Indian of the Oneida Reservation in Wisconsin for the lands heretofore allotted him, and the issuance of such patent shall operate as a removal of all restrictions as to the sale, taxation, and alienation of the lands so patented.

Oneida Reservation.  
Fee-simple patents  
to Indians to.

To enable the Commissioner of Indian Affairs to pay in behalf of Ann Francis, a Chippewa Indian woman, and lineal descendant of Bow kow ton den, for printing record in the case of Francis against Francis, now pending in the Supreme Court, involving her title to land claimed under treaty and patent, and such briefs as may be necessary therein, one hundred and seventy-five dollars, or as much thereof as may be necessary.

Ann Francis.  
Payment of.  
Post, p. 656.

That the Secretary of the Interior be, and he is hereby, authorized, in his discretion, with the consent of the Indians of the La Pointe or Bad River Reservation, to be obtained in such manner as he may direct, to set apart lots ten, eleven, and twelve, section twenty-five, township forty-eight north, range three west, on the La Pointe Reservation in Wisconsin, for an Indian town site, and to cause the lands described to be surveyed and platted into suitable lots, streets, and alleys, and to dedicate said streets and alleys and such lots or parcel as may be necessary to public uses, and to cause the lots to be appraised at their real value, exclusive of improvements thereon or adjacent thereto, by a board of three persons, one of whom shall be the United States Indian agent of the La Pointe Agency, one to be appointed by the Secretary of the Interior, and one selected by the Indians of the La Pointe band of Chippewas, who shall receive such compensation as the Secretary of the Interior may prescribe, to be paid out of the proceeds of the sale of lots sold under this Act, and when so surveyed, platted, and appraised, the President may issue patents to the Indians of the said reservation for such lots on the payment by them of the appraised value thereof, on such terms as may be approved by the Secretary of the Interior, and the net proceeds of such sales shall be placed to the credit of the La Pointe band of Chippewa Indians: *Provided*, That no person shall be authorized to purchase lots on the lands described other than members of said La Pointe band of Indians, and those now owning permanent improvements there shall have the preference right for six months from the date such lots shall be offered for sale within which to purchase tracts upon which their improvements are situated, but no lot shall be sold for less than the appraised

La Pointe Reserva-  
tion.  
Establishment of In-  
dian town site, Oda-  
nah.

*Proviso.*  
Sales restricted to  
La Pointe Indians

Liquor restriction. valuation; but if any person entitled fails to take advantage of this provision, the agent of the La Pointe Agency shall appraise the improvements on the unsold lots, and any member of the La Pointe band of Chippewas, on the payment to the owner of the appraised value of the improvements, shall have the preference right for six months from the date of such payment to purchase such unsold lot or lots at their appraised value on such terms as may be approved by the Secretary of the Interior: *Provided further*, That the patents to be issued shall contain a condition that no malt, spirituous, or vinous liquors shall be kept or disposed of on the premises conveyed, and that any violation of this condition, either by the patentee or any person claiming rights under him, shall render the conveyance void and cause the premises to revert to the La Pointe band of Chippewa Indians, to be held as other tribal lands.

Cemetery lot. That the northeast quarter of the northeast quarter of section thirty-four, township forty-eight north, range three west, be set aside and dedicated as a burial ground, and for such other purposes as may be approved by the Commissioner of Indian Affairs, for the use of the members of the La Pointe band of Indians. And the Secretary of the Interior is hereby authorized to sell and dispose of the merchantable timber growing thereon in such manner as he may deem best, for cash, and to expend the proceeds derived therefrom in paying the cost of surveying and platting the village of Odanah, in improving the cemetery site, and for public improvements in said village.

Stockbridge and Munsee tribe.

STOCKBRIDGE AND MUNSEE TRIBE.

Allotments in fee simple to members. Vol. 27, p. 745.

That the members of the Stockbridge and Munsee tribe of Indians, as the same appear upon the official roll of said tribe, made in conformity with the provisions of the Act of Congress approved March third, eighteen hundred and ninety-three, entitled "An Act for the relief of the Stockbridge and Munsee tribe of Indians in the State of Wisconsin," and their descendants, who are living and in being on the first day of July, nineteen hundred and four, and who have not heretofore received patents for land in their own right, shall, under the direction of the Secretary of the Interior, be given allotments of land and patents therefor in fee simple, in quantities as follows:

Distribution. *Proviso.* Head of a family.

To each head of a family, one-eighth of a section: *Provided*, That such allotment to the "head of a family" shall be deemed to be a provision for both husband and wife, or the survivor in the event of the death of either.

To each single person not provided for as above, one-sixteenth of a section.

*Proviso.* Children.

That where a patent has heretofore been issued to the head of a family (a married man) the same shall be deemed to have been in satisfaction of the claims of both husband and wife, and no further allotment shall be made to either of such persons under this Act: *Provided*, That the children of such parents shall be entitled to allotments hereunder in their own right, if enrolled as members of the tribe.

Allotment if land insufficient.

That as there is not sufficient land within the limits of the Stockbridge and Munsee Reservation to make the allotments in the quantities above specified, all available land in said reservation shall first be allotted to the heads of families and single persons residing thereon, until said reservation land shall be exhausted, the additional land that may be required to complete the allotments to be obtained in the manner hereinafter specified: *Provided*, That the Secretary of the Interior may make such rules and regulations as he may deem necessary to carry out the requirements of this Act as to making and designating allotments.

*Proviso.* Rules.

Acceptance of selections.

That it shall be obligatory upon any member of said tribe who has made a selection of land within the reservation, whether filed with the

tribal authorities or otherwise, to accept such selection as an allotment, except that the same shall be allotted in quantity not to exceed that hereinbefore authorized: *Provided*, That where such selection does not equal in quantity the allotment hereinbefore authorized, the allottee may elect to take out of the lands obtained under the provisions of this Act the additional land needed to complete his or her quota of land, or in lieu thereof shall be entitled to receive the commuted value of said additional land in cash, at the rate of two dollars per acre, out of the moneys hereinafter appropriated.

*Proviso.*  
Other land or cash to complete allotment.

That those members of said tribe who have not made selections within the reservation shall be entitled to the option of either taking an allotment under the provisions of this Act, or of having the same commuted in cash, at the rate of two dollars per acre, out of the moneys hereinafter appropriated: *Provided*, That the election of any member to take cash in lieu of land shall be made within sixty days after the date of the approval of this Act.

Option to take cash instead of lands.

*Proviso.*  
Time limit.

That for the purpose of obtaining the additional land necessary to complete the allotments herein provided for the Secretary of the Interior is hereby authorized and directed to negotiate, through an Indian inspector, with the Menominee tribe of Indians of Wisconsin for the cession and relinquishment to the United States of a portion of the surplus land of the Menominee Reservation in said State, or to negotiate with the authorities of said State, or with any corporation, firm, or individual, for the purchase of said additional land: *Provided, however*, That in no event shall any agreement of cession or contract of purchase so negotiated stipulate that a sum greater than two dollars per acre shall be paid for the land so obtained: *And provided further*, That no such agreement or contract shall have any force or validity unless the same shall be approved by the Secretary of the Interior; or said Secretary may, in his discretion, utilize such unappropriated public lands of the United States as may be required to complete the allotments.

Negotiation for additional lands from Menominees, etc.

*Provisos.*  
Limit of price.

Approval.

That certain members of the Stockbridge and Munsee tribe having made selections of land on tracts patented to the State of Wisconsin under the swamp-land Acts, and having made valuable improvements thereon, the Secretary of the Interior is hereby authorized to cause said improvements to be appraised by an inspector or special agent or Indian agent of his Department, and to pay to the owners, as their interests may appear, the appraised value of said improvements, in all not to exceed the sum of one thousand dollars, out of the moneys hereinafter appropriated.

Purchase of swamp lands from Indians.

That the sum necessary to carry out the provisions hereof the Secretary of the Treasury is directed to pay out of the Stockbridge consolidated fund in the Treasury of the United States, which fund on the thirty-first of October, nineteen hundred and four, amounted to seventy-five thousand nine hundred and eighty-eight dollars and sixty cents, under the direction and upon the warrant of the Secretary of the Interior.

Payment from tribal funds.

WYOMING.

Wyoming

For support and civilization of Shoshone Indians in Wyoming, twelve thousand dollars.

Shoshones.  
Support, etc.

SHOSHONE SCHOOL.

For support and education of one hundred and seventy-five Indian pupils at the Indian school, Shoshone Reservation, Wyoming, twenty-nine thousand two hundred and twenty-five dollars;

Shoshone school.

For pay of superintendent at said school, one thousand eight hundred dollars;



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FIFTY-NINTH CONGRESS. SESS. I. CHS. 3504, 3505. 1906.

|                                                                                                |                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                  |
|------------------------------------------------------------------------------------------------|----------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| Incidentals.                                                                                   | For general repairs and improvements, five thousand dollars;<br>In all, thirty-six thousand and twenty-five dollars.<br>For general incidental expenses of the Indian Service in Wyoming, including traveling expenses of agents, one thousand dollars.                                                                                                                                                                                                                                                                                                                          |
| Shoshones.                                                                                     | SHOSHONES AND BANNOCKS. (Treaty. For Bannocks see Idaho.)                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                        |
| Fulfilling treaty<br>Vol. 15, p. 676.                                                          | SHOSHONES: For pay of physician, teacher, carpenter, miller, engineer, farmer, and blacksmith, as per tenth article of treaty of July third, eighteen hundred and sixty-eight, five thousand dollars.<br>For pay of second blacksmith, and such iron and steel and other materials as may be required, as per eighth article of same treaty, one thousand dollars.<br>In all, six thousand dollars.                                                                                                                                                                              |
| Shoshone Reserva-<br>tion.<br>Irrigation system.<br>Vol. 33, p. 1017.<br>Ibid., pp. 222, 1052. | For the purpose of carrying out the provisions of article four of the agreement ratified by the Act of March third, nineteen hundred and five, entitled "An Act to ratify and amend an agreement with the Indians residing on the Shoshone or Wind River Indian Reservation, in the State of Wyoming, and make appropriation for carrying the same into effect," one hundred thousand dollars of the amount specified by said fourth article to be immediately available and to be reimbursed from the proceeds derived from the sale of surplus lands, as provided by said Act. |

Approved, June 21, 1906.

|                                                                                  |                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                               |
|----------------------------------------------------------------------------------|-------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| June 21, 1906.<br>[S. 59.]<br>[Public, No. 259.]                                 | <b>CHAP. 3505.</b> —An Act Providing for the establishment of a uniform building line on streets in the District of Columbia less than ninety feet in width.                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                  |
| District of Columbia.<br>Building lines on<br>streets less than 90 feet<br>wide. | <i>Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,</i> That the Commissioners of the District of Columbia be, and they are hereby, authorized to establish building lines on streets or parts of streets less than ninety feet wide, in the District of Columbia, upon the presentation to them of a plat of the street or part of street upon which such action is desired, showing the lots and the names of the record owners thereof, and accompanied by a petition of the owners of more than one-half of the real estate shown on said plat requesting that building lines be established, or when the Commissioners deem that the public interests require that such building lines be established: <i>Provided,</i> that no such building line shall be established on any part of street less than one block in length.                                                                              |
| Petition.                                                                        |                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                               |
| Proviso.<br>Condition.                                                           |                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                               |
| Condemnation of<br>land.                                                         | <b>SEC. 2.</b> That upon the filing of such plat and petition in the office of said Commissioners, or when the Commissioners shall deem that the public interests require it, the said Commissioners shall institute condemnation proceedings in the supreme court of the District of Columbia, sitting as a district court, by a petition in rem, particularly describing the land to be taken, which petition shall be accompanied by duplicate plats, to be prepared by the surveyor of said District, showing the location of said proposed building lines, the number of square feet to be taken from each lot or part of lot and the boundaries thereof in each square or block, and such other information as may be necessary for the purposes of such condemnation. Upon the filing of such petition, one copy of the plat, indorsed with the docket number of the case, shall be returned by the clerk of said court to the said surveyor for record in his office. |
| Condemnation pro-<br>ceedings.<br>Vol. 33, p. 734.                               | <b>SEC. 3.</b> That the condemnation proceedings herein provided for shall be in accordance with the provisions of sections sixteen hundred and eight f to sixteen hundred and twelve, both inclusive, of the Code of Law of the District of Columbia as amended February twenty-third, nineteen hundred and five, as far as the same are applicable; and that                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                |

**FILED - Civil Division**  
BY *[Signature]*  
AUG 03 2015

**UTE INDIAN TRIBAL COURT  
FT. DUCHESNE, UTAH 84026**

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**THE UTE INDIAN TRIBAL COURT OF THE UINTAH AND OURAY RESERVATION  
FORT DUCHESNE, UTAH**

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UTE INDIAN TRIBE,

Plaintiff,

v.

GREGORY D. MCKEE,  
T & L LIVESTOCK, INC., MCKEE  
FARMS, INC., and  
GM FERTILIZER, INC.

Defendants.

**FINDINGS OF FACT AND  
CONCLUSIONS OF LAW**

CASE NO. CV12-285

This matter came before the Court on July 13, 2015, for trial on the merits of the claims under the Plaintiff Tribe's First Amended Complaint for Declaratory Judgment, Theft/Conversion/Misappropriation, Trespass, Conspiracy and Injunctive Relief. As discussed more fully below, the Court has personal jurisdiction over Defendants under the Tribe's Law and Order Code, Section 1-2-3, captioned "Personal Jurisdiction and Long Arm Civil Jurisdiction." The Court has subject matter jurisdiction under the Tribe's Law and Order Code, Section 1-2-2, subsections (1)(g) and (2),<sup>1</sup> as well as the Tribe's inherent jurisdiction as a sovereign, which is discussed in more detail below. At trial the Tribe was represented by Attorneys Frances Bassett

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<sup>1</sup> As amended by Ordinance 13-010, on March 27, 2013.

Findings of Fact and Conclusions of Law  
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and Jeffrey Rasmussen. Defendants did not appear for trial. The Tribe presented documentary and testimonial evidence, and at the conclusion of trial the Court took the matter under advisement.

### PROCEDURAL HISTORY

The Tribe's original complaint was filed on September 6, 2012, together with a verified motion for issuance of a temporary restraining order and request for expedited hearing. Process was served on Mr. Gregory (Greg) McKee the following day, and counsel for both parties attended a telephonic hearing on September 20, 2012, after which the Court issued a temporary restraining order. Because of the unavailability of a court reporter, the September 20th hearing was continued to September 25, 2012, and in the interim both parties submitted briefs with attached affidavits and evidentiary materials. Following the hearing on September 25th, the Court issued a second temporary restraining order dated October 1, 2012. A preliminary injunction hearing was scheduled for November 15, 2012.

On October 25, 2012, Defendant McKee, through counsel, filed an Answer to the Complaint, and the next day Mr. McKee's attorney filed a Notice of Withdrawal of Counsel.

On November 14, 2012, the day before the scheduled preliminary injunction hearing, Mr. McKee's newly-retained counsel, the John D. Hancock Law Group, requested a continuance of the preliminary injunction hearing. The Court granted the continuance on the condition that the restraining order entered on October 1, 2012 "shall continue in force pending the rescheduled hearing."

A rescheduled hearing was held on March 26, 2013, beginning at 1 p.m. At the hearing both parties submitted documentary evidence and Mr. McKee was examined by counsel for both

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parties. In addition, the Tribe presented the testimony of its expert, Dr. Woldezion Mesghinna, P.E., of Natural Resources Consulting Engineers, Inc. ("NRCE"), the company that functions as the Tribe's Water Engineer.<sup>2</sup> During a break in the hearing, Mr. McKee's attorney advised the Court that he was unavailable to continue the hearing the next day. Attorney Hancock also requested leave of the Court in order to secure an expert witness on Mr. McKee's behalf.<sup>3</sup>

On April 15, 2013, the Defendant filed a motion to dismiss the Tribal Court suit, challenging the subject matter jurisdiction of the Tribal Court, and alternatively alleging that the United States was a necessary and indispensable party to the suit. The Tribe opposed the motion through a memorandum filed on May 16, 2013. The Tribe concurrently filed a motion to amend its complaint to allege, *inter alia*, claims against Defendant McKee's business entities as additional defendants, T & L Livestock, Inc., McKee Farms, Inc., and GM Fertilizer, Inc.

The Tribe's motion to amend its complaint was granted on August 8, 2013, and the amended complaint was filed on September 4, 2013. The McKee business entities were served with process on October 22, 2013, and the Defendants filed an answer to the First Amended Complaint on November 5, 2013.

On June 2, 2014, the Court denied the Defendants' motion to dismiss for lack of jurisdiction. In addition, the Court ruled that the United States was not a necessary and indispensable party to the suit.

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<sup>2</sup> Transcript of Preliminary Injunction March 26, 2013.

<sup>3</sup> *Id.*, pp. 104:6 – 109:25; 186:23 – 192.

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Pursuant to a scheduling order issued on January 15, 2015, trial was scheduled to begin on July 13, 2015. Deadlines for completing discovery were set and subsequently modified under an Amended Scheduling Order entered on April 15, 2015.

On June 5, 2015, the Tribe filed an expedited motion requesting a court order to compel Defendants to respond to the Tribe's written discovery and to compel Defendant Greg McKee to appear for a deposition.

On June 6, 2015, the Court ordered Defendants to respond to the Tribe's written discovery by Wednesday, June 10, 2015.

Defendants did not respond to the Tribe's written discovery as ordered, and instead, on June 10, 2015, the due date for Defendants' discovery responses, Defendants' counsel, John D. Hancock Law Group, PLLC, filed a motion to withdraw as Defendants' counsel.

The Tribe did not object to the motion to withdraw, but did press the Tribe's pending motion to compel, observing that simply because "Defendants are apparently asking their attorney to withdraw does not provide a basis for delaying the entry of the motion to compel."

The Court agreed. By order issued on June 12, 2015, the Court granted defense counsel's motion to withdraw, and at the same time directed Defendants to respond to Plaintiff's written discovery by June 25, 2015, and for Defendant Greg McKee to appear for a deposition "on or before July 1, 2015."

Defendants never responded to the Tribe's written discovery and Mr. McKee never appeared for a deposition as ordered by the Court.

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On July 31, 2015, the Tribe filed a motion for discovery sanctions in the form of attorney fees and costs, negative inferences, and deemed admissions based on the Defendants' failure to respond to the Tribe's Request for Admissions.

On July 31, 2015, the Tribe submitted its proposed Findings of Fact and Conclusions of Law. The Tribe concurrently filed a motion seeking to dismiss without prejudice Counts Three and Four of the First Amended Complaint, which alleged claims for nuisance and civil conspiracy. The Court has granted the motion to dismiss Counts Three and Four without prejudice.

### **FINDINGS OF FACT**

#### **JURISDICTIONAL FACTS**

1. Plaintiff Ute Tribe is a federally recognized Indian Tribe, organized with a Constitution approved by the Secretary of Interior under the Indian Reorganization Act of 1934, 26 U.S.C. § 476. At all times relevant, the Tribe has occupied the Uintah and Ouray ("U&O") Reservation in northeastern Utah. The Tribe commenced this action on its own behalf and as *parens patriae* on behalf of its tribal members.<sup>4</sup>

2. Defendant Greg McKee is a non-Indian with business offices in Lapoint, Uintah County, Utah. Defendants T&L Livestock, Inc., McKee Farms, Inc., and GM Fertilizer, Inc., are Utah corporations, and Defendant McKee is the registered agent for each corporation.

3. The U&O Reservation is a union of two reservations, the Uintah Valley Reservation, established by Executive Order and Congressional action,<sup>5</sup> and the Uncompahgre

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<sup>4</sup> First Amended Complaint, ¶3.

<sup>5</sup> Reprinted in I C. Kappler, *Indian Affairs: Laws and Treaties* 900 (2d ed. 1904), 13 Stat. 63.

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Reservation, established through Executive Order on January 5, 1882.<sup>6</sup>

4. In litigation to determine the reservation boundaries, the Tenth Circuit ruled that neither the Uintah Valley Reservation nor the Uncompahgre Reservation was diminished as a result of allotment acts that opened the reservations to non-Indian settlement in 1905. *Ute Indian Tribe v. State of Utah*, 773 F.2d 1087, 1093 (10th Cir. 1985) (*en banc*) (hereinafter “*Ute III*”).

5. Nine years later, however, in a state court criminal prosecution initiated by the State of Utah, the U.S. Supreme Court ruled—contrary to the *Ute III* holding—that the Uintah Valley Reservation was diminished (though not disestablished) under the 1905 allotment legislation. *Hagen v. Utah*, 510 U.S. 399 (1994).

6. *Hagen*, however, did not delineate the scope of the diminishment. That question was left for the Tenth Circuit to resolve when the State of Utah and Ute Tribe subsequently filed competing motions to uphold, or conversely, to recall the *Ute III* mandate. The Tenth Circuit refused to withdraw its prior mandate; the Court said it would modify the mandate but only to the extent necessary to conform to the narrow decision in *Hagen*. *Ute Indian Tribe v. State of Utah*, 114 F.3d 1513, 1519 (10th Cir. 1997) (“*Ute V*”). The Court concluded that the Reservation was diminished but only to the extent of “lands that passed from trust to fee status pursuant to non-Indian settlement under the 1902-1905 allotment legislation.” *Id.* at 1529-31.

7. The Tenth Circuit emphasized that “*Hagen* did not erase the [exterior] boundaries of the Uintah Valley Reservation,” relying on the *Hagen* Court’s own language that the Uintah Valley Reservation was “‘diminished’—not ‘disestablished,’ ‘eliminated,’ or ‘terminated.’” *Id.* (quoting *Hagen v. Utah*, 510 U.S. at 414). The Court acknowledged that the *Hagen* ruling

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<sup>6</sup> Reprinted in I.C. Kappler, *Indian Affairs: Laws and Treaties* 901 (2d ed. 1904).

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resulted in a checker-boarded boundary. *Id.* at 1530.

8. On remand to the district court, two separate maps were produced, the first map showing land ownership inside the original exterior boundary of the Uintah Valley Reservation, and the second map showing jurisdictional boundaries within the same area (hereinafter “*Jurisdiction Map*” or “*Ownership Map*”). On the *Jurisdiction Map*, Indian Country within the original exterior reservation boundary of the Uintah Valley Reservation is depicted in yellow and non-Indian lands are depicted in blue.<sup>7</sup> The State of Utah, Duchesne County, Uintah County, and the Ute Indian Tribe filed a stipulation with the Court related to the maps, and based on the parties’ stipulation, the federal district court entered an order on November 20, 1998, which states in pertinent part that, “[t]here will hereafter exist a rebuttable presumption that the maps accurately depict the [ownership and jurisdictional] status of the land.” *Ute Indian Tribe v. State of Utah*, case no. 75-CV-408, *Dkt.* 100 (D.Utah Nov. 20, 1998).<sup>8</sup>

9. The property owned by Gregory D. McKee (hereinafter referred to as the “McKee Property”) was conveyed to Mr. McKee’s predecessor in interest, Constant L. Darling, on November 3, 1910, under Patent No. 159817.<sup>9</sup> The McKee Property is described as 121.14 acres, consisting of Lot 2, SW/4 NE/4, and NW/4 SE/4 of Township 1 South, Range 1 East, Uinta Special Meridian (USM), Utah. For reference purposes on demonstrative exhibits at the preliminary injunction hearing and at trial, Lot 2 was referred to as “Tract 1,” the SW/4 NE/4 was referred to as “Tract 2,” and the NW/4 SE/4 was referred to as “Tract 3.”<sup>10</sup>

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<sup>7</sup> Plaintiff’s Exhibit 49.

<sup>8</sup> Plaintiff’s Exhibit 50.

<sup>9</sup> Plaintiff’s Exhibit 3-1.

<sup>10</sup> Preliminary Hearing Transcript, 3-26-2013, p. 45:14-25.



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10. The McKee Property is land that was diminished from the Uintah Valley Reservation, i.e., “lands that passed from trust to fee status.” However, the McKee Property is situated in a checker-board area of the Reservation and is immediately adjacent to tribal trust lands to the east and south. The McKee Property is depicted as essentially surrounded by Indian Country on the *Jurisdictional Map* approved by the U.S. District Court in *Ute Tribe v. Utah*, case no. 75-CV-408.<sup>11</sup>

11. Greg McKee’s parents, Larry Dean McKee and Deborah McKee, acquired full ownership in the McKee Property when Larry McKee’s brother Rex McKee quit claimed his interest to Larry and Deborah McKee under a Quit Claim Deed dated August 3, 1999.<sup>12</sup>

12. The evidence establishes that Larry Dean McKee and Deborah McKee and their son Greg McKee have used the property for a cattle feedlot and associated pasture land. Although Defendants failed to produce evidence in response to the Tribe’s Interrogatories, Requests for Production, and Requests for Admission relating to the McKee family business entities, public records maintained by the Utah Secretary of State, Division of Corporations, were admitted into evidence as Plaintiff’s Exhibits 40, 41, and 42. The Court finds that T&L Livestock, Inc. was registered as a Utah corporation on February 3, 1993; that McKee Farms, Inc. and G M Fertilizer, Inc. were registered as Utah corporations on March 25, 2002, and that Defendant Greg McKee is listed as the registered agent for all three corporations.

13. The McKee Property is traversed by the Deep Creek Canal and Lateral No. 9, both of which are conveyance channels for the Uintah Indian Irrigation Project (“UIIP”). The

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<sup>11</sup> Plaintiff’s Exhibit 51.

<sup>12</sup> Plaintiff’s Exhibits 26 and 27.

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UIIP was established to provide irrigation water to Ute tribal trust and Indian allotment lands.<sup>13</sup> The Ute Tribe is the beneficial owner of the Indian reserved waters conveyed through the Deep Creek Canal and Lateral No. 9 as described in a 1905 Certificate of Appropriation of Water, No. 1234 (Water Right No. 43-3004), and subsequently recognized in a federal court decree dated March 16, 1923, copies of which were admitted into evidence as Plaintiff's Exhibits 5 and 6.<sup>14</sup>

14. The 1905 Certificate of Appropriation contains a lengthy legal description of Indian lands (some of which are now former allotment lands) that are entitled to tribal water from the Deep Creek Canal and the Canal's associated lateral ditches. The Tribe's Water Engineers, Dr. Woldezion Mesghinna, PhD., P.E., and Chad Hall, P.E., both testified that the McKee property is not identified as land entitled to receive water through the Deep Creek Canal under the 1905 Certificate of Appropriation of Water.<sup>15</sup> Further, the Tribe's Request for Admission No. 1 asked Defendants to admit that "the McKee property is not identified as land entitled to irrigation water from the U. S. Deep Creek Canal or the Tabby White Canal under the State Certificate of Appropriation of Water, No. 1234 (Water Right No. 43-3004), issued on June 15, 1905." By failing to respond to Plaintiff's Request No. 1, the Court finds that Defendants

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<sup>13</sup> See Act of June 21, 1906, ch. 3504, 34 Stat 325, 375-376, LD 127.

<sup>14</sup> In 1916 the United States, as trustee for the Ute Indians, filed two actions to enjoin various irrigation companies from interfering with the Indians' prior use of waters of the Lake Fork, Whiterocks, and Uintah Rivers which flowed through the Project area. *U. S. v. Dry Gulch Irrigation Co.*, No. 4418, slip op. (D. Utah 1923), and *U.S. v. Cedarview Irrigation Co.*, No. 4427, slip op. (D. Utah 1923). The *Cedarview* Decree was admitted as Plaintiff's Exhibit 6. See generally *Hackford v. Babbitt*, 14 F.3d 1457 n.2 (10th Cir. 1994) ("Today, more than one-third of the land served by the [UIIP] Project is held in fee by non-Indian successors to Indian allottees.") (citing *Ute Indian Tribe v. Utah*, 521 F. Supp. 1072, 1126 n.165 (D. Utah 1981), *aff'd in part, rev'd in part*, *Ute Indian Tribe v. Utah*, 773 F.2d 1087 (10th Cir. 1985)).

<sup>15</sup> Trial Transcript, 7-13-2015, p. 51:11-24; Preliminary Injunction Hearing, 3-26-2015, pp. 130:16 - 131:7.

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have admitted the McKee Property is not identified under the 1905 Certificate as land entitled to water from the Deep Creek Canal.

15. The 1910 Patent conveyed title to the McKee Property subject to

. . . any vested and accrued water rights . . . and rights to ditches and reservoirs used in connection with such water rights . . . and there is reserved from the lands hereby granted, a right of way thereon for ditches or canals constructed by the authority of the United States . . . .

Section 203(f)(2) of the Central Utah Project Completion Act (CUPCA) provides:

Title to Uintah Indian Irrigation Project rights-of-ways and facilities shall remain in the United States. The Secretary shall retain any trust responsibilities to the Uintah Indian Irrigation project.

(Titles II through VI of P. L. 102-575, 106 Stat. 4605, Oct. 30, 1992).

16. The Ute Tribe has established by clear and convincing evidence that Defendants have misappropriated tribal waters from Deep Creek Canal and Lateral No. 9 for application to the McKee Property since at least August 3, 1999. Defendants have used tribal waters to flood irrigate the McKee Property and to supply water to the cattle feedlot on the property.

17. The extent of the flood irrigation is documented in photographs taken by Chad Hall, P.E. on September 6, 2012. Those photographs, admitted as Plaintiff's Exhibit 10, show, *inter alia*, bulldozer tracks near an illegal diversion from the Deep Creek Canal; standing water in the McKee pastures; irrigation infrastructures including concrete culverts, earthen dams and illegal ditches for diverting water from Lateral No. 9; perforated PVC pipe, and housing for water pipeline valves.

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18. A “Utah AFO [Animal Feeding Operation] Assessment Form” completed for the cattle feedlot on the McKee Property on June 23, 2010, contains a hand-written observation that there is an “irrigation induced wetland’ near the feedlot.<sup>16</sup>

19. Engineer Chad Hall and Brent Searle, McKee’s former father-in-law, testified that McKee diverts water illegally from Deep Creek Canal above the weir that is located at Lateral No. 9. The purpose of the weir is to monitor the amount of water that is diverted into the lateral. By illegally diverting water from Deep Creek Canal above the weir for Lateral No. 9, Hall and Searle testified that McKee is able to conceal the actual amount of water that is diverted from Deep Creek Canal onto the McKee Property.<sup>17</sup> Engineer Hall testified that vegetation around the illegal diversions structures is mature, and the concrete diversion culverts are old and rusted, suggesting to him that the illegal diversions have occurred for some time.<sup>18</sup>

20. Mr. Searle testified that the McKee Property is located at the upper end of the Deep Creek Canal, meaning that when water from the Canal is diverted illegally onto the McKee Property, there is less water to flow down the Canal to other irrigators.<sup>19</sup> The 1923 Decree in *U.S. v. Cedarville*, admitted as Plaintiff’s Exhibit 3, locates the “head or intake” of the Deep Creek Canal in Section 5, Township 1 South, Range 1 East, USM, approximately 2.5 miles west of the McKee Property in Section 2 of that same Township and Range.<sup>20</sup>

21. The Court heard testimony from Jack Horner, who worked for Greg McKee’s father, Larry McKee for a period of three years, from approximately 1999 to 2001. Mr. Horner

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<sup>16</sup> Plaintiff’s Exhibit 35, Attachment 3.

<sup>17</sup> Trial Transcript, 7-13-2015, pp. 53:10-56:15; 68:16 – 69:7.

<sup>18</sup> *Id.*, pp. 54:23 – 55:25.

<sup>19</sup> *Id.*, p. 72:1-23.

<sup>20</sup> See Plaintiff’s Exhibit 3, p. 5, ¶1 and Plaintiff’s Exhibit 2 (BLM Master Title Plat for T1S, R1E, USM).

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described an underground pipeline that Larry McKee installed to supply water to the cattle feedlot on the McKee Property.<sup>21</sup> Brent Searle testified that the underground pipeline diverts water directly from the Deep Creek Canal, and that he was present on two occasions when maintenance work was performed on the pipeline.<sup>22</sup>

22. Janet Cuch and her children live on tribal land that adjoins the McKee Property to the east. Her children are enrolled members of the Ute Tribe and the tribal land where they live is also irrigated with water from the Deep Creek Canal. Ms. Cuch has lived there for thirty-five years, and during the entirety of that time, she says the McKee property has been “very, very green,” while the tribal lands on which she lives and other tribal lands have been “very dry.”<sup>23</sup> Ms. Cuch described McKee’s use of tribal water as “uncontrolled and unregulated.”<sup>24</sup> She testified that the ditch rider on the Deep Creek Canal is Rex McKee—Greg McKee’s uncle—and she said that while Rex McKee holds her family to “an exacting small amount of water,” Greg McKee “never has any trouble getting water delivered to his property.”<sup>25</sup> She testified that she has seen Deep Creek water on the 121.14 acre McKee Property “continually” during the 35 years she has lived adjacent to the McKee Property, and she said “You can climb up on the bluffs,” in the area “and look down on the countryside and you know what land he is moving water to.”<sup>26</sup>

23. Also testifying was Tim Ignacio, a tribal member who farms 180 acres of tribal land and irrigates with water from Deep Creek Canal at a location approximately 5 to 6 miles

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<sup>21</sup> *Id.*, pp. 151:10 – 156:25; Plaintiff’s Exhibit 46.

<sup>22</sup> *Id.*, pp. 64:25 – 65:20.

<sup>23</sup> *Id.*, pp. 99-102.

<sup>24</sup> *Id.*, p. 105:10-12.

<sup>25</sup> *Id.*, pp. 103-104.

<sup>26</sup> *Id.*, pp. 108:1-3; 117:9-12.

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south (down-stream or down-Canal) from the McKee Property. Ignacio said he is the last irrigator on the Deep Creek Canal. He would prefer to flood irrigate his property, but he was required to install a sprinkler system 10 to 12 years ago.<sup>27</sup> Before then, when he still flood irrigated, before his 8-hour ditch run began he would have to “go up and shut all the head gates all the way up to Lapoint,” in order to insure that water would be flowing in the Canal when his diversion run began. He testified that Greg McKee’s father, Larry McKee, would just “go back over and kick the gate(s) open again.” When Ignacio complained to his ditch rider, the ditch rider had Ignacio accompany him to the McKee Property where the ditch rider implored Mr. McKee to allow Ignacio to have his water.<sup>28</sup> Ignacio agreed with Janet Cuch’s testimony that the “McKee Property is always green when everything around it is brown” particularly in dry years.<sup>29</sup> Ignacio testified that even with the installation of a pipeline and sprinkler systems, irrigators in the lower section of the Deep Creek Canal “are still hurting” because of insufficient water reaching the lower reaches of the Canal.<sup>30</sup> Ignacio testified that when water is short, his alfalfa cuttings are significantly reduced, and he is lucky to recover production costs, including the cost of fertilizer.<sup>31</sup>

DEFENDANTS’ MISAPPROPRIATION OF WATER FROM DEEP CREEK CANAL  
AND LATERAL NO. 9 FOR APPLICATION TO THE LOT 2 AND SW/4 NE/4 OF  
SECTION 2, TOWNSHIP 1 SOUTH, RANGE 1 EAST, USM

24. In this lawsuit Greg McKee has defended the Defendants’ right to divert water from Deep Creek Canal for application to the upper 81.14 acres of the McKee Property based on

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<sup>27</sup> *Id.*, pp. 175:17 – 15.

<sup>28</sup> *Id.*, pp. 176:17 – 178:12.

<sup>29</sup> *Id.*, pp. 179:16 – 180:1.

<sup>30</sup> *Id.*, pp. 182:11-18.

<sup>31</sup> *Id.*, pp. 182:8 – 184:21.

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a State of Utah Certificate of Appropriation of Water No. 1962, Utah State Water Right 43-3202, which was introduced in evidence as Plaintiff's Exhibit 23.<sup>32</sup>

25. At the Preliminary Injunction hearing on March 26, 2013, Greg McKee testified that the State water right is identified as a "44 acre water right in Goodrich Gulch," in the Personal Representative's Deed dated September 22, 2005, that conveyed his father Larry McKee's interest to him.<sup>33</sup> The Deed was introduced as Plaintiff's Exhibit 22.

26. However, the source of water and point of diversion for the Utah State Water Right 43-3202 is not the Deep Creek Canal but, rather, the Goodrich Gulch, and the Engineer's Certificate attached to the Certificate includes engineer drawings which show that water from Goodrich Gulch is to be conveyed via a wooden flume "over and across the U.S. Deep Creek Canal." The Engineer's Certificate was introduced in evidence as Plaintiff's Exhibit 23-1.

27. The Tribe's Water Engineer, Dr. Woldezion Mesghinna, P.E., of NRCE, testified on March 26, 2013, that there is no infrastructure, i.e., wooden flume, for transporting Goodrich Gulch Water over the Deep Creek Canal, and that the original diversion point for Utah State Water Right 43-3202 has never been transferred from the Goodrich Gulch to the Deep Creek Canal.<sup>34</sup> Dr. Mesghinna also testified that Defendants theoretically could transport the Goodrich Gulch water through the Deep Creek Canal if Defendants had a Carriage Agreement with the UIIP, but he testified there is no Carriage Agreement.<sup>35</sup>

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<sup>32</sup> See Defendant's Memorandum of Law in Opposition to Motion for Emergency Temporary Restraining Order, submitted September 21, 2012; Transcript of 3-26-2013 Hearing, p. 99:14-22.

<sup>33</sup> Transcript of 3-26-2013 Hearing, pp. 19:11 – 22:19.

<sup>34</sup> Transcript of 3-26-2013 Hearing, pp. 123:23 – 126:25; see also Plaintiff's Exhibit 11, pp. 3, 10, 13.

<sup>35</sup> Transcript of 3-26-2013 Hearing, p. 121:1-18; see also Plaintiff's Exhibit 11, pp. 3, 10, 13.

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28. Dr. Mesghinna testified that surface water flows through Goodrich Gulch only intermittently,<sup>36</sup> and at trial Brent Searle, who has lived in the area for almost 60 years, said the Goodrich Gulch has not flowed sufficient water for surface diversion in “years.”<sup>37</sup>

DEFENDANTS’ MISAPPROPRIATION OF WATER FROM DEEP CREEK CANAL  
FOR APPLICATION TO THE NW/4 SE/4 OF SECTION 2  
TOWNSHIP 1 SOUTH, RANGE 1 EAST, USM

29. In 1941 Congress authorized the Secretary of the Interior to “transfer water rights” within the Uintah Indian Irrigation Project, subject to two specified conditions: first, any such transfers had to be with “the consent of the interested parties” and secondly, such transfers could only be made “to other lands under said project.”<sup>38</sup>

30. Defendants claim the right to divert water from Deep Creek Canal to the bottom 40 acres of the McKee Property—i.e., the NW/4 SE/4 of Section 2, referred to in this case as Tract 3—based upon water rights purportedly transferred onto Tract 3 pursuant to the Secretary’s delegated authority under the 1941 Act.

31. Plaintiff’s Exhibit 29 is an Agreement dated March 4, 1943 between the United States and Dewey McConkie, one of Greg McKee’s predecessor’s in interest to the McKee Property (1943 Agreement). The 1943 Agreement purports to transfer “21 acres of water right appurtenant” to land in Section 34, Township 1 North, Range 1 East, USM, “which land is situated within the Uintah Irrigation Project” to the NW/4 SE/4 of Section 2, Township 1 South, Range 1 East, USM, that is, to Tract 3 of the McKee Property. The 1943 Agreement contains no

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<sup>36</sup> Transcript of 3-26-2013 Hearing, pp. 150:14 – 151:3.

<sup>37</sup> Trial Transcript, p. 64:17-24.

<sup>38</sup> See Act of May 28, 1941, ch. 142, 55 Stat. 209, Section 2, Reprinted in VI C. Kappler, Indian Affairs: Laws and Treaties 112 (2d ed. 1904).



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recitation that the McKee Property—the land to which the water right is being transferred—is within the UIIP, and as testified by both Dr. Dr. Mesghinna and Engineer Hall, and as admitted by Defendants—the McKee Property is located outside the lands designated as UIIP project lands under the State Certificate of Appropriation of Water, No. 1234 (Water Right No. 43-3004).<sup>39</sup>

32. As the beneficial owner of the water in the UIIP, the Ute Tribe would have been an “interested party” to the transfer of water purportedly made under the 1943 Agreement; however the Agreement contains no recitation that the Tribe was informed of, and consented to, the transfer, and the Tribe is not a signatory to the Agreement.

33. Plaintiff’s Exhibit 30 is an Agreement dated December 23, 1946, again between the United States and Dewey McConkie (1946 Agreement). The 1946 Agreement purports to transfer water from 15.28 acres of land described as Lot 2 (SW/4 NW/4) of Section 18, Township 1 South, Range 2 East, “within the Uintah Irrigation Project,” to Tract 3 of the McKee Property, i.e., the NW/4 SE/4 of Section 2, Township 1 South, Range 1 East, USM. As with the 1943 Agreement, the 1946 Agreement contains no recitation that the McKee Property—the land to which the water right was being transferred—is within the UIIP, and as testified by both Dr. Mesghinna and Engineer Hall, and as admitted by Defendants—the McKee Property is located outside the lands designated as UIIP project lands under the State Certificate of Appropriation of Water, No. 1234 (Water Right No. 43-3004).<sup>40</sup>

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<sup>39</sup> See Finding No. 14 above.

