

1. I am an attorney representing Thomas M. Ricks, am over the age of 18, and state the following based upon my own personal knowledge.

2. Attached hereto as **Exhibit 1** is a copy of *The History and Development and Current Status of the Carey Act in Idaho* (March 1970), obtained from the records of the Idaho Department of Water Resources (“IDWR”). As stated in the Foreword, it was prepared at the direction of former IDWR Director R. Keith Higginson. *Exhibit 1, Foreword*. The document provides a “summary of the past history of development and the current status of the Carey Act.” *Id.* Part IV of the document provides a “Summary of the Carey Act in Idaho.” *Id.* at 15. There are no Carey Act projects in the name of Ballentyne Ditch Company, Ltd. (“Ballentyne”), or any Carey Act projects in the vicinity of Ballentyne that could be construed as making Ballentyne a Carey Act project. *Id.* at 16 – 79.

3. Attached hereto as **Exhibit 2** is an *Order of Partial Decree* for two of the United States Bureau of Reclamation’s Snake River Basin Adjudication decrees for storage water in the Boise Project, 63-0303 and 63-3613. The decrees were issued following the Idaho Supreme Court’s decision in *United States v. Pioneer Irr. Dist.*, 144 Idaho 106, 157 P.3d 600 (2007), including the language required by the Court’s decision, which is located in “Other Provisions Necessary for Definition or Administration of this Water Right.”

4. Attached hereto as **Exhibit 3** is a true and correct copy of both pages of Thomas M. Ricks’ Ballentyne stock certificate, which was provided to D.L. Evans Bank in *Thomas M. Ricks’ Responses to Plaintiff’s First Set of Interrogatories and Requests for Production of Documents to Thomas M. Ricks*. The stock certificate that was included as Exhibit 3 to the *Affidavit of Thomas M. Ricks in Support of Thomas M. Ricks’ Motion for Summary Judgment*,

filed with the Court on January 23, 2015, omitted the second page of the certificate.

DATED this 12th day of February, 2015.



CHRIS M. BROMLEY

Attorneys for Thomas M. Ricks

SUBSCRIBED AND SWORN TO BEFORE ME this 12th day of ~~January~~ ^{February}, 2015.



NOTARY PUBLIC for Idaho

Residing at: Bowen, ID

My Commission Expires: 2-4-2016

(seal)



CERTIFICATE OF SERVICE

I HEREBY CERTIFY that on the 12th day of February, 2015, a true and correct copy of the foregoing document was served as follows:

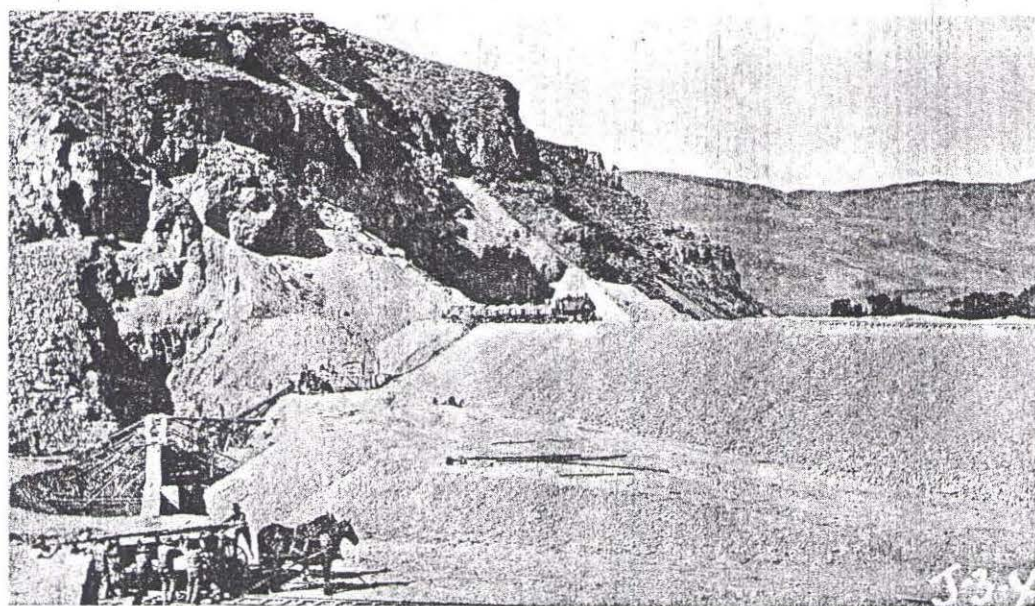
Jason R. Naess Parsons Smith Stone Loveland & Shirley, LLP PO Box 910 Burley, ID 83318	<input checked="" type="checkbox"/> First Class Mail <input type="checkbox"/> Hand Delivery <input type="checkbox"/> Facsimile <input checked="" type="checkbox"/> Email
John Homan Idaho Department of Water Resources PO Box 83720-0098 Boise, ID 83720	<input checked="" type="checkbox"/> First Class Mail <input type="checkbox"/> Hand Delivery <input type="checkbox"/> Facsimile <input checked="" type="checkbox"/> Email
S. Bryce Farris Sawtooth Law Offices, PLLC PO Box 7985 Boise, ID 83707	<input checked="" type="checkbox"/> First Class Mail <input type="checkbox"/> Hand Delivery <input type="checkbox"/> Facsimile <input checked="" type="checkbox"/> Email



CHRIS M. BROMLEY

EXHIBIT 1

THE
HISTORY OF DEVELOPMENT
AND
CURRENT STATUS
OF THE
CAREY ACT IN IDAHO



MARCH 1970

SPECIAL REPORT

THE HISTORY OF DEVELOPMENT AND CURRENT STATUS OF
THE CAREY ACT IN IDAHO

by

Mikel H. Williams

Research Assistant

Published by

Idaho Department of Reclamation

R. Keith Higginson

State Reclamation Engineer

March 1970

FOREWORD

The following report was prepared during the summer of 1968 by Mikel H. Williams, a senior law student at the University of Idaho. Mr. Williams was hired by the Department of Reclamation to research the files and records of the Department and federal and state laws and to prepare a summary of the past history of development and the current status of the Carey Act.

The Department gratefully acknowledges the assistance of many individuals throughout Idaho and other states who spent time providing him with information and historical background material. The outline of the history of each Idaho Carey Act project was prepared by Mr. Williams and the Department solicits comments from any interested party concerning the accuracy or completeness of any detail.

The primary purpose of the study was to provide the Department with information in connection with its responsibility for the "... selection, management and disposal of said land. ..." However, it was felt that the report was of sufficient interest that it should be reproduced and made available to the public.

R. Keith Higginson
State Reclamation Engineer

CONTENTS

	Page
History of the Carey Act	1
Part I: The Development of the Carey Act on the Federal Level . .	1
Part II: The Development of State Law	5
A. The State	5
B. The Construction and Operating Companies	7
C. The Entrymen	8
Part III: History of the Carey Act in the other Western States . .	10
Part IV: Summary of the Carey Act in Idaho	15
A. History of the Carey Act Projects	16
B. Summary	79
The Current Status of the Carey Act	81
Recommendations	82
References	84

ILLUSTRATIONS

Figure	1. American Falls Project	17
	2. Big Lost River Irrigation Project	19
	3. Blaine County Irrigation Project	25
	4. Canyon Canal Company Project	32
	5. Grand View Land and Irrigation Company Project	37
	6. High Line Pumping Company Project	40
	7. Houston Ditch Company Project	42
	8. Idaho Irrigation Company Projects	44
	9. Keating Carey Land Company Project	47
	10. King Hill Irrigation Projects	49
	11. Pratt Irrigation Project	62
	12. The Twin Falls Projects	70
	13. West End Twin Falls Irrigation Project	78

TABLES

Table	1. Information on Carey Act Land Development in State of Wyoming	14
-------	--	----

HISTORY OF THE CAREY ACT

PART I: THE DEVELOPMENT OF THE CAREY ACT ON THE FEDERAL LEVEL

The Carey Act was born out of necessity when late in the 1890's the land rush in the western United States faltered. Almost all of the land with an available source of water had been reclaimed and was under cultivation. The lands settled by the earliest settlers were closest to the natural waterways, and it soon became evident that the lands lying furthest from the streams could be put under cultivation only if expensive irrigation and diversion works were constructed. The Homestead Act and the Desert Land Law had been in effect for many years but neither offered the necessary format for wide scale reclamation projects. The ingredients for reclamation were present, water and federal arid land, but two things were lacking; construction works to unite the water with the land, and some way to finance these irrigation works. The western states were anxious to have the vast amounts of federal lands patented to the residents of the respective states, and were pressing Congress for some type of action. (1)

Feeling he had a solution to the problem, Senator Carey from Wyoming introduced two amendments on July 16, 1894 to the Sundry Civil Appropriations Bill incorporating his proposals to irrigate and reclaim these lands. (2) During Senate debate on the proposed amendments Senator Carey stated:

"There must be something done in the arid land States and Territories. I do not believe the Treasury of the United States will be in a condition for some years to come where the Government would be willing to appropriate money for the reclamation of lands in the arid States and Territories." (3)

Little opposition was offered to the proposed amendments in either the House of Representatives or the Senate. The act to which they were attached was officially entitled, "An act making appropriations for sundry civil expenses of the fiscal year ending June 30, 1894 and for other purposes." The Act was passed on June 30, 1894 and approved on August 18, 1894. (4) The text of the original act appears as follows:

"SECTION 4. That to aid the public land States in the reclamation of the desert land therein, and the settlement, cultivation and sale thereof in small tracts to actual settlers, the Secretary of the Interior with the approval of the President, be, and hereby is, authorized and empowered, upon proper application of the State to contract and agree, from time to time, with each of the States in which there may be situated desert lands as defined by the Act entitled "An Act to provide for the sale of desert land in certain States and Territories", approved March third, eighteen hundred and seventy-seven, and the Act amendatory thereof, approved March third, eighteen hundred and ninety-one, binding the United States to donate, grant and patent to the State free of cost for survey or price such desert lands, not exceeding one million acres in each State, as the State may cause to be irrigated, reclaimed, occupied, and not less

than twenty acres of each one hundred and sixty-acre tract cultivated by actual settlers, within ten years next after the passage of this Act, as thoroughly as is required of citizens who may enter under the said desert land law.

"Before the application of any State is allowed or any contract of agreement is executed or any segregation of any of the land from the public domain is ordered by the Secretary of the Interior, the State shall file a map of the said land proposed to be irrigated which shall exhibit a plan showing the mode of the contemplated irrigation and which plan shall be sufficient to thoroughly irrigate and reclaim said land and prepare it to raise ordinary agricultural crops and shall also show the source of the water to be used for irrigation and reclamation, and the Secretary of the Interior may make necessary regulations for the reservation of the lands applied for by the States to date from the date of the filing of the map and plan of irrigation, but such reservation shall be of no force whatever if such map and plan of irrigation shall not be approved. That any State contracting under this section is hereby authorized to make all necessary contracts to cause the said lands to be reclaimed, and to induce their settlement and cultivation in accordance with and subject to the provisions of this section; but the State shall not be authorized to lease any of said lands or to use or dispose of the same in any way whatever, except to secure their reclamation, cultivation and settlement.

"As fast as any State may furnish satisfactory proof according to such rules and regulations as may be prescribed by the Secretary of the Interior, that any of said lands are irrigated, reclaimed and occupied by actual settlers, patents shall be issued to the State or its assigns for said lands so reclaimed and settled: Provided, that said States shall not sell or dispose of more than one hundred and sixty acres of said lands to any one person, and any surplus of money derived by any State from the sale of said lands in excess of the cost of their reclamation, shall be held as a trust fund for and be applied to the reclamation of other desert lands in such State. That to enable the Secretary of the Interior to examine any of the lands that may be selected under the provisions of this section, there is hereby appropriated out of any moneys in the Treasury, not otherwise appropriated, one thousand dollars."

The act as originally enacted envisioned that the separate states which accepted the Carey Act would operate as construction companies and build the diversion works, but it soon appeared that the treasury of most of these states was in no better financial condition than the Treasury of the United States. Many of the state constitutions prohibited states from obtaining the necessary financial credit for such undertakings. (5) The power given to a state to make any contract necessary to cause the reclamation of the lands could have possibly been construed to enable the states to contract with outside interests; however, private enterprise felt that irrigation projects would be too risky unless there was a way to guarantee that their investment would be adequately protected. To rectify this

situation the Carey Act was amended in 1896 to create a lien on the lands reclaimed for the cost of the construction, necessary expenses, and interest from the date of reclamation until it was disposed of to actual settlers. (6) The amendment also provided that the lands could be patented to the states when ". . . an ample supply of water is actually furnished in a substantial ditch or canal, or by artesian wells or reservoirs, to reclaim a particular tract or tracts of such lands, . . . without regard to settlement or cultivation." (7) The lands would then be held in trust by the state until the entryman had reclaimed the land. (8)

After this amendment the Carey Act presented a unique scheme never before attempted in the United States. Private enterprise would construct the irrigation works under state supervision and initially finance these projects by mortgaging its equity in the project, issuing bonds, or assigning its contracts with the settlers for the purchase of water rights. The ultimate profit would be derived from the sale of perpetual water rights to settlers on the project. After the settler had reclaimed the portion of this acreage established by statute, he could apply through the state to the Department of Interior for a patent to the lands. When the diversion works were completed by the construction company and accepted by the state, the project, including title to the irrigation works, would be turned over to an operating company composed of the entrymen on the project. One of the most important characteristics of the Act was that it required reclamation by irrigation, occupation, and cultivation before a patent would be issued; unless, as provided by the 1896 amendment, sufficient water was available in substantial ditches or reservoirs to reclaim the lands.

To implement the Carey Act three contracts were contemplated. The first would be between the federal government and the state which proposed the project. The second would be between the state and the construction company, and the third contract would be between the construction company and the settlers on the project.

Generally the federal government and the state covenanted that the federal government would convey to the state the lands free from costs whenever an ample supply of water was furnished to reclaim the lands, provided the lands were reclaimed within the statutory period. The state would agree not to use the land in any way other than to secure the reclamation, cultivation, and settlement of the Carey land in 160 acre tracts to actual settlers. The state would have the power to make any contract necessary to secure the reclamation of the lands; however, in no case could the state contract in such manner as to make the federal government liable on the contract.

In its contract with the state the construction company would generally present proof that a valid water right existed or that one was in the process of being perfected. This contract would set out in detail what needed to be done by the company involved in constructing the irrigation works, such as: specifications for construction of the irrigation works, sale of water rights to the settlers, capacities, rights-of-way, and other particulars. This contract formed the guide lines for the development of

the Carey Act project. When the conditions of this contract were executed, the project was generally ready to be turned over to the operating company. The state could effectively ensure that the diversion works were adequately constructed according to contract specifications by refusing to accept the contract until the state officials were satisfied.

The contract between the construction company and the settlers would set out the conditions surrounding the sale of water rights to the settlers and the amount of water to be delivered to the lands. It would also include the terms for turning the project over to the settlers, and the establishment of the settlers' operating company.

The Carey Act empowered the states to supervise the construction of the diversion works, and ensure that the lands would be reclaimed. Part of the state's responsibility in administering the Carey Act was providing the Department of Interior with a map of the project before allowing actual construction to commence. This map had to be filed by the state before the segregation was approved; showing the lands proposed to be irrigated, the method of irrigation, and the source of water to be used for the project. (9) The lands selected had to be arid lands in character as defined by the Desert Land Law. (10) The state had to see that the lands were reclaimed, settled, and put under cultivation.

The Carey Act provided that the state would have 10 years after the withdrawal in which to reclaim the lands segregated from the public domain. An amendment passed in 1901 allowed for a five year extension of time at the discretion of the Secretary of Interior. (11)

After the segregation was allowed the company had three years in which to commence construction; however, an extension of three years could be granted. (12) When the construction was finished or when sufficient water was made available to reclaim a portion of the segregation, the construction company could petition the state for a public land opening on the project.

The Act required that after the end of the fifteen year period, assuming an extension had been granted, one-eighth of the land entered upon by the entryman had to be reclaimed. The maximum amount of land that could be settled by any one person was one hundred and sixty acres. After the entryman had reclaimed his land the state would issue a final certificate to the entryman and request a patent from the federal government, which would be conveyed to the entryman upon receipt. Any money the state received as a result of the Carey Act had to be placed in a trust fund and used for the reclamation of other desert lands or for operating expenses.

In 1910 an important amendment to the Carey Act was enacted authorizing the temporary withdrawal of lands for one year for the purpose of making studies and surveys in order to determine if the proposed project would be feasible. (13) If the plan or proposed construction of the irrigation works seems plausible, the proposers could then ask for a permanent segregation of the land. If the request for a permanent segregation was not made within the one year period, the lands reverted back to the public domain.

In 1911 an attempt was made to make water readily available for some of the more destitute Carey Act projects. Congress passed a statute authorizing the sale of surplus water by the Bureau of Reclamation to any Carey Act project. (14)

In 1920 congressional attention shifted to the problems of entrymen forced off a Carey Act project. Usually the main factors behind a reduction of area and entrymen was the lack of water or funds to complete the project. To relieve this situation Congress allowed an entryman forced off a project to perfect his title under another land law if he acted within ninety days. The entryman could qualify for this provision only if he *"had established actual bona fide residence or had made substantial and permanent improvements"* on the lands. (15)

Few additional legislative changes were made by Congress until 1954. During the interim period a substantial number of regulations were promulgated by the Department of Interior. The latest developments of the Carey Act will be considered in the section dealing with the Act's current status. For the most part, after the passage of the Carey Act in 1894, statutory development rested with the states.