<sup>40</sup> *Id.*

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34. As the beneficial owner of the water in the UIIP, the Ute Tribe would have been an “interested party” in the transfer of water purportedly made under the 1946 Agreement; however the Agreement contains no recitation that the Tribe was informed of, and consented to, the transfer, and the Tribe is not a signatory to the Agreement.

35. By a warranty deed dated May 15, 1961, Dewey McConkie and his wife Thora conveyed the 121.14 acre McKee Property to Reed H. McKee and Thelma McKee, husband and wife, as joint tenants. Included in the deed by specific reference were:

. . . all water and water rights held and used in connection therewith, and in particular 36.28 shares of water in U.S. Deep Creek canal, and 44 acre water right in Goodrich Gulch. . . (emphasis added)<sup>41</sup>

36. The specific reference to “36.18 shares of water in U.S. Deep Creek canal” is never repeated in any subsequent conveyance of the McKee property.<sup>42</sup>

37. By warranty deed dated March 23, 1978, Reed H. McKee and Thelma W. McKee conveyed undivided half interests in the 121.14 acre McKee Property to Rex McKee, a single man, and Larry Dean McKee and Deborah McKee, husband and wife, “including a 44 acre water right in Goodrich Gulch.” There is no mention of conveyance of “36.18 shares of water in U.S. Deep Creek canal.”<sup>43</sup>

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<sup>41</sup> See Plaintiff’s Exhibit 31.

<sup>42</sup> See Plaintiff’s Exhibit 27, a summary of the chain of title for realty and water rights for the McKee Property.

<sup>43</sup> See Plaintiff’s Exhibits 27 and 32.

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38. Two subsequent quit claim deeds to the 121.14 acre McKee Property, dated August 12, 1980 and August 3, 1999, make no mention of conveyance of “36.18 shares of water in U.S. Deep Creek canal.”<sup>44</sup>

39. On July 10, 2001, Deborah J. McKee quit claimed her interest in the 121.14 acre McKee Property to Larry Dean McKee making no mention of conveyance of “36.18 shares of water in U.S. Deep Creek canal.” At the same time, however, in that same Quit Claim Deed, Deborah J. McKee also quit claimed her interest in a second tract of land in a different township and range—the W/2 SW/4 of Section 19, Township 1 South, Range 2 East, USM—and as to that second property, Deborah J. McKee did specifically quit claim her interest in “39 shares of Indian Irrigation Rights.”<sup>45</sup>

40. The very next day, July 11, 2001, Larry Dean McKee quit claimed an undivided one-half interest in the 121.14 acre McKee Property to Defendant Greg McKee, again making no mention of conveyance of “36.18 shares of water in U.S. Deep Creek canal.” At the same time, however, in that same Quit Claim Deed, Larry Dean McKee also quit claimed to Greg McKee an undivided one-half interest in that second tract of land in a different township and range—the W/2 SW/4 of Section 19, Township 1 South, Range 2 East, USM—and as to that second property, Larry Dean McKee did specifically quit claim an undivided one-half interest in “39 shares of Indian Irrigation Rights.”<sup>46</sup>

41. Finally, on September 22, 2005, Deborah Jean McKee, as Personal Representative of the Estate of Larry Dean McKee, conveyed by Personal Representative’s Deed all of Larry

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<sup>44</sup> See Plaintiff’s Exhibits 27, 33 and 26.

<sup>45</sup> See Plaintiff’s Exhibits 27 and 25.

<sup>46</sup> See Plaintiff’s Exhibits 27 and 24.

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Dean McKee's interest in the 121.14 acre McKee Property. The conveyance contains no mention of conveyance of "36.18 shares of water in U.S. Deep Creek canal." At the same time, however, in the same Personal Representative's Deed, Deborah Jean McKee conveyed to Greg McKee all of Larry Dean McKee's interest in that second tract of land in a different township and range—the W/2 SW/4 of Section 19, Township 1 South, Range 2 East, USM—and as to that second property, the conveyance expressly includes all of Larry Dean McKee's interest in the "39 shares of Indian Irrigation Rights" in that second property.

42. In summary, the most recent instruments of conveyance in the chain of title for the McKee Property—six separate instruments of conveyance from March 23, 1978 to September 22, 2005—contain no reference to "36.18 shares of water in U.S. Deep Creek canal." Of these instruments of conveyance, the last five instruments are noteworthy for what they do include—they expressly convey by specific reference "39 shares of Indian Irrigation Rights"—however this conveyance is made in relation to an entirely different property in an entirely different Township and Range—Section 19, Township 1 South, Range 2 East, USM.

43. At the preliminary injunction hearing, Defendant Greg McKee admitted that he has no instrument of conveyance or other legal document that entitles Defendants to use tribal waters on the NW/4 SE/4 of Section 2 (Tract 3 of the McKee property).<sup>47</sup>

44. The only evidence Defendants presented in support of their asserted right to use tribal water on Tract 3 were annual operation and maintenance billing invoices from the Department of Interior, Bureau of Indian Affairs ("BIA"). While the Court admitted Defendants' Exhibits I, J, L, M and N into evidence, Defendants did not call any witness from

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<sup>47</sup> Preliminary Injunction Hearing Transcript, 3-26-2013, pp. 87:25 – 88:9.

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the BIA to explain the basis for O&M assessments on a tract by tract basis. There is no dispute that in addition to the 121.14 acre McKee Property, Greg McKee also leases tribal land through the BIA, and McKee is assessed O&M charges for water delivered to those tribal leased lands. For this reason the Court finds that the billing invoices are not particularly probative; by themselves, invoices for O&M charges do not establish the Defendants' legal right to divert water from Deep Creek Canal for irrigation of the NW/4 SE/4 of Section 2 (Tract 3 of the McKee property). Moreover, it is entirely possible that the 1941 statute that was cited as authority for the 1943 and 1946 transfer of tribal waters onto the McKee Property was later employed to transfer those same water rights *off* the McKee Property, particularly, if it was discovered that the McKee Property is not within the designated lands of the UIIP.

45. The Tribe propounded written discovery to Defendants related to Defendants' legal right, if any, to divert water from Deep Creek Canal for application to Tract 3. Plaintiff's Interrogatory No. 1 asked Defendants whether the 36.28 acre feet of tribal water purportedly transferred to Tract 3 of the McKee Property under the 1943 and 1946 Agreements were "listed as assets of the Estate of Larry Dean McKee in the federal Estate Tax Return that was filed by the Estate of Larry Dean McKee, and if so, [to] identify the value that was assigned to those assets in the federal Estate Tax Return."<sup>48</sup> Request for Production No. 5 asked Defendants to produce "that portion of the federal Estate Tax Return filed by the Estate of Larry Dean McKee which shows that the [UIIP] Project waters which Gregory McKee claims to own ... were listed as an asset of the Estate on the Estate Tax Return, including the value attributable to the asset."<sup>49</sup>

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<sup>48</sup> See Plaintiff's Exhibit 47.

<sup>49</sup> *Id.*

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Requests for Admission Nos. 18 and 19 asked Defendants to admit that the tribal waters purportedly transferred to the McKee Property under the 1943 and 1946 Agreements “were not listed as assets of the Estate of Larry Dean McKee in the federal Estate Tax Return that was filed by the Estate of Larry Dean McKee,” and that those same assets “were not listed under any federal Gift Tax Return filed by Deborah Jean McKee.”<sup>50</sup>

46. The Court has granted the Tribe’s motion to sanction Defendants for their failure to respond to the Tribe’s discovery requests by drawing negative inference against the Defendants and in deeming the Defendants to have admitted the substance of the Tribe’s Requests for Admission. Accordingly, the Court finds that Defendants have failed to establish their asserted right to the use of tribal water for the NW/4 SE/4 of Section 2 (Tract 3 of the McKee property). In addition, Defendants are deemed to have admitted that purported water rights were not listed in any Estate Tax Return filed by the Estate of Larry Dean McKee, or in any Gift Tax Return filed by Deborah Jean McKee.

#### TRESPASS ON TRIBAL LANDS ASSIGNED TO FRANK ARROWCHIS

47. The Court adopts by incorporation the language contained in the Court’s Temporary Restraining Order of October 1, 2012:

There is no dispute that Frank Arrowchis has received 160 acres of assignments of tribal lands from the Ute Indian Tribe. The Tribe in making assignments of its own trust lands can impose any conditions on the use of such lands as it deems appropriate. The Assignment Committee Ordinance No. 94-001 (January 24, 1994), at Article X, Section 5 specifically proscribes leasing of such assignments or their “use by any person other than the assignee’s immediate family.” Defendant does not dispute that he farms all or part of the Arrowchis assignments but contends that where he simply bills Arrowchis a specified hourly rate for farming services, harvests the crops and stores them at defendant’s feedlot, and receives payment from Arrowchis in crops rather than cash, such

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<sup>50</sup> See Plaintiff’s Exhibit 48.

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arrangement does not violate Ordinance 94-001. The language of the Ordinance is broad and the arrangement between Arrowchis and defendant constitutes use by any person other than the family of Arrowchis.

48. Janet Cuch and her daughter Janel Cuch testified at trial that Defendants had continued through the date of trial to continue farming the Arrowchis assignments.<sup>51</sup>

#### DAMAGES AND INJUNCTIVE RELIEF

49. NRCE has quantified the amount of water the Tribe contends the Defendants have illegally misappropriated from Deep Creek Canal for watering livestock in the feedlot and for flood irrigating the McKee Property. The quantification is from August 3, 1999, when Mr. McKee's father obtained full ownership of the McKee Property, through the end of calendar year 2014.<sup>52</sup> Engineer Chad Hall testified that NRCE used the documented amount of water diverted annually through the Deep Creek Canal and the total amount of acreage irrigated from the Deep Creek Canal to arrive at a unit diversion rate equating to acre foot/per acre. NRCE then applied that unit rate to the acreage irrigated by Mr. McKee to arrive at a total volumetric use.<sup>53</sup> NRCE quantified the water used for livestock based upon the Utah AFO Assessment Form, which indicates a maximum animal capacity for the feedlot of 4,000 animals, and an assumed confinement period of 120 days.<sup>54</sup> The Court notes, parenthetically, that Brent Searle testified based on personal knowledge that Defendants have confined as many as 7,500 to 10,000 animals per year at the feedlot.<sup>55</sup>

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<sup>51</sup> Trial Transcript, pp. 113:3-115:25; 119:20-120:7.

<sup>52</sup> See Plaintiff's Exhibit 35, NRCE Supplemental Report dated March 23, 2015, Section 3, Quantification of Water Diversions, pp. 8-11.

<sup>53</sup> Trial Transcript, p. 50:11-15.

<sup>54</sup> See Plaintiff's Exhibit 35, p. 11.

<sup>55</sup> Trial Transcript, p. 64:5-9.

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50. NRCE segregated the water diversion quantifications by (i) year, (ii) Tracts 1 and 2, (iii) Tract 3, and (iv) Livestock Water Use. NRCE estimates a total misappropriation of water for Tracts 1, 2 and 3 of 3,368 acre feet of water from August 3, 1999 through the end of calendar year 2014. According to the *Cedarview* Decree, irrigation waters may be diverted from March 1st through October 31st, and “[w]ater may be diverted for domestic, culinary and stock-watering purposes during the entire year.”<sup>56</sup>

51. Janet Cuch testified that Defendants were continuing to divert Deep Creek Canal water onto the McKee property even as of the time of trial.<sup>57</sup>

52. Jason Matthew Bass is a certified public accountant who holds credentials as a financial analyst.<sup>58</sup> The Tribe qualified Mr. Bass as an expert on the economic losses to the Tribe and its members resulting from Defendants’ conversion of tribal waters from Deep Creek Canal. Relying on the NRCE diversion quantifications, Mr. Bass arrived at a monetary amount equivalent to lost productivity to the Ute Tribe and tribal members resulting from the misappropriation of waters not being available to the Tribe and tribal members to grow alfalfa. That amount is \$136,218.00. Like NRCE, Mr. Bass determined damages from August 3, 1999, when Mr. McKee’s father obtained full ownership of the McKee Property, through the end of calendar year 2014.<sup>59</sup>

53. The Court finds that the Tribe has prevailed on the merits on its claims under Counts 1 (declaratory and injunctive relief) and 2 (damages) of the First Amended Complaint.

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<sup>56</sup> Plaintiff’s Exhibit 6, p. 7 ¶ 1.

<sup>57</sup> Trial Transcript, p. 112:9-24.

<sup>58</sup> Plaintiff’s Exhibit 38.

<sup>59</sup> See Plaintiff’s Exhibit 35, NRCE Supplemental Report dated March 23, 2015, Section 3, Quantification of Water Diversions, pp. 8-11.



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Notwithstanding the Court's interim injunction order, the evidence establishes that Defendants have continued to convert tribal water from Deep Creek Canal for use on the McKee Property and have continued to sublease and farm the Arrowchis assignments. Because the Tribe should not be required to institute repeated lawsuits in order to remedy these ongoing wrongs, the Court finds that permanent injunctive relief is appropriate as well as the recovery of damages for past wrongs. The Court finds that without permanent injunctive relief, the Tribe will suffer irreparable harm and finds that the harm to the Tribe outweighs the harm that permanent injunctive relief may cause the Defendants. Finally, the Court finds that issuance of the injunction will not adversely affect the public interest.

### CONCLUSIONS OF LAW

1. Indian water rights are vested property rights predicated on federal law. *Colo. River Water Conservation Dist. v. United States*, 424 U.S. 800 (1976); *Winters v. United States*, 207 U.S. 664, 577 (1908). Indian water rights are "reserved rights" because they are deemed an essential part of the tribe's reservation." *Arizona v. California*, 373 U.S. 546, 600, (1963).

2. The importance of water to the survival of the Ute Indians is beyond dispute.<sup>60</sup> Before the U&O Reservation was opened to non-Indian settlement, the Commissioner of Indian

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<sup>60</sup> Before the Uintah Valley Reservation was established by Executive Order in 1861, Brigham Young, Territorial Governor of the Territory of Utah and President of the Mormon Church, dispatched a survey team to determine whether the proposed reservation lands would instead be suitable for Mormon settlement.<sup>60</sup> The team's "unanimous and firm" verdict was that the proposed reservation lands were "one vast 'contiguity of waste,' and measurably valueless, except for nomadic purposes, hunting grounds for Indians and to hold the world together." Charles Wilkinson, *Fire on the Plateau*, 150 (Island Press 2004).

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Affairs cautioned that “[t]he future of these Indians depends upon a successful irrigation scheme, for without water their lands are valueless, and starvation or extermination will be their fate.”<sup>61</sup>

3. On March 27, 2013, the Tribe adopted Ordinance 13-010, which amended Chapter 2 of the Tribe’s Law and Order Code (UTE LOC) governing jurisdiction.<sup>62</sup> As pertinent here, the Tribe’s territorial jurisdiction extends to “all waters, water storage facilities and irrigation works owned by or held in trust for the Ute Tribe and Ute Indian allottees.” UTE LOC, §1-2-2(1)(g). The Uintah Indian Irrigation Project is held by the United States in trust for the Tribe. Accordingly, the Tribe’s territorial jurisdiction extends to the Deep Creek Canal and Lateral Ditch No. 9 and to the tribal waters within the Canal and Ditch even when, as here, the Ditch and Canal cross fee property such as the McKee Property. Because the Tribe’s territorial jurisdiction extends to the Deep Creek Canal and Lateral Ditch No. 9, and the tribal waters therein, the Tribal Court has adjudicatory jurisdiction to “determine the ownership thereof or rights therein.” UTE LOC, §1-2-4. The Tribe’s long-arm jurisdiction extends to any person who “causes a tortious injury to the Tribe, tribal members, or to any trust land, allotted land, fee land, or any other property within the Tribe’s territorial jurisdiction,” and any action “outside the

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<sup>61</sup> *Ute Indian Tribe v. Utah*, 521 F. Supp. at 1126 (quoting Rept. of the Comm. of Ind. Aff., 1905, JX 328 at 1893).

<sup>62</sup> The Court finds no barriers to retroactive application of the amendments under the facts of this case: the amendments were adopted after the filing of the Tribe’s original complaint on September 6, 2012, but before the Tribe’s First Amended Complaint was filed on September 4, 2013. The amendments were adopted, *inter alia*, to take into account (i) the delineation of the U&O Reservation boundaries under the decision in *Ute Tribe v. Utah*, 114 F.3d 1513 (10th Cir. 1997), (ii) the return of certain federally-held lands to tribal ownership, and (iii) to specifically address the Tribe’s “jurisdictional authority over the Tribe’s water, air, environment and other natural resources.” Because the amendments are justified by rational legislative purposes, the amendments may be applied retroactively without violating due process. See, e.g., *Pension Benefit Guaranty Corp. v. R.A. Gray & Co.*, 467 U.S. 717 (1983) (retroactive application of legislation does not violate due process if retroactive application is justified by a rational legislative purpose).

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Tribe's territorial jurisdiction which causes actual injury or damage inside the Tribe's territorial jurisdiction, where such injury or damage was reasonably foreseeable." UTE LOC, § 1-2-3(2)(E) and (G). In addition, the Tribe's Law and Order Code includes an implied consent provision under which any person "entering the territorial jurisdiction of the Ute Tribe as defined in Section 1-2-2 shall be automatically subject to the jurisdiction of the Courts of the Ute Indian Tribe." UTE LOC § 1-2-3(4).

4. The Court has subject matter jurisdiction pursuant to the Ute Tribe's inherent sovereign right to regulate activities of all non-Indians who willingly enter into a consensual relationship with the Tribe or whose conduct imperils the Tribe's political integrity, economic security, or health and welfare. *See Montana v. United States*, 450 U.S. 544 (1981). The Court also has subject matter jurisdiction pursuant to the Tribe's inherent sovereign right to (i) manage the use of its territory and natural resources by both members and nonmembers, *see New Mexico v. Mescalero Apache Tribe*, 462 U.S. 324, 335-36 (1983), and (ii) to exclude nonmembers from the Tribe's lands and waters, including the irrigation ditches and canals that transport tribal waters. *See Water Wheel Camp Recreational Area, Inc. v. LaRance*, 642 F.3d 802, 811-14 (9th Cir. 2011).

5. Under 25 U.S.C. § 194, the burden of proof was on the Defendants to establish their right to divert tribal waters from the Deep Creek Canal and Lateral No. 9, and their right to continued entry upon the tribal lands under assignment to Frank Arrowchis. Defendants have not met this burden.

6. The Tribe established damages of \$136,218.00 for the Defendants' misappropriation and conversion of tribal waters from August 3, 1999, when Greg McKee's

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father Larry Dean McKee gained full ownership of the McKee Property, through the end of calendar year 2014. In light of testimony that Defendants have continued to divert water from the Deep Creek Canal through the date of trial, the Court awards additional damages of \$6,500.00 as the value of tribal water misappropriated from January 1, 2015 through the date of trial, noting that this amount represents less than half the damage amounts assigned by Jason Bass for the two most recent calendar years, 2013 and 2014. Total damages awarded are \$142,718.00.

7. Although the Estate of Larry Dean McKee is not a named defendant, Defendant T&L Livestock, Inc. has been in existence since February 3, 1993, and Defendants McKee Farms, Inc. and G M Fertilizer, Inc. have been in existence since March 25, 2002. Defendant Greg McKee obtained an undivided one-half interest in the property on July 11, 2001, and gained full ownership of the property on September 22, 2005. Accordingly, the Court apportions the damages as follows: \$8,854.50 against T&L Livestock, Inc. for 1999 through July 11, 2001; \$7,636.00 against T&L Livestock and McKee Farms, Inc., jointly and severally, for July 11, 2001 through September 22, 2005, and \$126,227.50 against Gregory McKee from July 11, 2001 through the date of trial on July 13, 2015.

8. As discussed under Finding No. 53 above, the Tribe is entitled to a permanent injunction to prevent Defendants from continuing to divert and convert tribal water from Deep Creek Canal for use on the McKee Property and from continuing to trespass upon the tribal lands under assignment to Frank Arrowchis.

9. The Court grants the Tribe's motion for the recovery of costs and attorney fees as a discovery sanction in the amount of \$7,027.73.

Findings of Fact and Conclusions of Law  
Case No. CV12-285

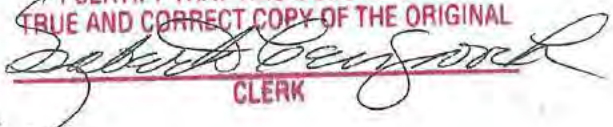
10. The Tribe is entitled to post-judgment interest at the rate one and one-half percent (1.5%) per annum.

11. The Court grants the Tribe's motion to dismiss Counts 3 and 4 of the First Amended Complaint without prejudice.


ORDERED AND SIGNED this 30<sup>th</sup> day of August, 2015

By The Court:

  
\_\_\_\_\_  
Terry L. Pechota, Presiding Judge

**CERTIFICATION**  
I CERTIFY THAT THIS DOCUMENT IS A  
TRUE AND CORRECT COPY OF THE ORIGINAL  
  
**CLERK**

ATTEST:

  
\_\_\_\_\_  
Clerk of Court

[SEAL]

FILED  
BY *[Signature]*  
SEP 4 2013

UTE INDIAN TRIBAL COURT  
FT. DUCHESNE, UTAH 84026

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**THE UTE INDIAN TRIBAL COURT OF THE UINTAH AND OURAY RESERVATION  
FORT DUCHESNE, UTAH**

|                                                                                                                                                                                        |                                                                                                                                                                                                           |
|----------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|-----------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| <p>UTE INDIAN TRIBE,<br/><br/>Plaintiff,<br/><br/>v.<br/><br/>GREGORY D. MCKEE, T &amp; L<br/>LIVESTOCK, INC., MCKEE FARMS, INC.,<br/>and GM FERTILIZER, INC.<br/><br/>Defendants.</p> | <p><b>FIRST AMENDED COMPLAINT FOR<br/>DECLARATORY JUDGMENT, THEFT -<br/>CONVERSION - MISAPPROPRIATION,<br/>NUISANCE, TRESPASS, CONSPIRACY<br/>AND INJUNCTIVE RELIEF</b></p> <p><b>Case No. 12-285</b></p> |
|----------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|-----------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|

Plaintiff, the Ute Indian Tribe ("Tribe"), by and through its attorneys, allege and complain as follows:

**PARTIES**

1. The Ute Indian Tribe, the Plaintiff, is a federally recognized Indian Tribe, organized with a Constitution approved by the Secretary of the Interior under the Indian Reorganization Act of 1934, 25 U.S.C. § 476. The Tribe occupies the Uintah and Ouray Indian Reservation in the Uintah Basin of Utah.

2. The Tribe operates its own tribal government and oversees its tribal lands and resources, including the assignment and leasing of such lands. *Constitution and By-Laws of the Ute Indian Tribe of the Uintah and Ouray Reservation*, art. VIII (1989).

3. The Tribe brings this action on its own behalf to protect Tribal lands and natural resources, and as *parens patriae* on behalf of its tribal members and residents to protect their health and well being.

4. Defendant Gregory D. McKee (“Defendant McKee”) is a non-Indian business owner of “T&L Livestock, Inc., McKee Farms, Inc., McKee Feedlot and GM Fertilizer” (hereinafter “McKee business operations”). Letter from Maggie McKee, attached as **Exhibit 1** to the original complaint. There are no business listings on the Utah Division of Corporations and Commercial Code website for “McKee Feedlot.” Rather all business activities pertaining to the feedlot are handled through McKee Farms, Inc.

5. Defendant T & L Livestock, Inc. is a Utah corporation with its principal place of business located at 8800 North 8651 East, P.O. Box 1485, Roosevelt, Utah, 84066. Defendant McKee is listed as the registered principal of T & L Livestock, Inc. on the Utah Division of Corporations and Commercial Code website.

6. Defendant McKee Farms, Inc. is a Utah corporation with its principal place of business located at 8800 North 8651 East, P.O. Box 1485, Roosevelt, Utah, 84066. Defendant McKee is listed as the registered principal of McKee Farms, Inc. on the Utah Division of Corporations and Commercial Code website.

7. Defendant GM Fertilizer, Inc. is a Utah corporation with its principal place of business located at 8800 North 8651 East, P.O. Box 1485, Roosevelt, Utah, 84066. Defendant McKee is listed as the registered principal of GM Fertilizer, Inc. on the Utah Division of Corporations and Commercial Code website.

### **JURISDICTION AND VENUE**

8. This Court has jurisdiction over the subject matter of this action pursuant to the Tribe's inherent sovereign authority to (i) regulate its tribal lands and tribal resources and (ii) its sovereign right to regulate the activities of all non-Indians who willingly enter into a consensual relationship with the Tribe or its members, and/or whose activities upon tribal lands imperil the Tribe's political integrity, economic security, or health and welfare. *See Montana v. United States*, 450 U.S. 544 (1981).

9. Venue is proper in this Court because the illegal activities undertaken by the Defendants (i) impact the Tribe's scarce water resources, and/or (ii) occurred on tribal land within the boundaries of the Uintah and Ouray Reservation, and/or (iii) because Defendants entered into a consensual relationship with Frank Arrowchis, a duly enrolled member of the Tribe, to sublease tribal lands that the Tribe had assigned to Mr. Arrowchis. See letter from Maggie McKee, attached to original complaint as **Exhibit 1**. The Tribe has the right to seek remedies through its Tribal Court in order to protect the Tribe's scarce water resources and to protect the health, safety, general welfare, and economic security of the Tribe and its tribal members.



### **STATEMENT OF FACTS**

10. On August 3, 2012, the Tribal Business Committee received a letter from Defendant McKee's estranged wife, Maggie McKee, which contained various allegations pertaining to the (i) Defendants' misappropriation of tribal waters from the Deep Creek Canal; (ii) Defendants' trespass onto tribal lands by virtue of an illegal arrangement with tribal member Frank Arrowchis; and (iii) Defendants' contamination of tribal waters and adjacent tribal lands by virtue of, *inter alia*, an inadequate, or non-existent, animal waste management system at the Defendants' feedlot, and the Defendants' burial of excessive cattle carcasses, some allegedly infected with disease. See **Exhibit 1**, attached to original complaint.

11. The Plaintiff Tribe retained a private investigator to investigate the allegations and shortly thereafter commenced this lawsuit.

#### **I. Misappropriation of Water from Deep Creek Canal**

12. Defendant McKee's residence and cattle feedlot are located on a tract of fee patent land, Patent No. 665471, described as:

Lot Two (NW/4 NE/4), the SW/4 NE/4, and the NW/4 SE/4 of Section Two, Township One South, Range One East, Uintah Special Meridian, Uintah County, Utah, containing 121.14 acres.

The northern-most parcel, Lot two, contains 41.14 acres, while the SW/4 NE/4 and the NW/4 SE/4 each contain 40 acres (hereinafter "McKee fee lands"). These lots were designated as Tracts 1, 2 and 3 respectively on Plaintiff's Hearing Exhibit 13, admitted into evidence at the preliminary injunction hearing on March 26, 2013. (Hearing Transcript, pp. 45:15 – 46:25).

13. The Defendants and their predecessors in interest have been diverting water to the McKee fee lands from the Deep Creek Canal without any legal right to do so.

14. The Deep Creek Canal is a conveyance channel for the Uintah Indian Irrigation Project (hereinafter "UIIP").

15. The water conveyed through the Deep Creek Canal belongs to the Ute Indian Tribe under the 1905 Certificate of Appropriation of Water and the federal court decree of March 16, 1923, documents that were admitted into evidence as Hearing Exhibits 5 and 6 at the preliminary injunction hearing on March 26, 2013. (Hearing Transcript, p. 130:5-9; p. 133:16-19).

16. The UIIP was established to provide irrigation water to Ute tribal trust and Indian allotment lands.

17. The lands entitled to receive water through the UIIP have been identified in various documents over the years. Plaintiff's Hearing Exhibit 5, the 1905 Certificate of Appropriation, first identified—by township and range, and section/half-section/quarter-section—the lands entitled to receive water through the UIIP. The McKee fee lands are not included among the lands entitled to receive Indian water through the UIIP, and the reason the McKee lands are not listed is because the McKee fee lands are patented lands, i.e., the McKee lands were never Indian allotment or tribal trust lands.

18. Another document that identifies lands entitled to divert Indian water through the UIIP was the "Tabulation of Ute Indian Water Rights," which was

incorporated into Public Law 102-575 [H.R. 429], enacted by Congress on October 30, 1992. Public Law 102-575 was admitted into evidence as Hearing Exhibit 7 at the preliminary injunction hearing on March 26, 2013. (Hearing Transcript, p. 135:7-10; p. 133:16-19).

19. Section 503 of Public Law “ratified and approved” the revised Ute Indian Compact of 1990, dated October 1, 1990, “subject to re-ratification by the State and the Tribe.” See Plaintiff’s Hearing Exhibit 7, p. 42.

20. The 1990 Ute Indian Water Compact, referenced in Section 503 of Public Law 102-575, was admitted into evidence as Hearing Exhibit 8 at the preliminary injunction hearing on March 26, 2013. (Hearing Transcript, p. 136:22 - 137:5). Article III of the Compact recognizes the right of the Ute Indian Tribe to divert “470,594 acre-feet per annum, from all sources in accordance with and as more fully set out in the “Tabulation of Ute Indian Water Rights” attached hereto and on file with the Utah State Engineer.” The Compact also states that “No water right held in trust can be transferred from the lands listed in said groups without approval of the Secretary of the Interior.” See Hearing Exhibit 8, p.2 Ins. 11-13.

21. The Tabulation of Ute Indian Water Rights which is attached to the 1990 Compact was admitted into evidence as Hearing Exhibit 9 at the preliminary injunction hearing on March 26, 2013. (Hearing Transcript, p. 143:7-8). The Tabulation identifies, by Canal, what lands are entitled to divert water through the UIIP. The Tabulation does not include the McKee fee lands as lands that are entitled to divert water from the Deep

Creek Canal. See Hearing Exhibit 9, p. 3. This is because the McKee fee lands are patented lands, i.e., the McKee land was never Indian allotment or tribal trust lands.

22. On information and belief, the Defendants use water from the Deep Creek Canal to flood irrigate the McKee fee lands and to convey water, through one or more underground pipelines, to provide water to the McKee feedlot.

**a. Goodrich Gulch Water Right**

23. Mr. McKee claims the right to divert water from the Deep Creek Canal for application to the lands designated as Tracts 1 and 2 on Plaintiff's Hearing Exhibit 13<sup>1</sup> based on a "Certificate of Appropriation of Water" issued by the State of Utah to Sarah C. Darling in 1926 (hereinafter "state water right"). See McKee Exhibit D, attached to Defendant's Memorandum in Opposition to Motion for Emergency Temporary Restraining Order, filed on September 21, 2012; see Greg McKee's testimony at 3/26/13 hearing, p. 100:14 – 101:18.

24. However, neither the water source, nor the lawful point of diversion, for that state water right is through the Deep Creek Canal; instead, the water source for the state water right is Goodrich Gulch—a water source that is intermittent, and not seasonal like the Deep Creek Canal, according to the testimony of the Tribe's hydrologic expert. Dr. Woldezion Mesghinna, Ph.D., P.E. See Preliminary Injunction Hearing Transcript, p. 151:14 – 152:3.

25. By Mr. McKee's own admission, the point of diversion and method of diversion for the state water right is through a wooden flume that was built up and over

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<sup>1</sup> The legal description of which is Lot Two (NW/4 NE/4) and the SW/4 NE/4 of Section Two, Township One South, Range One East, Uintah Special Meridian, Uintah County, Utah, comprising 81.14 acres.

the “pre-existing ‘U.S. Govt. Deep Creek Canal’” in 1930—a wooden conveyance flume that no longer exists. See Defendant’s Memorandum in Opposition to Motion for Emergency Temporary Restraining Order, p. 3, ¶ 5, and McKee Exhibit F, attached thereto; see also undersigned counsel’s email of 9/25/2012 to Judge Pechota and Defendant’s counsel with attached enlargements of McKee Exhibit F (attached hereto as **Exhibit 3**).

26. According to the Tribe’s hydrologic expert, Dr. Mesghinna, the Utah State Engineer has never approved a change in the point, or method, of diversion for the state water right. See Preliminary Injunction Hearing Transcript, p. 152:15 – 153:25.

b. **Alleged Indian Water Right for Tract 3**

27. Mr. McKee claims the right to divert water from the Deep Creek Canal for application to the land designated as Tract 3 on Plaintiff’s Hearing Exhibit 13.<sup>2</sup> Yet at the preliminary injunction hearing, Mr. McKee admitted that he has no instrument of conveyance, conveying a right to tribal waters from the Deep Creek Canal for application to the 40-acre tract of land that comprises Tract 3. See Preliminary Injunction Hearing Transcript, p. 28:11-21; p. 88:25 – 89:9.

28. Following the hearing, Mr. McKee’s attorney provided attorneys for the Tribe with documents that McKee claims establishes his right to divert water from the Deep Creek Canal for the land designated as Tract 3 on Plaintiff’s Hearing Exhibit 13.

29. The first document is an “Agreement” dated March 4, 1943, and is executed by Dewey McConkie, a predecessor of Mr. McKee’s in the McKee lands

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<sup>2</sup> The legal description of which is the NW/4 SE/4 of Section Two, Township One South, Range One East, Uintah Special Meridian, Uintah County, Utah, comprising 40 acres.

(hereinafter “Agreement A”), attached as **Exhibit 4**. Under Agreement A, E.W. Kronquist, the then-Project Manager of the UIIP—purporting to act on behalf of the United States—agreed to assign “21 acres of water right” appurtenant to lands “within the Uintah Irrigation Project,” to the land now owned by Mr. McKee (which was designated as Tract 3 on Plaintiff’s Exhibit 13), which fee land was never “project lands” within the UIIP. The Agreement recites no lawful authority by which E.W. Kronquist could transfer water rights appurtenant to lands inside the UIIP to lands that were not then—and are not today—lands inside the UIIP. Lacking lawful authority, the purported transfer is an illegal conveyance of Indian trust property. See 25 U.S.C. 177.

30. The second document is another “Agreement” dated December 23, 1946, executed by Mr. McKee’s predecessor, Dewey McConkie (hereinafter “Agreement B”), attached as **Exhibit 5**. Agreement B is signed by C.A. Massie, the then-acting Project Engineer of the UIIP, and Forrest R. Stone, the then-Superintendent of the Uintah and Ouray Indian Agency, purporting to act on behalf of the United States. Agreement B purports to assign 15.28 acre-feet of water per acre per annum from lands “within the Uintah Irrigation Project” to lands that were not then—and are not today within the UIIP—the land now owned by Mr. McKee which was designated as Tract 3 on Plaintiff’s Hearing Exhibit 13.

31. Agreement B recites that the transfer was made pursuant to the “authority of the Secretary of the Interior contained in Section 2 of the Act of Congress approved May 28, 1941 (55 Stat. 209), which is attached as **Exhibit 6**. However, Section 2 of 55 Stat. 209 imposed two critical limitations on the Secretary’s authority to transfer water

rights within the UIIP: (1) first, a transfer could be made only “with the consent of the interested parties” and secondly, (2) the transfer could only be made “to other lands under said project.” See Exhibit 6.

32. Because the McKee fee lands were not within the UIIP, the transfer purportedly authorized under the Agreement of December 23, 1946 is invalid because it exceeded the Congressional delegation to the Secretary under Section 2 of 55 Stat. 209.

33. Moreover, the Ute Tribe obviously would have been an “interested party” to the transfer proposed under the Agreement of December 23, 1946. And there is no evidence—nor any recitation in the Agreement itself—that the Ute Tribe was properly notified of, or consented to, the transfer of its tribal waters to fee lands located outside of the UIIP. Hence, the purported transfer is a legally nullity.

## **II. Trespass and Illegal Farming of Tribal Lands**

34. In investigating Maggie McKee’s allegations, the Tribe has learned that Defendants have given valuable consideration to tribal member Frank Arrowchis, and in return Mr. Arrowchis has allowed Defendants to grow and harvest crops on 160 acres of tribally-owned land that is under assignment to Mr. Arrowchis. See Exhibit 2, Declaration of Gregory D. McKee.

35. All of the lands assigned to Frank Arrowchis are tribal lands located within the boundaries of the Uintah and Ouray Reservation. All of the assignments to Mr. Arrowchis are on record with the Tribe’s Assignment Committee.

36. The arrangement between Mr. Arrowchis and the Defendants contravenes Article X, Section 5 of Ordinance No. 94-001 and Article VIII of the Constitution and By-laws of the Ute Indian Tribe of the Uintah and Ouray Reservation.

37. Because the arrangement between Defendants and Mr. Arrowchis is not lawful under tribal law, and because Defendants otherwise lack lawful authority to enter onto the Tribe's Reservation, the Defendants' presence on tribal lands under assignment to Mr. Arrowchis constitutes a trespass.

**III. Nuisance, Trespass and Environmental Contamination**

38. As a sovereign entity the Ute Tribe is a responsible for protecting the health and welfare of its tribal members and for protecting the environmental health of the Uintah and Ouray Reservation.

39. On information and belief, the Defendants are operating their farm and feedlot without regard for public health and welfare. According to Maggie McKee, an average of 200 calves die each year at the feedlot from various unknown diseases. See Exhibit 1, original complaint. Mrs. McKee also alleges that the Defendants have three large liquid fertilizer tanks that leak and that the Defendants "periodically wash[] out letting them overflow into the ditch on the tribal allotment where Janet Cuch lives." *Id.*

40. Defendant McKee admits that he buries the carcasses of dead animals on the McKee fee lands, which are adjacent to Ute Indian allotment and tribal trust lands.



#### **IV. Civil Conspiracy**

41. The operations of the UIIP are conducted through an entity called the “Uintah Indian Irrigation Project Operation and Maintenance Company” (hereinafter UIIP O&M Co.”). Defendant McKee’s uncle is Rex McKee and Rex McKee works for the UIIP O&M Co. as the ditch rider for the Deep Creek Canal.

42. Defendant McKee’s friend and a former employee of McKee Farms is Steven Alonzo Winn (“Steve Winn”) who, from 2006 through 2012, was employed as the Operations Manager for the UIIP O&M Co.

43. On information and belief, the Defendants have conspired with Rex McKee and Steve Winn, either expressly or impliedly, to misappropriate water from the Deep Creek Canal for application to the McKee fee lands and/or to conceal the misappropriation from the Ute Tribe, from the Bureau of Indian Affairs, and from the UIIP and the UIIP O&M Co.

44. Expressly or impliedly, the Defendants mutually agreed with Rex McKee and Steve Winn to accomplish the foregoing objectives and together they pursued a course of action to accomplish those objectives.

45. Both Rex McKee and Steve Winn knew, or should have known, that the Defendants had no right to divert water from the Deep Creek Canal for application to the lands designated as Tracts 1 and 2 on Plaintiff’s Hearing Exhibit 13, yet both men knew of the misappropriation and allowed it to continue covertly, and in return for their complicity, Defendants conferred various benefits on Rex McKee and Steve Winn.

**FIRST CLAIM FOR RELIEF**

**Declaratory Judgment and Permanent Injunction – Deep Creek Canal and Tribal Lands Under Assignment to Frank Arrowchis**

46. The Tribe incorporates each preceding paragraph.

47. A genuine controversy exists between the parties regarding (i) the Defendants' right to divert water from the Deep Creek Canal for use on the McKee fee lands, and (ii) the legality under Ute tribal law of the arrangement between tribal member Frank Arrowchis and the Defendants.

48. The Tribe seeks a declaration that Defendants have no right to divert water from the Deep Creek Canal for use on the McKee fee lands.

49. The Tribe seeks a further declaration that the arrangement between Frank Arrowchis and Defendants contravenes tribal law and that the Defendants' presence on the Arrowchis lands constitutes a trespass.

50. The Tribe seeks entry of a permanent injunction enjoining the Defendants from (i) diverting water from the Deep Creek Canal for use on the McKee fee lands, and (ii) from trespassing on the tribal lands under assignment to Frank Arrowchis. There is no adequate remedy at law to redress these harms because, absent injunctive relief, the Tribe will be required to institute repeated legal actions to redress the Defendants' misappropriation of waters from the Deep Creek Canal and the Defendants' trespass onto tribal lands under assignment to Frank Arrowchis.

**SECOND CLAIM FOR RELIEF**

**Damages for Misappropriation, Theft and/or Conversion of Water**

51. The Tribe incorporates each preceding paragraph.

52. As a direct and proximate result of the Defendants' misappropriation and conversion of water from the Deep Creek Canal, the Tribe and its members have suffered damages in an amount to be proven at trial.

### **THIRD CLAIM FOR RELIEF**

#### **Nuisance and/or Environmental Contamination**

53. The Tribe incorporates each preceding paragraph.

54. Defendants have willfully, with reckless and wanton disregard, or negligently operated their farming operations and cattle feedlot in a manner that causes an unreasonable invasion of, interference with, impairment to, inconvenience to, annoyance and/or injury to the Ute Tribe and its members, and to the Tribe's and its member's beneficial use and enjoyment of the Uintah and Ouray Reservation.

55. Defendants are knowingly, intentionally, or negligently creating, maintaining or contributing to a public health hazard that is injurious to the Tribe and its members.

56. Defendants' actions constitute a substantial and unreasonable interference with public rights within the Ute Tribe's jurisdiction, including, *inter alia*, the right to public health and safety and comfort, the right to use and enjoy natural resources, and the right to use and enjoy private and public property.

57. By reason of the foregoing, the Ute Tribe is entitled to equitable relief, including but not limited to an injunction requiring Defendants to comply with applicable environmental law and regulations, and to pay any and all costs associated with such compliance.

58. By reason of the foregoing, the Ute Tribe has also incurred, and may incur in the future, damages, including special and direct damages, costs and expenses, in an amount to be proven at trial for which it is entitled to receive compensation and reimbursement from Defendants.

**FOURTH CLAIM FOR RELIEF**

**Civil Conspiracy**

59. The Tribe incorporates each preceding paragraph.

60. As a direct and proximate result of the Defendants' conspiracy with Rex McKee and Steve Winn, the Ute Tribe and its members have suffered damages in an amount to be proven at trial.

**PRAYER FOR RELIEF**

WHEREFORE, the Plaintiff, the Ute Indian Tribe, respectfully prays that this Court enter judgment against Defendants Gregory D. McKee, T & L Livestock, Inc., McKee Farms, Inc., and GM Fertilizer, Inc. as follows:

- A. For appropriate damages, declaratory and/or injunctive relief; and
- B. For such other further relief as this Court deems just and proper.

Dated this <sup>4th</sup>3rd day of September, 2013.

FREDERICKS PEEBLES & MORGAN LLP

A handwritten signature in black ink that reads "F.C. Bassett". The signature is written in a cursive style with a long horizontal line extending to the right.

Frances C. Bassett

Jeremy J. Patterson

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*Attorneys for Plaintiff*

**CERTIFICATE OF SERVICE**

I certify that on this <sup>4th</sup> 3rd day of September, 2013, the original of this **FIRST AMENDED COMPLAINT FOR DECLARATORY JUDGMENT, CONVERSION – MISAPPROPRIATION, NUISANCE, TRESPASS, AND INJUNCTIVE RELIEF** was sent both via certified U.S. Mail, return receipt requested and facsimile to the Ute Indian Tribal Court and a true and accurate copy was served via U.S. Mail, first class postage prepaid, to the following individual as indicated below:

John D. Hancock  
HANCOCK LAW GROUP  
72 North 300 East, Suite A (123-13)  
Roosevelt, Utah 84066  
Telephone: (435) 722-9099  
Facsimile: (702) 952-2811  
*Attorney for the Defendant*



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Debra A. Foulk  
Legal Assistant

To whom it May Concern:

I want to bring to the committees' attention a few things that have illegally happened over the years with Greg McKee (T&L LIVESTOCK INC), (McKee Farms Inc.), (McKee Feedlot), (GM Fertilizer). I have been married to Greg for 8 years. And employed there before that since 1999. We are getting a divorce and I need to clear my conscience. Many of the thing Greg is doing are illegal, unethical and harmful to the population. I am very sorry I couldn't speak out before. I am stronger now and need your help to stop these practices. As in any situation like this I am fearful for myself and my children. I would ask for your discretion and if needed your protection.

Greg is sub-leasing three 40 acre fields in LaPoint and a separate 40 acres. The single 40 is then released to Rex McKee. These are all owned by Franck Arrowchis. Greg pays Frank \$12,000.00 a year. He also pays the water. Rex McKee pays Greg \$2,000.00 for the 40 he uses. Greg also receives money from the USDA on this land for any of the subsidies he can get them to pay.

The main stock water for the feedlot is a 4" pipe buried into the Deep Creek canal illegally. I also know Greg is taking water when it is not his turn and using water to flood irrigate the feedlot pasture (there is no water rights on the feedlot)! I also know Greg is making deals for this water with Steve Winn and Rex McKee. Greg is very good friends with Steve Winn and Rex McKee is his uncle.

There is also on an average of 200 calves a year that die from various unknown diseases at the feedlot. Greg has buried these in many different places throughout the feedlot. Also along the canal and creek contaminating the water below us. Greg has been asked by the state to put in a run off system catch system to keep the cattle urine and feces from running into any bodies of water. He refuses to do this. He also has 3 Very large liquid fertilizer tanks that leak and he periodically washes out letting them overflow into the ditch on the tribal 40 where Janet Cuch lives.

Hundreds of tons of contaminated manure is hauled out of the pens onto the lands he farms including all the Tribal lands he leases. The cattle that die in the feed pens the last few years have symptoms very similar to Mad Cow disease. There joints swell up to the point they can't walk and then they starve to death or he shoots them. He absolutely will not let a veterinarian do an autopsy!

Thank You,  
Maggie McKee







Vernal 01111

4-1050-R

# The United States of America,

To all to whom these presents shall come, Greeting;

WHEREAS, on November 3, 1910, patent No. 159617 issued to Constant L. Darling, for the Lot two, the southwest quarter of the north-east quarter and the northwest quarter of the southeast quarter of Section two in Township one south of Range one east of the Uinta Special Meridian, Utah, containing one hundred twenty-one and fourteen-hundredths acres,

reserving to the United States all coal in said lands, and to it, or persons authorized by it, the right to prospect for, mine, and remove coal from the same upon compliance with the conditions of and subject to the limitations of the Act of March 3, 1909 and

WHEREAS, the lands so conveyed have been subsequently classified as noncoal in character:

NOW, THEREFORE, KNOW YE, That the UNITED STATES OF AMERICA, in accordance with the Act of Congress approved April 14, 1914 (Public No. 83), authorizing, under such conditions, the issuance of new or supplemental patent without such reservation, does hereby remise, release, and forever quitclaim unto the said

Constant L. Darling

and to his heirs and assigns, all right, title, interest, and estate to and in the above-described lands which may be vested in and possessed by it by virtue of the reservation hereinbefore mentioned and recited.

IN TESTIMONY WHEREOF, I, Woodrow Wilson,

President of the United States of America, have caused these letters to be made

Patent, and the seal of the General Land Office to be hereunto affixed.

GIVEN under my hand, at the City of Washington, the TWELFTH

day of FEBRUARY in the year of our Lord one thousand

nine hundred and NINETEEN and of the Independence of the

United States the one hundred and FORTY-THIRD.

By the President: Woodrow Wilson

By: W. P. Le Roy Secretary

S. P. C. Samari Recorder of the General Land Office

Bureau of Land Management  
Utah State Office  
440 West 200 South, Suite 500  
Salt Lake City, Utah 84101

I hereby certify that this reproduction is a copy of the record on file in this office.

C. Mountain 3/2/2013  
Authorized Signature Date

RECORD OF PATENTS: Patent Number 665471

| <b>Land Patent Details</b>                                                                                    |           |             |                                  |                                                             |          |        |
|---------------------------------------------------------------------------------------------------------------|-----------|-------------|----------------------------------|-------------------------------------------------------------|----------|--------|
| Accession Nr: 665471    Document Type: Serial Patent    State: Utah    Issue Date: 2/12/1919    Cancelled: No |           |             |                                  |                                                             |          |        |
| <b>Names On Document</b>                                                                                      |           |             | <b>Miscellaneous Information</b> |                                                             |          |        |
| <input checked="" type="checkbox"/> DARLING, CONSTANT L<br><br>Military Rank:    ---                          |           |             | Land Office:                     | Vernal                                                      |          |        |
|                                                                                                               |           |             | US Reservations:                 | Yes                                                         |          |        |
|                                                                                                               |           |             | Mineral Reservations:            | No                                                          |          |        |
|                                                                                                               |           |             | Tribe:                           | ---                                                         |          |        |
|                                                                                                               |           |             | Militia:                         | ---                                                         |          |        |
|                                                                                                               |           |             | State In Favor Of:               | ---                                                         |          |        |
|                                                                                                               |           |             | Authority:                       | April 14, 1914: Supplemental Non-Coal Patent (38 Stat. 335) |          |        |
| <b>Document Numbers</b>                                                                                       |           |             | <b>Survey Information</b>        |                                                             |          |        |
| Document Nr:                                                                                                  | 01111     |             | Total Acres:                     | 121.14                                                      |          |        |
| Misc. Doc. Nr:                                                                                                | ---       |             | Survey Date:                     | ---                                                         |          |        |
| BLM Serial Nr:                                                                                                | UT NO S/N |             | Geographic Name:                 | ---                                                         |          |        |
| Indian Allot. Nr:                                                                                             | ---       |             | Metes/Bounds:                    | No                                                          |          |        |
| <b>Land Descriptions</b>                                                                                      |           |             |                                  |                                                             |          |        |
| State                                                                                                         | Meridian  | Twp - Rng   | Aliquots                         | Section                                                     | Survey # | Cour   |
| UT                                                                                                            | Uintah    | 001S - 001E | Lot/Trct 2                       | 2                                                           |          | Uintah |
| UT                                                                                                            | Uintah    | 001S - 001E | SW¼NE¼                           | 2                                                           |          | Uintah |
| UT                                                                                                            | Uintah    | 001S - 001E | NW¼SE¼                           | 2                                                           |          | Uintah |

Bureau of Land Management  
 Utah State Office  
 440 West 200 South, Suite 500  
 Salt Lake City, Utah 84101  
 I hereby certify that this reproduction is a copy of the  
 official record on file in my office.

C. Mountain    3/21/2013  
 Date

VERNAL 01111.

# The United States of America,

To all to whom these presents shall come, Greeting:

WHEREAS, a Certificate of the Register of the Land Office at **VERNAL, UTAH,**  
has been deposited in the General Land Office, whereby it appears that full payment has been made by the claimant

**CONSTANT L. DARLING**

according to the provisions of the Act of Congress of April 24, 1820, entitled "An Act making further provision for the sale of the Public Lands" and the acts supplemental thereto, for the **LOT TWO, THE SOUTHWEST QUARTER OF THE NORTHEAST QUARTER, AND THE NORTHWEST QUARTER OF THE SOUTHEAST QUARTER OF SECTION TWO IN TOWNSHIP ONE SOUTH OF RANGE ONE EAST OF THE UINTA SPECIAL MERIDIAN, UTAH, CONTAINING ONE HUNDRED TWENTY-ONE AND FOURTEEN-HUNDREDTHS ACRES,**

according to the Official Plat of the Survey of the said Land, returned to the GENERAL LAND OFFICE by the Surveyor-General:

NOW KNOW YE, That the UNITED STATES OF AMERICA, in consideration of the premises, and in conformity with the several Acts of Congress in such case made and provided, HAS GIVEN AND GRANTED, and by these presents DOES GIVE AND GRANT, unto the said claimant and to the heirs of the said claimant the Tract above described; TO HAVE AND TO HOLD the same, together with all the rights, privileges, immunities, and appurtenances, of whatsoever nature, thereunto belonging, unto the said claimant and to the heirs and assigns of the said claimant forever; subject to any vested and accrued water rights for mining, agricultural, manufacturing, or other purposes, and rights to ditches and reservoirs used in connection with such water rights, as may be recognized and acknowledged by the local customs, laws, and decisions of courts; and there is reserved from the lands hereby granted, a right of way thereon for ditches or canals constructed by the authority of the United States; reserving, also, to the United States all coal in the lands so granted, and to it, or persons authorized by it, the right to prospect for, mine, and remove coal from the same upon compliance with the conditions of and subject to the limitations of the Act of March 3, 1909, entitled "An Act for the protection of the surface rights of entrymen."

IN TESTIMONY WHEREOF, I, **WILLIAM H. TAFT**

President of the United States of America, have caused these letters to be made Patent, and the Seal of the General Land Office to be hereunto affixed.

GIVEN under my hand, at the City of Washington, the **THIRD**

(SEAL)

day of **NOVEMBER** In the year of our Lord one thousand  
nine hundred and **TEN** and of the Independence of the  
United States the one hundred and **THIRTY-FIFTH.**

By the President:

By

*Wm. H. Taft*

*W. P. Le Roy*

*John B. Connell*

Acting Recorder of the General Land Office.

Secretary.

RECORD OF PATENTS: Patent Number **159817**

8-2161

See Supplemental Patent No. **655471**  
issued under the Act of April 14, 1914

Bureau of Land Management  
Utah State Office  
440 West 200 South, Suite 500  
Salt Lake City Utah 84101

I hereby certify that this reproduction is a copy of the  
official record on file in this office.

*C. Mountain* 7/20/2015  
APPENDIX PAGE 85  
Authorized Signatory

| Land Patent Details                                                                               |             |             |                                   |                                               |          |                   |
|---------------------------------------------------------------------------------------------------|-------------|-------------|-----------------------------------|-----------------------------------------------|----------|-------------------|
| Accession Nr: 159817 Document Type: Serial Patent State: Utah Issue Date: 11/3/1910 Cancelled: No |             |             |                                   |                                               |          |                   |
| Names On Document                                                                                 |             |             | Miscellaneous Information         |                                               |          |                   |
| <input checked="" type="checkbox"/> DARLING, CONSTANT L                                           |             |             | Land Office:                      | Vernal                                        |          |                   |
|                                                                                                   |             |             | US Reservations:                  | Yes                                           |          |                   |
| Military Rank: ---                                                                                |             |             | Mineral Reservations:             | Yes                                           |          |                   |
|                                                                                                   |             |             | Tribe:                            | ---                                           |          |                   |
|                                                                                                   |             |             | Militia:                          | ---                                           |          |                   |
|                                                                                                   |             |             | State in Favor Of:                | ---                                           |          |                   |
|                                                                                                   |             |             | Authority:                        | April 24, 1820: Sale-Cash Entry (3 Stat. 566) |          |                   |
| Document Numbers                                                                                  |             |             | Survey Information                |                                               |          |                   |
| Document Nr:                                                                                      | 01111       |             | Total Acres:                      | 120.14                                        |          |                   |
| Misc. Doc. Nr:                                                                                    | ---         |             | Survey Date:                      | ---                                           |          |                   |
| BLM Serial Nr:                                                                                    | UTV 0001111 |             | Geographic Name:                  | ---                                           |          |                   |
| Indian Allot. Nr:                                                                                 | ---         |             | Metes/Bounds:                     | No                                            |          |                   |
| Land Descriptions                                                                                 |             |             |                                   |                                               |          |                   |
| State                                                                                             | Meridian    | Twp - Rng   | Aliquots                          | Section                                       | Survey # | County            |
| UT                                                                                                | Uintah      | 001S - 001E | SW $\frac{1}{4}$ NE $\frac{1}{4}$ | 2                                             |          | Salt Lake, Uintah |
| UT                                                                                                | Uintah      | 001S - 001E | NW $\frac{1}{4}$ SE $\frac{1}{4}$ | 2                                             |          | Salt Lake, Uintah |
| UT                                                                                                | Uintah      | 001S - 001E | Lot/Trct 2                        | 2                                             |          | Salt Lake, Uintah |
| REMARKS: LOT 2 OR NWNE QUARTER                                                                    |             |             |                                   |                                               |          |                   |

according to the Official Plat of the Survey of the said Land, returned to the GENERAL LAND OFFICE by the Surveyor-General:

NOW KNOW YE, That the UNITED STATES OF AMERICA, in consideration of the premises, and in conformity with the several Acts of Congress in such case made and provided, HAS GIVEN AND GRANTED, and by these presents DOES GIVE AND GRANT, unto the said claimant and to the heirs of the said claimant the Tract above described; TO HAVE AND TO HOLD the same, together with all the rights, privileges, immunities, and appurtenances, of whatsoever nature, thereunto belonging, unto the said claimant and to the heirs and assigns of the said claimant forever; subject to any vested and accrued water rights for mining, agricultural, manufacturing, or other purposes, and rights to ditches and reservoirs used in connection with such water rights, as may be recognized and acknowledged by the local customs, laws, and decisions of courts; and there is reserved from the lands hereby granted, a right of way thereon for ditches or canals constructed by the authority of the United States; reserving, also, to the United States all coal in the lands so granted, and to it, or persons authorized by it, the right to prospect for, mine, and remove coal from the same upon compliance with the conditions of and subject to the limitations of the Act of March 3, 1909, entitled "An Act for the protection of the surface rights of entrymen."



NATURAL RESOURCES CONSULTING ENGINEERS, INC.  
Fort Collins, Colorado

---

**Woldezion Mesghinna, Ph.D., P.E.**      *President and Principal Engineer*

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***Special Skills and Expertise***

Comprehensive water supply analysis, water supply quantification, determination of irrigable acreage and water requirements, irrigation return flow studies, water rights negotiations, and expert witness testimony.

***Education***

**Ph.D., Irrigation & Drainage Engineering**  
Utah State University, Logan, Utah. 1979

**M.E., Civil Engineering (Hydrology & Hydraulics)**  
Cornell University, Ithaca, New York. May 1973

**B.S., Civil Engineering**  
Cornell University, Ithaca, New York. May 1972

***Professional Registrations***

**Professional Civil Engineer**, California, #C-031962, 1980  
**Professional Civil Engineer**, Colorado, #30081, 1994  
**Professional Civil Engineer**, Wyoming, #PE6787, 1994  
**Professional Civil Engineer**, Arizona, #28952, 1995  
**Professional Civil Engineer**, New Mexico, #21501, 2013

***Experience***

**President and Principal Engineer**      **March 1989-Present**  
**Natural Resources Consulting Engineers, Inc.**      **Fort Collins, Colorado**

Dr. Mesghinna formed Natural Resources Consulting Engineers, Inc. (NRCE) in 1989.

***Water Supply Studies***

- Conducted comprehensive water supply analysis of several major rivers, including the Deschutes, Melotious, Crooked, Warm Springs, and Shitike Creeks in Oregon. The various impacts of upstream water users on these streams were determined, extensively for the Deschutes River. The results of this study helped the Warm Springs Tribes craft their negotiated settlement water claims and conduct actual negotiations with the State of Oregon and the U.S. government.
- Quantified the water supply of the Sif Oidak District of the Tohono O'odham Nation in Arizona by determining irrigable acreage and water requirements, investigating the extent of past floods on reservation areas, and evaluating of the impact of regional urbanization on flood frequency. Also determined the effects of groundwater pumping on the area's aquifers.
- Evaluated the impact of historic gold mining operations on water quantity and quality on the Fort Belknap Indian Reservation in Montana.

- Carried out operational management of the Wind River watershed in Wyoming, including an analysis of reservoir systems, irrigation uses, and fishery water requirements.
- Quantified water requirements needed to restore and maintain historic wetland areas on the Duck Valley Indian Reservation in Idaho, including analyzing the various water supply sources and studying comprehensive water-use plans.
- Studied the irrigation return flow and depletion for the future lands of the Wind River Indian Reservation in Wyoming to quantify an in-stream flow water claim.
- Quantified present and future water uses for the Klamath Allottees Water Users Association and provided advice and counsel in matters relating to the adjudication/negotiation of water rights for the Association.
- Analyzed both surface water and groundwater resources within the Tule River Indian Reservation. This involved a study of the arability of Reservation lands, the determination of the available water supply in the Tule River, and the quantification of the water requirements for both agricultural and nonagricultural water uses.
- Provided technical direction and coordination of the Tribal Water Code development, the development of a river accounting model, and the performance of interim Tribal Water Engineer duties for the Fort Hall Indian Reservation.
- Completed an appraisal-level engineering design for a delivery and recharge facility, including cost of several alternatives for the San Xavier Groundwater Recharge Project.
- Assessed the natural resources of the Jemez River, including historic and undepleted surface flows; alluvial and deep groundwater irrigability of lands; consumptive use of the adaptable crops in the area; and, based on engineering and economic feasibility of a comprehensive water development plan, calculated the amount of water the Tribe should claim under a negotiation settlement.
- Evaluated the hydrology and water supply yield of various river basins in the Uintah Basin of Utah. This included streamflow gage analysis, irrigation water supply shortage analysis, and a review of previous USBR studies conducted on the Central Utah Project irrigation units. These studies are being utilized by the Ute Indian Tribe as part of technical support for water right claims, reservoir storage analyses, and Compact negotiations with the State of Utah and Federal parties.

***Irrigation/Agriculture***

- Planned and designed the rehabilitation and reconfiguration of the conveyance distribution and drainage systems for the Wind River Indian Irrigation Project and determined the amount of water that could be saved, as well as the associated capital costs.
- Completed extensive assessment of Imperial Irrigation District's (IID) Water use including water conservation history, agricultural water use and irrigation water efficiency, analysis and response to the opinions and assertions advanced in the expert declarations submitted by others. Dr. Mesghinna testified in front of the California water board on IID agricultural water use and irrigation efficiency.
- Designed the Tohono O'odham Nation, Arizona 9B, and Avra Valley Irrigation Systems. Determined the suitability of these areas for different types of irrigation systems and analyzed the designs of the water conveyance and on-farm systems proposed for the 9B farm. Developed preliminary designs for the water conveyance and distribution systems associated with the irrigable acreage identified in the land classification of the Avra Valley site.



- Completed a comprehensive Aligidir Irrigation Project Development Plan devised for the Gash River near the city of Tessenei, Eritrea. The plan determined a sustained available water supply, the irrigability of lands, an environmental impact assessment, and determined economic feasibility. Sediment traps, a diversion structure, conveyance and distribution systems, and an off-stream dam and reservoir were also planned.
- Completed a scheme for stream flow and climatic network locations within Eritrea and installed and trained local personnel and Water Resources Department of Eritrea employees to operate and maintain the equipment.
- Conducted field trips and technical analysis of the Uintah Indian Irrigation Project on behalf of the Ute Indian Tribe. Analyses included crop irrigation requirement studies, assessment of water rights and the irrigation delivery schedule, historical irrigation project review, and irrigation water supply shortage analysis. These analyses are being utilized by the Tribe for water rights negotiation purposes and to improve the Project for Tribal benefits.

**Water Supply/Irrigation Projects**

- Measured seepage losses on all selected reaches of major canals on the Wind River Indian Reservation. Assessed surface and subsurface conditions of private ditches and made a recommendation for minimizing and/or avoiding water-logging problems. Prepared a list of all irrigation structures in need of replacement or maintenance and suggested a plan of action.
- Completed an extensive analysis regarding the available water supply conditions, flood hazards, and land capability for irrigation purposes within the Fort Mojave and Colorado River Indian Reservations. Determined the ultimate number of practicably irrigable lands under conditions of the 1960's. Testified extensively in court to defend findings.
- Performed a multipurpose study of the Tekezze-Setit River Basin. This included the estimation of available water supply; the development of land classification specifications; the location of various dam and reservoir sites along the river; the assessment of proposed irrigable lands; the determination of the criteria for the environmental study; the review of the final study; and the overall coordination of economics, mapping, hydropower, and geotechnical, conveyance, and distribution systems.
- Prepared a comprehensive water development plan for the Navajo, Hopi, and San Juan Southern Paiute Indian Reservations in Arizona. The tasks included determination of the undepleted flow of the Little Colorado River; availability of groundwater within the Coconino and Navajo Aquifers; present and historical irrigation water use determination; future irrigation engineering studies (both appraisal and feasibility level); feasibility-level M&I and recreation water development design and plans; and drainage engineering services. Presently serves as the technical coordinator of the federal studies pertaining to the adjudication of the Little Colorado River System.
- Analyzed the available surface water supply from the Owyhee River in Nevada and Idaho. Specifically, determined the undepleted flow analysis based on Reservoir operation, determined the amount of depletion due to agricultural and non-agricultural water uses, return flows, etc. The study was conducted as part of an irrigation and drainage development plan for the Duck Valley Indian Reservation in Idaho and Nevada.

- Completed a comprehensive reconnaissance study and semi-detailed conceptual design for proposed irrigation development project on over 3,000 acres that evaluated water supply, crop and livestock production, and economic and financial issues in the Zula Plain of Eritrea.
- Acted as a lead engineer for the planning, design, and construction management and supervision of a 230 foot high RCC dam. The project also includes a 15 km-long pipeline extending from the dam to the water treatment plant. The pipeline empties into a water treatment plant with a treated water capacity of 2000 m<sup>3</sup> located in the outskirts of Asmara, Eritrea.
- Conducted a reconnaissance comprehensive water development plan for the eastern plains of Eritrea, including land classification for development of irrigation schemes; availability of surface and groundwater resources; investigation of suitable dams and reservoirs; and estimation of capital, operation, and maintenance costs.
- Evaluated the water resources of Rio Acoma in New Mexico, including groundwater and surface water supplies; present, historic, and future water uses for both agricultural and non-agricultural uses; and determination of natural flow of the River at a point near the Pueblo of Acoma.

**Supervising Engineer**  
**Stetson Engineers, Inc.**

**1978-1988**  
**San Rafael, California**

Dr. Mesghinna supervised hydrologic analysis and water supply investigations, determined agricultural water requirements, and designed irrigation systems.

***Water Supply Studies***

- Quantified the water resources and potential water requirements of the Fort Belknap Indian Reservation. This involved the development of a feasibility-level irrigation engineering study, the determination of water requirements, and the quantification of natural surface flow for reserved water rights litigation.
- Performed a water availability study of the Taos River and tributaries using the HEC-4 hydrologic model, including the simulation of monthly stream flows for missing flow records and ungaged locations as well as river and reservoir system operation studies.
- Analyzed the reservoir system operation for several operating scenarios on both the Eel and Russian Rivers of California using the HEC-3 hydrologic model.

***Irrigation/Agriculture***

- Participated in the adjudication of the Big Horn River Systems of Wyoming and the agricultural system development plan, including the design of a conceptual irrigation system and associated cost analysis for approximately 60,000 acres. Also determined future and historic irrigation water requirements for the Wind River Indian Reservation.
- Performed several studies for the Fort Hall Indian Reservation in Idaho in connection with the "President's Water Policy Implementation 10-Year Plan for Review of Indian Water Claims," involving water supply, irrigation water requirements, and related studies. Provided technical assistance to the Tribes for negotiations with the State of Idaho.

***Water Supply/Irrigation Projects***

- Conducted a surface water depletion study and engineered an agricultural development plan, including conceptual irrigation system design, for the Yakama Indian Reservation in Washington.

- Completed a comprehensive surface water hydrology study, including the determination of natural flow, water quality, and sedimentation, in connection with water rights litigation for the Jicarilla Indian Reservation and the San Ildefonso, Santa Clara, San Juan, and Taos Pueblos of New Mexico.
- Completed a comprehensive water resource analysis, including hydrological analysis of the various streams and agricultural engineering study as part of the comprehensive water development plan for the Nez Perce Indian Reservation in Idaho.
- Calculated the available water supply for the Jemez River Indian Reservation, including the determination of probable maximum flood and hydropower feasibility for the design of a reservoir and spillway.

**Engineer**

**1973-1976**

**Woodward-Clyde Consultants**

**Clifton, New Jersey**

- Worked on many projects requiring geotechnical and hydrological engineering evaluation and analysis.
- Analyzed the flooding potential of Sawmill River for the Yonkers City Urban Development Project.
- Investigated and evaluated groundwater resources for the development of groundwater in New Mexico.
- Designed a dewatering system for the installation of a subaqueous tunnel at the LNG Terminal of Cove Point, Maryland.
- Performed well testing and estimated groundwater characteristics for the cooling lake at Braidwood Nuclear Power Station in Illinois.
- Completed subsurface investigation, soil sampling, rock coring, and permeability testing for the Amos Dam of West Virginia.
- Reviewed and evaluated the timber pile foundation design and settlement for various structures located in the meadowlands of the New Jersey Sports Complex.
- Performed temperature-controlled creep load tests on steel pipe piles and designed piles for the Trans-Alaska Pipeline in Alaska.

***International Experience***

During the period from 1966 to 1970, Dr. Mesghinna was employed in Ethiopia as an engineer in the design, planning, and construction of various school buildings, clinics, and hospitals. These projects were sponsored by the Swedish International Development Authority (SIDA) and the United Nations High Commission for Refugees (UNHCR). He was first employed as a Site Supervisor for the construction of a school building, then as a District Engineer and Acting Regional Engineer in charge of three building sites. As such, he was responsible for the planning of all operations, supervision of construction, design and product development, contract development and construction agreements, the production of construction cost estimates, and the performance of site investigations and surveys.

***Expert Witness Experience***

Dr. Mesghinna successfully completed professional witness testimony on behalf of the Bureau of Indian Affairs and the U.S. Department of Justice (DOJ) in the adjudication of the Big Horn River System in Wyoming. His testimony concerned future and historic water requirements and future and historic irrigation system design for the Wind River Indian Reservation. Furthermore, Dr. Mesghinna completed testimony on behalf of the DOJ concerning the lower Colorado River, in which his task was to prove that the U.S. government had properly quantified the Indian

reserved water rights in the early 1960's. More specifically, he provided testimony on flood analysis, land classification, and irrigation system selection/design. Dr. Mesghinna served as an expert witness on behalf of the DOJ for general stream adjudications on the Silver Creek, Upper Salt River, and San Pedro Drainage Basins in Arizona; the Walker River Basin in Nevada; the Little Colorado River Basin; the Zuni River Basin in New Mexico; and the San Jacinto River Basin in Southern California. Dr. Mesghinna has been instrumental in several water rights settlement negotiations in the western United States and has helped to settle water rights claims amounting to more than three million acre-feet. Examples include the Fort Hall, Fort Peck, Warm Springs, Las Vegas Paiute, and Fort McDowell Indian Reservations. Additionally, Dr. Mesghinna provided expert testimony on beneficial use for the Imperial Irrigation District in Southern California, presented before the California State Water Control Board.

### ***Relevant Computer Skills***

- Hydrologic Models: Extensive computer programming experience in hydrologic modeling, including:
  - Development and testing of a crop yield prediction model
  - Development of various computer programs for:
    - Crop consumptive use determination
    - Irrigation system design
    - Irrigation pipe network design
    - Subsurface drainage design
    - Canal seepage analysis
    - Natural flow analyses for river basins
- Earned certificates of completion from the Agricultural Extension program of the University of California at Davis for water surface profile computation and flood hydrograph analysis computer programs using HEC-2 and HEC-1.

### ***Awards and Honors***

- College of Engineering "Distinguished Alumnus", Utah State University, 1992
- City of Richmond "Distinguished Service Award", Richmond, California, 1993

ORIGINAL

Order Book 43-3004

Form P-20

# CERTIFICATE OF APPROPRIATION OF WATER

## STATE OF UTAH

APPLICATION NO. 354

Green River

WATER DIVISION

CERTIFICATE NO. 1254

Whereas, It has been made to appear to the satisfaction of the undersigned, State Engineer of the State of Utah, that the appropriation of water from Whiterocks River in Uintah County, made by the U. S. Indian Irrigation Service has been perfected in accordance with the application therefore, received in the office of the State Engineer on the 15th day of June 1905 and recorded on page 613 in book B-2 of the record of applications to appropriate water; Wherefore, Be it known that I, R. E. Caldwell, State Engineer of the State of Utah, under and by authority and direction of the provisions of the Compiled Laws of Utah, 1907, as amended by Chapter 62 of the Session Laws of Utah, 1909, and Chapters 3 and 103 of the Session Laws of Utah, 1911, on "Water Rights and Irrigation," do hereby certify that the said U. S. Indian Irrigation Service of Salt Lake City in Salt Lake County, State of Utah, is entitled to the use of 101.9 cubic feet of water per second, subject to the

following restrictions, to-wit: The water is diverted from said river at two points: No. 1, N. 78°08' W. 1550 ft. from the center 1/16 cor. of NE 1/4 Sec. 5, No. 2, N. 68°33' W. 1195 ft. from the S. 1/16 cor. of SW 1/4 of Sec. 26, T. 1 S., R. 1 E., U. S. M. both corners being regularly established government land corners. The diverting works consist of 2 wooden headgates, 1 brush and rock diversion dam and 2 canals known as (1) U. S. Deep Creek Canal, 53,200 ft. long, 26 ft. wide on top, 10 ft. wide on the bottom, and having an effective depth of 2.7 ft., (2) Tabby White Canal 3,700 ft. long, 3 ft. wide on top, 2 ft. wide on the bottom, and having an effective depth of 1 ft.

The water is used from May 1st to Oct. 15th, inclusive, of each year to irrigate 7130.96 acres of land embraced in SE 1/4 Sec. 34, SW 1/4 Sec. 35, T. 1 N., R. 1 E., U. S. M., W 1/4, SE 1/4, S 1/4 Sec. 1, NW 1/4, N 1/4, SE 1/4, E 1/4 Sec. 2, NE 1/4, N 1/4, SE 1/4, S 1/4, NW 1/4, NE 1/4, SW 1/4 Sec. 3, S 1/4, NW 1/4, N 1/4, SE 1/4, E 1/4 Sec. 4, S 1/4, NW 1/4, N 1/4, SE 1/4, SW 1/4 Sec. 11, N 1/4, SW 1/4, NE 1/4 Sec. 12, NW 1/4, N 1/4, SE 1/4, NW 1/4, SE 1/4 Sec. 13, NE 1/4, SW 1/4, E 1/4, SW 1/4, E 1/4, NW 1/4, SW 1/4 Sec. 14, NW 1/4, NW 1/4, NW 1/4, part W 1/4 NE 1/4 Sec. 23, NE 1/4, E 1/4 Sec. 24, SW 1/4, E 1/4, SW 1/4, E 1/4, SW 1/4 Sec. 25, E 1/4 Sec. 26, NE 1/4 Sec. 34, part NW 1/4, SW 1/4, E 1/4, NE 1/4, SE 1/4 Sec. 35, NW 1/4, SW 1/4 Sec. 36, T. 1 S., R. 1 E., U. S. M.; NW 1/4, SE 1/4 Sec. 7, E 1/4, SW 1/4, W 1/4, E 1/4, SE 1/4, E 1/4, SW 1/4, SE 1/4 Sec. 16, N 1/4, SW 1/4, W 1/4, SE 1/4, NE 1/4 Sec. 19, NW 1/4, NW 1/4 Sec. 30, T. 1 S., R. 2 E., U. S. M.; E 1/4, SW 1/4, W 1/4, E 1/4, SE 1/4, SE 1/4, NW 1/4 Sec. 1, E 1/4, NW 1/4 Sec. 2, W 1/4, SE 1/4 Sec. 11, NE 1/4, NW 1/4, SW 1/4, SE 1/4 Sec. 12, W 1/4 Sec. 13, E 1/4, E 1/4, NW 1/4, E 1/4, E 1/4 Sec. 14, NE 1/4, E 1/4, NW 1/4 Sec. 23, W 1/4 Sec. 24, W 1/4, N 1/4, NE 1/4, NW 1/4 Sec. 26, T. 2 S., R. 1 E., U. S. M. and more particularly described as follows:

Part of the SW 1/4 of said Sec. 34, T. 1 N., R. 1 E., described as follows: Beg. at the SE cor. of the SW 1/4 of said Sec. 34, thence N. 109°0' ft., S. 79°05' W. 370 ft., S. 26°00' W. 1135 ft., E. 660 ft. to place of beginning, containing 14.69 acres. Also all of the SE 1/4 of said Sec. 34 except 2 tracts described as follows: Tract #1, beg. at a pt. N. 109°0' ft. from the SW cor. of the SE 1/4 of said Sec. 34, thence N. 250 ft., E. 435 ft., E. 860 ft., S. 250 ft., N. 86°25' W. 740 ft., S. 85°15' W. 55 ft. to place of beginning; Tract #2, beg. at a pt. 400 ft. W. of the SE cor. of the SE 1/4 of said Sec. 34, thence N. 1090 ft., W. 132 ft., S. 1090 ft., E. 132 ft. to place of beginning, irrigated area 30.02 acres. All of the SW 1/4 of said Sec. 35 containing 40 acres. Also part of the NE 1/4 of said Sec. 4, T. 1 S., R. 1 E., described as follows: Beg. at the SW cor. of the NE 1/4 of said Sec. 4, thence N. 69°35' E. 1320 ft., N. 0°50' W. 530 ft., N. 76°50' W. 1398 ft., S. 3°13' E. 860 ft. to place of beginning, containing 21.1 acres. Also part of the NW 1/4 of said Sec. 4 described as follows: Beg. at the SW cor. of the NW 1/4 of said Sec. 4, thence N. 89°35' E. 1320 ft., N. 235 ft., N. 77°35' W. 1360 ft., S. 0°53' E. 557 ft. to place of beginning, containing 11.5 acres. Also all of the E 1/4 of said Sec. 4 containing 80 acres. Also part of the NE 1/4 of said Sec. 3 described as follows: Beg. at the SW cor. of the NE 1/4 of said Sec. 3, thence E. 1060 ft., N. 13°55' W. 160 ft., N. 4°00' W. 140 ft., E. 12°05' E. 702 ft., N. 71°55' W. 235 ft., S. 78°05' W. 455 ft., N. 17°40' W. 230 ft., S. 35°30' W. 968 ft., S. 1°50' W. 425 ft. to place of beginning, containing 26.15 acres. Also all of the S 1/4 of said Sec. 3 containing 80 acres. Also part of the NW 1/4 of said Sec. 3 described as follows: Beg. at the NE cor. of the NW 1/4 of said Sec. 3, thence W. 868.5 ft., S. 11°30' W. 274 ft., S. 6°35' E. 490 ft., S. 21°20' W. 420 ft., S. 11°55' W. 305 ft., N. 86°00' E. 1070 ft., N. 1370 ft. to place of beginning, containing 29.60 acres. Also part of the SW 1/4 of said Sec. 3 described as follows: Beg. at the SE cor. of the SW 1/4 of said Sec. 3, thence W. 1055 ft., N. 37°00' E. 227 ft., N. 12°34' E. 289.5 ft., N. 9°22' W. 788.8 ft., N. 85°00' E. 952.5 ft., S. 1°40' E. 1325.5 ft. to place of beginning, containing 26.45 acres. Also part of the NW 1/4 of said Sec. 3 described as follows: Beg. at the NE cor. of the NW 1/4 of said Sec. 3, thence W. 1055 ft., S. 15°30' E. 659 ft., S. 12°05' W. 586 ft., S. 22°30' E. 111 ft., S. 89°35' E. 962.5 ft., N. 0°30' W. 1315 ft. to place of beginning, except a tract described as follows: Beg. at a pt. 460 ft. S. 25°00' W. of the NE cor. of the NW 1/4 of said Sec. 3, thence N. 1090 ft., S. 79°05' W. 370 ft., S. 26°00' W. 1135 ft., E. 660 ft. to place of beginning, containing 14.69 acres.

E. 111 ft., S. 89°35' E. 462.5 ft., N. 0°30' W. 1315 ft. to place of beginning, except a tract described as follows: Beg. at a pt. 460 ft. S. 25°00' W. of the NE cor. of the NW $\frac{1}{4}$ SE $\frac{1}{4}$  of said Sec. 3, thence W. 425 ft., S. 361 ft., E. 435 ft., S. 361 ft. to place of beginning, irrigated area 25 acres. Also all of the NE $\frac{1}{4}$ NW $\frac{1}{4}$  (Lot #1) of said Sec. 3 containing 41.69 acres. All of the SE $\frac{1}{4}$ NW $\frac{1}{4}$  of said Sec. 3 containing 40 acres. Also all of the NW $\frac{1}{4}$ SE $\frac{1}{4}$  of said Sec. 3 except a tract described as follows: Beg. at a pt. S. 457.5 ft. from the E $\frac{1}{4}$  cor. of said Sec. 3, thence N. 77°03' W. 484.5 ft., N. 4°56' E. 297.5 ft., S. 78°30' E. 316.5 ft., S. 21°42' E. 368 ft. to place of beginning, irrigated area 37.36 acres. All of the SE $\frac{1}{4}$ SE $\frac{1}{4}$  of said Sec. 3 containing 40 acres. All of the NW $\frac{1}{4}$ NW $\frac{1}{4}$  (Lot #4) and NE $\frac{1}{4}$ NW $\frac{1}{4}$  (Lot #3) of said Sec. 2 containing 41.86 acres and 41.50 acres respectively. Also all of the S $\frac{1}{4}$ NW $\frac{1}{4}$  and SE $\frac{1}{4}$ NE $\frac{1}{4}$  of said Sec. 2 containing 120 acres. Also part of the NE $\frac{1}{4}$ SW $\frac{1}{4}$  of said Sec. 2 described as follows: Beg. at the NW cor. of the NE $\frac{1}{4}$ SW $\frac{1}{4}$  of said Sec. 2, thence S. 1°32' W. 1345 ft., S. 19°00' E. 1080.5 ft., N. 21°52' E. 327.8 ft., N. 19°06' W. 520 ft., N. 24°35' E. 596.5 ft., N. 89°10' W. 1241.5 ft. to place of beginning, containing 34.53 acres. Also all of the NW $\frac{1}{4}$ SW $\frac{1}{4}$  of said Sec. 2 except a tract described as follows: Beg. at a pt. S. 457.5 ft. from the NW cor. and S. 73°00' E. 326 ft. from the W $\frac{1}{4}$  cor. of said Sec. 2, thence S. 37°16' E. 284 ft., S. 77°24' E. 404.8 ft., N. 15°50' W. 270.5 ft., N. 72°58' W. 374 ft. to place of beginning, irrigated area 37.36 acres. Also all of the E $\frac{1}{4}$ SE $\frac{1}{4}$  of said Sec. 2 except a tract described as follows: Beg. at the SE cor. of the SE $\frac{1}{4}$ SE $\frac{1}{4}$  of said Sec. 2, thence N. 511 ft., W. 511 ft., S. 511 ft., E. 511 ft. to place of beginning, irrigated area 74 acres. Also all of the SW $\frac{1}{4}$ NW $\frac{1}{4}$ ,  $\frac{1}{4}$ SW $\frac{1}{4}$ , SE $\frac{1}{4}$ SE $\frac{1}{4}$  of said Sec. 1 containing 160 acres. Also all of the NW $\frac{1}{4}$ NW $\frac{1}{4}$  (Lot #4) of said Sec. 1 containing 40.78 acres. Also part of the SE $\frac{1}{4}$ SW $\frac{1}{4}$  of said Sec. 1 described as follows: Beg. at the NW cor. of the SE $\frac{1}{4}$ SW $\frac{1}{4}$  of said Sec. 1, thence S. 300 ft., N. 89°00' E. 79 ft., N. 0°58' W. 344 ft., E. 10°43' E. 708.5 ft., N. 56°47' E. 141.5 ft., S. 58°50' E. 349 ft., S. 7°18' W. 938 ft., N. 89°52' E. 833.5 ft., N. 0°45' W. 1287 ft., W. 230.5 ft., S. 3°26' W. 231 ft., S. 38°43' W. 216.5 ft., N. 53°30' W. 242 ft., N. 37°57' E. 330.5 ft., N. 89°55' W. 943.1 ft. to place of beginning, containing 26.83 acres. Also part of the SW $\frac{1}{4}$ SE $\frac{1}{4}$  of said Sec. 1 described as follows: Beg. at the NW cor. of the SW $\frac{1}{4}$ SE $\frac{1}{4}$  of said Sec. 1, thence

IN THE DISTRICT COURT OF THE UNITED STATES, IN AND FOR THE DISTRICT OF UTAH IN EQUITY

DOCKET No. 4427

THE UNITED STATES OF AMERICA, and ALBERT B. FAIL, Secretary of the Interior, as Trustees of the Indians of the former Uintah and Ouray Indian Reservation,

Plaintiffs

vs.