PART II: THE DEVELOPMENT OF STATE LAW

Almost immediately after the passage of the Carey Act, many state legislatures in the western United States enacted laws accepting the conditions of the federal grant. Altogether twelve western states accepted the Carey Act: Arizona, California, Colorado, Idaho, Montana, Nevada, New Mexico, Oregon, South Dakota, Utah, Washington, and Wyoming. (16) Most of the legislatures in these states enacted similar provisions to administer the Carey Act. These laws can best be analyzed by examining the relation of the parties concerned with a Carey Act project; the state, the construction and operating company, and the entrymen. For purposes of this report the Idaho Code will be referred to in analyzing the procedures followed in the administration of the Carey Act.

A. THE STATE

The Carey Act envisioned the state acting as an agent or trustee in the administration of the Act. In supervising the building of the irrigation works, the state acts as an agent, safeguarding the interest of the settler. (17) The relation of the federal government to the state in the reclamation of desert lands is based on the theory that the federal government owns the lands and Congress is invested with the power of disposing of the same; while the state has been given jurisdiction to provide for the appropriation and beneficial use of the water in the state which necessarily includes a use for the reclamation of such lands. (18) Under the Idaho Code the entire plan of reclamation is one over which the state has complete supervision and control. (19)

The first step in a Carey Act project is the proposal to the State Reclamation Engineer by a person or a company planning to build the necessary irrigation works to water the land. This proposal can either be for

a temporary withdrawal for one year or for a regular segregation of land from the public domain. A temporary withdrawal allows the proposer the necessary time to conduct surveys and tests in order to determine if the project will be feasible. Regardless of whether a temporary or the regular segregation is requested, the lands are protected from withdrawal under other public land laws until the expiration of the time set for the withdrawal. (20) The State of Idaho requires that all proposals for a project be accompanied by a certified check for a minimum of two hundred and fifty dollars. (21) When the requests are made to the Department of Reclamation they have to be accompanied by an application for a permit to appropriate water for the project. (22)

The State of Idaho requires that the State Reclamation Engineer report on each project when a regular segregation is requested. The report must state whether there is sufficient unappropriated water, and if the water supply is adequate to reclaim the area in the segregation. The State Reclamation Engineer also has to determine the cost of the project and make sure that the information submitted by the proposers conforms to the regulations of the Department of Reclamation and the Department of Interior. (23) It is at this juncture that the state can exercise the most effective control over a proposed undertaking. The State Reclamation Engineer's authority to disapprove a proposal before any construction starts or before there is any settlement on the land offers the greatest amount of protection for the proposers, the settlers, and the state. If the State Reclamation Engineer finds that a project would not be feasible the proposers are allowed an additional sixty days, or if an extension is granted, six months, in which to submit a satisfactory proposal. (24) Even if the State Reclamation Engineer finds that all the essential criteria are met and the proposed project seems feasible, he does not guarantee the eventual success of the project and his approval of a project can not render the state liable for the failure of a project. (25)

All funds received by the Department of Reclamation from the sale of land are given to the State Treasurer and such sums as may be necessary are made available to the Department of Reclamation for expenses in carrying out the provisions of the Carey Act. The sum charged by the state for land is nominal, twenty-five cents per acre when the settler makes his application and an additional twenty-five cents per acre when final proof is made by the settler that the lands are reclaimed. Any amounts in excess of the Department's expenses are to be placed in a trust fund for the reclamation of other arid lands. (26)

The Department of Reclamation also controls the sale of water rights by a construction company to the settlers. Before any water rights are sold the company must first obtain a certificate of authority to sell water from the Department of Reclamation. In order to obtain this certificate the company must petition the state and submit to the Department a map showing the location of the works, lands to be reclaimed, and construction plans and specifications. The petition must include the name of the purchaser and the terms of the sale. (27) The Department then makes a report and from the report and other information available determines the number of water rights, units or shares of water which may be sold, and the acreage limitation. The

data, such as stream flow and water supply, on which the Department bases its conclusions must cover a five year period. (28) Any water rights sold before a certificate of authority is issued are null and void and the company and its personnel are jointly and severally liable for any damages caused the purchaser. (29)

The state's power to regulate water is exclusive. The Department of Reclamation has the power to intervene when the settler wishes to either sell his water right or transfer it to another tract of land. The settler must at first exhaust his remedies within the company. If the company refuses to allow the settler to transfer his water right the settler may appeal to the State Reclamation Engineer. If after the hearing, the State Reclamation Engineer finds that the transfer of water would not prejudice the company or the other water users, he shall approve the transfer. (30) The decision of the State Reclamation Engineer is also subject to review by the state courts.

A broad grant of power is given to the state in that they are allowed to supervise all the "acts" of the construction or operating company. This allows the state to review the companies' financial condition and their financial affairs. (31) The state has the power to conduct hearings and to take whatever action is necessary to enforce its decisions. This is the main deterrent to arbitrary action by the company. To help the Department of Reclamation keep abreast of current developments, each construction company is required to file an annual report. (32)

B. THE CONSTRUCTION AND OPERATING COMPANIES

Most state statutes dealing with construction companies are of a regulatory nature; however, some are designed to protect the company and the parties who have invested in the project. It must be remembered that corporations organized to construct irrigation systems under the Carey Act do not become owners of water rights or irrigation systems; but are only given the right to sell water rights for the purpose of recovering the cost of the construction of works with a reasonable profit. (33) The construction company is only a trustee in the appropriation of water for the use of the settlers. (34)

Before the company can commence construction they have to supply enough information about their proposal to enable the federal government and the state to determine if the project will be feasible. Most of this information is supplied on maps at the time of the proposal. When a company makes a request for a segregation of public land for reclamation purposes they have to file a permit to appropriate water for the land included in the request. (35)

If the request is granted by the federal government and the lands are segregated from the public domain the state is under a duty to enter into a contract with the parties submitting the proposal. (36) The contract between the state and the company should contain specifications of locations, dimensions of diversion works, character and estimated cost of the proposed ditches and canals, amounts of water per acre which will be available at the water user's headgate, price and terms of the sale of diversion works to the settlers, and the price that the perpetual water right will be sold to the settlers. In order to ensure the completion of the contract a construction bond, generally

amounting to five percent of the estimated cost of the works, is required from the contractor. (37) If the contractor defaults, the state can forfeit the contract and the bond and hold a public sale of the company's diversion works, water rights, and all other rights the company may have in the project. (38)

Before a company can supply water to the entrymen on a project a report must be made by the Department of Reclamation. The state must be satisfied that ample water is available to reclaim the acreage the company wishes to open for settlement. The report should cover not only the water supply but the adequacy of the diversion works. If the state is satisfied that water is available it advertises the opening of the lands to prospective settlers. (39)

The most important statute from the standpoint of protecting the interest of the construction company and the investor are the ones allowing the company to impose a lien on the land for the cost of the water rights that they have furnished for the land. This lien is a first and prior lien on the water rights and the lands upon which the rights are used and remain in effect until the water rights are fully paid and satisfied. (40) When there has been a default on the payments due the company by the settler, the company can foreclose on the lien according to the terms of the contract between the settler and construction company. (41) At the public sale of the land, the company is allowed to bid on the land, but this bid is limited to the actual amount due on the lien. (42) After the sale the settler has nine months in which to redeem the land. If after twelve months the entryman is unable to redeem the lands, the sheriff is authorized to issue a sheriff's deed to the purchaser of the property. (43)

An operating company composed of non landowners may be organized and is allowed to charge an assessment to meet operating expenses. Before an assessment can be charged it must be filed and approved by the state. (44) In order to protect the operating company a lien is allowed for expenses incurred in operating and maintaining the irrigation works. This lien can be imposed on a party owning a water right whether he is using the water or not. (45) The operating company can also impose a lien on lands owned by a Carey Act construction company. (46) The lien extends only for a two year period unless court proceedings are instigated to foreclose the lien. (47)

C. THE ENTRYMEN

Most state laws relating to settlers relate to proof of reclamation, water rights, and preference rights to ex-servicemen. The settler's initial involvement in a Carey project can come at many stages. He may provide the financial backing for inauguration of the diversion works by buying stocks or bonds in the construction company. The entryman comes onto the land when the particular tract in a project is open for settlement. The state accomplishes this by publishing notice that the lands are open for entry, the price of the acreage, and the price of the water rights. (48) Once notice has been given that the lands are open for entry, there is no authority given to the state to revoke this notice. (49)

There are generally two dates of entry, the first is for ex-servicemen only, who draw for Carey land by lot. The second opening comes thirty days

after the first and is open to the general public. (50) The methods used to determine which particular tract a settler gets are varied. Generally the tracts are given out on a first come first served basis, but on at least one project the company sold water rights for specific lands, the state then accepted the lands for the area previously specified. (51)

In order to make an entry on a project a person must first make an application to the state. The Carey Act requires only that a person be a citizen of the United States or express his intentions of becoming a citizen. There is no requirement that the entryman be a citizen of the state in which the project is located. Two types of people are excluded from making an application to enter Carey land in the State of Idaho: State Land Officials and married women. (52) This exclusion strangely enough does not apply to married ex-servicewomen. (53) (House Bill 117 of the First Regular Session of the 40th Idaho Legislature modified these provisions.)