CEDARVIEW IRRIGATION COMPANY, COLORADO PARK IRRIGATION COMPANY, DRY CULCH IRRIGATION COMPANY, T. M. DODD IRRIGATION COMPANY, OURAY VALLEY IRRIGATION COMPANY, UINTAH INDEPENDENT DITCH COMPANY, UINTAH RIVER IRRIGATION COMPANY, and WHITELOCKS IRRIGATION COMPANY, each and all of the foregoing being corporations; GEORGE C. ALLRED, GEORGE AVERITT, ERASTUS S. BASTIAN, JOHN BENNETT, RAYMOND T. BONWIN, JOHN BURGESS, WILLIAM CHICHAS, VERNON COLLINS, HUGH COLTHARP, W. HORACE COLTHARP, JOHN W. COOK, THOMAS DURIGAN, CHARLES ELMER, DAVID ELMER, MARY A ELMER, RUSSELL FORSYTHE, LOU FRAUGHTON, THOMAS S. GUNN, HYRUM GURR, JOHN HALL, HAROLD F. HALL, JOSEPH H. HARDY, BERTHA E. HUGHEL, CHARLES HUTCHEON, WILLIAM KEEL, DANIEL LARSEN, HENRY B. LLOYD, RALPH MARIMON, ROBERT L. MARIMON, JOHN J. NIELSON, EDWARD L. OAKS, HYRUM E. OAKS, CHARLES R. OAKY, JOHN H. O'DRISCOLL, LESLIE O'DRISCOLL, HENRY P. OLSEN, JOHN A. OLSEN, CULBERT L. OLSEN, GEORGE S. PACE, FRANK PETERSON, SAMUEL H. PULLEN, ALBERT RASMUSSEN, ADOLPHUS SESSIONS, NEWTON SHELTON, EDWARD C. SIMMS, BARBRIA E. SMITHSON, GEORGE THOMAS AND ISAAC N. WORKMAN,

defendants.

DECREE

This cause having come on to be heard at this term upon the complaint of the plaintiffs, the defaults and answers of the defendants, and the stipulations herein between the plaintiffs and certain of the defendants, and thereupon, upon consideration thereof, it is ORDERED, ADJUDGED AND DECREED AS FOLLOWS:

1. The plaintiffs, the United States, and the Secretary of the Interior as Trustees of the Indians on the former Uintah

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and Ouray Indian Reservation, and also the owners by grant of the allotments of deceased Indians on said Reservation, as against the Cedarview Irrigation Company, Colorado Park Irrigation Company, Dry Gulch Irrigation Company, T. K. Dodd Irrigation Company, Ouray Valley Irrigation Company, Uintah Independent Ditch Company, Uintah River Irrigation Company and Whiterocks Irrigation Company, each and all of the foregoing being corporations: George Q. Allred, George Averitt, Erastus S. Bastian, John Bennett, Raymond T. Bonnin, John Burgess, William Chichas, Vernon Collins, Hugh Coltharp, W. Horace Coltharp, John W. Cook, Thomas Durigan, Charles Elmer, David Elmer, Mary A. Elmer, Russell Fosythe, Lou Fraughton, Thomas S. Gunn, Hyrum Gurr, John Hall, Harold F. Hall, Joseph H. Hardy, Bertha E. Hughel, Charles Hutcheon, William Keel, Daniel Larsen, Henry B. Lloyd, Ralph Marimon, Robert L. Marimon, John H. Nielson, Edward L. Oaks, Hyrum E. Oaks, Charles R. Oakley, John H. O'Driscoll, Leslie O'Driscoll, Henry P. Olsen, John A. Olsen, Culbert L. Olsen, George S. Pace, Frank Peterson, Samuel H. Pullen, Albert Rasmussen, Adolphus Sessions, Newton Shelton, Edward O. Sims, Barbara E. Smithson, George Thomas and Isaac N. Workman, defendants herein, or any of them, and as against any demand or use whatever of them, or any of them, or any diversion or use of water by or through the ditches belonging to them or any of them, have the first and an exclusive right under a priority that antedates the third day of October, 1881, at all times to divert from the Uintah River and its tributaries by certain ditches and canals water in certain quantities at certain times and under certain conditions for the irrigation of certain lands and for certain domestic, culinary and stock-raising uses - all as described and fixed by the following schedule and other parts of this decree.

1861

| Name of Ditch or Canal | Acres Irrigated Under Each Ditch | Water permitted to divert each season in Acre Feet | Water permitted to divert each season in second feet |
|------------------------|----------------------------------|----------------------------------------------------|------------------------------------------------------|
| Uintah Canal)          |                                  |                                                    |                                                      |
| Canal No. 1 )          | 9374.62                          | 28123.86                                           | 133.9                                                |
| Harmes                 | 827.88                           | 2485.64                                            | 11.83                                                |
| Bench                  | 6836.85                          | 20510.55                                           | 97.67                                                |
| Bench                  | Town of Ft. Duchesne             |                                                    | .85                                                  |
| Henry Jim              | 1612.4                           | 4837.2                                             | 23.03                                                |
| Henry Jim              | Town of Randlett                 |                                                    | 1.50                                                 |
| Ft. Duchesne           | 533.61                           | 1600.83                                            | 7.62                                                 |
| Wissiuip               | 325.70                           | 977.10                                             | 4.65                                                 |
| A (Martha Washington)  | 73.47                            | 220.41                                             | 1.05                                                 |
| B. (Leadows)           | 180.2                            | 540.60                                             | 2.57                                                 |
| C (Princess Pat)       | 82.70                            | 248.10                                             | 1.18                                                 |

dx3-7017



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|                     |                  |           |        |
|---------------------|------------------|-----------|--------|
| D(New)              | 185.80           | 557.4     | 2.66   |
| Whiterocks          | 4454.47          | 13363.41  | 63.63  |
| Farm Creek          | 1550.35          | 4631.03   | 22.15  |
| School Ditch No. 1) | 385.88           | 1097.64   | 5.23   |
| School D "2         | 12.60            | 37.80     | .18    |
| Springs             | 80.00            | 240.00    | 1.14   |
| Deep Creek          | 6895.52          | 20686.56  | 98.51  |
| Colorado Park       | 425.14           | 1275.42   | 6.07   |
| Big Six             | 244.70           | 734.10    | 3.50   |
| Daniels             | 151.00           | 453.00    | 2.15   |
| Duncan              | 115.90           | 347.70    | 1.66   |
| Farm Creek Proper   | 135.84           | 407.52    | 1.94   |
| Tabby White         | 235.46           | 706.38    | 3.36   |
| Whiterocks School)  |                  |           |        |
| Pipe Line           | ) Domestic, Etc. |           | .85    |
| Totals              | 34700.09         | 104100.27 | 498.88 |

The said 34,700.09 acres of land to be irrigated and the other uses under said ditches and canals are as more particularly described in the final certificates of appropriation for the several said named ditches and canals as the same may appear upon the records of the office of the State Engineer of the State of Utah, and which are numbered to-wit: 1172, 1173, 1174, 1176, 1177, 1208, 1211, 1212, 1219, 1223, 1224, 1232, 1233, 1234, 1235, and the final certificate yet to be issued under plaintiff's filing No. 357.

The location of the head or intake of each of the said ditches or canals is as follows:

The head of the Uintah canal is on the right bank of the Uintah River and bears N. 76-8' E. 574 ft. from the quarter corner common to secs. 9 and 10, Twp. 1 N R 1 W., U.S.M.

The head of Canal No. 1 is on the right bank of the Uintah River and bears S 76-30'E 700 ft. from the northwest corner of Sec. 25, Twp. 1 N R 1 W U.S.M.

The head of the Harnes Canal is on the left bank of the Uintah River and bears N 46-32'W 3000 ft. from the center 1/16 corner of SE $\frac{1}{4}$  of Sec. 6, Twp. 1 S. R 1 E. U.S.M.;

The head of the Bench Canal is on the right bank of the Uintah River and bears N 29-10'W 637 ft. from the East quarter corner of Section 18, Twp. 1 S. R. 1 E. U.S.M.;

The head of the Henry Jim Canal is on the left bank of the Uintah River and bears N 47-13'W 591 ft. from the North quarter corner of Sec. 35, T 2 S R 1 E U.S.M.;

The head of the Ft. Duchesne Canal is on the right bank

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of the Uintah River and bears S 70-7'E, 1553 ft. from the West quarter corner of Sec. 35, T 2 S., R. 1 E. U.S.M.;

The head of the Wisiup Canal is the same as the Henry Jim and is located on the left bank of the Uintah River and bears S 77-57'W 1207 ft. from the North 1/16 corner of the SW $\frac{1}{4}$  of Sec. 35 Tp. 3 S., R. 2 E. U.S.M.;

The head of Ditch A is on the left bank of the Uintah River and bears N 53-5'W 1816 ft from the South quarter corner of Sec. 31, Tp. 1 N. R 1 E U.S.M.;

The head of Ditch B is on the left bank of the Uintah River and bears N 28-17'W 1823 ft from the North 1/16 corner of the SE $\frac{1}{4}$  Sec. 7 Tp. 1 S R 1 E U.S.M.;

The head of Ditch C is on the right bank of the Uintah River and bears S 6-10'W 1575 ft. from the North 1/16 corner of the SE $\frac{1}{4}$  Sec. 7 Tp 1 S. R 1 E U.S.M.

The head of Ditch D is on the right bank of the Uintah River and bears S 0-5'E 730 ft. from the north quarter corner of Sec. 7 Tp. 1 S R 1 E U.S.M.;

The head of the Whiterocks Canal is on the left Bank of the Whiterocks River, a tributary of the Uintah River, and bears N 64-54'W. 2528 ft. from the east 1/16 corner of the SE $\frac{1}{4}$  Sec. 19, Tp 2 N R 1 E U.S.M.;

The head of the Farm Creek Canal is on the right bank of the Whiterocks River, a tributary of the Uintah River, and bears N 48-8'E 921 ft. from the north quarter corner of Sec. 30 Tp 2 N R 1 E U.S.M.;

The head of the school Ditch No. 1 is on the right bank of the Whiterocks River, a tributary of the Uintah River, and bears N 58-30'E 2335 ft. from the west 1/16 corner of the SW $\frac{1}{4}$  Sec. 18 T 1 N R 1 E U.S.M.;

The head of School Ditch No. 2 is on the left bank of the Whiterocks River, a tributary of the Uintah River, and bears N 16-18'E 1485 ft from the south 1/16 corner of the SW $\frac{1}{4}$  Sec 18 T 1 N R 1 E U.S.M.;

The heads of the Spring ditches are in Secs. 4 & 5 Tp. 1 S., R. 1 E. U.S.M.;

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The head of the Deep Creek Canal is on the left bank of the Whiterocks River, a tributary of the Uintah River, and bears N 78-8'W 1550 ft. from the center 1/16 corner of the NE<sub>4</sub> Sec 5 Tp 1 S., R 1 E. U.S.M.;

The head of the Colorado Park Canal is on the left bank of the Uintah River and bears N 78-57'W 2250 ft. from the south quarter corner of Sec. 26, Tp 1 S R 1 E U.S.M.;

The head of the Bix Six Canal is on the right bank of the Uintah River and bears N. 57-52'E 1417 ft. from the southwest corner of Sec. 31 Tp 1 N R 1 E U.S.M.

The head of the Daniels Ditch is on the right bank of the Uintah River and bears N 50-18'W 731 ft from the east 1/16 corner of the SW<sub>2</sub> Sec 22 Tp 1 S R 1 E U.S.M.;

The head of the Duncan ditch is on the right bank of the Whiterocks River, a tributary of the Uintah River, and bears N 23-13'E 5500 ft. from the southwest corner of Sec. 7, Tp 1 N R 1 E U.S.M.;

The three heads of the Farm Creek Proper ditches diverting water from Farm Creek, a tributary of the Uintah River, are in Sec. 23, T 2 N., R 1 W. U.S.M.;

The head of the Tabby White ditch is on the left bank of the Uintah River and bears N 68-33'W 1195 ft. from the south 1/16 corner of the SW<sub>4</sub> Sec. 26, Tp 1 S R 1 E U.S.M.1

The head of the Whiterocks School Pipe Line is on the right bank of the Whiterocks River, a tributary of the Uintah River, in Sec. 18, Tp. 1 N R 1 E U.S.M.;

2. The water permitted to be diverted by said ditches and canals for irrigation shall be diverted only during the irrigation season of each year, and said season shall not begin before the first day of March or end later than the first day of November; but water may be diverted for domestic, culinary and stock-watering purposes throughout the entire year.

3. The number of acre feet of water permitted to be diverted by each of the ditches and canals above listed, on account of the rights determined in this decree as shown in paragraph one hereof, is the amount of water which may be diverted for irrigation by each of said ditches during the said irrigation season, and in no case shall said amount be exceeded; and the number of second feet of water permitted to be diverted by each of said ditches and canals on account of said rights as shown in said paragraph one shall be the maximum amount of water each of said ditches may divert at any time on account of said rights.

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4. No water shall be diverted by said ditches and canals or any of them for irrigation purposes except that which is needed for economical and beneficial use in the irrigation of crops, and no water shall be diverted for other purposes except as hereinabove in paragraph two allowed, and only such quantities thereof shall be diverted as shall be needed for economical use for said purposes. Said diversions for domestic, culinary and stock-watering uses shall be permitted as needed throughout the year.

5. The defendants herein all divert water from the Uintah River or from one or more of its tributaries, or from supporting waters of said streams through the ditches which they respectively claim to own,

6. The said defendants and their agents and employees, officers, successors, and assigns, and all persons diverting or using water through or under their ditches or any of them, they and each of them, are hereby perpetually enjoined from in any way hindering, preventing or interfering with the diversions or uses of the waters of said river herein decreed to the plaintiffs, or their assigns.

7. For the protection of the water rights herein decreed, a Water Commissioner shall be appointed from time to time, and assistants shall be given him if necessary, and his and their compensation shall be fixed and allowed, and arrangements for the payment thereof by those who benefit thereby, parties hereunto, shall be made, and said Water Commissioner shall be further directed as to his duties, all by separate orders of this Court.

8. In order further to protect the prior rights of the plaintiffs herein decreed, and to do so in the way best suited to conserve the rights and interests of the defendants, who are all junior appropriators, collectively as against the plaintiff, and as against each other, and to insure the most economical use of the waters of said stream, the Water Commissioner shall not only see that the priorities of the plaintiffs are satisfied, but shall also distribute the waters of the stream among the various defendants according to their priorities and rights as they may be ascertained from time to time by agreement between said parties or in some other proper manner. The rights and priorities of said defendants as against the plaintiffs or as among themselves are founded upon appropriations of water by application to the State Engineer of the State of Utah and are subject to their exercise and are conditioned upon compliance with the provisions of the laws of the State of Utah relating to the appropriation of water and such rights and priorities are not hereby determined, except that they are all junior to those of the plaintiffs herein decreed, and except further that

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it is hereby decreed that said defendants shall be permitted to divert from said streams during the irrigation season of each year for direct irrigation, which shall not be before the first day of March or end later than the first day of November, three acre feet of water for each acre of land irrigated and no more, and shall at no time divert more than one seventieth of a second foot of water for each said acre, and that no water shall be diverted for irrigation except that which is needed for economical and beneficial use in irrigating crops. Water may be diverted for domestic, culinary and stock-watering purposes during the entire year. No water shall be diverted for any purpose in excess of that actually needed for such purpose.

9. This decree determines the rights of the plaintiffs to divert water from the Uintah River and its tributaries as against the defendants but it does not determine any rights the plaintiffs or the defendants may have to the waters of the Duchesne River or any stream or streams into which the waters of said Duchesne River flow either mediately or immediately. This decree furthermore does not determine the right, if any, that the purchaser of any allotment of an Indian, who made such purchase prior to the entry hereof, may have to irrigate a greater acreage than that allowed by this decree.

10. Jurisdiction of this cause is retained to enable this court, for good cause and as occasion may require, to administer this decree through a Water Commissioner or otherwise; to alter any administrative provisions hereof; and to make other necessary changes herein except to increase the total seasonal amount of water that may be diverted or to change the priority herein fixed or to increase the acreage which may be irrigated under said priority.

11. That each party hereto bear its own costs incurred herein.

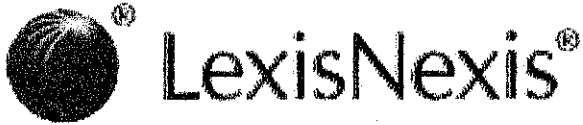
Done in open Court this 16th day of March, A. D. 1923.

Tillman D. Johnson,

JUDGE

Filed in United States District  
Court, District of Utah, March  
16, 1923.

John W. Christy, Clerk,



UNITED STATES PUBLIC LAWS  
102nd Congress -- 2nd Session  
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PUBLIC LAW 102-575 [H.R. 429]  
OCTOBER 30, 1992  
RECLAMATION PROJECTS AUTHORIZATION AND ADJUSTMENT ACT OF 1992

*102 P.L. 575; 106 Stat. 4600; 1992 Enacted H.R. 429; 102 Enacted H.R. 429*

BILL TRACKING REPORT: 102 Bill Tracking H.R. 429  
FULL TEXT VERSION(S) OF BILL: 102 H.R. 429  
CIS LEGIS. HISTORY DOCUMENT: 102 CIS Legis. Hist. P.L. 575

An Act

To authorize additional appropriations for the construction of the Buffalo Bill Dam and Reservoir, Shoshone Project, Pick-Sloan Missouri Basin Program, Wyoming.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

[\*1]  
SECTION 1. <43 USCS § 371 NOTE> SHORT TITLE.

This Act may be cited as the "Reclamation Projects Authorization and Adjustment Act of 1992".

[\*2]  
SEC. 2. DEFINITION AND TABLE OF CONTENTS.

For purposes of this Act, the term "Secretary" means the Secretary of the Interior.

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102 P.L. 575, \*2; 106 Stat. 4600, \*\*;  
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102 P.L. 575, \*402; 106 Stat. 4600, \*\*4649;  
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301.

(B) All funds annually appropriated to the Secretary for the Commission.

(C) All interest earned on amounts in the Account.

(D) Amounts not obligated or expended after the completion of a construction project and available pursuant to section 301(j).

(c) Operation of the Account. (1) All funds deposited as principal in the Account shall earn interest in the amount determined by the Secretary of the Treasury on the basis of the current average market yield on outstanding marketable obligations of the United States of comparable maturities. Such interest shall be added to the principal of the Account until completion of the projects and features specified in the schedule in section 315. After completion of such projects and features, all interest earned on amounts remaining in or deposited to the principal of the Account shall be available to the Commission pursuant to subsection (c)(2) of this section.

(2) The Commission is authorized to administer and expend without further authorization and appropriation by Congress all sums deposited into the Account pursuant to subsections (b)(4)(D), (b)(3)(A), and (b)(3)(B), as well as interest not deposited to the principal of the Account pursuant to paragraph (1) of this subsection. The Commission may elect to deposit funds not expended [\*\*4650] under subsections (b)(4)(D), (b)(3)(A), and (b)(3)(B) into the Account as principal.

(3) All amounts deposited in the Account pursuant to subsections (b) (1) and (2), and any amount deposited as principal under paragraphs (c)(1) and (c)(2), shall constitute the principal of the Account. No part of the principal amount may be expended for any purpose.

(d) Administration by the Utah Division of Wildlife Resources. (1) After the date on which the Commission terminates under section 301, the Utah Division of Wildlife Resources or its successor shall receive --

(A) all amounts contributed annually to the Account pursuant to section 402(b)(3)(B); and

(B) all interest on the principal of the Account, at the beginning of each year. The portion of the interest earned on the principal of the Account that exceeds the amount required to increase the principal of the Account proportionally on March 1 of each year by the percentage increase during the previous calendar year in the Consumer Price Index for urban consumers published by the Department of Labor, shall be available for expenditure by the Division in accordance with this section.

(2) The funds received by the Utah Division of Wildlife Resources under paragraph (1) shall be expended in a manner that fulfills the purposes of the Account established under this Act, in consultation with and pursuant to, a conservation plan and amendments thereto to be developed by the Utah Division of Wildlife Resources, in cooperation with the United States Forest Service, the Bureau of Land Management of the Department of the Interior, and the United States Fish and Wildlife Service.

(3) The funds to be distributed from the Account shall not be applied as a substitute for funding which would otherwise be provided or available to the Utah Division of Wildlife Resources.

(e) Audit by Inspector General. The financial management of the Account shall be subject to audit by the Inspector General of the Department of the Interior.

#### TITLE V -- UTE INDIAN RIGHTS SETTLEMENT

[\*501]

#### SEC. 501. FINDINGS.

(a) Findings. The Congress finds the following --

(1) the unquantified Federal reserved water rights of the Ute Indian Tribe are the subject of existing claims and prospective lawsuits involving the United States, the State, and the District and numerous other water users in the Uinta Basin. The State and the Tribe negotiated, but did not implement, a compact to quantify the Tribe's reserved water rights.

102 P.L. 575, \*501; 106 Stat. 4600, \*\*4650;  
1992 Enacted H.R. 429; 102 Enacted H.R. 429

(2) There are other unresolved Tribal claims arising out of an agreement dated September 20, 1965, where the Tribe deferred development of a portion of its reserved water rights for 15,242 acres of the Tribe's Group 5 Lands in order to facilitate the construction of the Bonneville Unit of the Central Utah Project. In exchange the United States undertook to develop substitute water for the benefit of the Tribe.

(3) It was intended that the Central Utah Project, through construction of the Upalco and Uintah Units (Initial Phase) and the Ute Indian Unit (Ultimate Phase) would provide water [\*\*4651] for growth in the Uinta Basin and for late season irrigation for both the Indians and non-Indian water users. However, construction of the Upalco and Uintah Units has not been undertaken, in part because the Bureau was unable to find adequate and economically feasible reservoir sites. The Ute Indian Unit has not been authorized by Congress, and there is no present intent to proceed with Ultimate Phase construction.

(4) Without the implementation of the plans to construct additional storage in the Uinta Basin, the water users (both Indian and non-Indian) continue to suffer water shortages and resulting economic decline.

(b) Purpose. This Act and the proposed Revised Ute Indian Compact of 1990 are intended to --

- (1) quantify the Tribe's reserved water rights;
- (2) allow increased beneficial use of such water; and
- (3) put the Tribe in the same economic position it would have enjoyed had the features contemplated by the September 20, 1965 Agreement been constructed.

[\*502]

#### SEC. 502. PROVISIONS FOR PAYMENT TO THE UTE INDIAN TRIBE.

(a) Bonneville Unit Tribal Credits. (1) Commencing one year after the date of enactment of this Act, and continuing for fifty years, the Tribe shall receive from the United States 26 percent of the annual Bonneville Unit municipal and industrial capital repayment obligation attributable to thirty-five thousand five hundred acre-feet of water, which represents a portion of the Tribe's water rights that were to be supplied by storage from the Central Utah Project, but will not be supplied because the Upalco and Uintah units are not to be constructed.

(2)(A) Commencing in the year 2042, the Tribe shall collect from the District 7 percent of the then fair market value of thirty-five thousand five hundred acre-feet of Bonneville Unit agricultural water which has been converted to municipal and industrial water. The fair market value of such water shall be recalculated every five years.

(B) In the event thirty-five thousand five hundred acre-feet of Bonneville Unit converted agricultural water to municipal and industrial have not yet been marketed as of the year 2042, the Tribe shall receive 7 percent of the fair market value of the first thirty-five thousand five hundred acre-feet of such water converted to municipal and industrial water. The monies received by the Tribe under this title shall be utilized by the Tribe for governmental purposes, shall not be distributed per capita, and shall be used to enhance the educational, social, and economic opportunities for the Tribe.

(b) Bonneville Unit Tribal Waters. The Secretary is authorized to make any unused capacity in the Bonneville Unit Strawberry Aqueduct and Collection System diversion facilities available for use by the Tribe. Unused capacity shall constitute capacity, only as available, in excess of the needs of the District for delivery of Bonneville Unit water and for satisfaction of minimum streamflow obligations established by this Act. In the event that the Tribe elects to place water in these components of the Bonneville Unit system, the Secretary and District shall only impose an operation and maintenance charge. Such charge shall commence at the time of the Tribe's use of such facilities. The operation [\*\*4652] and maintenance charge shall be prorated on a per acre-foot basis, but shall only include the operation and maintenance costs of facilities used by the Tribe and shall only apply when the Tribe elects to use the facilities. As provided in the Ute Indian Compact, transfers of certain Indian reserved rights water to different lands or different uses will be made in accordance with the laws of the State of Utah governing change or exchange applications.

(c) Election To Return Tribal Waters. Notwithstanding the authorization provided for in subparagraph (b), the Tribe may at any time elect to return all or a portion of the water which it delivered under subparagraph (b) for use in the

102 P.L. 575, \*502; 106 Stat. 4600, \*\*4652;  
1992 Enacted H.R. 429; 102 Enacted H.R. 429

Uinta Basin. Any such Uinta Basin use shall protect the rights of non-Indian water users existing at the time of the election. Upon such election, the Tribe will relinquish any and all rights which it may have acquired to transport such water through the Bonneville Unit facilities.

[\*503]

SEC. 503. TRIBAL USE OF WATER.

(a) Ratification of Revised Ute Indian Compact. The Revised Ute Indian Compact of 1990, dated October 1, 1990, reserving waters to the Ute Indian Tribe and establishing the uses and management of such Tribal waters, is hereby ratified and approved, subject to re-ratification by the State and the Tribe. The Secretary is authorized to take all actions necessary to implement the Compact.

(b) The Indian Intercourse Act. The provisions of section 2116 of the Revised Statutes (25 U.S.C. 177) shall not apply to any water rights confirmed in the Compact. Nothing in this subsection shall be considered to amend, construe, supersede or preempt any State law, Federal law, interstate compact or international treaty that pertains to the Colorado River or its tributaries, including the appropriation, use, development and storage, regulation, allocation, conservation, exportation or quality of those waters.

(c) Restriction on Disposal of Waters into the Lower Colorado River Basin. None of the waters secured to the Tribe in the Revised Ute Indian Compact of 1990 may be sold, exchanged, leased, used, or otherwise disposed of into or in the Lower Colorado River Basin, below Lees Ferry, unless water rights within the Upper Colorado River Basin in the State of Utah held by non-Federal, non-Indian users could be so sold, exchanged, leased, used, or otherwise disposed of under Utah State law, Federal law, interstate compacts, or international treaty pursuant to a final, non-appealable order of a Federal court or pursuant to an agreement of the seven States signatory to the Colorado River Compact; Provided, however, That in no event shall such transfer of Indian water rights take place without the filing and approval of the appropriate applications with the Utah State Engineer pursuant to Utah State law.

(d) Use of Water Rights. The use of the rights referred to in subsection (a) within the State of Utah shall be governed solely as provided in this section and the Revised Compact referred to in section 503(a). The Tribe may voluntarily elect to sell, exchange, lease, use, or otherwise dispose of any portion of a water right confirmed in the Revised Compact off the Uintah and Ouray Indian Reservation. If the Tribe so elects, and as a condition precedent to such sale, exchange, lease, use, or other disposition, that portion of the Tribe's water right shall be changed to a State [\*4653] water right, but shall be such a State water right only during the use of that right off the reservation, and shall be fully subject to State laws, Federal laws, interstate compacts, and international treaties applicable to the Colorado River and its tributaries, including the appropriation, use, development, storage, regulation, allocation, conservation, exportation, or quality of those waters.

(e) Rules of Construction. Nothing in titles II through VI of this Act or in the Revised Ute Indian Compact of 1990 shall

(1) constitute authority for the sale, exchange, lease, use, or other disposal of any Federal reserved water right off the reservation;

(2) constitute authority for the sale, exchange, lease, use, or other disposal of any Tribal water right outside the State of Utah; or

(3) be deemed a congressional determination that any holders of water rights do or do not have authority under existing law to sell, exchange, lease, use, or otherwise dispose of such water or water rights outside the State of Utah.

[\*504]

SEC. 504. TRIBAL FARMING OPERATIONS.

Of the amounts authorized to be appropriated by section 501 \$ 45,000,000 is authorized for the Secretary to permit the

102 P.L. 575, \*504; 106 Stat. 4600, \*\*4653;  
1992 Enacted H.R. 429; 102 Enacted H.R. 429

Tribe to develop over a three-year period --

- (1) a seven thousand five hundred acre farming/feed lot operation equipped with satisfactory off-farm and on-farm water facilities out of tribally-owned lands and adjoining non-Indian lands now served by the Uintah Indian Irrigation Project;
- (2) a plan to reduce the Tribe's expense on the remaining sixteen thousand acres of tribal land now served by the Uinta Indian Irrigation Project; and
- (3) a fund to permit tribal members to upgrade their individual farming operations.

Any non-Indian lands acquired under this section shall be acquired from willing sellers and shall not be added to the reservation of the Tribe.

[\*505]

SEC. 505. RESERVOIR, STREAM, HABITAT AND ROAD IMPROVEMENTS WITH RESPECT TO THE UTE INDIAN RESERVATION.

- (a) Repair of Cedarview Reservoir. Of the amount authorized to be appropriated by section 201, \$ 5,000,000 shall be available to the Secretary, in cooperation with the Tribe, to repair the leak in Cedarview Reservoir in Dark Canyon, Duchesne County, Utah, so that the resultant surface area of the reservoir is two hundred and ten acres.
- (b) Reservation Stream Improvements. Of the amount authorized to be appropriated by section 201, \$ 10,000,000 shall be available for the Secretary, in cooperation with the Tribe and in consultation with the Commission, to undertake stream improvements to not less than 53 linear miles (not counting meanders) for the Pole Creek, Rock Creek, Yellowstone River, Lake Fork River, Uinta River, and Whiterocks River, in the State of Utah. Nothing in this authorization shall increase the obligation of the District to deliver more than 44,400 acre-feet of Central Utah Project water as its contribution to the preservation of minimum stream flows in the Uinta Basin.
- (c) Bottle Hollow Reservoir. Of the amount authorized to be appropriated by section 201, \$ 500,000 in an initial appropriation shall be available to permit the Secretary to clean the Bottle [\*4654] Hollow Reservoir on the Ute Indian Reservation of debris and trash resulting from a submerged sanitary landfill, to remove all non-game fish, and to secure minimum flow of water to the reservoir to make it a suitable habitat for a cold water fishery. The United States, and not the Tribe, shall be responsible for cleanup and all other responsibilities relating to the presently contaminated Bottle Hollow waters.
- (d) Minimum Stream Flows. As a minimum, the Secretary shall endeavor to maintain continuous releases into Rock Creek to maintain twenty-nine cubic feet per second during May through October and continuous releases into Rock Creek of twenty-three cubic feet per second during November through April, at the reservation boundary. Nothing in this authorization shall increase the obligation of the District to deliver more than forty-four thousand four hundred acre-feet of Central Utah Project water as its contribution to the preservation of minimum stream flow in the Uinta Basin.
- (e) Land Transfer. The Bureau shall transfer 315 acres of land to the Forest Service, located at the proposed site of the Lower Stillwater Reservoir as a wildlife mitigation measure.
- (f) Recreation Enhancement. Of the amount authorized to be appropriated by section 201, \$ 10,000,000 shall be available for the Secretary, in cooperation with the Tribe, to permit the Tribe to develop, after consultation with the appropriate fish, wildlife, and recreation agencies, big game hunting, fisheries, campgrounds and fish and wildlife management facilities, including administration buildings and grounds on the Uintah and Ouray Reservation in lieu of the construction of the Lower Stillwater Dam and related facilities.
- (g) Municipal Water Conveyance System. Of the amounts authorized to be appropriated in section 201, \$ 3,000,000

102 P.L. 575, \*505; 106 Stat. 4600, \*\*4654;  
1992 Enacted H.R. 429; 102 Enacted H.R. 429

shall be available to the Secretary for participation by the Tribe in the construction of pipelines associated with the Duchesne County Municipal Water Conveyance System.

[\*506]

SEC. 506. TRIBAL DEVELOPMENT FUNDS.

(a) Establishment. Of the amount authorized to be appropriated by section 201, there is hereby established to be appropriated a total amount of \$ 125,000,000 to be paid in three annual and equal installments to the Tribal Development Fund which the Secretary is authorized and directed to establish for the Tribe.

(b) Adjustment. To the extent that any portion of such amount is contributed after the period described above or in amounts less than described above, the Tribe shall, subject to appropriation Acts, receive, in addition to the full contribution to the Tribal Development Fund, an adjustment representing the interest income as determined by the Secretary, in his sole discretion, that would have been earned on any unpaid amount.

(c) Tribal Development. The Tribe shall prepare a Tribal Development Plan for all or a part of this Tribal Development Fund. Such Tribal Development Plan shall set forth from time to time economic projects proposed by the Tribe which in the opinion of two independent financial consultants are deemed to be reasonable, prudent and likely to return a reasonable investment to the Tribe. The financial consultants shall be selected by the Tribe with the advice and consent of the Secretary. Principal from the Tribal Development Fund shall be permitted to be expended only [\*\*4655] in those cases where the Tribal Development Plan can demonstrate with specificity a compelling need to utilize principal in addition to income for the Tribal Development Plan.

(d) No funds from the Tribal Development Fund shall be obligated or expended by the Secretary for any economic project to be developed or constructed pursuant to subsection (c) of this section, unless the Secretary has complied fully with the requirements of applicable fish, wildlife, recreation, and environmental laws, including the National Environmental Policy Act of 1969 (43 U.S.C. 4321 et seq.).

[\*507]

SEC. 507. WAIVER OF CLAIMS.

(a) General Authority. The Tribe is authorized to waive and release claims concerning or related to water rights as described below.

(b) Description of Claims. The Tribe shall waive, upon receipt of the section 504, 505, and 506 moneys, any and all claims relating to its water rights covered under the agreement of September 20, 1965, including claims by the Tribe that it retains the right to develop lands as set forth in the Ute Indian Compact and deferred in such agreement. Nothing in this waiver of claims shall prevent the Tribe from enforcing rights granted to it under this Act or under the Compact. To the extent necessary to effect a complete release of the claims, the United States concurs in such release.

(c) Resurrection of Claims. In the event the Tribe does not receive on a timely basis the moneys described in section 502, the Tribe is authorized to bring an action for an accounting against the United States, if applicable, in the United States Claims Court for moneys owed plus interest at 10 percent, and against the District, if applicable, in the United States District Court for the District of Utah for moneys owed plus interest at 10 percent. The United States and the District waive any defense based upon sovereign immunity in such proceedings.

TITLE VI -- ENDANGERED SPECIES ACT AND NATIONAL ENVIRONMENTAL POLICY ACT

RECEIVED

NOV 04 1992

NATIONAL BUREAU OF  
INDIAN AFFAIRS  
WASHINGTON, D.C. 20547

UTE INDIAN WATER COMPACT

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The State of Utah, the Ute Indian Tribe of the Uintah and Ouray Reservation, Utah, and the United States of America, acting through their respective representatives agree to a Ute Indian Water Compact as follows:

6

ARTICLE I

7

Purpose of Compact

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The purpose of this Compact is to remove the causes of present and future controversy over the quantification, distribution, and use of all waters claimed by or through the Ute Indian Tribe.

12

ARTICLE II

13

Legal Basis for Compact

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This Compact is made in accordance with the Constitution and Laws of the United States, the State of Utah, and the Ute Indian Tribe.

17

ARTICLE III

18

Water

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There is hereby apportioned, confirmed, and recognized from the waters apportioned to the State of Utah from the Colorado River System to the United States of America in perpetuity, in trust, as Winters Doctrine water rights for the Ute Indian Tribe and others, the depletion of water in the amount of 248,943 acre-feet per annum, and the related gross diversion requirement of

1 470,594 acre-feet per annum, from all sources in accordance with  
2 and as more fully set out in the "Tabulation of Ute Indian Water  
3 Rights" attached hereto and on file with the Utah State Engineer.  
4 The priority date of October 3, 1861, is recognized for land  
5 groups 1 through 5, except for water supplied from storage in the  
6 Central Utah Project, and the priority date of January 5, 1882,  
7 is recognized for land groups 6 and 7, unless indicated otherwise  
8 in the Tabulation. Tables 1, 2, and 3 of the Tabulation list the  
9 total irrigable acreage, maximum allowable depletions and diver-  
10 sion requirements, respectively, for each of the land groups by  
11 stream. No water rights held in trust can be transferred from  
12 the lands listed in said groups without approval of the Secretary  
13 of the Interior.

14 As provided in the Tabulation attached to this Compact, the  
15 Tribe shall take from the Green River in lieu of other sources  
16 the 57,948 acre-foot depletion of water allocable to the Tribe's  
17 group 5 lands. The parties further agree to share the net income  
18 from any sale or lease of such Green River water to third par-  
19 ties. The net income will be 80% to the Ute Indian Tribe and 20%  
20 to the State of Utah. The payment to the State of Utah will be  
21 made promptly upon the receipt by the Ute Indian Tribe of its  
22 payment of net income, and will be deposited in the Utah Division  
23 of Water Resources' Conservation & Development Fund. Any dispute  
24 relating to the calculation of such amounts will be subject to  
25 binding arbitration with no right of judicial review. The prior-

1 ity of such water rights for group 5 lands shall be October 3,  
2 1861.

3 In addition to the water allocated under the previous  
4 paragraphs, there is hereby apportioned, confirmed, and recog-  
5 nized to the United States of America in perpetuity, in trust,  
6 for the Ute Indian Tribe the depletion of 10,000 acre-feet of  
7 water annually having a priority date of October 3, 1861, for  
8 municipal and industrial purposes, which shall be diverted from  
9 the Green River. To the extent that the Tribe or its members use  
10 water other than for irrigation purposes, the quantity so used  
11 shall be included within said 10,000 acre-feet unless a transfer  
12 of water from land listed in the Tabulation is properly made.

13 No water allocated pursuant to this Compact shall be subject  
14 to loss or forfeiture under the laws of the State of Utah or  
15 otherwise.\* Further, the water allocated herein shall not be  
16 restricted to any particular use, but may be used for any purpose  
17 selected by the Tribe in accordance with the procedures provided  
18 for in this Compact.

19 The quantities of water apportioned hereby include all water  
20 rights of every nature and description derived from the reserved  
21 water rights doctrine, from all sources of water, both surface  
22 and underground, and includes all types and kinds of uses,  
23 whether municipal, industrial, recreational, in-stream uses,  
24 sale, exchange, lease, or any other use whatsoever, and encompass-  
25 es all claims asserted by or through the Ute Indian Tribe, and  
26 all persons and entities other than the Tribe whose claims or



1 rights are derived, directly or indirectly, from the reserved  
2 water rights of the Tribe. Thus, any water rights adjudicated or  
3 otherwise established in the future on behalf of any person or  
4 entity and based upon a claim, directly or indirectly, through  
5 any reserved water rights of the Tribe shall be included within  
6 and as a part of the water quantified by this Compact. Any  
7 state water rights acquired by the Tribe for land to which a  
8 reserved right is recognized herein shall be forfeited.

9 Included within the practicably irrigable acreages are (1)  
10 tribal lands and individual Indian allotments; (2) Uintah Indian  
11 Irrigation Project lands, which include tribal lands, allotments,  
12 and some private lands which were originally allotted lands; and  
13 (3) some few lands distributed to former tribal members ter-  
14 minated in accordance with the Ute Partition Act, approved August  
15 27, 1954 (P.L. 83-671, 68 Stat. 868, 25 U.S.C. Sections 667-  
16 667aa). Nothing in this Compact shall enlarge or diminish the  
17 scope of or otherwise affect either the United States' trust  
18 responsibility, if any, or the Ute Indian Tribe's responsibility,  
19 if any, to those persons who have been designated as mixed-bloods  
20 under the Act of August 27, 1954 (68 Stat. 868). The total  
21 acreage under irrigation or susceptible to sustained production  
22 of agricultural crops by means of irrigation is recognized as  
23 129,201 acres, reduced by 7% to 120,157 acres to reflect roads,  
24 yards, fences, rights-of-way, and other non-productive lands.  
25 All lands in the Uintah Indian Irrigation Project are designated

1 assessable or non-assessable. The Secretary of the Interior is  
2 authorized to change the designation from one to the other.

3 Nothing contained herein shall be construed to preclude the  
4 United States as Trustee for the Ute Indian Tribe, the Ute Indian  
5 Tribe, or any of its members from filing application with the  
6 Utah State Engineer for the appropriation of additional water  
7 under the laws of the State of Utah.

8 The diversion and depletion requirements for the water  
9 rights apportioned under this Compact are set forth in Tables 1,  
10 2, and 3 of the Tabulation, consisting of acreage, diversion, and  
11 depletion schedules. These requirements shall be utilized in  
12 evaluating any application undertaken pursuant to Section 73-3-3,  
13 Utah Code Annotated. The delivery schedules set forth in Tables  
14 4, 5, 6, and 7 of the Tabulation shall determine the distribution  
15 of the water allocated hereunder. The Utah State Engineer, in a  
16 manner consistent with the agreements and covenants contained  
17 herein, shall have general administrative supervision of all  
18 surface and ground waters apportioned to the United States in  
19 trust for the Ute Indian Tribe and others, including measurement,  
20 apportionment, and distribution thereof, to the points of diver-  
21 sion from the main sources. The United States and the Tribe  
22 shall have general administrative supervision of all water  
23 apportioned to the United States, including measurement, appor-  
24 tionment, and distribution thereof, within the canal distribution  
25 systems from the various points of river diversion.

1           The United States on behalf of the Tribe, or the Tribe shall  
2 comply with the provisions of Section 73-3-3, Utah Code Annotated  
3 1953, with regard to any change in the point of diversion, place,  
4 or nature of use; except that neither the United States nor the  
5 Tribe need make application to the State Engineer for change of  
6 place of use when the new place of use is within the same canal  
7 system.

8           Pursuant to the congressional legislation required to ratify  
9 this Compact under Article V hereof, and solely as a compromise  
10 for the purposes of this Compact, the parties agree that the  
11 Tribe may, under the terms of this Compact, voluntarily elect to  
12 sell, exchange, lease, use, or otherwise dispose of the reserved  
13 water rights secured to the Tribe by this Compact, outside the  
14 boundaries of its reservation.

15           If the Tribe so elects to move any of its rights, or a  
16 portion thereof, off the reservation, as a condition precedent to  
17 such sale, exchange, lease, use or other disposition, that  
18 portion of the Tribe's water right shall be changed to a Utah  
19 State water right, but shall be such a State water right only  
20 during the use of that right off the reservation. Such right,  
21 during the period of use off the reservation, shall be fully  
22 subject to State laws, federal laws, interstate compacts, and  
23 international treaties applicable to the Colorado River and its  
24 tributaries, including but not limited to the appropriation, use,  
25 development, storage, regulation, allocation, conservation,  
26 exportation, or quality of such waters.

1           None of the waters secured to the Ute Indian Tribe in this  
2 Compact may be sold, exchanged, leased, used, or otherwise  
3 disposed of into or in the Lower Colorado River Basin, below  
4 Lees Ferry, unless water rights within the Upper Colorado River  
5 Basin in the State of Utah held by non-federal, non-Indian users  
6 could be so sold, exchanged, leased, used, or otherwise disposed  
7 of under Utah State law, federal law, interstate compacts, or  
8 international treaties pursuant to a final, non-appealable order  
9 of a federal court or pursuant to an agreement of the seven  
10 States signatory to the Colorado River Compact. Provided,  
11 however, that in no event shall such transfer of Indian water  
12 rights take place without the filing and approval of the ap-  
13 propriate applications with the Utah State Engineer pursuant to  
14 State law.

15           Nothing in this Compact shall:

16           (1) constitute specific authority for the sale, exchange,  
17 lease, use or other disposition of any federal reserved water  
18 right off the reservation;

19           (2) constitute specific authority for the sale, exchange,  
20 lease, use, or other disposition of any tribal water right  
21 outside the State of Utah;

22           (3) be deemed or construed a congressional determination  
23 that any holders of water rights do or do not have authority  
24 under existing law to sell, exchange, lease, use, or otherwise  
25 dispose of such water or water rights outside the State of Utah;  
26 or,

1 (4) be deemed or construed to establish, address, or  
2 prejudice whether, or the extent to which, or to prevent any  
3 party from litigating whether, or the extent to which, any of the  
4 aforementioned laws do or do not permit, govern or apply to the  
5 use of the Tribe's water outside the State of Utah.

6 This Article is not intended to relieve the responsibility  
7 of the parties involved in the Midview Exchange Agreement.

8 ARTICLE IV

9 Enforcement

10 For purposes of compelling compliance with the terms of this  
11 Compact, each party waives the defense of sovereign immunity as  
12 to actions brought by any other party, including any defense  
13 under the Eleventh Amendment to the United States Constitution.  
14 The United States District Court for the District of Utah is  
15 hereby granted jurisdiction to adjudicate any claim made by a  
16 party to this Compact that any other party, or its officials, are  
17 acting to impair or violate any right or privilege in this  
18 Compact. The federal court jurisdiction provided for herein  
19 shall not be diminished by reason of a related state court  
20 proceeding. While the parties agree that the primary respon-  
21 sibility for protecting and preserving the Ute Tribe's reserved  
22 water rights rests with the United States and the Tribe, the  
23 State of Utah, through the State Engineer, shall use its best  
24 efforts to see that the reserved water rights of the Ute Tribe  
25 secured in this Compact are protected from impairment; provided,  
26 however, that nothing herein shall subject the State of Utah or

1 its officers or employees to a claim for monetary damages in its  
2 efforts to so protect tribal water rights.

3 ARTICLE V

4 Ratification and Amendment

5 Each party acknowledges that in order for this Compact to  
6 constitute a final and permanent settlement of tribal reserved  
7 water rights, this Compact must be approved or ratified by the  
8 United States Congress, the Legislature of the State of Utah, and  
9 the Ute Indian Tribe through referendum of the Tribe's member-  
10 ship. The parties shall use their best efforts to have the  
11 approvals or ratifications undertaken as expeditiously as pos-  
12 sible. The parties hereto agree that the terms of this Compact  
13 have the force and effect of law and agree to adopt all statutes,  
14 regulations and ordinances that are, or may be, necessary to  
15 harmonize existing statutes, regulations and ordinances with this  
16 Compact, and agree that this Compact may be included within any  
17 general stream adjudication. The Secretary of the Interior is  
18 authorized to take all actions necessary to implement this  
19 Compact.

20 This Compact is the result of a voluntary compromise agree-  
21 ment between the Ute Indian Tribe, the State of Utah and the  
22 United States of America. Accordingly, no provision of this  
23 Compact or its adoption as part of any pending general stream  
24 adjudication shall be construed as altering or affecting the  
25 determination of any issues relating to the claimed reserved  
26 water rights which may belong to other Indian tribes.

1 DATED: \_\_\_\_\_

2 UTE INDIAN TRIBE

3 By: \_\_\_\_\_

4 STATE OF UTAH

5 By: \_\_\_\_\_

6 UNITED STATES OF AMERICA

7 By: \_\_\_\_\_

TABULATION  
OF  
UTE INDIAN WATER RIGHTS

Ute Indian Tribe of the Uintah  
and Ouray Reservation, Utah

October, 1990



Tabulation of  
Ute Indian Water Rights  
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SOURCE: Whiterocks River

CANAL: School Ditch No.

POINT(S) OF DIVERSION: (1) N 507 ft. E 1454 ft. from W/4 Cor, Sec 18, T 1N, R 1E, USBM.

| ###IRRIGATION         | ---NORTH EAST QUARTER--- |       |       |       | ---NORTH WEST QUARTER--- |       |       |       | ---SOUTH WEST QUARTER--- |       |      |       | ---SOUTH EAST QUARTER--- |     |     |     | Section Totals |
|-----------------------|--------------------------|-------|-------|-------|--------------------------|-------|-------|-------|--------------------------|-------|------|-------|--------------------------|-----|-----|-----|----------------|
|                       | NE%                      | NW%   | SW%   | SE%   | NE%                      | NW%   | SW%   | SE%   | NE%                      | NW%   | SW%  | SE%   | NE%                      | NW% | SW% | SE% |                |
| Sec 18 T 1N R 1E USBM |                          |       |       |       |                          |       |       |       |                          |       | 5.60 | 37.60 | 0.30                     |     |     |     | 44.50          |
| Sec 19 T 1N R 1E USBM |                          |       |       |       | 15.70                    | 39.90 | 39.96 | 25.00 | 25.30                    | 40.02 |      |       | 3.50                     |     |     |     | 189.38         |
| Sec 24 T 1N R 1W USBM | 42.21                    | 39.23 | 15.40 | 35.16 |                          |       |       |       |                          |       |      |       |                          |     |     |     | 132.00         |

or a Total of 365.88 acres.

Irrigable Acreage is 340.27 acres.

Source & Use No. 14

SOURCE: Whiterocks River

CANAL: School Ditch No. 2

POINT(S) OF DIVERSION: (1) N 1425 ft. W 903 ft. from S/4 Cor, Sec 18, T 1N, R 1E, USBM.

| ###IRRIGATION         | ---NORTH EAST QUARTER--- |     |     |     | ---NORTH WEST QUARTER--- |     |     |     | ---SOUTH WEST QUARTER--- |     |     |      | ---SOUTH EAST QUARTER--- |     |     |     | Section Totals |
|-----------------------|--------------------------|-----|-----|-----|--------------------------|-----|-----|-----|--------------------------|-----|-----|------|--------------------------|-----|-----|-----|----------------|
|                       | NE%                      | NW% | SW% | SE% | NE%                      | NW% | SW% | SE% | NE%                      | NW% | SW% | SE%  | NE%                      | NW% | SW% | SE% |                |
| Sec 18 T 1N R 1E USBM |                          |     |     |     |                          |     |     |     |                          |     |     | 9.85 |                          |     |     |     | 9.85           |
| Sec 19 T 1N R 1E USBM |                          |     |     |     | 2.75                     |     |     |     |                          |     |     |      |                          |     |     |     | 2.75           |

or a Total of 12.60 acres.

Irrigable Acreage is 11.72 acres.

Source & Use No. 15

SOURCE: Whiterocks River

CANAL: Big Six Canal

POINT(S) OF DIVERSION: (1) N 754 ft. E 1200 ft. from SW Cor, Sec 31, T 1N, R 1E, USBM.

| ###IRRIGATION        | ---NORTH EAST QUARTER--- |     |     |     | ---NORTH WEST QUARTER--- |       |       |       | ---SOUTH WEST QUARTER--- |       |     |     | ---SOUTH EAST QUARTER--- |     |     |     | Section Totals |
|----------------------|--------------------------|-----|-----|-----|--------------------------|-------|-------|-------|--------------------------|-------|-----|-----|--------------------------|-----|-----|-----|----------------|
|                      | NE%                      | NW% | SW% | SE% | NE%                      | NW%   | SW%   | SE%   | NE%                      | NW%   | SW% | SE% | NE%                      | NW% | SW% | SE% |                |
| Sec 7 T 1S R 1E USBM |                          |     |     |     | 40.00                    | 42.22 | 41.46 | 40.00 | 40.00                    | 41.02 |     |     |                          |     |     |     | 244.70         |

or a Total of 244.70 acres.

Irrigable Acreage is 227.57 acres.

Source & Use No. 16

SOURCE: Whiterocks River

CANAL: Deep Creek Canal

POINT(S) OF DIVERSION: (1) S 1012 ft. W 148 ft. from N/4 Cor, Sec 5, T 1S, R 1E, USBM.

| ###IRRIGATION         | ---NORTH EAST QUARTER--- |       |       |       | ---NORTH WEST QUARTER--- |       |       |       | ---SOUTH WEST QUARTER--- |       |       |       | ---SOUTH EAST QUARTER--- |       |       |       | Section Totals |
|-----------------------|--------------------------|-------|-------|-------|--------------------------|-------|-------|-------|--------------------------|-------|-------|-------|--------------------------|-------|-------|-------|----------------|
|                       | NE%                      | NW%   | SW%   | SE%   | NE%                      | NW%   | SW%   | SE%   | NE%                      | NW%   | SW%   | SE%   | NE%                      | NW%   | SW%   | SE%   |                |
| Sec 34 T 1N R 1E USBM |                          |       |       |       |                          |       |       |       |                          |       |       |       |                          |       | 14.69 | 30.02 | 44.71          |
| Sec 35 T 1N R 1E USBM |                          |       |       |       |                          |       |       |       |                          |       | 40.00 |       |                          |       |       |       | 40.00          |
| Sec 1 T 1S R 1E USBM  |                          |       |       |       | 40.78                    | 40.00 |       |       | 40.00                    | 40.00 | 26.83 |       |                          | 33.00 | 40.00 |       | 260.61         |
| Sec 2 T 1S R 1E USBM  |                          |       |       | 40.00 | 41.50                    | 41.86 | 40.00 | 35.00 | 34.53                    | 7.36  |       |       | 40.00                    |       |       | 34.00 | 314.25         |
| Sec 3 T 1S R 1E USBM  | 41.69                    | 29.60 | 26.45 | 40.00 |                          |       |       |       | 26.15                    |       | 40.00 | 40.00 | 37.36                    | 25.00 |       | 40.00 | 346.25         |
| Sec 4 T 1S R 1E USBM  |                          |       |       |       |                          |       |       |       | 21.10                    |       |       |       |                          | 11.50 | 40.00 | 40.00 | 112.60         |











## Index of pictures taken during field visit

| Picture # | Direction | Description                                                                                    |
|-----------|-----------|------------------------------------------------------------------------------------------------|
| 1202      | -         | Headgate #95648*: legal diversion from Deep Creek Canal (DCC) into Lateral 9*                  |
| 1203      | -         | Recent earthwork below diversions                                                              |
| 1204      | -         | Weir #96788* showing a piece of 6" perforated PVC pipe                                         |
| 1205      | SSE       | Water standing on McKee property (does not have water rights)                                  |
| 1206      | S         | Purported location of pipe diversion                                                           |
| 1207      | SE        | McKee property; foreground - illegal ditch containing illegal diversion                        |
| 1208      | SE        | McKee property showing standing water on field without water right                             |
| 1209      |           | Illegal diversion on the west side of the fence line                                           |
| 1210      | N         | Illegal ditch in the foreground, fence line along which pipeline purportedly runs              |
| 1211      | E         | Illegal ditch                                                                                  |
| 1212      | SE        | Illegal ditch                                                                                  |
| 1213      | SE        | Illegal ditch                                                                                  |
| 1214      | S         | Illegal ditch and irrigated property without water right                                       |
| 1215      | E         | Illegal ditch                                                                                  |
| 1216      | SE        | McKee property showing standing water on field without water right                             |
| 1217      | SE        | McKee property showing standing water on field without water right                             |
| 1218      | ESE       | McKee property showing standing water on field without water right                             |
| 1219      | S         | S. of purported pipeline location                                                              |
| 1220      | SSE       | Water standing on McKee property (does not have water rights); foreground - illegal ditch      |
| 1221      | SSE       | Water standing on McKee property (does not have water rights)                                  |
| 1222      |           | Purported location of pipeline - no pipeline found (will be checked following water turnoff)   |
| 1223      | E         | Purported location of pipeline                                                                 |
| 1224      | E         | Purported location of pipeline                                                                 |
| 1225      |           | Purported location of pipeline - no pipeline found (will be checked following water turnoff)   |
| 1226      | ENE       | Illegal surface diversion and purported location of pipeline                                   |
| 1227      | ESE       | Apparent irrigation infrastructure and fairly recent earthwork                                 |
| 1228      | E         | Purported location of pipeline                                                                 |
| 1229      |           | Halfway between legal turnout and main canal, along fenceline. North of fence. Water valve.    |
| 1230      |           | Halfway between legal turnout and main canal, along fenceline. North of fence. Water valve.    |
| 1231      | E         | Foreground - housing of illegal valve                                                          |
| 1232      | W         | Foreground - housing of illegal valve                                                          |
| 1233      | NW        | Right side - downstream side of legal diversion from main canal; left side - illegal diversion |
| 1234      | NW        | Illegal surface water diversion                                                                |
| 1235      | WSW       | Illegal surface water diversion                                                                |
| 1236      |           | Headgate #95648: legal diversion from Deep Creek Canal (DCC) into Lateral 9*                   |
| 1237      | SSE       | Recent earthwork near illegal surface water diversion                                          |
| 1238      | SSW       | Recent earthwork near illegal surface water diversion                                          |

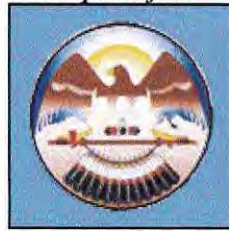


|      |     |                                                                                                             |
|------|-----|-------------------------------------------------------------------------------------------------------------|
| 1239 | ESE | Recent earthwork near illegal SW diversion                                                                  |
| 1240 |     | Weir #96788 showing a piece of 6" perforated PVC pipe                                                       |
| 1241 |     |                                                                                                             |
| 1242 |     | Irrigation culvert and recent earthwork (taken by Karnel Murdock)                                           |
| 1243 |     | Recent earthwork damming diversion from legal lateral (taken by Karnel Murdock)                             |
| 1244 |     | Recent earthwork damming diversion from legal lateral (taken by Karnel Murdock)                             |
| 1245 |     | Recent earthwork damming diversion from legal lateral (taken by Karnel Murdock)                             |
| 1246 | SW  | Illegal ditch running parallel to legal lateral (taken by KM)                                               |
| 1247 | SW  | McKee property showing standing water on field without water right; foreground: illegal ditch (taken by KM) |
| 1248 | S   | Illegal ditch running parallel to legal lateral, also standing water on McKee property (taken by KM)        |
| 1249 | SW  | Water standing on McKee property (does not have water rights); foreground - illegal ditch                   |
| 1250 | WNW | Greg McKee and Chris ?                                                                                      |
| 1251 |     | Tracks of bulldozer near illegal diversion from DCC                                                         |

\*Lateral, headgate, and weir numbers taken from BIA irrigation infrastructure schematics

# **Investigation into Illegal Water Diversion From Deep Creek Canal**

*Prepared for:*



UTE INDIAN TRIBE  
FORT DUCHESNE, UT

*Submitted By:*



NATURAL RESOURCES CONSULTING ENGINEERS, INC.  
FORT COLLINS, CO

**March 26, 2013**

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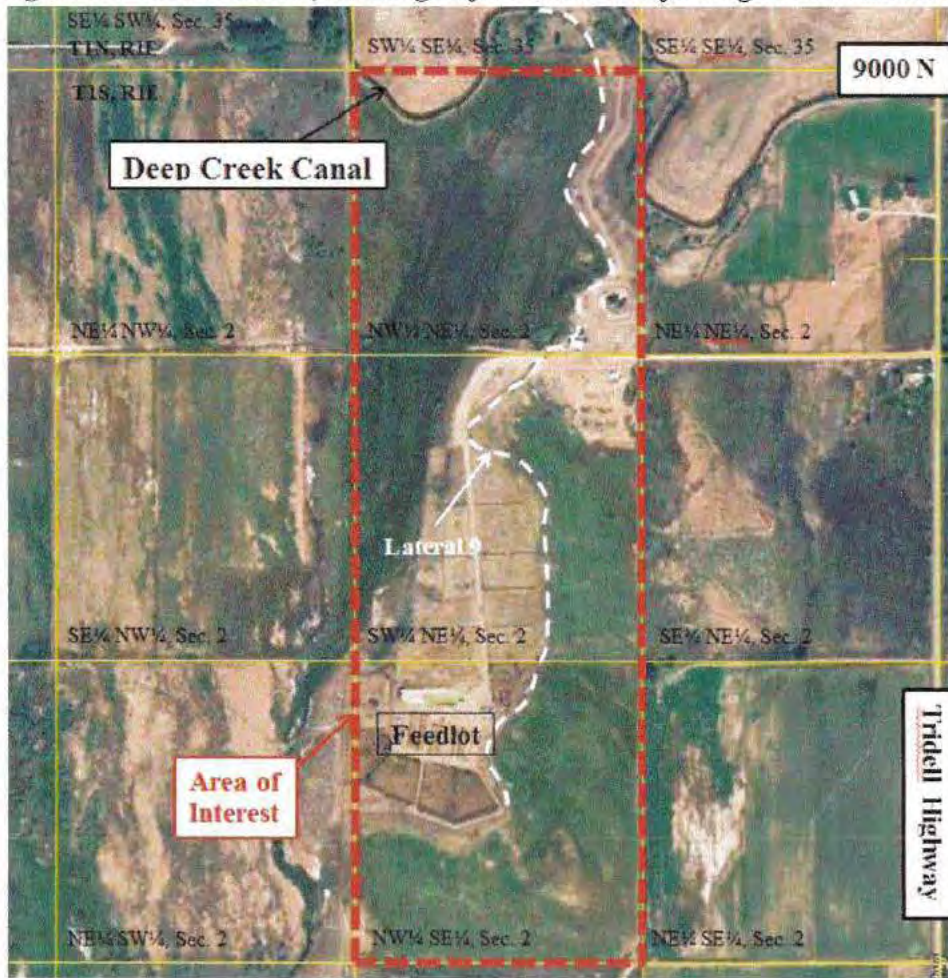
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## **1 Introduction**

This report was prepared in response to a request by the Ute Business Committee that Natural Resources Consulting Engineers, Inc. (NRCE) investigate an alleged illegal water diversion from the Uintah Indian Irrigation Project (UIIP, Project) Deep Creek Canal onto lands owned by Mr. Gregory McKee near Tridell, Utah. NRCE was asked to locate a 4-inch buried pipeline diverting from Deep Creek Canal and to determine if Project water is otherwise being used outside of the place of use for the Tribe's reserved Winters water right. To this end, NRCE performed site visits on September 6, 2012 and again on September 18, 2012 in an attempt to identify and assess the alleged illegal water use. Furthermore, NRCE investigated water rights associated with the area of interest using the State of Utah (State) water rights database and the Bureau of Indian Affairs (BIA) Project water delivery records to determine if the parcels in question are legally entitled to water from the Deep Creek Canal. Figure 1-1 reflects aerial photography and delineation of the area of interest, in which the alleged illegal diversion occurs, as well as legal descriptions of the surrounding area.

Through this investigation NRCE determined that Mr. McKee owns the three parcels in the area of interest (see Figure 1-1) and irrigates portions of each parcel. The parcels are located in Section 2, T1S, R1E, the W $\frac{1}{2}$  NE $\frac{1}{4}$  and the NW $\frac{1}{4}$  SE $\frac{1}{4}$ . The Certificate of Appropriation for the Project water right does not identify any of the parcels in the area of interest as places of use. State water right 43-3202 is owned by Mr. McKee and indicates the W $\frac{1}{2}$  NE $\frac{1}{4}$  as its place of use. However, infrastructure necessary to convey water from the point of diversion of this right (within Goodrich Gulch) to its place of use was not found. No records indicating the presence of a carriage agreement between Mr. McKee and the Project were found.

Figure 1-1: Area of interest, including major roads and major irrigation infrastructure.



## 2 Current Water Use in the Area of Interest

The area of interest encompasses approximately 121 acres. For illustrative purposes only, NRCE separated the area of interest into three distinct areas based on current water use, as shown in Figure 2-1. It is important to note that the description of water use in this section of the report describes the actual conditions that NRCE observed, not the legal use associated with particular water rights. A discussion of the legal water rights and land ownership is included in Sections 3.2 through 3.4.

Area 1, depicted in blue, includes approximately 41 acres of irrigated pasture in the W $\frac{1}{2}$  of the NE $\frac{1}{4}$  of Section 2. This area is irrigated using water from Deep Creek Canal through two ditches that branch off of Lateral 9.

Area 2, depicted in red, includes approximately 42 acres and encompasses the feedlot in SW $\frac{1}{4}$  NE $\frac{1}{4}$  and NW $\frac{1}{4}$  SE $\frac{1}{4}$  of Section 2 and the residence in the SE corner of NW $\frac{1}{4}$  NE $\frac{1}{4}$  of Section 2. Water is supplied to both the residence and feedlot from the Tridell-Lapoint regional culinary water system.

Area 3, depicted in yellow, includes approximately 38 acres of irrigated pasture to the south and east of the feedlot. This area receives water from Deep Creek Canal via Lateral 9. Figure 2-1 illustrates the separation of the area of interest into these three pieces. Figure 2-2 further illustrates the diversion and use of water on the subject property.

Figure 2-1: Division of Subject Property based on Current Water Use

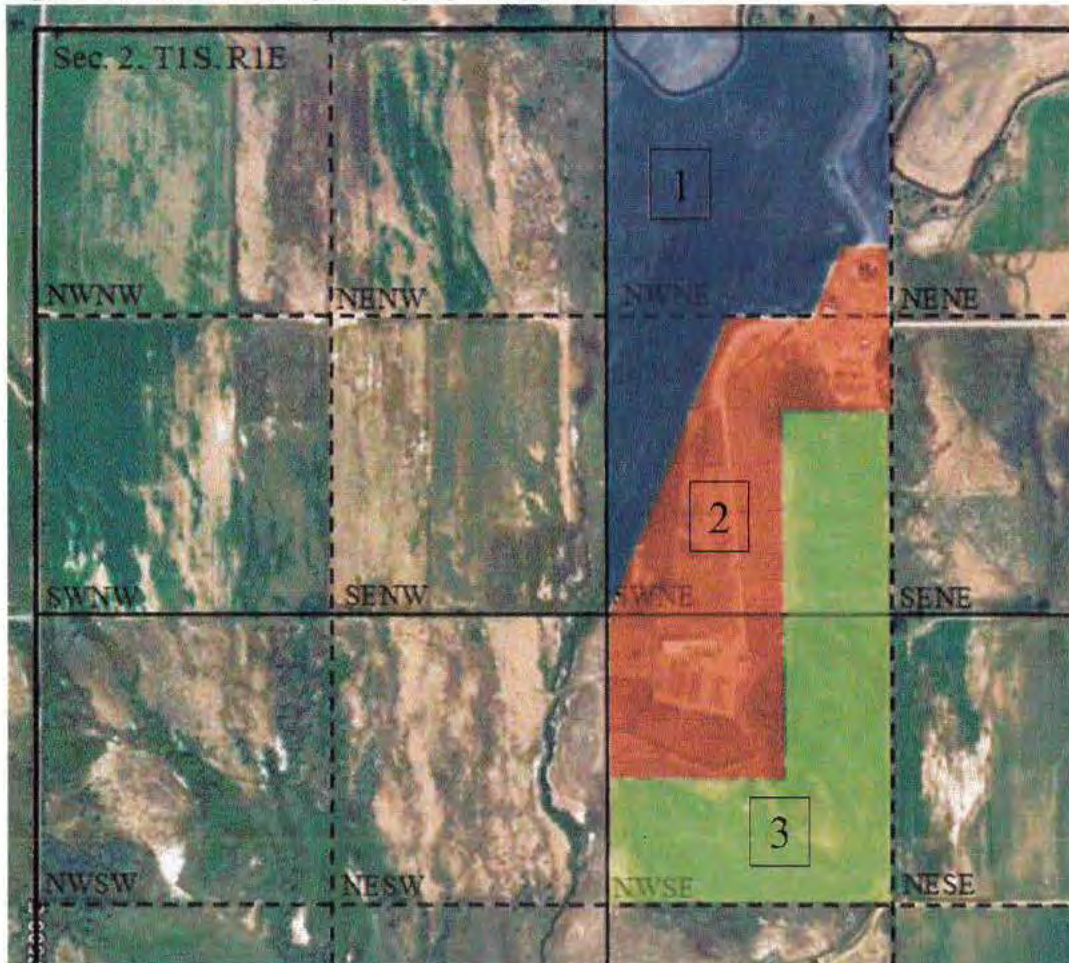
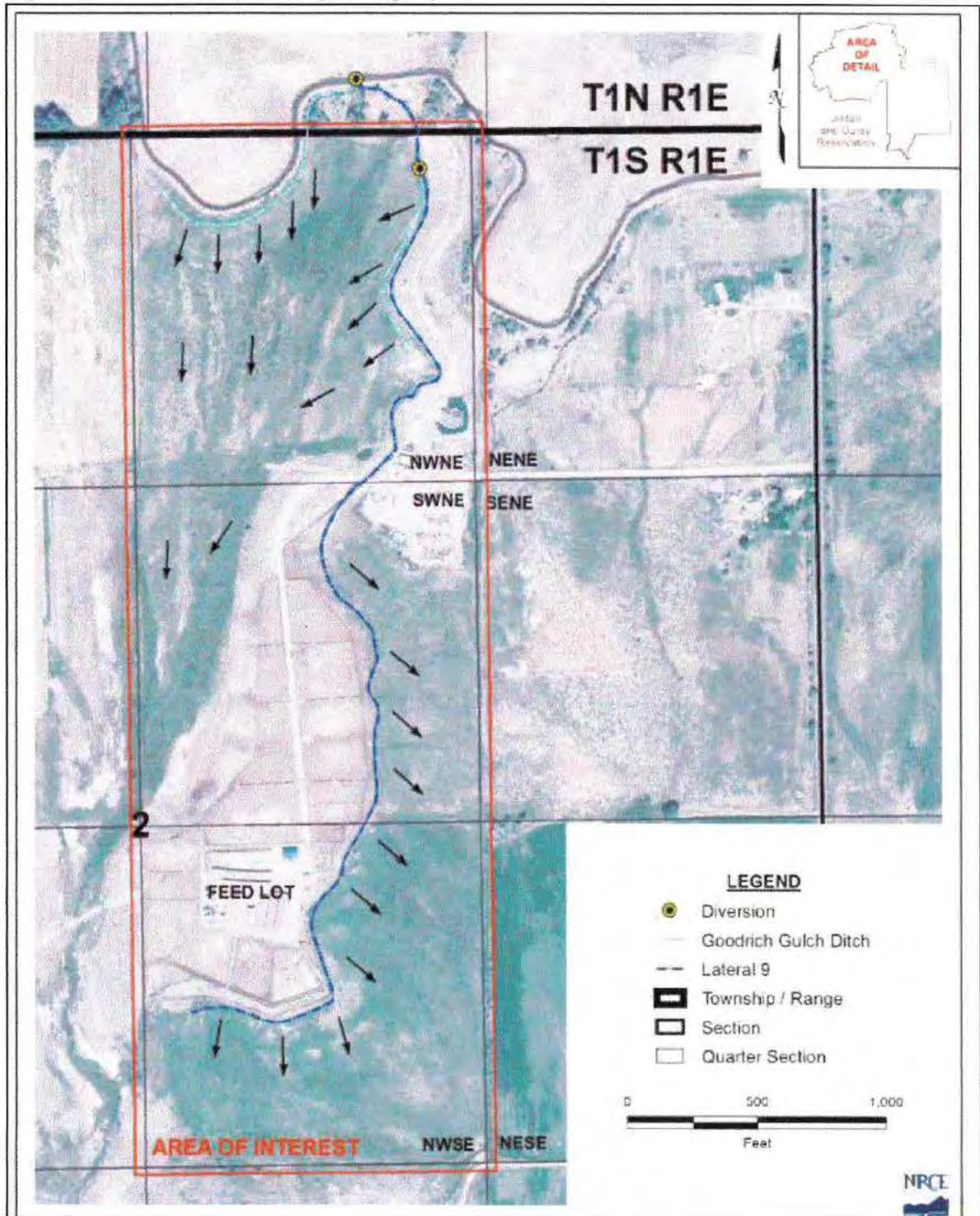


Figure 2-2: Water Use on the Subject Property





### 3 Investigations

Various investigations were undertaken to understand water uses on the property and to address the various questions related to the alleged illegal diversion of water from the Deep Creek Canal. These investigations included the following components, which are discussed in subsequent sections:

- 1) Site visits to the area of interest
- 2) Land ownership investigation
- 3) Investigation into the Uintah Indian Irrigation Project
- 4) Review of water delivery schedules and assessment charges
- 5) Review of culinary (domestic) water delivery records

#### 3.1 Site Visits

An integral part of assessing the alleged illegal water diversion was to visit the site and determine if, how, and to what extent water was being illegally diverted from the Deep Creek Canal. NRCE visited the site on September 6 and again on September 18, 2012, to attempt to make these determinations. Similar results were found on both visits. The initial site visit was performed by NRCE and Mr. Karnel Murdock, irrigation supervisor for the BIA. On the second site visit, NRCE was accompanied by Mr. Darwin Wisdom (private investigator hired by the Business Committee), Mr. Murdock, and Brian Tabbee (BIA law enforcement officer). The second site visit took place the afternoon of September 18, 2012. Figure 3-1 summarizes our observations from the site visits. They are described in depth in the subsequent sections.

##### 3.1.1 *Alleged Illegal Pipeline Diversion*

Information provided to NRCE by Mr. Wisdom suggested the presence of a 4-inch buried pipeline diverting water from Deep Creek Canal to a feedlot owned by Mr. Greg McKee. The approximate location of this diversion was provided to Mr. Wisdom, who in turn provided the approximate location to NRCE. An investigation of this location was performed, including combing the canal bottom with a shovel and a rake to locate any diversion works. Water depth and turbidity made it impossible to locate any diversion works at this time. However, a valve clearly related to a pipeline was observed along the north boundary of the NW $\frac{1}{4}$  NE $\frac{1}{4}$ . Figure 3-3 shows the valve housing structure and the hexagonal flange located therein. The location of this valve housing is indicated on Figure 3-1.

##### 3.1.2 *Canal Flow during Investigation*

Owing to the quantity and turbidity of flow observed during the September 6 site visit, which inhibited a thorough investigation of the irrigation works along the Deep Creek Canal, NRCE requested that the diversion into Deep Creek Canal from the Uinta River be stopped the morning of the September 18 site visit. Flow records at the Deep Creek Canal diversion indicate that the diversion was stopped at about 8:00 a.m., but there was significant residual

flow during the site visit at 12:00 p.m., once again preventing a thorough investigation of the canal bottom. Figure 3-2 illustrates the flow during the September 18 site visit.

**Figure 3-1: Structures and features noted during site visit.**



**Figure 3-2: Water flow in Deep Creek Canal during the September 18, 2012 site visit.**



### 3.1.3 Surface Water Diversion

During the September 6th site visit, surface water diversions were supplying water to the W $\frac{1}{2}$  NE $\frac{1}{4}$  (see Area 1 in Figure 2-1). The small ditches providing water to this area are fed from Lateral 9, which diverts water from Deep Creek Canal. Note that nomenclature varies amongst information sources, and the name Lateral 9 was obtained from the BIA. Figure 3-4 is a photograph of flood irrigation water on the W $\frac{1}{2}$  NE $\frac{1}{4}$  and water flow down the small ditch. There was no water flow during the September 18th visit, due in part to the requested shutoff at the diversion from Uinta River.

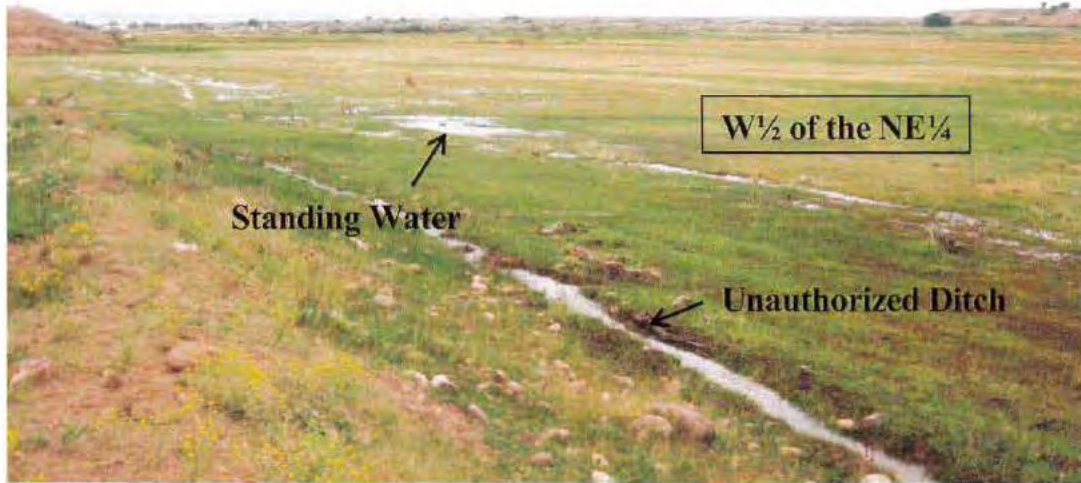
### 3.1.4 Site Visit Findings

- The diversion works for a buried pipeline were not located in Deep Creek Canal at the alleged location
- Valve and housing related to a buried pipeline were located on the north boundary of NW $\frac{1}{4}$  NE $\frac{1}{4}$
- Irrigation water is delivered to W $\frac{1}{2}$  NE $\frac{1}{4}$  (Area 1) by two small ditches diverting from Lateral 9
- No alternative supply works capable of delivering water resources to the W $\frac{1}{2}$  NE $\frac{1}{4}$  were observed in the area

**Figure 3-3: Valve housing and hexagonal flange.**



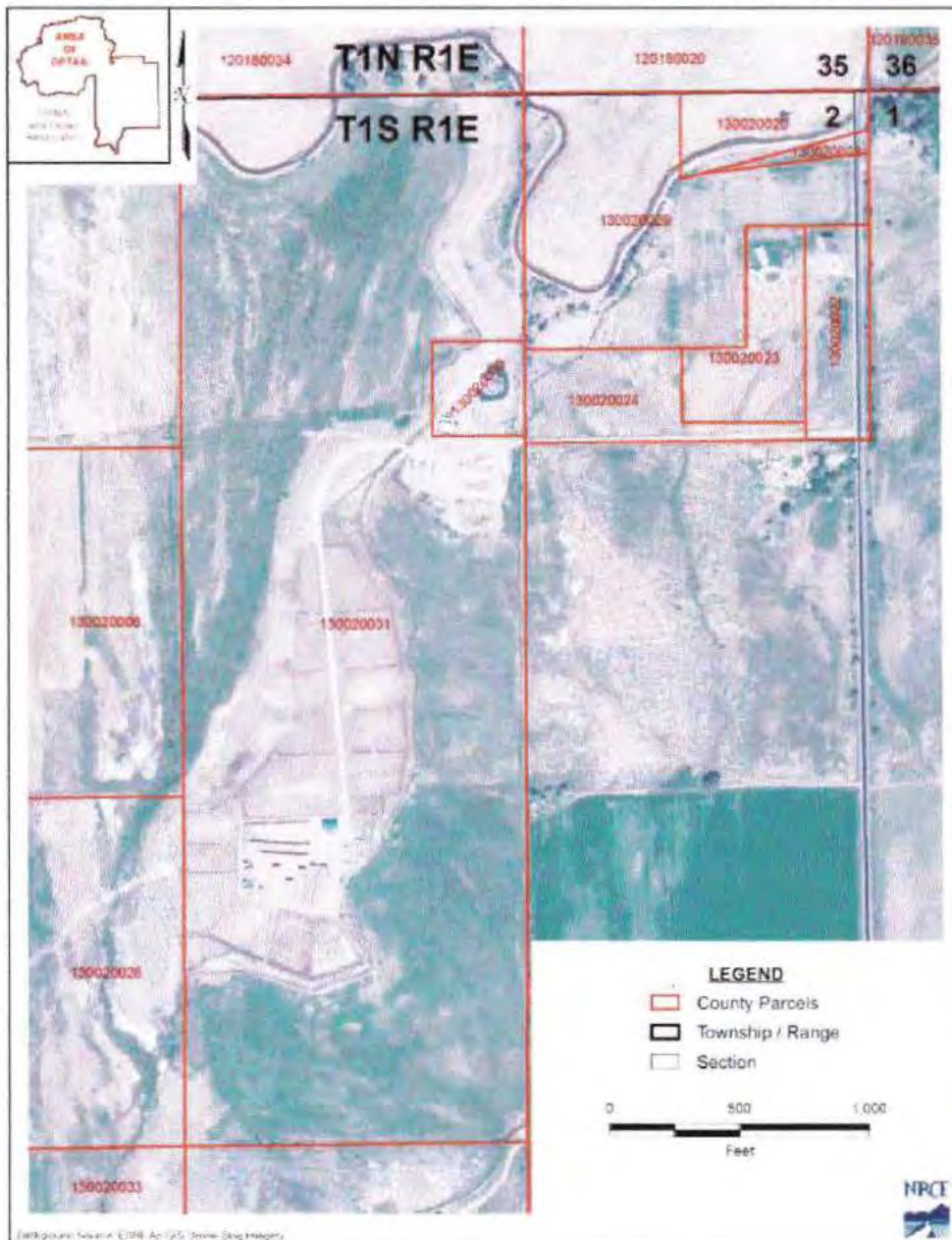
**Figure 3-4: Standing water on Area 1, September 6, 2012.**



**3.2 Land Ownership**

NRCE researched the land ownership in the area to determine the ownership of lands being irrigated by the unauthorized surface water diversion identified during site visits. Uintah County assessor records indicate that all of the parcels in the area of interest are owned by Mr. Greg McKee. Figure 3-5 indicates the land ownership in the area of interest and the adjoining properties.