At the time of the application the person must swear under oath that he is making the entry only for the purposes of actual cultivation, reclamation, and settlement. (54) At the time of the application the person must pay twenty-five cents per acre for the lands he wishes to reclaim, and when final proof is made an additional twenty-five cents per acre must be paid. (55) The application must be accompanied by a certified copy of a contract showing that the settler is entitled to purchase a perpetual water right from the construction company. (56)

One year after the company has notified the settler that they are prepared to furnish water to him he must reclaim one-sixteenth of the land in his entry. If the entryman enters the land after the company has given notice, the one year limitation runs from the date of his entry. Within two years after the date of the entry, the settler must have reclaimed one-eighth of his entry. If at the end of the third year the settler can demonstrate that he owns water sufficient to irrigate his entire entry and that one-eighth of the land has been placed under cultivation, the state shall issue a final certificate showing that the statutory requirements have been met by the entryman. (57) The state has no power to extend the above periods of time to the entryman in order for him to show the necessary improvements. (58) The final certificate is very important from the standpoint that it shows that the farmer is entitled to a patent to the land as soon as the federal government conveys title to the state. An equitable right has developed in the entryman to have the patent to his land.

After the above statutory requirements are met the settler becomes vested with most of the rights belonging to any landowner. A water user on a Carey Act project has a fee simple title to the land and the water. He must apply the water to beneficial use and he may not waste it. (59) No priority of rights exist between settlers purchasing water rights for lands segregated under the Carey Act, but each settler is entitled to his proportionate share when the water available is inadequate to fulfill the necessary contracts. (60) The water rights become appurtenant to the land as soon as title passes from the United States to the state in question. (61) A water right is a property right and may be sold separate from the property. (62) The settler may also transfer and use the water on other lands. (63) Unless the state specifically reserves the

mineral rights to the Carey Act land, they pass to the settlers on the project.

PART III: HISTORY OF THE CAREY ACT IN THE OTHER WESTERN STATES

Eleven western states, besides Idaho, accepted the provisions of the Carey Act. Written requests were sent to ten of these states requesting information on their experiences in the development of the Carey Act. Replies were received from all but a few of these states. For those states not replying, current information has been obtained from Golze, Reclamation in the United States. (64)

A brief summary of the progress in each state helps place the overall development and success of the Carey Act in the proper perspective.

ARIZONA

Acres Segregated:	13,745.16
Acres Patented:	None
Comments:	No success under the Carey Act

The State of Arizona accepted the provisions of the federal grant in 1912. (65) In response to our request the State Land Commissioner for Arizona stated that, *"In response to your letter, let me suggest that the State of Arizona has not participated in any 'Carey Land Act' lands."* Golze's book shows, however, that Arizona did in fact apply for and segregate land under the Carey Act although no acreage was ever patented to the State of Arizona.

CALIFORNIA

Acres Segregated:	None
Acres Patented:	None
Comments:	No Carey Act developments

The Carey Act was accepted by the State of California in 1915. (66) A Carey Act Commission was created but no request was ever made for a segregation of land for Carey Act development. It is still possible for California to develop the one million acres granted by the original Carey Act.

COLORADO

Acres Segregated:	284,653.97
Acres Patented:	37,706.47
Comments:	Very little success

The Carey Act was accepted by the State of Colorado in 1895. (67) Colorado was one of the few states from which no current information was obtained. Golze's report indicates that by 1949, 284,000 acres had been segregated and 37,000 acres had been patented. In addition to the original 1,000,000 acres granted to Colorado by the Carey Act they received an additional entitlement to 1,000,000 acres in 1908.

MONTANA

Acres Segregated:	246,698.97
Acres Patented:	92,280.60
Comments:	Some Success

The only information available for Montana is from Golze's book. By 1913 it appears that Montana had segregated 106,101 acres of land and entrymen had settled on 37,340 acres of this land; however, only 15,000 acres had been patented. By 1949 it appears that most of the land settled on in 1913 had been reclaimed and that later projects were started. Montana is the only western state to have completely repealed their provisions accepting and providing for administration of the Carey Act. (68)

NEVADA

Acres Segregated:	36,328.59
Acres Patented:	1,578.60
Comments:	Very little success

The State of Nevada accepted the Carey Act in 1911. (69) Many requests for segregations were made, amounting to 2,000,000 acres. Only three requests for segregation were ever approved by the Secretary of Interior:

1. Pacific Reclamation Company for 9,766 acres in Elko County, Nevada.
2. Las Vegas Fruit and Land Company for 8,857.43 acres in Las Vegas County, Nevada.
3. Amargosa Land and Irrigation Company for 17,705.14 acres in Nye County, Nevada.

When it appeared that there was sufficient water to irrigate some of the land in the Pacific Project, land was patented to the State of Nevada to be held in trust for the settlers. Out of the 1,578.60 acres patented to the state for this project only 526.05 acres were conveyed to actual settlers who made final proof. The remainder of the land is still held in trust by the State of Nevada until it is reclaimed by entrymen.

No future development is expected in Nevada due to an agreement between the Bureau of Land Management and the State Engineer closing the ground water basins to further applications for water for agricultural uses.

NEW MEXICO

Acres Segregated:	7,604.78
Acres Patented:	4,743.33
Comments:	Some success on a small scale

The State of New Mexico accepted the Carey Act in 1909. (70) Three projects were started and by 1913 one project had been abandoned, another was being held by the state for financing by a responsible party, and on the

last project no construction had been started due to questions raised about the feasibility of some reservoir sites. Apparently after 1913 some of the projects were finished, but since no current information is available it is difficult to trace the developments from 1913 to 1949.

OREGON

Acres Segregated:	388,876.87
Acres Patented:	73,442.08
Comments:	A large acreage patented, however, many financial problems

Oregon began its operations under the Carey Act in the early 1900's. (71) Information on the early history of the Carey Act in Oregon has been obtained from a report by S. D. Taylor, Carey Act Commissioner for Idaho, dated 1913. (72) Mr. Taylor had reported on seven of the eight projects underway in Oregon.

Projects	Area Segregated
Portland Company Project	8,793 acres
Brownell Desert Reclamation Project	240 acres
Deschutes Reclamation and Irrig. Company Project	1,280 acres
Deschutes Irrig. & Power Company Project	214,912 acres
Deschutes Land Company Project	31,028 acres
Columbia Southern Irrigation Company Project	27,004 acres
Portland Irrigation Company Project	12,037 acres

Few of the above projects met with any degree of success. The Brownell Reclamation Project and the Deschutes Reclamation and Irrigation Company Project both seemed to have been successful and the total acreage in the projects were patented to actual settlers. Two other projects seem to have been complete failures, the Portland Company Project and the Portland Irrigation Company Project. The three remaining projects seem to have been in a great deal of trouble by 1913. The Deschutes Irrigation and Power Company Project was constantly involved in litigation and was finally placed in the hands of a receiver in 1910. The next project, the Deschutes Land Company Project, sold large amounts of "*land certificates*" and "*options*" to prospective settlers in order to finance the construction works. The project was not completed by 1913 and there are indications that it never was. The last project was the most controversial, drawing national attention, and was commonly known as the Tumalo Project started by the Columbia Southern Irrigation Company. The contract was entered into between the State of Oregon and the construction company in 1902. Water rights were sold by the company for 17,929 acres. After construction had started it was ascertained that water would only be sufficient for 2,000 acres of land, and shortly thereafter the construction company went into the hands of a receiver. In 1912 through desperation the State of Oregon enacted legislative provisions enabling it to take over and complete the project. (73) The legislature appropriated \$450,000.00 to help complete the project and arrangements were made with the federal government whereby the expenses of the project were to be shared equally between the two. The main problem with the project was the Tumalo Reservoir which was to provide one-half the water needed for the project. Leakage from the bed was so excessive the reservoir never could be used.

By 1949 Oregon had succeeded in patenting 73,442 acres to settlers on the various projects out of the one million acres granted to Oregon by the Carey Act.