**Figure 3-5: Land ownership in the area of interest (Uintah County Recorder).**



### 3.3 The Uintah Indian Irrigation Project

The Uintah Valley Indian Reservation was opened to non-Indian settlement in 1905. Act of Mar 3, 1905, Ch. 1479, 33 Stat. 1048, 1069-70. That same year the State of Utah issued a Certificate of Appropriation of Water to the U.S. Indian Irrigation Service for the appropriation of surface waters for Indian lands in Uintah County, Utah. Certificate No. 43-3004. The United States took this action three years before the U.S. Supreme Court recognized the Doctrine of Reserved Indian Water Rights in the landmark case of *Winters v. United States*, 207 U.S. 564 (1908), holding that a federal water right was impliedly reserved in the establishment of Indian reservations. Following the *Winters* decision, the United States District Court for the District of Utah entered a decree on March 16, 1923, recognizing a Winters' reserved water right for the waters conveyed through various irrigation canals and ditches built by the U.S. Indian Irrigation Service for the Ute Indians. One of the ditches included in the decree is the Deep Creek Canal in Uintah County, Utah.

#### 3.3.1 The Deep Creek Canal

The Deep Creek Canal serves approximately 6,000 acres with Indian water rights and 100 acres with non-Indian water rights (BIA, 2012). In order to receive Indian Irrigation Project water through Project infrastructure, land must have either a Project water right or a private carriage agreement. Lands entitled to receive project water are identified under the 1905 Certificate of Appropriation of Water from the State of Utah. That Certificate does not include the land owned by Gregory McKee. Furthermore, there are no carriage agreements that allow non-Indian water to be conveyed through the Deep Creek Canal to Section 2, Township 1 South, Range 1 East, Uintah Special Meridian.

#### 3.3.2 Utah State Water Rights Database

NRCE consulted the State of Utah water rights database to determine if Mr. McKee owns rights to an alternative surface water flow. This research indicated that Mr. McKee has a water right to Goodrich Gulch for irrigation of 47.13 acres in the W $\frac{1}{2}$  NE $\frac{1}{4}$  of Section 2.

The water right to Goodrich Gulch (43-3202) is for 0.62 cfs applicable to a 47.13 acre portion of the W $\frac{1}{2}$  NE $\frac{1}{4}$ . There is no mention of a measurement device at the point of diversion from Goodrich Gulch, nor was a diversion record discovered during research, preventing investigation into the quantity of water diverted. More importantly, delivery infrastructure that is required to convey water from Goodrich Gulch to the W $\frac{1}{2}$  NE $\frac{1}{4}$  was not found. Mr. McKee currently uses Deep Creek Canal to deliver water to this area; however, he does not have a carriage agreement with the Project allowing legal use of the Project infrastructure to convey the water from Goodrich Gulch.

Figure 3-6: Lands served by the Goodrich Gulch right, No. 43-3202 (State).

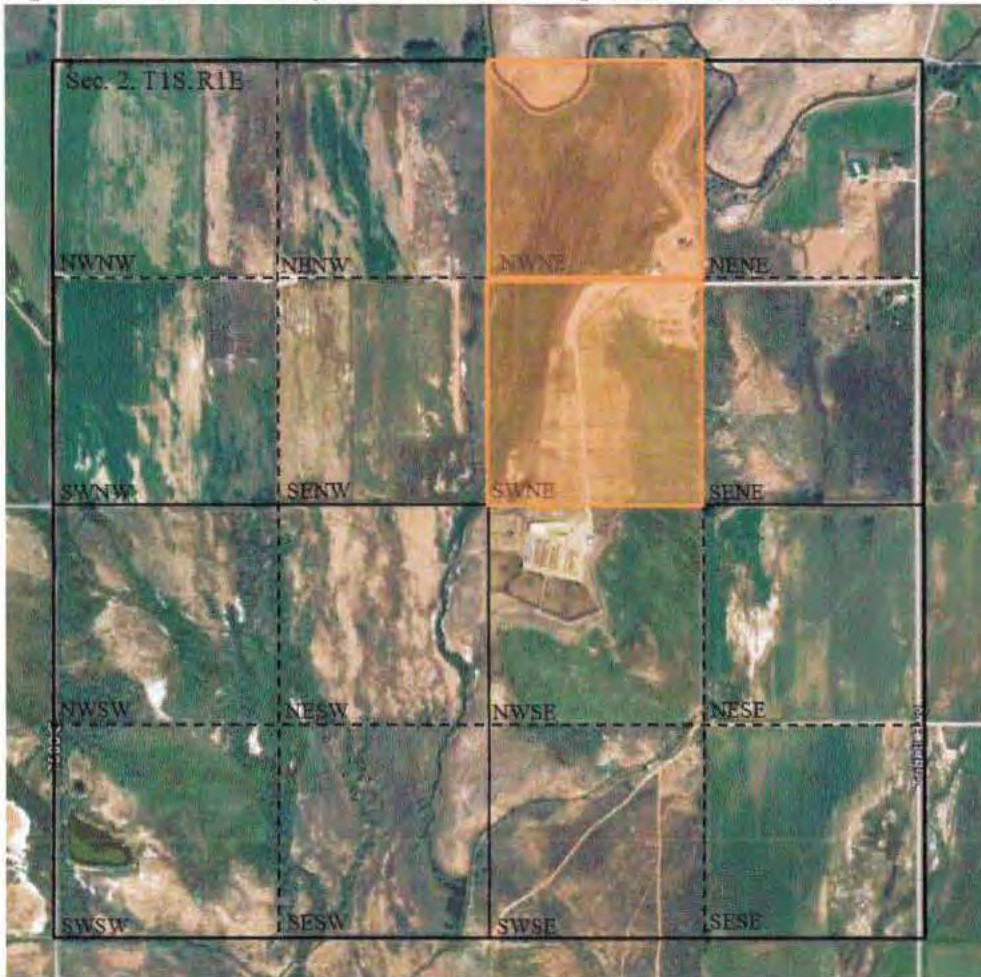
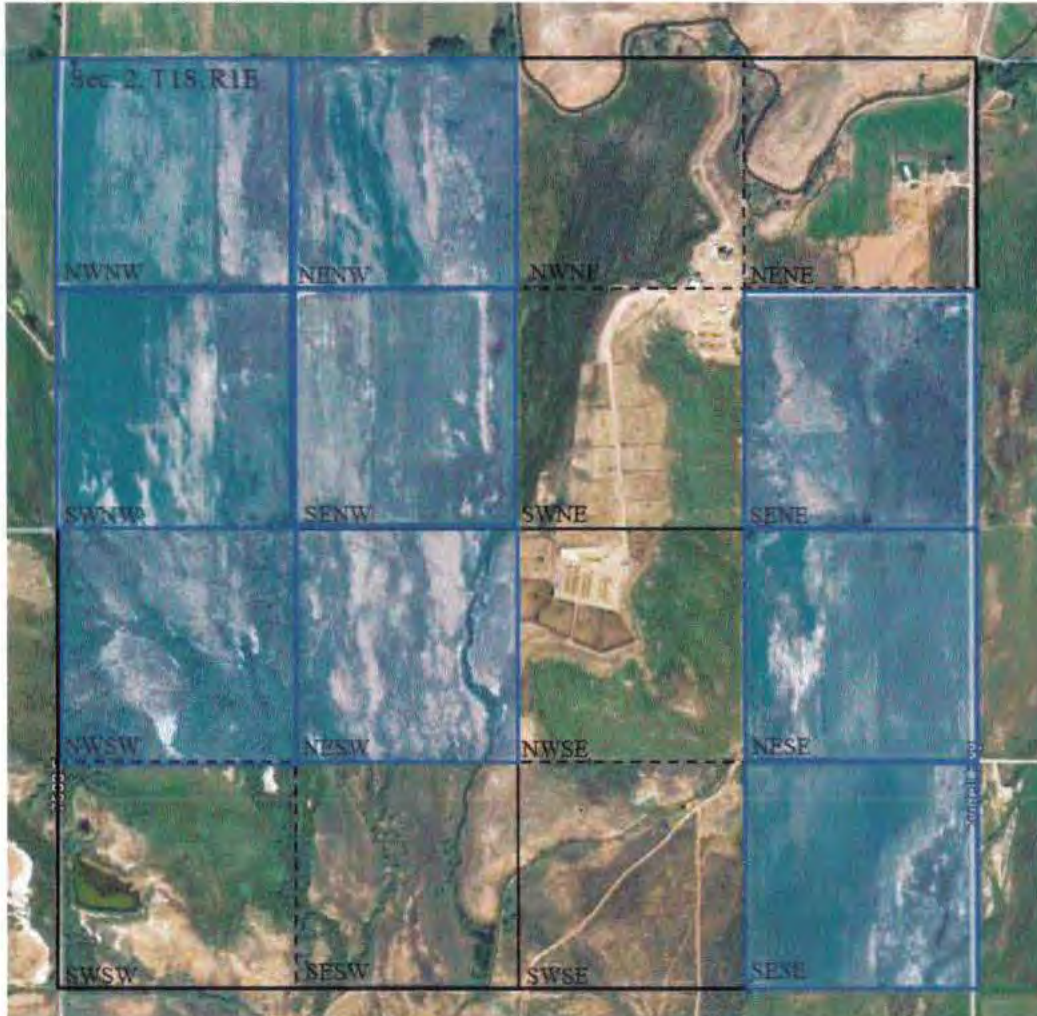


Figure 3-7 illustrates the legal place of use for the water right recognized under the 1905 Certificate of Appropriation for the Ute Indian Water Right.

**Figure 3-7: Lands served by the Project water right according to the Certificate of Appropriation (1905) for the Ute Indians.**



### 3.3.3 Water Compact Tabulation

NRCE researched Ute Water Compact tabulations which inventory the lands with Tribal reserved water rights. The 1990 tabulation, which was approved by Congress, did not include any of the parcels in the area of interest (Figure 1-1) as places of use using the Tribe's water right from the Uinta River.

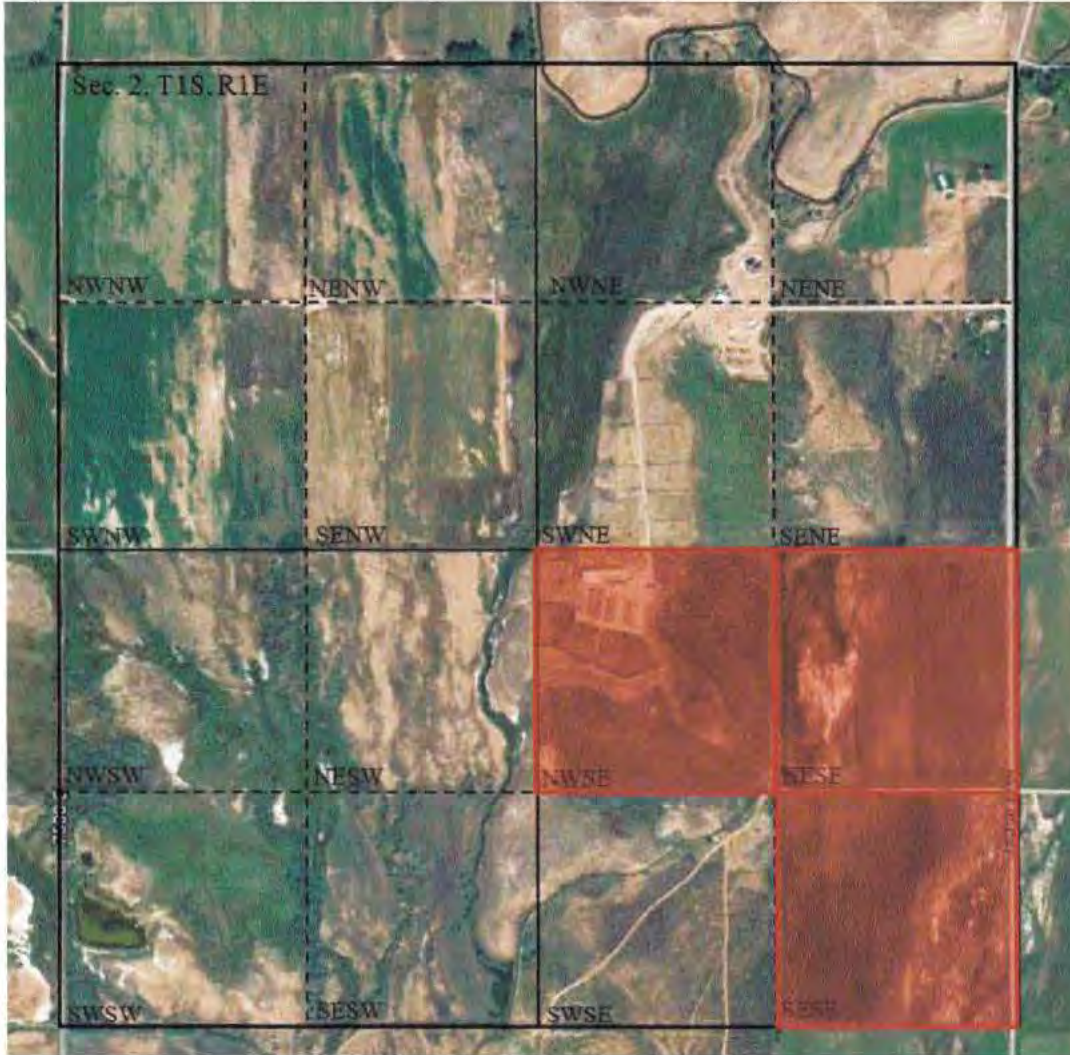
### 3.4 BIA Assessment Charges

The BIA keeps billing summaries and records to ensure that operating and maintenance assessment fees ("O&M Assessment Fees") are paid for all lands receiving water through the canals and ditches of the Uintah Indian Irrigation Project. According to records from 2005,



2007, 2010, and 2012, Mr. McKee has consistently paid assessments on three parcels within Section 2: NE $\frac{1}{4}$  SE $\frac{1}{4}$ , NW $\frac{1}{4}$  SE $\frac{1}{4}$ , and SE $\frac{1}{4}$  SE $\frac{1}{4}$ . Billing records from additional years in this period were not readily available. The absence of billing records from the NW $\frac{1}{4}$  NE $\frac{1}{4}$  or SW $\frac{1}{4}$  NE $\frac{1}{4}$  indicates that the BIA does not recognize a Project water right for these parcels. Figure 3-8 highlights the lands owned by Mr. McKee that are billed assessment fees by the BIA Project. Note that this does not include all lands billed assessment fees in Section 2, but only those paid for by Mr. McKee.

**Figure 3-8: McKee land billed for Project assessment fees (BIA Billing).**



There are a limited number of private carriage capacity (PCC) agreements for the Deep Creek Canal. PCC agreements allow the conveyance of non-Project water rights through Project infrastructure. The water user must pay operation and maintenance fees to the Project to assist in maintenance of Project infrastructure related to this delivery. According to Mr. Murdock,

Mr. McKee has no PCC water rights. Furthermore, research into the Project's billing records pertaining to the area of interest does not indicate payment of PCC assessments by Mr. McKee.

### **3.5 Delivery Schedule**

In addition to financial records, the BIA keeps a water delivery schedule from each season indicating the timing for each diversion. The 2011 delivery schedule indicates that the only Project water scheduled to be delivered within the area of interest was that to 36.28 acres in the NW¼ SE¼ of Section 2. No PCC deliveries to Mr. McKee were indicated in 2011. According to personal communication with Karnel Murdock of the BIA (March 6, 2013), delivery schedules from 2012 were unchanged from 2011.

### **3.6 Culinary Water Delivery Records**

The buried pipeline is allegedly used to supply water to Mr. McKee's feedlot. In order to determine whether or not an alternative source of water could support this operation, NRCE contacted the Tridell-Lapoint Water Improvement District and requested culinary water use information on Mr. McKee's land. According to billing records from September, 2012, Mr. McKee paid a monthly bill of approximately \$520. Incorporating the rate reported of \$1.10 per thousand gallons, the total water use at Mr. McKee's connection during September was estimated to be roughly 470,000 gallons. Based on the assumptions that (1) there are four persons using the connection, (2) each person uses 260 gallons per day (Utah DWR), and (3) cattle require about 10 gallons per day (USU, 1995), NRCE estimates that approximately 1,500 head of cattle can be supplied by this level of monthly water use. Mr. Darwin Wisdom is performing ongoing investigations regarding culinary water supplied to Mr. McKee from the Tridell-Lapoint Water Improvement District.

#### 4 Defendant's Memorandum of Law

The attorney for Mr. McKee, James A. Beckwith, provided arguments regarding the land ownership and water rights of Mr. McKee. In his Memorandum, Mr. Beckwith states that the invoices paid by Mr. McKee to the BIA include the SW $\frac{1}{4}$  NE $\frac{1}{4}$  of Sec. 2, T1S, R1E. Furthermore, Mr. Beckwith states that Mr. McKee has lawfully diverted "purchased Indian Water" from the Deep Creek Canal to irrigate the SE $\frac{1}{4}$  NE $\frac{1}{4}$ . The SW $\frac{1}{4}$  NE $\frac{1}{4}$  of Sec. 2, T1S, R1E does not have Project water rights according to any other data source found by NRCE, including the attachments to Mr. Beckwith's Memorandum. Furthermore, no records were found indicating that Mr. McKee is involved in any capacity with the SE $\frac{1}{4}$  NE $\frac{1}{4}$ . On the contrary, BIA records indicate that this is a Tribal-owned parcel which can therefore not be owned or operated by a non-Indian. Figure 4-1 contains an illustration of the parcels for which Mr. Beckwith contends that Mr. McKee has a Project water right.

**Figure 4-1: McKee lands containing Project water right according to Mr. Beckwith (Beckwith).**



## 5 Summary of Findings

The following is a summary of the results from observations made during the site visit and research performed following the visit. The summary is divided into two components: (1) a bullet-point summary of major findings by type of investigation, and (2) a brief summary of major findings for each of the water use areas on the subject property.

### 5.1 Summary Points by Investigation

#### *Site Visit*

- Mr. McKee diverts water from Deep Creek Canal onto a portion of the W $\frac{1}{2}$  NE $\frac{1}{4}$  via two small ditches that divert from Lateral 9
- There were no observed conveyance facilities connecting Goodrich Gulch to the W $\frac{1}{2}$  NE $\frac{1}{4}$  of Section 2
- Although no pipeline was found, a valve located on the northern boundary of NW $\frac{1}{4}$  NE $\frac{1}{4}$  indicates the likely presence of a buried pipeline

#### *Land Ownership Research*

- Mr. McKee owns the W $\frac{1}{2}$  NE $\frac{1}{4}$  and the NW $\frac{1}{4}$  SE $\frac{1}{4}$  of Section 2, T1S R1E

#### *Water Right Records*

- The Certificate of Appropriation (1905) for the Project water right identifies over 7,100 acres as a place of use for water from Deep Creek Canal; however the land owned by Gregory McKee is not included in this inventory
- Mr. McKee paid assessment fees for the NW $\frac{1}{4}$  SE $\frac{1}{4}$  of Section 2 for all years in which billing data were readily available (2005, 2007, 2010, 2012)
- No records were found indicating that the NW $\frac{1}{4}$  SE $\frac{1}{4}$  of Section 2 has a water right
- There are no PCC agreements in Section 2, T1S, R1E
- Mr. McKee owns a state water right (43-3202) to Goodrich Gulch for 47.13 acres within the W $\frac{1}{2}$  NE $\frac{1}{4}$  of Section 2
- There are no conveyance structures allowing delivery of water right 43-3202 to the W $\frac{1}{2}$  NE $\frac{1}{4}$  of Section 2
- Mr. McKee relies on the Deep Creek Canal and Lateral 9 to deliver water right 43-3202 to its place of use on the W $\frac{1}{2}$  NE $\frac{1}{4}$  of Section 2
- Mr. McKee's former attorney, Mr. Beckwith, asserts that Mr. McKee owns Project water rights to the SE $\frac{1}{4}$  NE $\frac{1}{4}$ ; Mr. Beckwith provides no evidence to support this assertion
- As Mr. McKee is diverting water from Deep Creek Canal to lands without water rights, he is diverting Indian-owned water

## 5.2 Summary by Area

This section summarizes the investigation findings for the three Areas discussed in Section 2. As mentioned, the Areas were created for illustrative purposes only.

### *Area 1*

Irrigation in Area 1 occurs through two small ditches that divert water from Lateral 9, which diverts from Deep Creek Canal. The State's database shows that water right 43-3202 is held by Mr. McKee to irrigate  $W\frac{1}{2}$   $NE\frac{1}{4}$  using Goodrich Gulch. However, there are no conveyance systems able to deliver water from the right's point of diversion from Goodrich Gulch to Area 1. Mr. McKee contends that the water from this water right enters Deep Creek Canal from Goodrich Gulch and is then legally withdrawn from the Canal downstream near the fields. No records were found to support this argument, and infrastructure capable of delivering Goodrich Gulch water into Deep Creek Canal was not found. NRCE did not find any evidence supporting the claim that a private carriage agreement was created whereby Mr. McKee could use Project infrastructure to deliver water from Goodrich Gulch to his land. According to BIA Irrigation Supervisor Karmel Murdock, such an agreement does not exist.

### *Area 2*

Area 2 consists of the McKee residence and feedlot operation. Water for the McKee residence and feedlot is provided (at least in part) by the Tridell-Lapoint Water Improvement District. The volume of water used by the McKee connection in September of this year was estimated to be approximately 470,000 gallons based on the monthly billing. After removing residential use, this volume of water is estimated to be able to support approximately 1,500 head of cattle. Further investigation into the Tridell-Lapoint records and the extent of the livestock operation is warranted.

### *Area 3*

Irrigation water use is taking place in Area 3 through Lateral 9 which diverts from Deep Creek Canal and conveys water south to the irrigated fields. Area 3 can be divided into two sections: the northern one being within the  $SW\frac{1}{4}$   $NE\frac{1}{4}$  and the southern one being within the  $NW\frac{1}{4}$   $SE\frac{1}{4}$ . The northern portion was not found to have any water rights associated with it based on BIA Project and State water right records. Mr. McKee pays operation and maintenance fees to the BIA for Project water to be delivered to the southern portion of his property ( $NW\frac{1}{4}$   $SE\frac{1}{4}$ ) (Figure 3-8). However, NRCE was unable to locate a water right for Area 3.

**References**

- Beckwith, James. A. 2012. *Defendant's Memorandum of Law in Opposition to Motion for Emergency Temporary Restraining Order*. September 21, 2012.
- Bureau of Indian Affairs, 2012. *Letter of Agreement Approving Annual Operating Plan for 2009*.
- Bureau of Indian Affairs, Division of Water and Power, 2011. Uintah and Ouray Irrigation Maximo. *Irrigation Unit Indexes*. July 2011.
- Bureau of Indian Affairs, BIA Operation and Maintenance, 2012. Annual Bill. Issued 3/26/2012.
- Uintah County Recorder. 2012. <http://www.co.uintah.ut.us/assessor/aso.php>. Accessed October 2012.
- Utah, 2012. Utah Division of Water Rights. <http://www.waterrights.utah.gov/>. Accessed September 2012.
- Utah Division of Water Resources, 2010. *The Cost of Water in Utah*.  
<http://www.water.utah.gov/Reports/The%20Cost%20of%20Water%20in%20Utah.pdf>
- Utah State University, 1995. *Watering Systems for Grazing Livestock*. Accessed 3/18/2013.  
<<https://extension.usu.edu/rangelands/files/uploads/Water/Watering%20Systems%20Livestock.pdf>>

**List of Attachments**

- 1 1990 Rights Tabulation
- 2 1905 Certificate of Appropriation for Project Water
- 3 Decree of March 16, 1923
- 4 State Water Right 43-3202
- 5 Diversion Schedule
- 6 O&M Bill
- 7 County Assessor Land Ownership Records

**Attachment 1**  
**1990 Rights Tabulation**



TABULATION  
OF  
UTE INDIAN WATER RIGHTS

Ute Indian Tribe of the Uintah  
and Ouray Reservation, Utah

October, 1990

Tabulation of  
 Ute Indian Water Rights  
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Page 19 (Group 1 continued)

\*\*\*\*\*  
Source & Use No. 13

SOURCE: Whiterocks River CANAL: School Ditch No. 1

POINT(S) OF DIVERSION: (1) N 507 ft. E 1454 ft. from W/4 Cor, Sec 18, T 1N, R 1E, USBM.

| ###IRRIGATION         | ---NORTH EAST QUARTER--- |       |       |       | ---NORTH WEST QUARTER--- |       |       |       | ---SOUTH WEST QUARTER--- |       |      |     | ---SOUTH EAST QUARTER--- |     |     |     | Section Totals |
|-----------------------|--------------------------|-------|-------|-------|--------------------------|-------|-------|-------|--------------------------|-------|------|-----|--------------------------|-----|-----|-----|----------------|
|                       | NE¼                      | NW¼   | SW¼   | SE¼   | NE¼                      | NW¼   | SW¼   | SE¼   | NE¼                      | NW¼   | SW¼  | SE¼ | NE¼                      | NW¼ | SW¼ | SE¼ |                |
| Sec 18 T 1N R 1E USBM |                          |       |       |       |                          |       |       |       | 6.60                     | 37.60 | 0.30 |     |                          |     |     |     | 44.50          |
| Sec 19 T 1N R 1E USBM |                          |       |       |       | 15.70                    | 39.90 | 39.96 | 25.00 | 25.30                    | 40.02 |      |     | 3.50                     |     |     |     | 189.38         |
| Sec 24 T 1N R 1W USBM | 42.21                    | 39.23 | 15.40 | 35.16 |                          |       |       |       |                          |       |      |     |                          |     |     |     | 132.03         |

or a Total of 365.88 acres.

Irrigable Acreage is 340.27 acres.

\*\*\*\*\*  
Source & Use No. 14

SOURCE: Whiterocks River CANAL: School Ditch No. 2

POINT(S) OF DIVERSION: (1) N 1425 ft. W 903 ft. from S¼ Cor, Sec 18, T 1N, R 1E, USBM.

| ###IRRIGATION         | ---NORTH EAST QUARTER--- |     |     |     | ---NORTH WEST QUARTER--- |     |     |     | ---SOUTH WEST QUARTER--- |     |     |     | ---SOUTH EAST QUARTER--- |     |     |     | Section Totals |
|-----------------------|--------------------------|-----|-----|-----|--------------------------|-----|-----|-----|--------------------------|-----|-----|-----|--------------------------|-----|-----|-----|----------------|
|                       | NE¼                      | NW¼ | SW¼ | SE¼ | NE¼                      | NW¼ | SW¼ | SE¼ | NE¼                      | NW¼ | SW¼ | SE¼ | NE¼                      | NW¼ | SW¼ | SE¼ |                |
| Sec 18 T 1N R 1E USBM |                          |     |     |     |                          |     |     |     |                          |     |     |     | 9.85                     |     |     |     | 9.85           |
| Sec 19 T 1N R 1E USBM |                          |     |     |     | 2.75                     |     |     |     |                          |     |     |     |                          |     |     |     | 2.75           |

or a Total of 12.60 acres.

Irrigable Acreage is 11.72 acres.

\*\*\*\*\*  
Source & Use No. 15

SOURCE: Whiterocks River CANAL: Big Six Canal

POINT(S) OF DIVERSION: (1) N 754 ft. E 1200 ft. from SW Cor, Sec 31, T 1N, R 1E, USBM.

| ###IRRIGATION        | ---NORTH EAST QUARTER--- |     |     |     | ---NORTH WEST QUARTER--- |       |       |       | ---SOUTH WEST QUARTER--- |       |     |     | ---SOUTH EAST QUARTER--- |     |     |     | Section Totals |
|----------------------|--------------------------|-----|-----|-----|--------------------------|-------|-------|-------|--------------------------|-------|-----|-----|--------------------------|-----|-----|-----|----------------|
|                      | NE¼                      | NW¼ | SW¼ | SE¼ | NE¼                      | NW¼   | SW¼   | SE¼   | NE¼                      | NW¼   | SW¼ | SE¼ | NE¼                      | NW¼ | SW¼ | SE¼ |                |
| Sec 7 T 1S R 1E USBM |                          |     |     |     | 40.00                    | 42.22 | 41.46 | 40.00 | 40.00                    | 41.02 |     |     |                          |     |     |     | 244.70         |

or a Total of 244.70 acres.

Irrigable Acreage is 227.57 acres.

\*\*\*\*\*  
Source & Use No. 16

SOURCE: Whiterocks River CANAL: Deep Creek Canal

POINT(S) OF DIVERSION: (1) S 1012 ft. W 148 ft. from N¼ Cor, Sec 5, T 1S, R 1E, USBM.

| ###IRRIGATION         | ---NORTH EAST QUARTER--- |       |       |       | ---NORTH WEST QUARTER--- |       |       |       | ---SOUTH WEST QUARTER--- |       |       |       | ---SOUTH EAST QUARTER--- |       |       |       | Section Totals |
|-----------------------|--------------------------|-------|-------|-------|--------------------------|-------|-------|-------|--------------------------|-------|-------|-------|--------------------------|-------|-------|-------|----------------|
|                       | NE¼                      | NW¼   | SW¼   | SE¼   | NE¼                      | NW¼   | SW¼   | SE¼   | NE¼                      | NW¼   | SW¼   | SE¼   | NE¼                      | NW¼   | SW¼   | SE¼   |                |
| Sec 34 T 1N R 1E USBM |                          |       |       |       |                          |       |       |       |                          |       |       |       | 16.69                    | 30.02 |       |       | 44.71          |
| Sec 35 T 1N R 1E USBM |                          |       |       |       |                          |       |       |       |                          |       | 40.00 |       |                          |       |       |       | 40.00          |
| Sec 1 T 1S R 1E USBM  |                          |       |       |       | 40.78                    | 40.00 |       |       | 40.00                    | 40.00 | 26.83 |       | 33.00                    | 40.00 |       |       | 260.61         |
| Sec 2 T 1S R 1E USBM  |                          |       |       | 40.00 | 41.50                    | 41.86 | 40.00 | 35.00 | 34.53                    | 7.36  |       |       | 40.00                    |       |       | 34.00 | 314.25         |
| Sec 3 T 1S R 1E USBM  | 41.69                    | 29.60 | 26.45 | 40.00 |                          |       |       |       | 26.15                    |       | 40.00 | 40.00 | 37.36                    | 25.00 |       | 40.00 | 346.25         |
| Sec 4 T 1S R 1E USBM  |                          |       |       |       |                          |       |       |       | 21.10                    |       |       |       | 11.50                    | 40.00 | 40.00 |       | 112.60         |

**Attachment 2**  
**1905 Certificate of Appropriation**  
**for Project Water**

ORIGINAL

Water Right 43-3004

Form-F-20

# CERTIFICATE OF APPROPRIATION OF WATER

## STATE OF UTAH

APPLICATION NO. 354

Green River

WATER DIVISION

CERTIFICATE NO. 1234

Whereas, It has been made to appear to the satisfaction of the undersigned, State Engineer of the State of Utah, that the appropriation of water from Whiterocks River in Uintah County, made by the U. S. Indian Irrigation Service has been perfected in accordance with the application thereof, received in the office of the State Engineer on the 15th day of June 1905 and recorded on page 613 in book B-2 of the record of applications to appropriate water; ~~Wherefore~~, Be it known that I, R. E. Caldwell, State Engineer of the State of Utah, under and by authority and direction of the provisions of the Compiled Laws of Utah, 1907, as amended by Chapter 62 of the Session Laws of Utah, 1909, and Chapters 3 and 103 of the Session Laws of Utah, 1911, on "Water Rights and Irrigation," do hereby certify that the said U. S. Indian Irrigation Service of Salt Lake City in Salt Lake County, State of Utah, is entitled to the use of 101.9 cubic feet of water per second, subject to the

following restrictions, to-wit: The water is diverted from said river at two points: No. 1, N. 78°08' W. 1550 ft. from the center 1/16 cor. of NE 1/4 Sec. 5, No. 2, N. 68°33' W. 1195 ft. from the S. 1/16 cor. of SW 1/4 of Sec. 26, T. 1 S., R. 1 E., U. S. M. both corners being regularly established government land corners. The diverting works consist of 2 wooden headgates, 1 brush and rock diversion dam and 2 canals known as (1) U. S. Deep Creek Canal, 53,200 ft. long, 26 ft. wide on top, 10 ft. wide on the bottom, and having an effective depth of 2.7 ft., (2) Tabby White Canal 3,700 ft. long, 3 ft. wide on top, 2 ft. wide on the bottom, and having an effective depth of 1 ft.

The water is used from May 1st to Oct. 15th, inclusive, of each year to irrigate 7130.96 acres of land embraced in S 1/2 Sec. 34, SW 1/4 Sec. 35, T. 1 N., R. 1 E., U. S. M., W 1/2, SE 1/4 SW 1/4, S 1/2 Sec. 1, NW 1/4, E 1/2 SW 1/4, SE 1/4 NE 1/4, E 1/2 Sec. 2, NE 1/4, N 1/2 SE 1/4, SE 1/4 SE 1/4, S 1/2 SW 1/4, NE 1/4 SW 1/4 Sec. 3, S 1/2 SE 1/4, NW 1/4 SE 1/4, NE 1/4 SW 1/4 Sec. 4, S 1/4, E 1/2 NW 1/4, N 1/2 NE 1/4, SW 1/4 NE 1/4 Sec. 11, N 1/4, SW 1/4, NW 1/4 Sec. 12, NW 1/4, N 1/2 NE 1/4, NW 1/4 SW 1/4, SE 1/4 SE 1/4 Sec. 13, NE 1/4, SW 1/4, E 1/2 SE 1/4, SW 1/4 SE 1/4, E 1/2 NW 1/4, SW 1/4 NW 1/4 Sec. 14, NW 1/4, NW 1/4 SW 1/4, NW 1/4 SE 1/4, part W 1/2 NE 1/4 Sec. 23, NE 1/4 NE 1/4, E 1/2 SE 1/4 Sec. 24, S 1/2 NW 1/4, E 1/2 NE 1/4, SW 1/4 NE 1/4, E 1/2 SW 1/4, SW 1/4 SW 1/4 Sec. 25, E 1/2 SE 1/4 Sec. 26, NE 1/4 NE 1/4 Sec. 34, part W 1/2 NW 1/4, SW 1/4, E 1/2 NE 1/4, NE 1/4 SE 1/4 Sec. 35, N 1/2 NW 1/4, SW 1/4 NW 1/4 Sec. 36, T. 1 S., R. 1 E., U. S. M.; NW 1/4 NW 1/4, SE 1/4 SW 1/4 Sec. 7, E 1/2 NW 1/4, SW 1/4 NW 1/4, W 1/2 NE 1/4, SE 1/4 NE 1/4, E 1/2 SW 1/4, SW 1/4 SW 1/4, SE 1/4 Sec. 18, N 1/4, SW 1/4, W 1/2 SE 1/4, NE 1/4 SE 1/4 Sec. 19, NW 1/4, NW 1/4 SW 1/4 Sec. 30, T. 1 S., R. 2 E., U. S. M.; E 1/2 NE 1/4, SW 1/4 NE 1/4, W 1/2 NW 1/4, E 1/2 SE 1/4, SE 1/4 NW 1/4 Sec. 1, E 1/2 NE 1/4, NW 1/4 Sec. 2, W 1/2 E 1/4, SE 1/4 SW 1/4 Sec. 11, NE 1/4, NW 1/4 SE 1/4, SW 1/4 NW 1/4, SE 1/4 SW 1/4 Sec. 12, W 1/2 Sec. 13, SE 1/4, E 1/2 NE 1/4, NW 1/4 NE 1/4, E 1/2 NW 1/4, E 1/4 Sec. 14, NE 1/4, E 1/2 SE 1/4, NW 1/4 SE 1/4 Sec. 23, W 1/2 Sec. 24, W 1/2 NE 1/4, N 1/2 NE 1/4 NW 1/4 Sec. 26, T. 2 S., R. 1 E., U. S. M. and more particularly described as follows:

Part of the SW 1/4 of said Sec. 34, T. 1 N., R. 1 E., described as follows: Beg. at the SE cor. of the SW 1/4 of said Sec. 34, thence N. 1090 ft., S. 79°05' W. 370 ft., S. 26°00' W. 1135 ft., E. 660 ft. to place of beginning, containing 14.69 acres. Also all of the SE 1/4 of said Sec. 34 except 2 tracts described as follows: Tract #1, beg. at a pt. N. 1090 ft. from the SW cor. of the SE 1/4 of said Sec. 34, thence N. 250 ft., E. 435 ft., E. 860 ft., S. 250 ft., N. 86°25' W. 740 ft., S. 85°15' W. 550 ft. to place of beginning; Tract #2, beg. at a pt. 400 ft. W. of the SE cor. of the SE 1/4 of said Sec. 34, thence N. 1090 ft., W. 132 ft., S. 1090 ft., E. 132 ft. to place of beginning; irrigated area 30.02 acres. All of the SW 1/4 of said Sec. 35 containing 40 acres. Also part of the NE 1/4 SW 1/4 of said Sec. 4, T. 1 S., R. 1 E., described as follows: Beg. at the SW cor. of the NE 1/4 SW 1/4 of said Sec. 4, thence N. 69°35' E. 1320 ft., N. 0°50' W. 530 ft., N. 76°50' W. 1398 ft., S. 5°13' E. 860 ft. to place of beginning, containing 21.1 acres. Also part of the NW 1/4 SE 1/4 of said Sec. 4 described as follows: Beg. at the SW cor. of the NW 1/4 SE 1/4 of said Sec. 4, thence N. 89°35' E. 1320 ft., N. 235 ft., N. 77°35' W. 1360 ft., S. 0°53' E. 537 ft. to place of beginning, containing 11.5 acres. Also all of the S 1/2 SE 1/4 of said Sec. 4 containing 80 acres. Also part of the NE 1/4 SW 1/4 of said Sec. 3 described as follows: Beg. at the SW cor. of the NE 1/4 SW 1/4 of said Sec. 3, thence E. 1060 ft., N. 13°55' W. 180 ft., N. 4°00' W. 240 ft., N. 12°05' E. 702 ft., N. 71°55' W. 235 ft., S. 78°05' W. 455 ft., N. 17°40' W. 230 ft., S. 35°30' W. 968 ft., S. 1°50' W. 425 ft. to place of beginning, containing 26.15 acres. Also all of the S 1/2 SW 1/4 of said Sec. 3 containing 80 acres. Also part of the NW 1/4 NE 1/4 of said Sec. 3 described as follows: Beg. at the NE cor. of the NW 1/4 NE 1/4 of said Sec. 3, thence W. 868.5 ft., S. 11°30' W. 274 ft., S. 6°35' E. 490 ft., S. 21°20' W. 420 ft., S. 11°55' W. 305 ft., N. 86°00' E. 1070 ft., N. 1370 ft. to place of beginning, containing 29.60 acres. Also part of the SW 1/4 NE 1/4 of said Sec. 3 described as follows: Beg. at the SE cor. of the SW 1/4 NE 1/4 of said Sec. 3, thence W. 1055 ft., N. 37°00' E. 227 ft., N. 12°34' E. 289.5 ft., N. 9°22' W. 788.8 ft., N. 85°00' E. 952.5 ft., S. 1°40' E. 1325.5 ft. to place of beginning, containing 26.45 acres. Also part of the NW 1/4 SE 1/4 of said Sec. 3 described as follows: Beg. at the NE cor. of the NW 1/4 SE 1/4 of said Sec. 3, thence W. 1055 ft., S. 15°30' E. 659 ft., S. 12°05' W. 586 ft., S. 30°30' E. 111 ft., S. 89°35' E. 962.5 ft., N. 0°30' W. 1315 ft. to place of beginning, except a tract described as follows: 420 ft., S. 25°00' W. of the NE cor. of

E. 111 ft., S. 89°35' E. 962.5 ft., N. 0°30' W. 1315 ft. to place of beginning, except a tract described as follows: Beg. at a pt. 460 ft. S. 25°00' W. of the NE cor. of the NW $\frac{1}{4}$ SE $\frac{1}{4}$  of said Sec. 3, thence W. 435 ft., S. 361 ft., E. 435 ft., N. 361 ft. to place of beginning, irrigated area 25 acres. Also all of the NE $\frac{1}{4}$ NW $\frac{1}{4}$  (Lot #1) of said Sec. 3 containing 41.69 acres. All of the SE $\frac{1}{4}$ NW $\frac{1}{4}$  of said Sec. 3 containing 40 acres. Also all of the NE $\frac{1}{4}$ SE $\frac{1}{4}$  of said Sec. 3 except a tract described as follows: Beg. at a pt. S. 457.5 ft. from the E $\frac{1}{4}$  cor. of said Sec. 3, thence N. 77°03' W. 484.5 ft., N. 4°56' E. 297.5 ft., S. 78°30' E. 316.5 ft., S. 21°42' E. 368 ft. to place of beginning, irrigated area 37.36 acres. All of the SE $\frac{1}{4}$ SE $\frac{1}{4}$  of said Sec. 3 containing 40 acres. All of the NW $\frac{1}{4}$ NW $\frac{1}{4}$  (Lot #4) and NE $\frac{1}{4}$ NW $\frac{1}{4}$  (Lot #3) of said Sec. 2 containing 41.86 acres and 41.50 acres respectively. Also all of the S $\frac{1}{2}$ NW $\frac{1}{4}$  and SE $\frac{1}{4}$ NE $\frac{1}{4}$  of said Sec. 2 containing 120 acres. Also part of the NE $\frac{1}{4}$ SW $\frac{1}{4}$  of said Sec. 2 described as follows: Beg. at the NW cor. of the NE $\frac{1}{4}$ SW $\frac{1}{4}$  of said Sec. 2, thence S. 1°32' W. 1345 ft., S. 19°00' E. 1080.5 ft., N. 21°52' E. 327.8 ft., N. 19°06' W. 526 ft., N. 24°35' E. 596.5 ft., W. 89°10' W. 1241.5 ft. to place of beginning, containing 34.53 acres. Also all of the NW $\frac{1}{4}$ SW $\frac{1}{4}$  of said Sec. 2 except a tract described as follows: Beg. at a pt. S. 457.5 ft. from the NW cor. and S. 73°00' E. 326 ft. from the W $\frac{1}{4}$  cor. of said Sec. 2, thence S. 37°18' E. 284 ft., S. 77°24' E. 404.8 ft., N. 15°50' W. 270.5 ft., N. 72°58' W. 374 ft. to place of beginning, irrigated area 37.36 acres. Also all of the E $\frac{1}{2}$ SE $\frac{1}{4}$  of said Sec. 2 except a tract described as follows: Beg. at the SE cor. of the SE $\frac{1}{4}$ SE $\frac{1}{4}$  of said Sec. 2, thence N. 511 ft., W. 511 ft., S. 511 ft., E. 511 ft. to place of beginning, irrigated area 74 acres. Also all of the SW $\frac{1}{4}$ NW $\frac{1}{4}$ , SE $\frac{1}{4}$ SE $\frac{1}{4}$  of said Sec. 1 containing 160 acres. Also all of the NW $\frac{1}{4}$ NW $\frac{1}{4}$  (Lot #4) of said Sec. 1 containing 40.78 acres. Also part of the SE $\frac{1}{4}$ SW $\frac{1}{4}$  of said Sec. 1 described as follows: Beg. at the NW cor. of the SE $\frac{1}{4}$ SW $\frac{1}{4}$  of said Sec. 1, thence S. 300 ft., N. 89°00' E. 79 ft., N. 0°38' W. 344 ft., N. 10°43' E. 708.5 ft., N. 56°47' E. 141.5 ft., S. 58°30' E. 349 ft., S. 7°18' W. 938 ft., N. 89°52' E. 833.5 ft., N. 0°45' W. 1287 ft., W. 230.5 ft., S. 3°26' W. 231 ft., S. 38°43' W. 216.5 ft., N. 53°30' W. 242 ft., N. 37°57' E. 330.5 ft., N. 89°55' W. 943.1 ft. to place of beginning, containing 26.83 acres. Also part of the SW $\frac{1}{4}$ SE $\frac{1}{4}$  of said Sec. 1 described as follows: Beg. at the NW cor. of the SW $\frac{1}{4}$ SE $\frac{1}{4}$  of said Sec. 1, thence

**Attachment 3**  
**Decree of March 16, 1923**

IN THE DISTRICT COURT OF THE UNITED STATES

IN AND FOR THE DISTRICT OF UTAH.