SOUTH DAKOTA

Acres Segregated:	Unknown
Acres Patented:	Unknown
Comments:	No records of any developments after the acceptance of the grant

There are no records available as to the development, if any, of the Carey Act in South Dakota. (74)

UTAH

Acres Segregated:	141,814.94
Acres Patented:	37,239.98
Comments:	Projects started were successful

Utah accepted the Carey Act in 1901. (75) Currently only 520 acres of land are retained by the state, the remainder of the segregations granted for development have either been patented to settlers or relinquished back to the federal government. All the lands in Utah were segregated by one party, a developing company, who in turn conveyed the land to other individuals after it was placed under cultivation. A state land official in Utah feels that the program was a success in reclaiming thousands of acres of marginal and semi-arid lands.

WASHINGTON

Acres Segregated:	None
Acres Patented:	None
Comments:	No Carey Act activity

The Carey Act was never implemented in the State of Washington to the point of segregation of federal land. The Carey Act was originally vested in the office of the Commissioner of Arid Lands, but this post was abolished in 1903. (76) The responsibility was then moved to the Commissioner of Public Lands where it has remained since.

WYOMING

Acres Segregated:	490,717.25
Acres Patented:	212,939.41
Comments:	Wyoming operated very successfully under the Carey Act

Wyoming was one of the first states to accept the Carey Act in 1894. (77) The first segregation was approved in 1896 and 54 Carey Act projects were later undertaken. 24 projects were cancelled for failure to reclaim the lands within the statutory period.

The Carey Act was very self-supporting in Wyoming for a number of years. Table No. 1 shows the projects and areas finally patented to the state. (78)

TABLE No. 1

Information on Carey Act Land Development in State of Wyoming

List Number	Canal or Project	Acres Segregated	Acres Segregated After Deducting Relinquishments and Cancellations	Acres Patented to the State	Acres Covered by Filings	Acres Patented to Settlers
1-3-14	Bench	32,427.96	16,004.88	16,004.88	14,729.47	14,337.27
5	John Scott	240.00	160.00	160.00	160.00	160.00
6-9	Cody	26,429.94	19,948.64	19,948.64	18,908.64	18,748.64
11-12-18-19	Sidon	20,559.56	19,307.08	19,307.08	18,656.97	18,656.97
13	Fitzsimmons	160.00	160.00	160.00	160.00	160.00
15-46	Elk	77,447.50	2,480.21	2,480.21	2,321.46	2,321.46
16	Pole Creek	320.00	320.00	320.00	320.00	320.20
17	Sage Creek	784.43	784.43	784.43	784.43	784.43
20	Whalen Falls	14,424.94	13,384.94	13,384.94	13,064.94	13,064.94
21-31-45	Big Horn	20,411.12	19,468.23	19,468.23	19,329.78	19,313.78
24	Boulder	6,096.16	5,936.10	5,936.10	5,736.16	5,736.16
26	Lovell	11,320.51	11,020.05	11,020.05	10,636.03	10,636.03
28	Hanover	10,682.53	8,804.01	8,804.01	8,644.74	8,644.74
32-42	Wheatland No. 1	11,163.23	10,563.25	10,563.25	3,878.10	3,718.10
33	Sahara	7,920.09	3,728.92	3,728.92	3,728.92	3,728.92
34-41-48	La Prele	18,558.53	7,420.72	7,420.72	7,420.72	7,420.72
35-37	Eden	95,658.14	13,465.74	13,465.74	13,465.74	13,465.74
43-107	Lakeview	10,107.98	9,272.46	9,272.46	9,190.44	8,975.02
44-61	Shell	15,088.14	6,888.30	6,888.30	5,413.91	4,933.91
47	Reynolds	320.00	320.00	320.00	320.00	320.00
50	James Lake	14,543.65	10,855.64	10,855.64	5,533.99	5,533.99
54-102	Hawk Springs	17,416.31	14,580.37	14,580.37	14,580.37	14,580.37
59	Bertram	918.37	918.37	918.37	918.37	918.37
62-101	Fremont Lake	5,875.60	1,992.35	1,992.35	1,992.35	1,992.35
68-84	North Laramie	4,905.21	3,145.21	3,145.21	1,806.47	846.47
69-98	Sixty-seven Reservoir	2,160.00	2,160.00	2,160.00	2,080.00	2,080.00
71	Rock Creek	11,695.75	4,429.81	4,429.81	4,269.81	4,269.81
90	John Hay	2,998.54	639.33	639.33		
106-108-114	Green River. Dev. Co.	25,308.87	25,308.87			
109	Agarian	896.90	896.90	896.90	896.90	896.90
115	Wheatland No. 2	19,993.82	19,993.82			
117	Highland	3,883.47	3,883.47	3,883.47	3,883.47	3,883.47
	TOTALS	490,717.25	258,242.10	212,939.41	192,832.18	190,448.56

This writer is unable to explain the discrepancies between the tables presented in Golze's report and the information provided by the Commissioner of Public Lands for Wyoming. Reproduced below is the table located on page 19 of Golze's book:

State	Total Area Applied for by State	Total Area Segregated	Total Area Patented
Arizona	31,226.30	13,745.16	-----
Colorado	461,717.39	284,653.97	37,706.47
Idaho	<u>3,819,181.34</u>	1,335,787.59	629,724.87
Montana	609,826.46	246,698.97	92,280.00
Nevada	185,445.85	36,808.59	1,578.60
New Mexico	10,204.68	7,604.78	4,743.33
Oregon	791,615.27	388,876.87	73,442.08
Utah	606,704.00	141,814.94	37,239.98
Washington	155,649.39	-----	-----
Wyoming	<u>1,796,274.09a</u>	<u>1,441,869.17</u>	<u>198,530.96</u>
Total	8,467,834.77	3,897,860.04b	1,075,246.29c

a. Of this amount, application for 3,883.25 acres in Wyoming were still pending June 30, 1949.

b. Of this total, 74,519.18 acres were still segregated June 30, 1949 as follows: 14,135.03 acres in Idaho and 60,384.15 acres in Wyoming.

c. Does not include 99,985.47 acres reconveyed as follows: Idaho 65,940.65 acres, Montana 10,264.03 acres, Oregon 14,843.56 acres, and Wyoming 8,937.23 acres.

PART IV: SUMMARY OF THE CAREY ACT IN IDAHO

Acres Segregated: 2,983,404* 

Acres Patented: 618,000

Comments: Idaho was the most successful Carey Act state

* The amount also includes temporary withdrawals.

The State of Idaho accepted the Carey Act in 1895, the second state to do so after Wyoming. (79) The original Carey Act and a subsequent bill allotted Idaho ~~to~~ 30 million acres of desert land to develop through large scale irrigation projects. (80)

From 1895 to 1930 sixty-five projects were proposed to the State of Idaho, far more than any other state. In one project alone, more acres were patented to the State of Idaho than were patented to the second most successful state under the Carey Act, Wyoming, under all their projects. (81) Not every project was a success in Idaho, one ambitious undertaking involved over

200,000 acres, over two million dollars expended, and forty acres were eventually patented to a lone settler. (82) In the brief histories of the projects that follow, particular emphasis has been placed on acreage in the project, acreage patented, and problems incurred in construction, financing, and administration of the Carey Act.

A. HISTORY OF THE IDAHO CAREY ACT PROJECTS (83)

AMERICAN FALLS PROJECT

Carey Act Number:	1
Location: (See Figure 1)	Power and Bingham Counties
Acres Segregated:	57,241.90
Acres Patented:	50,498.16
Estimated Cost:	\$251,986.75
Final Cost:	\$886,301.00
Comments:	A successful project

The American Falls project was one of the first of sixty-five projects in the State of Idaho. The first proposal to irrigate and reclaim these lands was made to the State Land Board on December 14, 1895.

The project got off to a faulty start, the first two requests for segregation of federal land were denied. In 1899 the construction company had its segregation approved for 57,241.90 acres of desert land.

In 1901 a contract between the American Falls Canal and Power Company, the original construction company, and the State of Idaho was entered into and construction started. The company's original proposal called for a gravity irrigation system with a water supply from the Snake River. Most of the acreage in the project was to be located in Power and Bingham counties, with the proposed point of diversion in Bingham County. The initial estimated cost of the irrigation system was placed at \$251,986.75. The construction company felt that perpetual water rights could be sold to settlers for as little as ten dollars per acre.

By 1905 two things had happened to the project. The cost of the project had been grossly underestimated, and had jumped from the original estimate to \$886,301.00 and the works were still not completed. The second problem logically resulted from the first. The amount the company sought to charge the entrymen for perpetual water rights was inadequate and the company was far in debt. In 1905 the American Falls Canal and Power Company went into the hands of a receiver and all of the company's interest in the project was purchased by the American Falls Canal Security Company. By 1914 the first Carey Act construction company was declared a voluntary bankrupt.