IN EQUITY.

DOCKET NO. 4427.

THE UNITED STATES OF AMERICA, and HUBERT WORKMAN,  
of the Interior, as Trustees of the Indians of the  
Uintah and Ouray Indian Reservation,

Pls.

v.

OSDARVIEW IRRIGATION COMPANY, COLORADO PARK IRRIGATION  
COMPANY, DRY GULCH IRRIGATION COMPANY, T. N. DODD  
TION COMPANY, OURAY VALLEY IRRIGATION COMPANY, UTAH  
INDEPENDENT DITCH COMPANY, UINTAH RIVER IRRIGATION  
and WHITEROCKS IRRIGATION COMPANY, each and all of  
foregoing being corporations; GEORGE Q. ALLRED, (C  
AVERETT, ERASTUS S. BASTIAN, JOHN BENNETT, RAYMOND  
BONNIN, JOHN BURGESS, WILLIAM CHICHAS, VERNON COLLIER,  
HUGH COLTHARP, W. HORACE COLTHARP, JOHN W. COOK, T. J.  
DURIGAN, CHARLES ELMER, DAVID ELMER, MARY A. ELMER,  
FORSYTHE, LOU FRAUGHTON, THOMAS S. GUNN, HYRUM GURNEY,  
HALL, HAROLD F. HALL, JOSEPH H. HARDY, BERTHA E. HARRIS,  
CHARLES HUTCHISON, WILLIAM KEEL, DANIEL LARSEN, HENRY  
LLOYD, RALPH MARIMON, ROBERT L. MARIMON, JOHN J. MARRIS,  
EDWARD L. OAKS, HYRUM E. OAKS, CHARLES R. OAKLEY, J. C.  
O'DRISCOLL, LESLIE O'DRISCOLL, HENRY P. OLSEN, JOHN  
OLSEN, CULBERT L. OLSON, GEORGE S. PAGE, FRANK PETTE,  
SAMUEL H. PULLEN, ALBERT RASMUSSEN, ADOLPHUS SESSIONS,  
NEWTON SHELTON, EDWARD G. SIMS, BARBRIA E. SMITHSON,  
THOMAS and ISAAC N. WORKMAN,

Defenda



D E C R E E  
- - - - -

This cause having come on to be heard at term upon the complaint of the plaintiffs, the answers and answers of the defendants, and the stipulations between the plaintiffs and certain of the defendants thereupon, upon consideration thereof, it is ORIGINALLY ADJUDGED AND DECREED as follows:

I. The plaintiffs, the United States and the Secretary of the Interior as Trustee of the lands on the former Uintah and Ouray Indian Reservation, the owners by grant of the allotments of deceased persons on said Reservation, as against the Cedarview Irrigation Company, Colorado Park Irrigation Company, Dry Gulch Irrigation Company, T. N. Dodd Irrigation Company, Ouray Irrigation Company, Uintah Independent Ditch Company, Uintah River Irrigation Company and Whiterocks Irrigation Company, each and all of the foregoing being corporations, George Q. Allred, George Averitt, Erastus S. Baatz, Bennett, Raymond F. Bonnin, John Burgess, William Vernon Collins, Hugh Coltharp, W. Morace Coltharp, Gock, Thomas Durigan, Charles Elmer, David Elmer, Elmer, Russell Forsythe, Lou Fraughton, Thomas B. Hyrum Gurr, John Hall, Harold F. Hall, Joseph H. H. Bertha E. Hughel, Charles Hutcheon, William Keel, Larsen, Henry B. Lloyd, Ralph Marimon, Robert L. M. John J. Nielson, Edward L. Oaks, Hyrum E. Oaks, Chas. Oakey, John H. O'Driscoll, Leslie O'Driscoll, Henry John A. Olsen, Culbert L. Olson, George S. Pace, F. Peterson, Samuel H. Pullen, Albert Raamussen, Adolph Sessions, Newton Shelton, Edward G. Sims, Barbara J. George Thomas and Isaac E. Workman, defendants hereon, and as against any demand or use whatsoever

or any of them, or of any diversion or use of water  
 or through the ditches belonging to them or any  
 have the first and an exclusive right under a priority  
 that antedates the third day of October, 1861, at  
 to divert from the Uintah River and its tributaries  
 certain ditches and canals water in certain quantities  
 certain times and under certain conditions for the  
 of certain lands and for certain domestic, culinary  
 raising uses - all as described and fixed by the first  
 schedule and other parts of this decree.

| Name of Ditch or Canal. | Acres Irrigated under Each Ditch. | Water permitted to divert each season in Acre Feet. |
|-------------------------|-----------------------------------|-----------------------------------------------------|
| Uintah Canal)           |                                   |                                                     |
| Canal No. 1 )           | 8374.63                           | 28123.36                                            |
| Harnes                  | 827.38                            | 2483.64                                             |
| Bench                   | 6836.85                           | 30510.56                                            |
| Bench                   | Town of Fort Duchesne             |                                                     |
| Henry Jim               | 1618.4                            | 4837.3                                              |
| Henry Jim               | Town of Handlett                  |                                                     |
| Fort Duchesne           | 533.61                            | 1800.83                                             |
| Wigwag                  | 326.70                            | 977.10                                              |
| A (Martha Washington)   | 73.47                             | 230.41                                              |
| B (Meadows)             | 180.2                             | 540.60                                              |
| C (Princess Pat)        | 82.70                             | 248.10                                              |
| D (New)                 | 195.20                            | 585.4                                               |
| Whiterocks              | 4454.47                           | 13383.41                                            |
| Farm Creek              | 1550.35                           | 4651.05                                             |
| School Ditch No. 1      | 385.88                            | 1097.84                                             |
| School Ditch No. 2      | 12.60                             | 37.80                                               |
| Springs                 | 80.00                             | 240.00                                              |
| Deep Creek              | 6895.52                           | 20386.56                                            |
| Colorado Park           | 425.14                            | 1275.42                                             |
| Big Six                 | 344.70                            | 734.10                                              |
| Daniels                 | 151.00                            | 453.00                                              |
| Duncan                  | 115.90                            | 347.70                                              |
| Farm Creek Proper       | 135.84                            | 407.52                                              |
| Tabby White             | 235.48                            | 706.38                                              |
| Whiterocks School)      |                                   |                                                     |
| Pipe Line               | Domestic, etc.                    |                                                     |
| Totals....              | 34700.08                          | 104,100.27                                          |

The said 34700.08 acres of land to be irrigated  
 the other uses under said ditches and canals are as more  
 particularly described in the final certificates of approval  
 for the several said named ditches and canals as the same  
 upon the records of the office of the State Engineer and

State of Utah, and which are numbered to-wit: 1172, 1174, 1176, 1177, 1208, 1211, 1212, 1219, 1223, 12233, 1234, 12-C, and 1235, and the final certificate to be issued under Plaintiff's filing No. 357.

The location of the head or intake of each ditch or canal is as follows:

The head of the Uintah Canal is on the right of the Uintah River and bears N.  $76^{\circ} 7'$  E. 574 ft. quarter corner common to Secs. 9 and 10, Tp. 1 N., U.S.M.;

The head of Canal No. 1 is on the right bank of the Uintah River and bears S.  $76^{\circ} 30'$  E. 700 ft. from the West corner of Sec. 25, Tp. 1 N., R. 1 W. U.S.M.;

The head of the Harms Canal is on the left of the Uintah River and bears N.  $46^{\circ} 32'$  W. 2000 ft. from the center one-sixteenth corner of the S.E.  $1/4$  of Sec. 1, Tp. 1 S., R. 1 E., U.S.M.;

The head of the Bench Canal is on the right of the Uintah River and bears N.  $29^{\circ} 10'$  W. 637 ft. from the East quarter corner of Sec. 18, Tp. 1 S., R. 1 E. U.S.M.;

The head of the Henry Jim Canal is on the left bank of the Uintah River and bears N.  $47^{\circ} 18'$  W. 591 ft. from the North quarter corner of Sec. 35, Tp. 2 S., R. 1 E. U.S.M.;

The head of the Fort Duchesne Canal is on the left bank of the Uintah River and bears S.  $70^{\circ} 7'$  E. 1553 ft. from the West quarter corner of Sec. 35, Tp. 2 S., R. 1 E. U.S.M.;

The head of the Wissiup ditch, appropriating water from the Uintah River, is on the left bank of the Duchesne River below its junction with the Uintah river and bears N.  $77^{\circ} 57'$  W. 1207 ft. from the North one-sixteenth corner of the SW  $1/4$  Sec. 35, Tp. 3 S., R. 2 E., U.S.M.;

The head of Ditch A is on the left bank of the Uintah River and bears N.  $53^{\circ} 05'$  W. 1616 ft. from the North quarter corner of Sec. 31, Tp. 1 N., R. 1 E., U.S.M.;

The head of Ditch B is on the left bank of the Uintah River and bears N.  $28^{\circ} 17'$  W. 1825 ft. from the North one-sixteenth corner of the  $SE\frac{1}{4}$  Sec. 7, Tp. 1 S. R. 1 E., U.S.M.;

The head of Ditch C is on the right bank of the Uintah River and bears S.  $5^{\circ} 10'$  W. 1576 ft. from the North one-sixteenth corner of the  $SE\frac{1}{4}$  Sec. 7, Tp. 1 S. R. 1 E., U.S.M.;

The head of Ditch D is on the right bank of the Uintah River and bears S.  $0^{\circ} 5'$  E. 730 ft. from the North quarter corner of Sec. 7, Tp. 1 S., R. 1 E., U.S.M.;

The head of the Whiterocks Canal is on the left bank of the Whiterocks River, a tributary of the Uintah River, and bears N.  $64^{\circ} 54'$  W. 3538 ft. from the East one-sixteenth corner of the  $SE\frac{1}{4}$ , Sec. 19, Tp. 2 N., R. 1 E., U.S.M.;

The head of the Farm Creek Canal is on the right bank of the Whiterocks River, a tributary of the Uintah River, and bears N.  $48^{\circ} 8'$  E. 931 ft. from the North quarter corner of Sec. 30, Tp. 2 N., R. 1 E., U.S.M.;

The head of School Ditch No. 1 is on the right bank of the Whiterocks River, a tributary of the Uintah River, and bears N.  $38^{\circ} 30'$  E. 3335 ft. from the West one-sixteenth corner of the  $SW\frac{1}{4}$ , Sec. 18, Tp. 1 N., R. 1 E., U.S.M.;

The head of School Ditch No. 2 is on the left bank of the Whiterocks River, a tributary of the Uintah River, and bears N.  $16^{\circ} 18'$  E. 1495 ft. from the South one-sixteenth corner of the  $SW\frac{1}{4}$  Sec. 18, Tp. 1 N., R. 1 E., U.S.M.;

The heads of the Springs ditches are in Secs. 4 and 5, Tp. 1 S., R. 1 E., U.S.M.;

The head of the Deep Creek Canal is on the left bank of the Whiterocks River, a tributary of the Uintah River, and bears N. 78° 8' W. 1550 ft. from the center one-sixteenth corner of the NE $\frac{1}{4}$  Sec. 5, Tp. 1 S., R. 1 E., U.S.M.;

The head of the Colorado Park Canal is on the left bank of the Uintah River and bears N. 78° 57' W. 1500 ft. from the South quarter corner of Sec. 26, Tp. 1 S., R. 1 E., U.S.M.;

The head of the Big Six Canal is on the right bank of the Uintah River and bears N. 57° 53' E. 1417 ft. from the Southwest corner of Sec. 31, Tp. 1 N., R. 1 E., U.S.M.;

The head of the Daniels ditch is on the right bank of the Uintah River and bears N. 50° 18' W. 731 ft. from the East one-sixteenth corner of the SW $\frac{1}{4}$  Sec. 23, Tp. 1 S., R. 1 E., U.S.M.;

The head of the Duncan ditch is on the right bank of the Whiterocks River, a tributary of the Uintah River and bears N. 33° 13' E. 5500 ft. from the Southwest corner of Sec. 7, T. 1 N., R. 1 E., U.S.M.;

The three heads of the Farm Creek Proper ditches diverting water from Farm Creek, a tributary of the Uintah River, are in Sec. 23, Tp. 2 N., R. 1 W., U.S.M.;

The head of the Tabby White ditch is on the left bank of the Uintah River and bears N. 68° 33' W. 1195 ft. from the South one-sixteenth corner of the SW $\frac{1}{4}$  Sec. 26, Tp. 1 S., R. 1 E., U.S.M.;

The head of the Whiterocks School Pipe Line is on the right bank of the Whiterocks River, a tributary of the Uintah River, in Sec. 18, Tp. 1 N., R. 1 E., U.S.M.

2. The water permitted to be diverted through ditches and canals for irrigation shall be diverted during the irrigation season of each year, and said season shall not begin before the first day of March or end later than the first day of November; but water may be diverted for domestic, culinary and stock-watering purposes throughout the entire year.

3. The number of acre feet of water per year to be diverted by each of the ditches and canals above mentioned on account of the rights determined in this decree as set forth in paragraph one hereof, is the amount of water which may be diverted for irrigation by each of said ditches during said irrigation season, and in no case shall said amount be exceeded; and the number of second feet of water per acre to be diverted by each of said ditches and canals on account of said rights as shown in said paragraph one shall be the maximum amount of water each of said ditches may divert at any time on account of said rights.

4. No water shall be diverted by said ditches and canals or any of them for irrigation purposes except the amount which is needed for economical and beneficial use in the irrigation of crops, and no water shall be diverted for other purposes except as hereinabove in paragraph two allowed; only such quantities thereof shall be diverted as shall be needed for economical use for said purposes. Said ditches and canals for domestic, culinary and stock-watering uses shall be permitted as needed throughout the year.

5. The defendants herein shall not divert water from the Uintah River or from one or more of its tributaries or from supporting waters of said streams through the ditch which they respectively claim to own.

6. The said defendants and their agents, employees, officers, successors and assigns, and persons diverting or using water through or under the or any of them, they and each of them, are hereby fully enjoined from in any way hindering, preventing or interfering with the diversions or uses of the waters of the river herein decreed to the plaintiffs or their assigns.

7. For the protection of the water rights herein decreed, a Water Commissioner shall be appointed from time to time, and assistants shall be given him as necessary, and his and their compensation shall be allowed, and arrangements for the payment thereof by those who benefit thereby, parties hereunto, shall be made. The said Water Commissioner shall be further directed as to his duties, all by separate orders of this Court.

8. In order further to protect the priorities of the plaintiffs herein decreed, and to do so in the best suited to conserve the rights and interests of the defendants, who are all junior appropriators, collection shall be made as against the plaintiff, and as against each other, to insure the most economical use of the waters of said river. The Water Commissioner shall not only see that the priorities of the plaintiffs are satisfied, but shall also distribute the waters of the stream among the various defendants according to their priorities and rights as they may be ascertained from time to time by agreement between said parties or in any other proper manner. The rights and priorities of said defendants as against the plaintiffs or as among themselves are founded upon appropriations of water by application to the State Engineer of the State of Utah and are subject to their exercise and are conditioned upon compliance with

provisions of the laws of the State of Utah relative to the appropriation of water and such rights and priorities hereby determined, except that they are all junior to the plaintiffs herein decreed, and except further it is hereby decreed that said defendants shall be permitted to divert from said stream during the irrigation season each year for direct irrigation, which shall not begin before the first day of March or end later than the first day of October, three acre feet of water for each acre of land irrigated, no more, and shall at no time divert more than one foot of a second foot of water for each said acre, and that water shall be diverted for irrigation except that water needed for economical and beneficial use in irrigation. Water may be diverted for domestic, culinary and stock purposes during the entire year. No water shall be diverted for any purpose in excess of that actually needed for such purpose.

9. This decree determines the rights of the plaintiffs to divert water from the Uintah River and its tributaries as against the defendants but it does not determine any rights the plaintiffs or the defendants may have in the waters of said rivers on account of rights in the waters of the Duchesne River or any stream or streams into which the waters of said Duchesne River flow either directly or indirectly. This decree furthermore does not determine any right, if any, that the purchaser of any allotment of land from an Indian, who made such purchase prior to the entry hereinto, have to irrigate a greater acreage than that allowed by this decree.



10. Jurisdiction of this cause is retained to enable this Court, for good cause and as occasion may require, to administer this decree through a Water Commissioner or otherwise; to alter any administrative provisions hereunder and to make other necessary changes herein except to increase the total seasonal amount of water that may be diverted, to change the priority herein fixed or to increase the acreage which may be irrigated under said priority.

11. That each party hereto bear its own cost incurred herein.

Done in open Court this 16th day of March, A. D. 1923.

William D. Jones  
JUDGE.

FILED In United States District  
Court, District of Utah

MAR 15 1923

John W. Christy  
Clerk

**Attachment 4**  
**State Water Right 43-3202**

**STATE OF UTAH -- DIVISION OF WATER RIGHTS -- DATA PRINT OUT for 43-3202(A9973)**

(WARNING: Water Rights makes NO claims as to the accuracy of this data.) RUN DATE: 10/09/2012 Page 1

**WATER RIGHT: 43-3202** APPLICATION/CLAIM NO.: A9973 CERT. NO.: 1962

=====

OWNERSHIP\*\*\*\*\*  
 NAME: Gregory D. McKee  
 ADDR: P. O. Box 70  
 LaPoint, UT 84039

=====

DATES, ETC.\*\*\*\*\*  
 LAND OWNED BY APPLICANT? COUNTY TAX ID#:  
 FILED: 05/22/1926|PRIORITY: 05/22/1926|PUB BEGAN: 08/11/1926|PUB ENDED: |NEWSPAPER:  
 ProtestEnd: |PROTESTED: [No ]|HEARNG HLD: |SE ACTION: [Approved]|ActionDate:11/16/1926|PROOF DUE: 11/10/1930  
 EXTENSION: |ELEC/PROOF:[Proof ]|ELEC/PROOF:11/10/1930|CERT/WUC: |LAP, ETC: |LAPS LETTER:  
 RUSH LETTR: |RENOVATE: |RECON REQ: |TYPE: [ ]  
 PD BOOK: [ 43- ]|MAP: [ ]|PUB DATE:

Type of Right: Application to Appropriate Source of Info: Application to Appropriate Status: Certificate

=====

LOCATION OF WATER RIGHT\*\*\*\*\*  
 FLOW: 0.62 cfs SOURCE: Goodrich Gulch

COUNTY: Uintah COMMON DESCRIPTION:

POINT OF DIVERSION -- SURFACE:  
 (1) N 561 ft E 1588 ft from W4 cor, Sec 35, T 1N, R 1E, USBM  
 Diverting Works: rock dam, hedgate, earth ditch Source: Goodrich Gulch

Stream Alt Required?: No

=====

USES OF WATER RIGHT\*\*\*\*\* ELU -- Equivalent Livestock Unit (cow, horse, etc.) \*\*\*\*\* EDU -- Equivalent Domestic Unit or 1 Family

SUPPLEMENTAL GROUP NO. 216218.

IRRIGATION: 47.13 acres Div Limit: 0.0 acft. PERIOD OF USE: 04/01 TO 11/01

| #/PLACE OF USE:         | *-----NORTH WEST QUARTER-----* |    |    |    | *-----NORTH EAST QUARTER-----* |    |    |    | *-----SOUTH WEST QUARTER-----* |    |    |    | *-----SOUTH EAST QUARTER-----* |    |    |        | Section Totals |
|-------------------------|--------------------------------|----|----|----|--------------------------------|----|----|----|--------------------------------|----|----|----|--------------------------------|----|----|--------|----------------|
|                         | * NW                           | NE | SW | SE | * NW                           | NE | SW | SE | * NW                           | NE | SW | SE | * NW                           | NE | SW | SE     |                |
| Sec 02 T 1S R 1E USBM * |                                |    |    |    | *X                             |    | X  |    | *                              |    |    |    | *                              |    |    | *      | 0.0000         |
| GROUP ACREAGE TOTAL:    |                                |    |    |    |                                |    |    |    |                                |    |    |    |                                |    |    | 0.0000 |                |

\*\*\*\*\*E N D O F D A T A\*\*\*\*\*

**Attachment 5**  
**Diversion Schedule**



## **Attachment 6**

### **O&M Bills**

Sep 24 2012 10:57AM HP LASERJET FAX

P.1

H62

ANNUAL BILL  
DEPARTMENT OF THE INTERIOR - BIA OPERATION AND MAINTENANCE

MAIL PAYMENT TO:  
BIA / NIIMS  
13922 DENVER WEST PARKWAY  
BUILDING 54, SUITE 300  
LAKEWOOD, CO 80401

BILL NO: 0 2012000000748  
DUE DATE: 04/01/12  
DATE ISSUED: 03/26/12

BILL TO: C30006  
MCKEE FARMS INC  
P.O. BOX 70  
LAPOINT UT 84039

BILL TO EIN: XX-0873588

| CURRENT DUE | + | OTHER CHARGES | = | CURRENT TOTAL AMOUNT DUE |
|-------------|---|---------------|---|--------------------------|
| 5647.56     |   |               |   | 5647.56                  |

-- DESCRIPTION OF CHARGES --

| UNIT/SERIAL            | LEASE                            | ALLOTMENT                                       | SHARE       | ACRES    | RATE   | AMOUNT |
|------------------------|----------------------------------|-------------------------------------------------|-------------|----------|--------|--------|
| 080 10022-00<br>DR: 10 | 8FP0007818<br>STR/DESC: 02-1S-1E | 0052<br>NESE                                    | C 1.0000000 | A 40.000 | 16.000 | 640.00 |
| 080 10023-00<br>DR: 10 | F0010<br>STR/DESC: 02-1S-1E      |                                                 | 1.0000000   | A 36.280 | 16.000 | 580.48 |
| 080 10025-00<br>DR: 10 | 1077430616<br>STR/DESC: 02-1S-1E | 0321<br>SESE                                    | C 1.0000000 | A 25.000 | 16.000 | 400.00 |
| 080 10134-00<br>DR: 10 | 8FP0007852<br>STR/DESC: 19-1S-2E | 0288<br>WNWNE SENWNE WNENWNE SENENWNE WNENENWNE | C 1.0000000 | A 34.750 | 16.000 | 556.00 |

The attached coupon must accompany your payment. Please make personal check, certified check, money order, or cashier's check payable to: Bureau of Indian Affairs. We have the right to refuse water delivery until this bill is paid.

\*\*\*\* See enclosure for important information concerning your bill \*\*\*\*

ANNUAL BILL  
 DEPARTMENT OF THE INTERIOR - BIA OPERATION AND MAINTENANCE

MAIL PAYMENT TO:  
 UINTAH AND OURAY  
 P.O. BOX 130  
 FORT DUCHESNE UT 84026

BILL NO: 0 2010000000738  
 DUE DATE: 04/15/10  
 DATE ISSUED: 04/01/10

BILL TO: C30006  
 MCKEE FARMS INC  
 P.O. BOX 70  
 LAPOINT UT 84039

BILL TO EIN: XX-0873588

| CURRENT DUE | OTHER CHARGES | CURRENT TOTAL = AMOUNT DUE |
|-------------|---------------|----------------------------|
| 5296.15     |               | 5296.15                    |

-- DESCRIPTION OF CHARGES --

| INIT/SERIAL            | LEASE                            | ALLOTMENT | SHARE | ACRES  | RATE   | AMOUNT |
|------------------------|----------------------------------|-----------|-------|--------|--------|--------|
| 080 10022-00<br>DR: 10 | 8FP0007818<br>STR/DESC: 02-1S-1E | 0052      | C     | 40.000 | 15.000 | 600.00 |
| 080 10023-00<br>DR: 10 | F0010<br>STR/DESC: 02-1S-1E      |           |       | 36.280 | 15.000 | 544.20 |
| 080 10025-00<br>DR: 10 | 1077430616<br>STR/DESC: 02-1S-1E | 0321      | C     | 25.000 | 15.000 | 375.00 |
| 080 10134-00<br>DR: 10 | 8FP0007852<br>STR/DESC: 19-1S-2E | 0288      | C     | 34.750 | 15.000 | 521.25 |

The attached coupon must accompany your payment. Please make personal check, certified check, money order, or cashier's check payable to: Bureau of Indian Affairs. We have the right to refuse water delivery until this bill is paid.

\*\*\*\* See enclosure for important information concerning your bill \*\*\*\*



| NET        | OTHER CHARGES | CURRENT TOTAL |
|------------|---------------|---------------|
| =          | +             | =             |
| AMOUNT DUE |               | AMOUNT DUE    |
| 3461.92    |               | 3461.92       |

-- DESCRIPTION OF CHARGES --

| UNIT/SERIAL             | LEASE                            | ALLOTMENT            | SHARE       | ACRES  | RATE   | AMOUNT |
|-------------------------|----------------------------------|----------------------|-------------|--------|--------|--------|
| 080 10023-00<br>DR: 10  | STR/DESC: 02-1S-1E               | F0010<br>NWSE        | 1.0000000 A | 36.280 | 12.000 | 435.36 |
| 080 10134-00<br>DR: 10  | 1074610308<br>STR/DESC: 19-1S-2E | 0288 C               | 1.0000000 A | 34.750 | 12.000 | 417.00 |
| 080 10134-01<br>DR: 10  | 1074610308<br>STR/DESC: 19-1S-2E | 0288-AC<br>ENENENWNE | 1.0000000 A | 1.250  | 12.000 | 25.00  |
| MINIMUM CHARGE APPLIED: |                                  |                      |             |        |        |        |
| 080 10136-00<br>DR: 10  | 1075570414<br>STR/DESC: 19-1S-2E | 0286 C               | 1.0000000 A | 35.000 | 12.000 | 420.00 |
| SENE, M&B               |                                  |                      |             |        |        |        |

2007

The attached coupon must accompany your payment. Please make personal check, certified check, money order, or cashier's check payable to: Bureau of Indian Affairs. We have the right to refuse water delivery until this bill is paid.

\*\*\*\* See enclosure for important information concerning your bill \*\*\*\*

\*\*\*\* See enclosure for important information concerning your bill \*\*\*\*

B I L L  
DEPARTMENT OF THE INTERIOR - BIA OPERATION AND MAINTENANCE

MAIL PAYMENT TO:  
UINTAH AND OURAY  
P.O. BOX 130  
FORT DUCHESNE UT 84026

BILL NO: 0 2005000000453  
DUE DATE: 04/01/05  
DATE ISSUED: 03/23/05

BILL TO:

LARRY MCKEE  
P.O. BOX 70  
LAPOINT UT 84039

CURRENT YEAR TOTAL AMOUNT DUE: 3879.26

| CURRENT DUE | + OTHER CHARGES | CURRENT TOTAL = AMOUNT DUE |
|-------------|-----------------|----------------------------|
| 3879.26     |                 | 3879.26                    |

-- DESCRIPTION OF CHARGES --

| UNIT/SERIAL  | LEASE                   | ALLOTMENT | SHARE       | ACRES  | RATE   | AMOUNT |
|--------------|-------------------------|-----------|-------------|--------|--------|--------|
| 080 10022-00 | 107440207               | 0052 C    | 1.0000000 A | 40.000 | 11.000 | 440.00 |
| DR: 10       | STR/DESC: 02-1S-1E NESE |           |             |        |        |        |
| 080 10023-00 |                         | F0010     | 1.0000000 A | 36.280 | 11.000 | 399.08 |
| DR: 10       | STR/DESC: 02-1S-1E NWSE |           |             |        |        |        |
| 080 10025-00 | 1072830106              | 0321 C    | 1.0000000 A | 25.000 | 11.000 | 275.00 |
| DR: 10       | STR/DESC: 02-1S-1E SESE |           |             |        |        |        |

=====  
This bill (or a copy) must accompany your payment. Please make personal check, certified check, money order, or cashier's check payable to: 'Bureau of Indian Affairs'. We have the right to refuse water delivery until this bill is paid.

\*\*\*\* See enclosure for important information concerning your bill \*\*\*\*

**Attachment 7**  
**County Assessor Land Ownership Records**



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[County Code](#) [Elections](#) [Employee E-Mail](#) [Contacts](#)

### Real Property Owner Information

**Year:** 2013      **Serial No:** 13:002:0031      **Acct No:** 90392      **Tax Dist:** 9

**Owner Information**

MCKEE GREGORY D

**Mailing** P O BOX 1485  
**Address:** ROOSEVELT, UT 84066

**Property Information**

**Property** 8215 EAST 8750 NORTH  
**Address:** TRIDELL

**Land Use:** AGRICULTURAL IMPROVED ON GREENBELT  
**Acres:** 118.14

**Improvements**

| Structure | Built | Area |
|-----------|-------|------|
|-----------|-------|------|

**Taxing Description**

(do not use for legal documents)

SW/4 NE/4; AND NW/4 SE/4 OF SEC 2, T1S, R1E, USB&M. ALSO BEG AT SE COR LOT 2, SEC 2, T1S, R1E, USM; TH N 30 FT; TH W 361.5 FT; TH N 361.5 FT; TH E 361.5 FT TO E LINE SD LOT 2; TH N 943.5 FT M/L TO NE COR LOT 2; TH W 1320 FT M/L TO NW COR LOT 2; TH S 1320 FT M/L TO SW COR LOT 2; TH E 1320 FT M/L TO BEG. BEING A PART OF LOT 2. CONT 118.14 ACRES, M/L.

**Latest Valuation**

| YEAR | MARKET | ASSESSED |
|------|--------|----------|
| 2012 | 401796 | 59276    |

**Latest Tax Information**

| YEAR | TAXES  | PAYMENTS | BALANCE |
|------|--------|----------|---------|
| 2012 | 654.88 | 654.88   | \$0.00  |

Contact The Treasurer's Office @ (435)781-5368 For Any Delinquent Payoff Amounts

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### Real Property Owner Information

Year: 2013      Serial No: 13:002:0030      Acct No: 93332      Tax Dist: 9

**Owner Information**

MCKEE GREDORY D AND MARGARET A

Mailing PO BOX 1485  
Address: ROOSEVELT, UT 84066

**Property Information**

Property 8215 E 8750 N  
Address: TRIDELL  
Land Use: SINGLE PRIMARY RESIDENCE(DWELLING)  
Acres: 3

**Improvements**

| Structure | Built | Area |
|-----------|-------|------|
| 1 Story   | 2005  | 2967 |

**Taxing Description**

(do not use for legal documents)

BEG 30 FT N OF SE COR LOT 2 (NW/4 NE/4); SEC 2, T1S, R1E, USM; TH W PAR TO S LN OF SD LOT 2, 361.5 FT; TH N PAR TO E LN SD LOT 2, 361.5 FT; TH E PAR TO S LINE LOT 2, 361.5 FT; TH S ALG E LINE OF SD LOT 2, 361.5 FT M/L TO POB.

**Latest Valuation**

| YEAR | MARKET | ASSESSED |
|------|--------|----------|
| 2012 | 370398 | 208028   |

**Latest Tax Information**

| YEAR | TAXES   | PAYMENTS | BALANCE |
|------|---------|----------|---------|
| 2012 | 2298.29 | 2298.29  | \$0.00  |

Contact The Treasurer's Office @ (435)781-5368 For Any Delinquent Payoff Amounts

[Go Back](#)

**DECLARATION OF GREGORY D. MCKEE**

I, GREGORY D. MCKEE, hereby sworn, depose and state that I am over the age of eighteen (18) years old and am competent to testify to the facts contained herein based on personal knowledge thereof, except for those items stated upon information and belief and as to those matters, I believe them to be true.

1. I am the Petitioner in this matter and submit this Declaration in Support of my Application and Memorandum in Support for an Order to Show Cause.

2. I insisted on this provision of the order filed July 17, 2012 because Respondent had previously removed \$390,000 in funds from the GM Fertilizer business account that was owed the business' suppliers, had broken into the business office and removed records had contacted business customer and suppliers alleging that I was stealing and cheating them and had removed the business computer from the business office leaving me without access to necessary records.

3. Based on information and belief Respondent, along with her father Brent Searle, met with the Ute Tribe.

4. During the meeting with the Ute Tribe Respondent and her father accused me and my long time business associate and tribal member Frank Arrowchis ("Mr. Arrowchis") of stealing tribal water, illegally leasing tribal land and burying diseased cattle on tribal land.

5. Mr. Arrowchis has been a business associate of my family for decades.

6. My business activities with Mr. Arrowchis include sharecropping, and bartering cattle, hay and farm services.

7. Losing this business association with Mr. Arrowchis will be extremely damaging to my business/farming operations.

Declaration of Gregory D. McKee

1 of 2

8. I have learned that based on Respondent's allegations Mr. Arrowchis has been removed from his position on the tribal water board and is in jeopardy of losing all of his leases on tribal ground.

9. I learned that Respondent has provided the Ute Tribe with documents she obtained through discovery in the instant matter.

10. Pursuant to Utah Code § 78B-5-705, I further declare, certify, verify and state under criminal penalty of the State of Utah that the facts set forth herein above are true and accurate to the best of my personal knowledge.

DATED this 30 day of August, 2012.

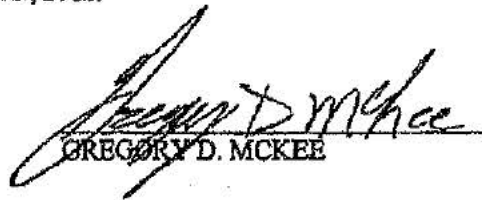
  
GREGORY D. MCKEE

Figure 1-1: Area of interest, including major roads and major irrigation infrastructure.





**Figure 2-1: Division of Subject Property based on Current Water Use**

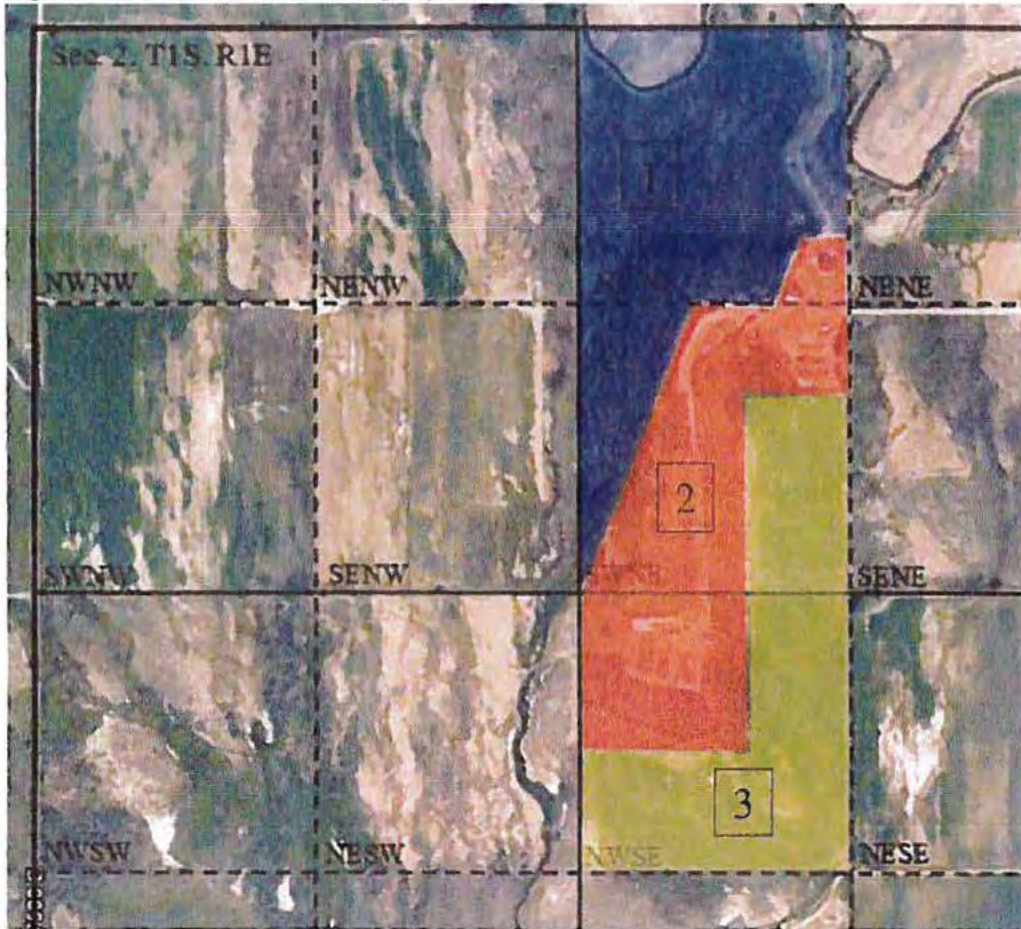
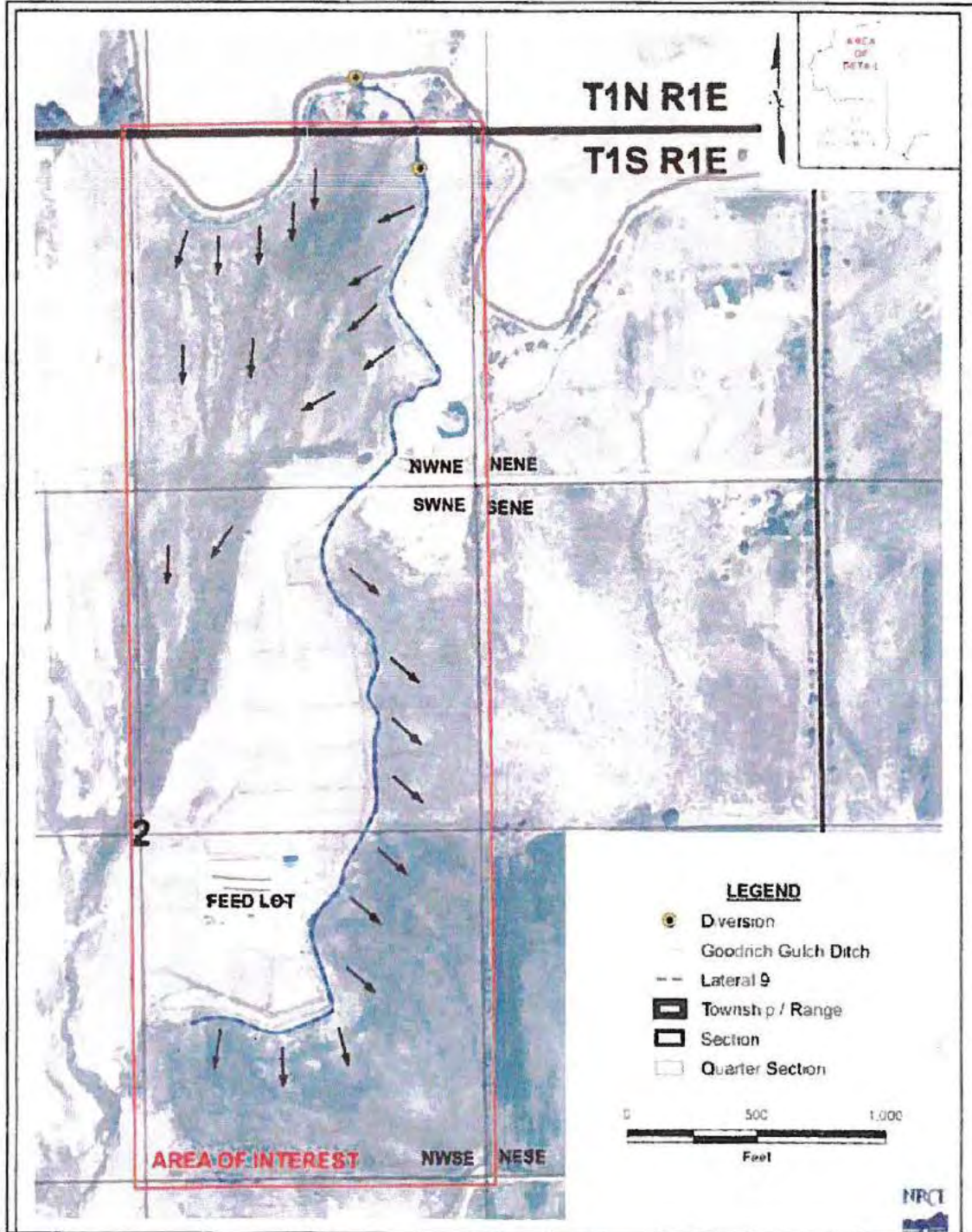


Figure 2-2: Water Use on the Subject Property



flow during the site visit at 12:00 p.m., once again preventing a thorough investigation of the canal bottom. Figure 3-2 illustrates the flow during the September 18 site visit.