After the American Falls Canal Securities Company had taken over the project the price for water per acre was increased from the original ten dollars per acre to forty dollars per acre. A shortage of water had developed and an agreement was entered into between American Falls Canal Security Company and the United States Bureau of Reclamation allowing the Carey Act project to purchase surplus water from Jackson Reservoir. As the project

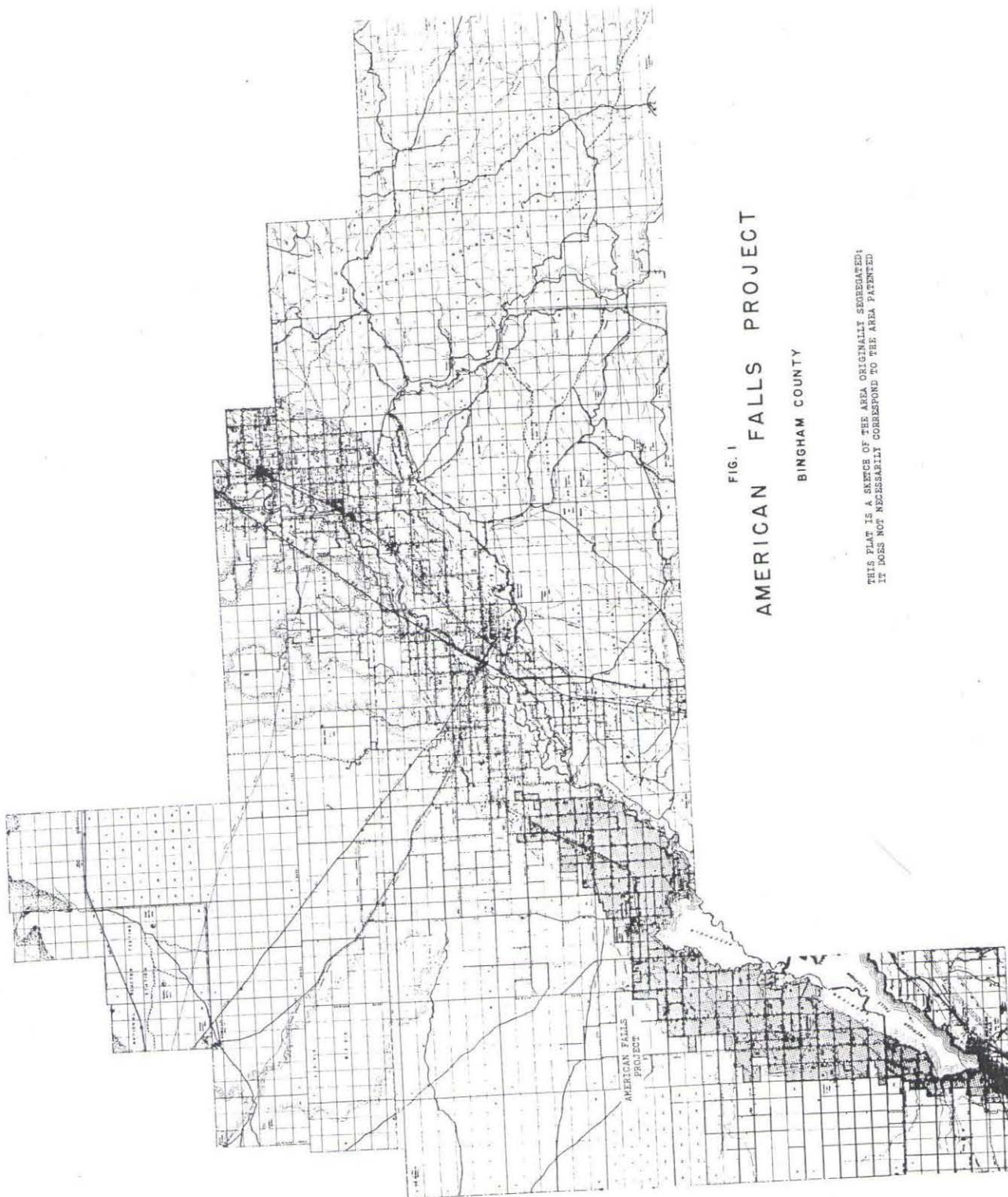


FIG. 1
 AMERICAN FALLS PROJECT
 BINGHAM COUNTY

THIS PLAT IS A SET OF THE AREA ORIGINALLY SEGREGATED;
 IT DOES NOT NECESSARILY CORRESPOND TO THE AREA PATENTED

neared completion another company was formed by American Falls Canal Security Company, the Rockford Canal Company which built and operated the pumping system portion of the American Falls Project.

In 1910 the contract between the State of Idaho and the company was considered fulfilled and the project was turned over to the current operating company, the Aberdeen-Springfield Canal Company. When the project was completed over 86 miles of main canal and 54 miles of laterals had been constructed and 50,498.16 acres of land had been patented to the state. Approximately 7,000 acres of land left from the original segregation had to be relinquished back to the federal government due to the infeasibility of irrigating and reclaiming it. Since the completion of the project additional laterals have been constructed, bringing the total to 100 miles. There are currently 63,000 shares being assessed by the Aberdeen-Springfield Canal Company.

BIG LOST RIVER IRRIGATION PROJECT

Carey Act Number:	7
Location: (See Figure 2)	Blaine, Bingham, Fremont and Custer Counties
Acres Segregated:	83,648.75
Acres Patented:	15,526.11
Estimated Cost:	\$2,100,000.00
Final Cost:	\$3,500,000.00
Comments:	Only 8,000 acres may have been actually reclaimed

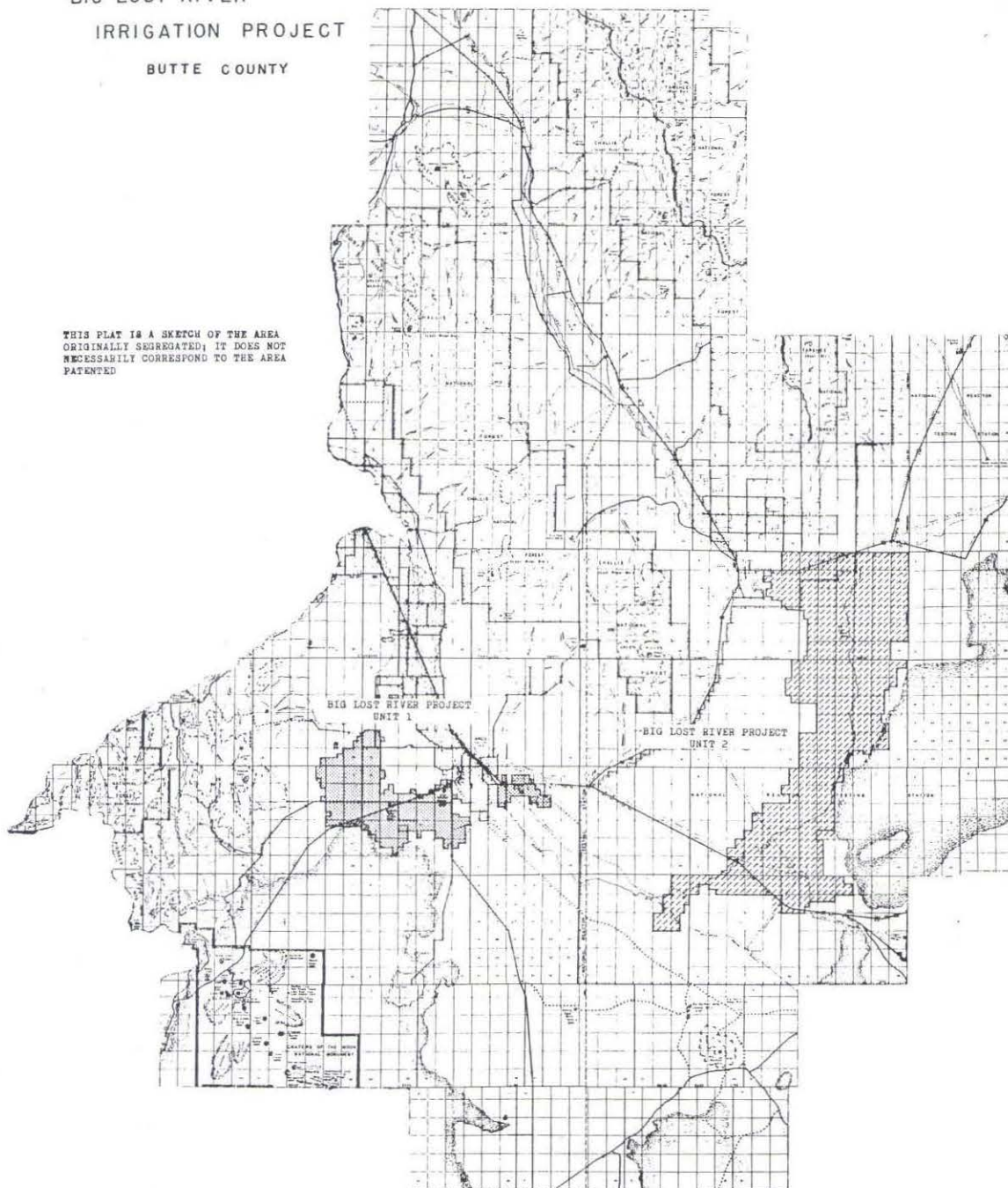
In 1906 a proposal was filed with the State Land Board to irrigate lands in Blaine, Bingham and Fremont counties from a reservoir located in Custer County. The Big Lost River Project was the seventh such project to be proposed in Idaho. The water supply was to come from the Big Lost River and Antelope Creek. A total of 83,648.75 acres were eventually segregated. The proposal called for a gravity system using canals, laterals, and a dam constructed above Mackay, Idaho. The original estimate placed the cost of construction at \$2,100,000.00, with water rights selling for twenty-five dollars per acre. Both of these estimates soon proved to be inadequate and the cost was increased to \$3,500,000.00 and the price for water raised to forty dollars per acre.