**Figure 3-1: Structures and features noted during site visit.**



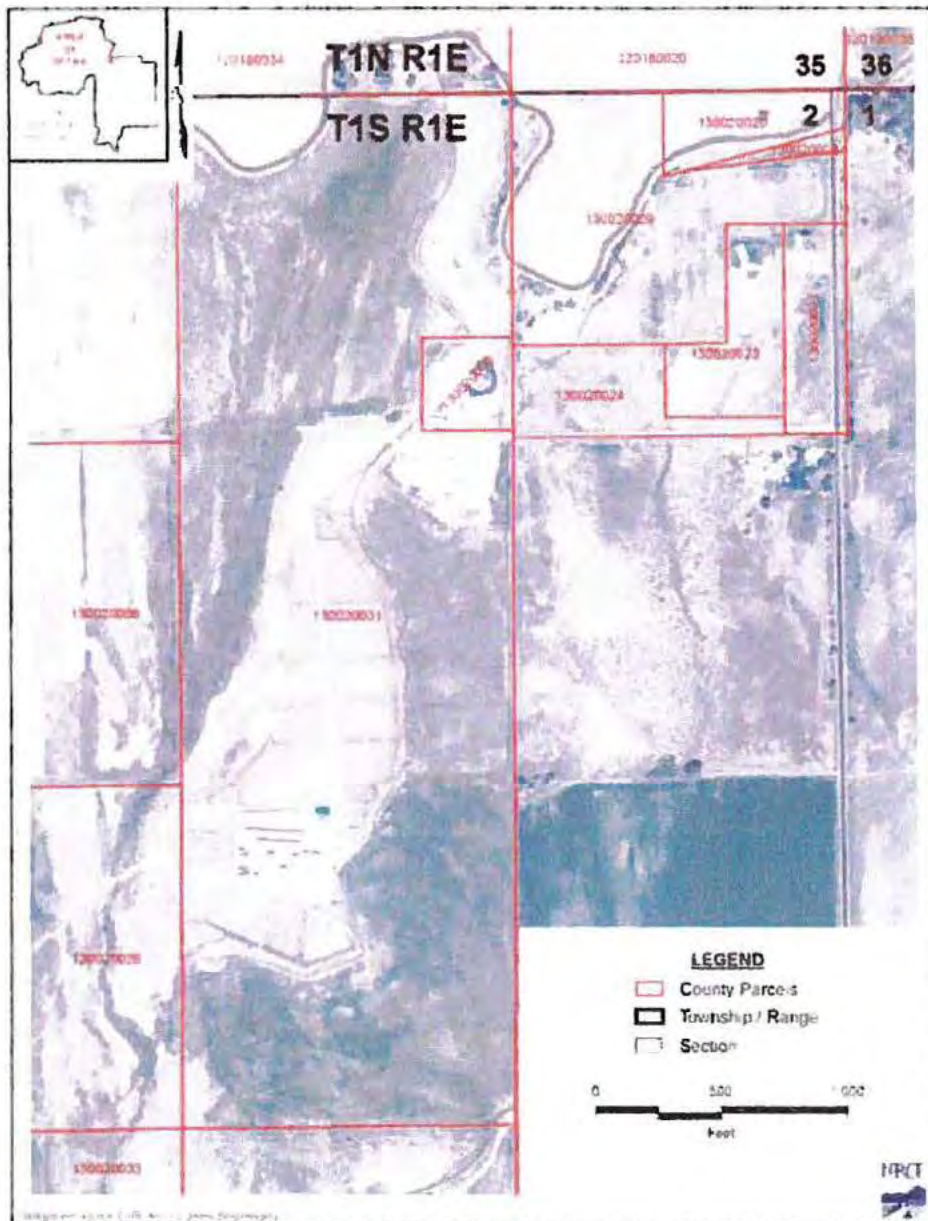
**Figure 3-2: Water flow in Deep Creek Canal during the September 18, 2012 site visit.**



### 3.2 Land Ownership

NRCE researched the land ownership in the area to determine the ownership of lands being irrigated by the unauthorized surface water diversion identified during site visits. Uintah County assessor records indicate that all of the parcels in the area of interest are owned by Mr. Greg McKee. Figure 3-5 indicates the land ownership in the area of interest and the adjoining properties.

Figure 3-5: Land ownership in the area of interest (Uintah County Recorder).



**Figure 3-6: Lands served by the Goodrich Gulch right, No. 43-3202 (State).**

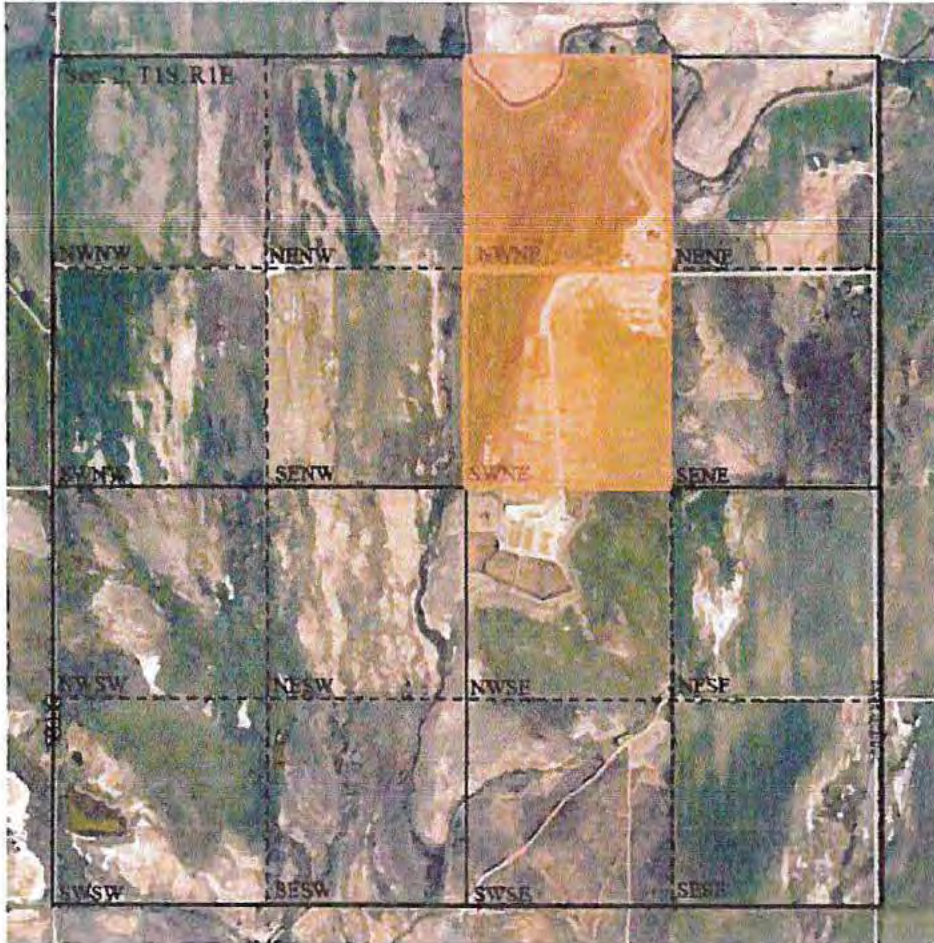
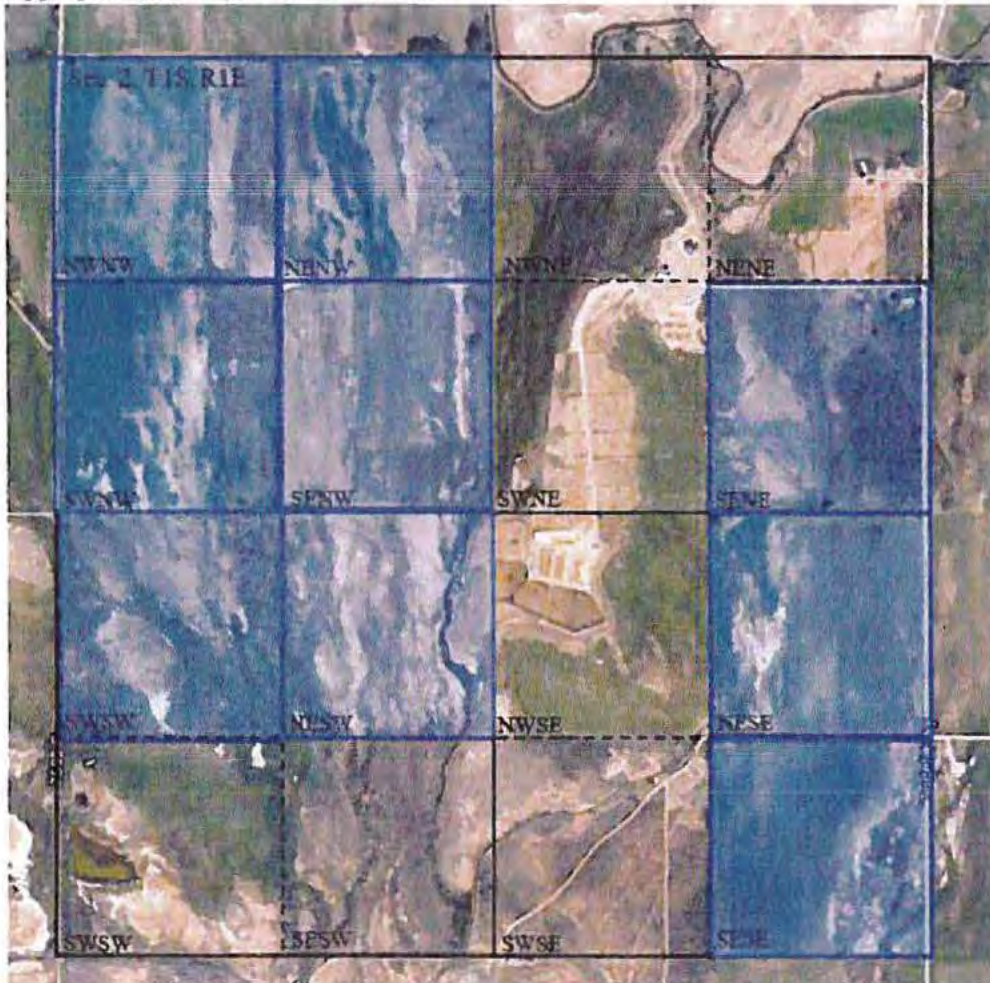


Figure 3-7 illustrates the legal place of use for the water right recognized under the 1905 Certificate of Appropriation for the Ute Indian Water Right.

**Figure 3-7: Lands served by the Project water right according to the Certificate of Appropriation (1905) for the Ute Indians.**



### 3.3.3 Water Compact Tabulation

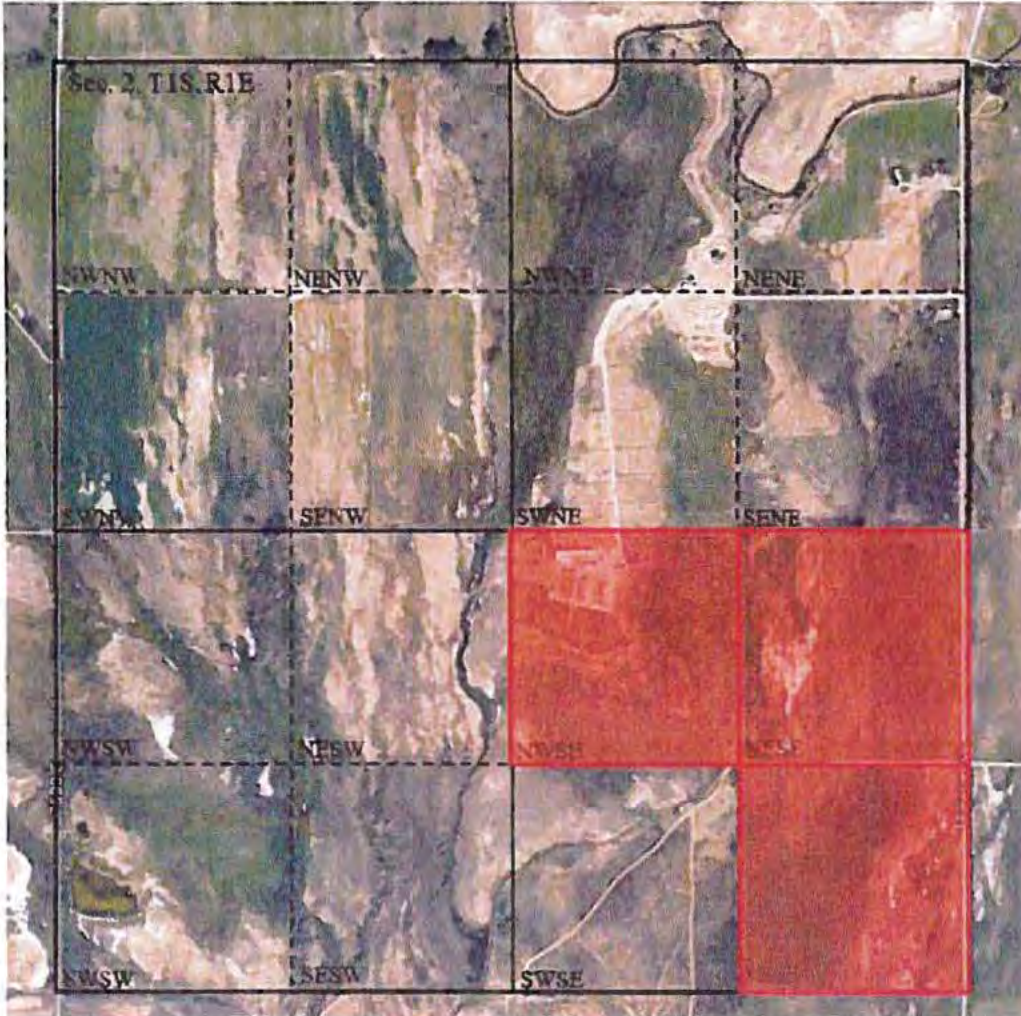
NRCE researched Ute Water Compact tabulations which inventory the lands with Tribal reserved water rights. The 1990 tabulation, which was approved by Congress, did not include any of the parcels in the area of interest (Figure 1-1) as places of use using the Tribe's water right from the Uinta River.

### 3.4 BIA Assessment Charges

The BIA keeps billing summaries and records to ensure that operating and maintenance assessment fees ("O&M Assessment Fees") are paid for all lands receiving water through the canals and ditches of the Uintah Indian Irrigation Project. According to records from 2005,

2007, 2010, and 2012, Mr. McKee has consistently paid assessments on three parcels within Section 2: NE $\frac{1}{4}$  SE $\frac{1}{4}$ , NW $\frac{1}{4}$  SE $\frac{1}{4}$ , and SE $\frac{1}{4}$  SE $\frac{1}{4}$ . Billing records from additional years in this period were not readily available. The absence of billing records from the NW $\frac{1}{4}$  NE $\frac{1}{4}$  or SW $\frac{1}{4}$  NE $\frac{1}{4}$  indicates that the BIA does not recognize a Project water right for these parcels. Figure 3-8 highlights the lands owned by Mr. McKee that are billed assessment fees by the BIA Project. Note that this does not include all lands billed assessment fees in Section 2, but only those paid for by Mr. McKee.

**Figure 3-8: McKee land billed for Project assessment fees (BIA Billing).**



There are a limited number of private carriage capacity (PCC) agreements for the Deep Creek Canal. PCC agreements allow the conveyance of non-Project water rights through Project infrastructure. The water user must pay operation and maintenance fees to the Project to assist in maintenance of Project infrastructure related to this delivery. According to Mr. Murdock,

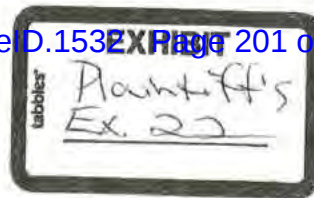
#### 4 Defendant's Memorandum of Law

The attorney for Mr. McKee, James A. Beckwith, provided arguments regarding the land ownership and water rights of Mr. McKee. In his Memorandum, Mr. Beckwith states that the invoices paid by Mr. McKee to the BIA include the SW¼ NE¼ of Sec. 2, T1S, R1E. Furthermore, Mr. Beckwith states that Mr. McKee has lawfully diverted "purchased Indian Water" from the Deep Creek Canal to irrigate the SE¼ NE¼. The SW¼ NE¼ of Sec. 2, T1S, R1E does not have Project water rights according to any other data source found by NRCE, including the attachments to Mr. Beckwith's Memorandum. Furthermore, no records were found indicating that Mr. McKee is involved in any capacity with the SE¼ NE¼. On the contrary, BIA records indicate that this is a Tribal-owned parcel which can therefore not be owned or operated by a non-Indian. Figure 4-1 contains an illustration of the parcels for which Mr. Beckwith contends that Mr. McKee has a Project water right.

Figure 4-1: McKee lands containing Project water right according to Mr. Beckwith (Beckwith).







State of Utah )  
County of Uintah )

I, Randy Simmons, County Recorder in and for Uintah County, State of Utah do hereby certify that the above and

foregoing is a full, true and correct copy of the original Personal Rep Deed Entry No 2005008219 which is of record in this office in Book 944 Page 265

IN WITNESS WHEREOF, I hereunto set my hand and seal this March of 2013

[Signature] Recorder  
[Signature] Deputy

Entry 2005008219  
Book 944 Page 265 -266 \$12.00  
27-SEP-06 11:34  
RANDY SIMMONS  
RECORDER, UINTAH COUNTY, UTAH  
KENNETH ANDERTON  
110 EAST 100 SOUTH VERNAL, UT 84078  
Rec By: CARADIE ASH DEPUTY

PERSONAL REPRESENTATIVE'S DEED

Entry 2005008219  
Book 944 Page 265

THIS DEED, made by DEBORAH JEAN McKEE, as Personal Representative of the Estate of Larry Dean McKee, deceased, Grantor, to Gregory D. McKee, whose address is P.O. Box 70, Lapoint, Utah 84039.

WHEREAS, Grantor is the qualified Personal Representative of said Estate;

THEREFORE, for valuable consideration received, Grantor sells and conveys to Grantee all of the interest of Larry Dean McKee in the following described real properties in Uintah County, Utah:

Parcel 1:

13-2-31, 13-2-30

Township 1 South, Range 1 East, Uintah Special Base and Meridian, Section 2: All of Lot 2; the Southwest quarter of the Northeast quarter; and the Northwest quarter of the Southeast quarter. Containing 121.14 acres, more or less.

TOGETHER with all improvements and appurtenances and water rights in connection therewith, including a 44 acre water right in Goodrich Gulch, under Certificate of Appropriation records in Book 2 at page 268 in the office of the Uintah County Recorder.

Parcel 2:


13-47-24

Township 1 South, Range 2 East, Uintah Special Meridian, Section 19: The West half of the Southwest quarter.

Entry 2005008219  
Book 944 Page 266


TOGETHER with all improvements and appurtenances  
thereunto belonging, including 39 shares of Indian Irrigation  
Water Rights.

EXECUTED this 22 day of Sept, 2005.

  
Deborah Jean McKee  
Personal Representative of the Estate of  
Larry Dean McKee, Deceased.

STATE OF UTAH            )  
                                          ) ss.  
COUNTY OF UINTAH    )

On the 22nd day of September, 2005 personally appeared before me Deborah  
Jean McKee, as Personal Representative of the Estate of Larry Dean McKee, and as  
signer of the foregoing instrument, who duly acknowledged to me that she executed  
the same.

  
Notary Public  
PAMELA PEASE  
119 East 100 South  
Vernal, Utah 84079  
My Commission Expires  
February 17, 2007  
State of Utah

  
Notary Public

water rights situated in Uintah County, State of Utah;

All that certain water right represented by certificate of appropriation No.571 originally issued by the State engineer of the State of Utah, to Joseph L Taylor and conveyed by him to N.A.Taylor one of the grantors herein, said certificate bearing the date of April 12,1917, and which is of record in the office of the County Recorder of Uintah County, State of Utah, of the 23rd day of April 1917, in book 2 of water certificates at pages 13 and 14, and which said water right represents the water appropriated for stock watering purposes under application No.5011 from "Dogey Spring", in Uintah County, Utah, for one-hundredths (.01) of a cubic foot per second of water..

Also that certain water rights represented by Certificate of appropriation No.573 issued from the Office of said State Engineer of the State of Utah, to said Joseph L Taylor and conveyed by him to N.A.Taylor one of the grantors herein, said certificate bearing date of April 12,1917, and recorded in the office of the County recorder of Uintah County,State of Utah, on the 23rd day of April 1917, in book 2 of water certificates at page 13, and which said water right represents the water appropriated under application NO.5013 from"Secret Spring" in Uintah County,Utah, for eight thousandths (.008) of a cubic foot per second of water,all for stock watering purposes.

Witness the hands of said grantors this 13th day of January A.D.1931

Signed in the presence of  
Herbert Tyzack

N.A.Taylor  
Veone Taylor

STATE OF UTAH  
COUNTY OF UINTAH,SS: On this 13th day of January A.D. 1931 personally appeared before me N.A.Taylor and Veone Taylor the signers of the above instrument who duly acknowledged to me that they executed the same.

My commission expires June 14,1933. (SEAL) Herbert Tyzack, Notary Public residing at Vernal, Uintah County,Utah.

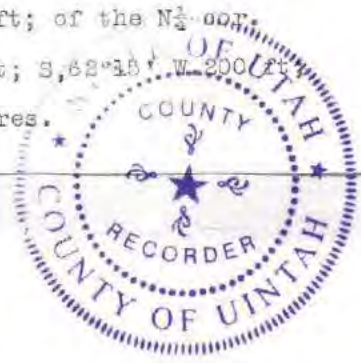
Filed for record Jan.13,1931 at 3,P. M. Addie Longhurst Recorder.

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Entry No 7833 ORIGINAL CERTIFICATE OF APPROPRIATION OF WATER. STATE OF UTAH ORIGINAL  
Application No9978. <sup>water</sup> Green River Divison Certificate No.1962.

Whereas it has been made to appear to the satisfaction of the undersigned State Engineer of the State of Utah, That the Appropriation of water from Goodrich Gulch in Uintah County, made By Sarah C Darling has been perfected in accordance with the application therefor received in the office of the State Engineer on the 22nd day of May 1926 and recorded on page 361 in book I-30 of the record of applications to appropriate water;Wherefore be it known that I, George M Bacon State engineer of the State of Utah under and by authority and direction of the law of Utah, as of the date of filing of the above numbered application, do hereby certify that the said Sarah <sup>b.</sup> Darling of Tridell in Uintah County, State of Utah is entitled to Use of Sixty two hundredths (.62) subject to prior rights and to the following restrictions to wit. The water is diverted from said stream at a point which bears n.72°30' E 1665 feet; from the W 1/2 cor. of Sec.35, T.1,N. R 1 E. U.S.M. the diverting works consist of a brush and rock dam lumber headgate and an earthon ditch,3795 ft.long,5 ft. wide on top, 2 ft wide in the bottom having an affective depth of 1 ft. the water is used from April 1st to November 1st incl. of each year to irrigate 47.13 acres of land embraced in the W 1/2 NE 1/2 of Sec.2 T 1 S. R 1 E. U.S.M. and more particularly described as follows;- Beginning at a point S.41°0' E 465 ft; from the N 1/2 cor. of said Sec.2. thence N.89°0' E 140 ft. N.63°30' E 145 ft; N 40°0' E 265 ft; E.270 ft; S.37°45' E.225 ft; S 10°30' W 105 ft; S.30°30' W 250 ft; S.4°15' W.115 ft; N.63°0' W 300 ft; to place of beg. containing 358 acres. also beg at a point S. 7°0' E.165 ft; of the N 1/2 cor. of said Sec.2, thence S.42°45' E 270 ft; S.63°15' E 866 ft; S.35°30' E 260 ft; S.62°15' W 200 ft; S. 5°15' E.215 ft; W 270 ft; N.1140 ft; to place of beg. containing 18.68 acres.

EXHIBIT  
Plaintiff's  
23



Also beg. at a point 1320 ft; S. and 970 ft. E. of the NW $\frac{1}{4}$  cor. of said Sec. 2, thence S. 88° 15' W. 393 ft; S. 36° 0' W. 240 ft; S 20° 0' W. 200 ft; S. 3° 45' W. 373 ft; S 45° 15' W 285 ft; S. 76° 30' W 165 ft; N. 1010 ft; E 970 ft; to place of beg. containing 9.32 acres. Also beg. at a point 1320 ft W of the E $\frac{1}{2}$  cor. of said Sec. 2 thence W. 462 ft; N 41° 0' E 150 ft; N. 24° 15' W 95 ft; N 1° 45' E 195 ft. N. 13° 0' W. 200 ft; N. 43° 0' W 220 ft; N. 16° 0' W 90 ft; N. 11° 0' E 180 ft; N. 45° 0' E. 350 ft; S. 72° 30' E 150 ft; N. 65° 30' E. 120 ft; S 1320 ft, to place of beg. containing 13.15 acres.

This certificate does not entitle the holder to use to exceed the equivalent of 3 acre ft per acre of land irrigated per annum.

The diverting works must be maintained in such condition as will prevent an unreasonable loss of water

The date of priority of this right is May 22nd 1926.

In witness whereof I have hereunto set my hand and affixed the seal of my office this fifth day of January A.D. 1931. (Seal) Geo. M. Bacon State Engineer.

Filed for record Jan 29 1931 at ; 2, P.M. Addie Longhurst Recorder

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Entry No. 7851

WATER CERTIFICATE  
STATE OF UTAH

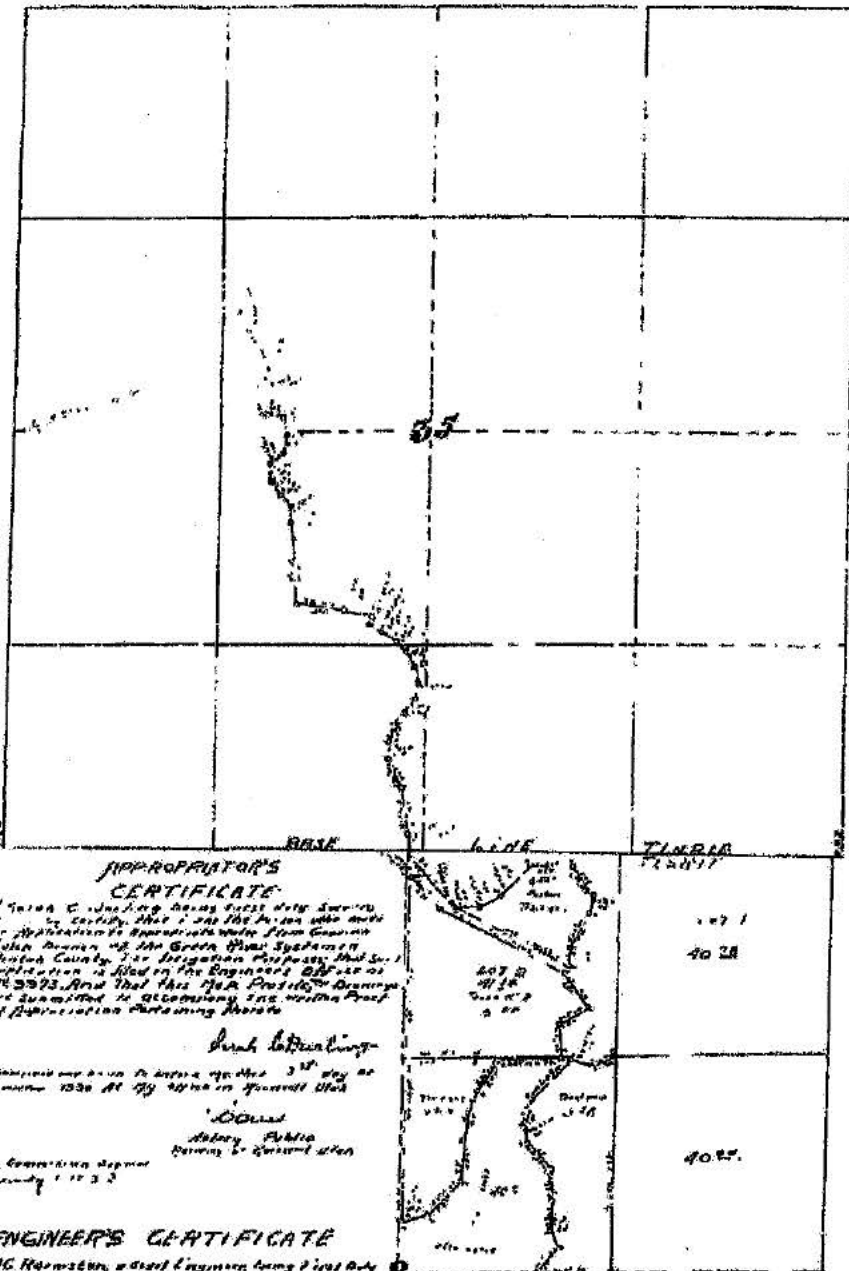
ORIGINAL

APPLICATION No. 9854

GREEN RIVER WATER DIVISION

CERTIFICATE No. 1961

WHEREAS, It has been made to appear to me, the undersigned State Engineer of the State of Utah, that the appropriation of water from Three Unnamed Springs in Uintah County, made by



**SHEET NO 1.**

**APPROPRIATOR'S CERTIFICATE**

I, **THOMAS C. JONES**, being duly sworn, do hereby certify that the person who made the measurements and drawings shown on this plan is duly qualified to make the same and that the same are true and correct.

*Thomas C. Jones*

Witness my hand and seal this 3rd day of August 1933 at my office in Grand Rapids, Michigan.

**Thomas C. Jones**  
 Mayor, Public Health Officer

**ENGINEER'S CERTIFICATE**

I, **W. H. HARRIS**, a Civil Engineer being duly sworn, do hereby certify that the person who made the measurements and drawings shown on this plan is duly qualified to make the same and that the same are true and correct.

*W. H. Harris*  
 Engineer

Subscribed and sworn to before me at Grand Rapids, Michigan, this 3rd day of August 1933.

**W. H. Harris**  
 Mayor, Public Health Officer

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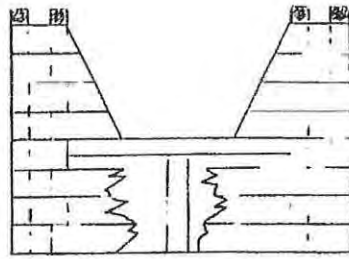


FIG 6  
WEIR  
Scale 1/4"=1'-0"



FIG 7  
Side Elevation  
Front Elevation of Weir  
Scale 1/4"=1'-0"



FIG 8  
Plan View of Weir  
Scale 1/4"=1'-0"

# SHEET N<sup>o</sup> 2

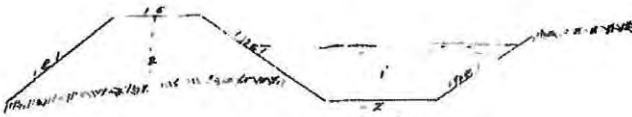


FIG 9  
Cross Section of Channel  
Scale 1/4"=1'-0"

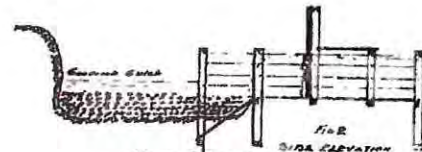


FIG 10  
Side Elevation  
of Weir  
Scale 1/4"=1'-0"

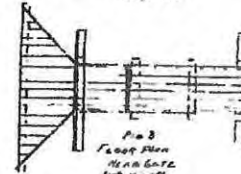
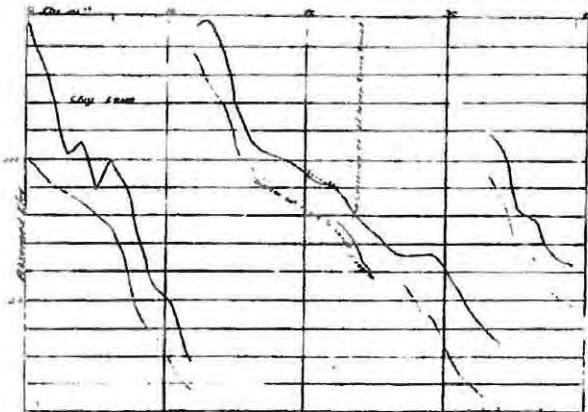


FIG 11  
Plan View  
of Weir  
Scale 1/4"=1'-0"



Profile of Section C Ratings for Ditch Scale 1/4"=1'-0"

H-3  
11.

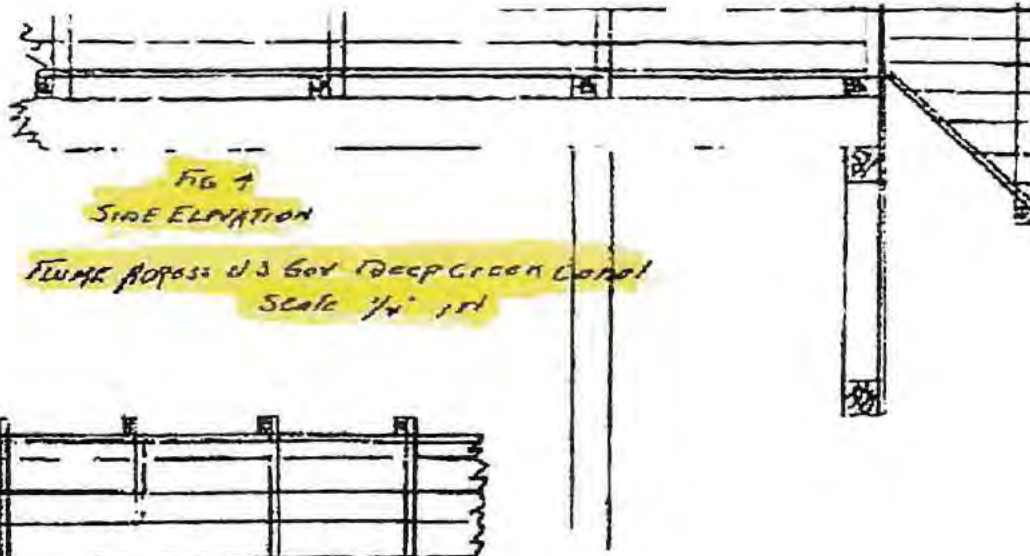


FIG 4  
SIDE ELEVATION

FENCE ACROSS W 3 60' DEEP GREEN LANE  
SCALE 1/4" = 1 FT

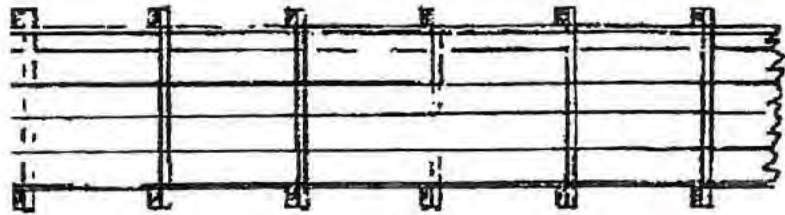


FIG 5  
FLOOR PLAN OF FENCE  
SCALE 1/4" = 1 FT

# SHEET N<sup>o</sup> 2

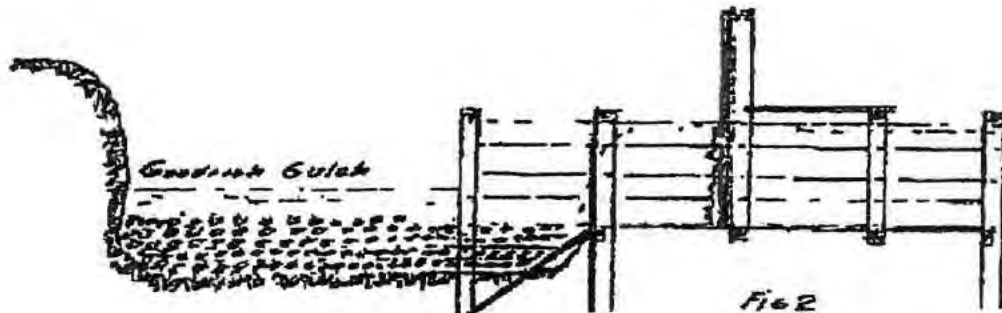


FIG 2

9/20/1.

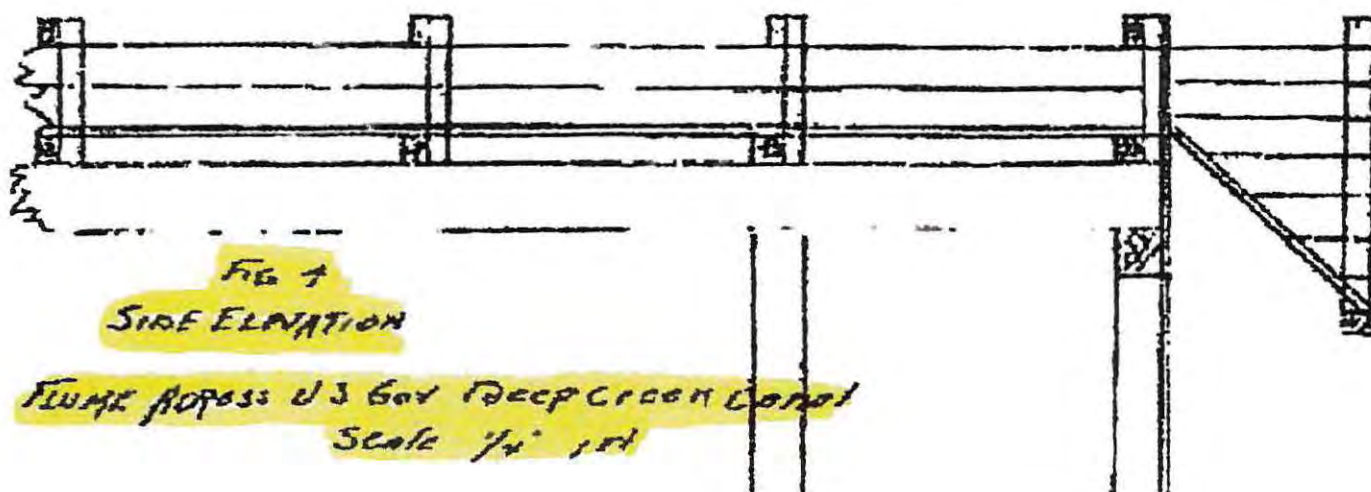


FIG 1  
SIDE ELEVATION

FLUME ACROSS US 60Y DEEP CREEK COROL  
Scale 1/4" = 1'