The first company organized to construct this project was the Big Lost River Land and Irrigation Company. This company seemed to cause nothing but problems for the State Land Board, and the Carey Act files contain many orders from the State Land Board to the company to cease false advertising as to the opening of lands in order to sell more water rights or on other matters. In 1908 all the money the company had received from the sale of water rights had to be filed with the state to protect the settlers. These funds were released to the company only after they had filed a \$25,000.00 bond with the state. By 1909 the Big Lost River Land and Irrigation Company went defunct and the project was assigned to G. S. Speer who in turn assigned it to the second construction company on the project, the Big Lost River Irrigation Company. *1st* *2nd*

The Big Lost River Irrigation Company only lasted a few years on the project. By 1910 they were also in financial trouble, and the principal

FIG 2
BIG LOST RIVER
IRRIGATION PROJECT
BUTTE COUNTY

THIS PLAT IS A SKETCH OF THE AREA
ORIGINALLY SEGREGATED; IT DOES NOT
NECESSARILY CORRESPOND TO THE AREA
PATENTED



contractor on the project, Corey Brothers Construction Company, had by this time filed a mechanic's lien on the project for \$500,000.00. The contractor foreclosed this lien and the project was sold at the receiver's sale to the Utah Construction Company, the third and last company on the project. 371

By this time it was known that the acreage segregated for the project far exceeded the water supply. In 1916 a contract was entered into between the State of Idaho and the Utah Construction Company in which the cost of completing the project was placed at \$1,600,000.00. The company also persuaded the state to raise the water charges to sixty-five dollars per acre. The new contract provided for construction of the project in units, the first unit was the upper land, known as Era Flats and the Arco tracts aggregating about 22,000 acres. It was felt that by building the project in units, while in the meantime conducting investigations on the available water supply, the State Reclamation Engineer and the State Land Board could restrict the acreage sold by certifying conservatively the amount of land for which water could be made available. This seems to have been the best technique devised to deal with segregations.

Much of the controversy on the Big Lost River Project was over the dam constructed above Mackay, Idaho. The residents of Mackay felt that the dam was poorly constructed and that a spillway was desperately needed or the town could be destroyed by the 44,000 acre feet of water stored behind the dam. The controversy became so heated that an attempt was made to destroy the dam with explosives. The company in charge of the project at this time, the Big Lost River Irrigation Company, was unable financially to construct the spillway even though they were ordered to do so by the State Land Board. In 1911 the Idaho Legislature appropriated \$10,000.00 to construct a spillway. Just after it was completed there was a record runoff which would have probably destroyed the dam and the town of Mackay had it not been for the existence of the spillway.

In 1921 the General Land Office cancelled the remaining portion of the lands that had been segregated, but not included in the Utah Construction's first unit. By 1923 the state accepted the first unit as completed and ready to be turned over to the settlers. It was not until 1936 that the settlers through the Gem State Water Company took over the project. When the project was finished over 15,000 acres had been patented to the State of Idaho. The main canal was 32 miles long and laterals constituted 40 miles. The project is currently operated by the Big Lost River Irrigation Project.

BIRCH CREEK IRRIGATION COMPANY PROJECT

Carey Act Number:	32
Location:	Clark and Butte Counties
Acres Segregated:	Temporary withdrawal 18,605.28
Acres Patented:	None
Estimated Cost:	\$550,000.00
Final Cost:	Estimated at \$30,000.00
Comments:	Project never sanctioned

BIRCH CREEK COOPERATIVE IRRIGATION PROJECT

Carey Act Number:	27
Location:	Butte County
Acres Segregated:	Temporary withdrawal 19,107.36
Acres Patented:	None
Estimated Cost:	\$450,000.00
Final Cost:	Unable to locate
Comments:	Project never sanctioned

The first attempt to develop desert land in the Birch Creek area started in 1909 with a proposal from the Birch Creek Land and Irrigation Company. The plan for the project called for a dam on Birch Creek providing water to reclaim 30,148 acres of land at a cost of \$550,000.00. This first proposal was rejected by the State Land Board because of an apparent lack of water for the project.

Soon after the rejection of the initial proposal a second corporation was formed, the Birch Creek Irrigation Company. Later this company was amended to form a cooperative corporation composed of fifteen desert entrymen.

At the request of these entrymen a report was made by the State Reclamation Engineer as to the feasibility of the segregation. He found that all the water in Birch Creek was insufficient for even the previous decreed rights. He found that only a superficial investigation had been made and the estimated cost of \$450,000.00 for construction had been underestimated. The State Reclamation Engineer rejected the proposal.

In 1910 the company filed another request, this time for a temporary withdrawal. This request was granted by the Department of Interior for 18,605.28 acres of land. The temporary withdrawal was to provide the company with time to conduct surveys and to determine if the project would be feasible. The one year limitation elapsed and the lands reverted back to the public domain. Undaunted, the company again filed a request for a temporary withdrawal in 1916. This time the area was increased to 19,107.36 acres of land under segregation list 73. Although a canal was partially constructed the temporary withdrawal never resulted in a permanent segregation and the lands were relinquished back to the federal government.

The Idaho Carey Act files list the developments in the Birch Creek areas as two separate Carey Act projects. The later cooperative project is listed as Carey Act project number 27, the earlier proposal of the Birch Creek Land and Irrigation Company and Birch Creek Irrigation Company as Carey Act project number 32. These two projects should have been listed as one project due to the interplay between the companies and the areas involved in the segregations.

BLACK CANYON PROJECT

Carey Act Number:	6
Location:	Canyon, Gem, and Payette Counties
Acres Segregated:	23,836.61

BLACK CANYON PROJECT (cont'd.)

Acres Patented:	None through a Carey Act project
Estimated Cost:	\$7,134,638.05
Final Cost:	No developments
Comments:	Project never completed

This project was unique in that it was proposed by an irrigation district rather than a construction company. It was also unique because the main purpose of the segregation was to secure protection for settlers rather than to reclaim desert lands.

Around 1905 much of the land in the area was settled under the Homestead Act and other land laws. The land had been previously withdrawn for reclamation uses by the Department of Interior which well suited the settlers in the area. A few years later the Department of Interior gave notice that the lands were about to be released from the withdrawal for reclamation uses and thrown open to all forms of entry. In order to protect their interest and because of the encouragement given by the Director for the Bureau of Land Management of the Department of Interior, the settlers formed an irrigation district and sought to have the land again withdrawn, this time as a Carey Act project.

Convenience was the motivating factor in the settlers' choice of using the Carey Act to reclaim land. The proposers never felt that this was a regular Carey Act project, it was used to give settlers respite from living upon their lands until water was ready and it permitted supervision of the settlement by the State of Idaho which seemed less severe than the regulations of the federal government. The main reason for the Carey Act withdrawal was to protect the settlers who could not make final proof under other land laws. Those that couldn't make final proof would release their interest in the lands in return for "*segregation receipts*."

Initially the source of water for this Carey Act undertaking was the Payette River and Payette Lakes. The original point of diversion was to be above Horseshoe Bend, Idaho. The proposal was to construct a gravity system carrying water through ninety-five miles of main canal to the lower valleys. The estimated cost was placed at \$7,134,638.05 with a charge of \$72.50 per acre for a perpetual water right. The project was to be initially financed by a sale of bonds.

By 1913, the irrigation district had received two segregations totaling 23,836.61 acres. After examining the proposal the Department of Interior felt that the gravity system would not be feasible and the Payette River approach was abandoned. By 1920 these lists were rejected at the urging of the Governor of Idaho and the prospect of developing the area through the Carey Act abandoned.

BLACKFOOT NORTH SIDE IRRIGATION PROJECT

Carey Act Number:	35
Location:	Bingham County
Acres Segregated:	22,360.34

BLACKFOOT NORTH SIDE IRRIGATION PROJECT (cont'd.)

Acres Segregated: (cont'd.)	Temporary withdrawal denied 17,308.42
Acres Patented:	None
Estimated Cost:	\$950,000.00
Final Cost:	\$40,000.00
Comments:	Unable to secure water for the project, segregation relinquished

JONES, T. R., PROJECT

Carey Act Number:	21
Location:	Bingham County
Acres Segregated:	22,360.34
	Temporary withdrawal denied 17,308.42
Acres Patented:	None
Estimated Cost:	\$950,000.00
Final Cost:	\$40,000.00
Comments:	Same undertaking as the above project

Both of these projects are interrelated and should not be considered separately. Actually only one project was involved, but the Blackfoot North Side Irrigation Project and the R. T. Jones Project were given separate Carey Act project numbers and are listed in most records as two distinct projects.

It started in 1910 when T. R. Jones, a Mr. Early, and a Mr. Power envisioned a Carey Act project using surplus water from the American Falls Project. It was to be a gravity irrigation system utilizing forty-five miles of main canal and twenty-five miles of laterals. When T. R. Jones made his proposal the Blackfoot North Side Irrigation Company had not yet been incorporated, the project was assigned Carey Act project number 21 and a request for a segregation was made. The first request was for a segregation of 22,360.34 acres in Bingham County. Later the promoters requested a temporary withdrawal of an additional 17,308.42 acres as an extension of the first segregation. This proved infeasible due to the great length of the canal between the two segregations. On March 21, 1912 the request for a temporary withdrawal was denied.

By this time the Blackfoot North Side Irrigation Company had been incorporated with T. R. Jones as President. It appears that the Blackfoot Company was merely a subsidiary corporation of the American Falls Canal and Power Company, the construction company on the American Falls Project and that the Blackfoot project was intended as a larger extension of the American Falls Project.

After the rejection of the temporary withdrawal in 1912 the project was left with the original segregation. Studies by the State of Idaho were made on the water supply for the project and the results showed that while the American Falls Company did have some surplus part of the year, there were no surpluses during the months of July and August. In an effort to save the project Blackfoot requested that some 10,000 acres be relinquished.

This proved fruitless and in 1917 the remaining segregation was cancelled and the project abandoned because of the inability of the company to show a sufficient water supply.

BLAINE COUNTY IRRIGATION PROJECT

Carey Act Number:	15
Location: (See Figure 3)	Butte County
Acres Segregated:	14,714.16
Acres Patented:	6,366.36
Estimated Cost:	Unknown
Final Cost:	\$300,000.00
Comments:	Many problems over water and financing

The irrigation project was initiated in 1907 by the Blaine County Irrigation Company. In the beginning it was not a Carey Act project. Presumably, the intent of the Blaine County Irrigation Company was to proceed under Idaho law which provides for the organization of corporations or companies to engage in the enterprise of supplying irrigation water to lands either in private ownership, or the subject of a government land entry. Later the company decided to change to a Carey project.

During the period from 1907 to 1909 the company sold stock representing water rights before receiving a segregation; however, the company had failed to conform to Idaho law and obtain a certificate of authority allowing them to sell water to settlers. Before the company was restrained from selling further stock, 3,400 shares had been given away, 8,000 shares had been sold for twenty-five dollars each, and there were outstanding bonds totalling twenty thousand dollars.

By the time the company received a segregation of land for the project in 1910 it was in severe financial condition. In order to obtain the segregation it had to compromise with the settlers already in the area reclaiming the land under other land laws such as the Homestead Act. These settlers agreed to relinquish their claims under such laws and try to perfect their rights through the Carey Act. In return the company gave them the right to receive water free. This helped to place the company further in the red. By late 1910 the company was in the hands of a receiver, J. S. Parks, and the company was reorganized as the Blaine County Investment Company. In the process of reorganization some parties received their water rights free, and others had to pay substantially more than the contract amount. The contract with the state provided that Carey Act entrymen would pay forty dollars per acre for their water.

In obtaining the segregation of 14,714.16 acres of land the water supply for the project had been overestimated by both the proposers and the State Land Board. Actual records as to stream flow were lacking and no deductions were allowed for losses in transportation.

The first attempts to construct diversion works failed, a reservoir constructed for the project failed to hold water, after which the water was diverted directly from the Little Lost River. Later a reservoir was

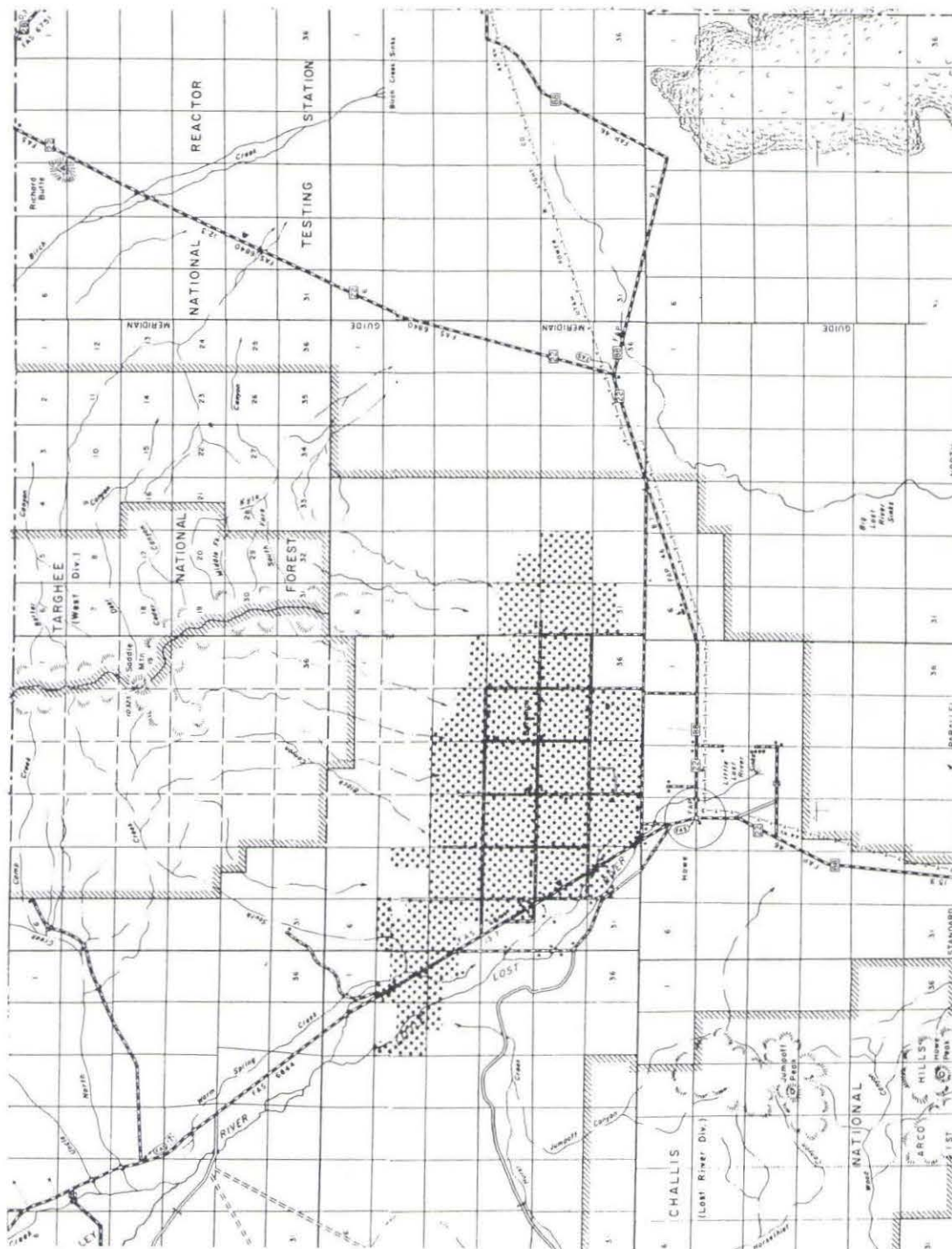


FIG. 3

BLAINE COUNTY IRRIGATION PROJECT

BUTTE COUNTY

constructed on Dry Creek which was successful. When the decision was made to construct the reservoir the company asked that the first water contracts which originally sold for twenty-five dollars be raised to forty dollars per acre. The attempt to modify the contracts plus the general lack of water for the entire project led to court litigation.

A decree handed down by the United States District Court for the State of Idaho, Southern Division, reduced the acreage in the project to 5,000 acres. Some entries outside of the court decree area had already received a final certificate showing that they had performed all of the requirements under the Carey Act and that a patent would be conveyed to them as soon as the State of Idaho received a patent from the federal government. In 1944 the State of Idaho cancelled all entries outside of the court decree area and asked that the entrymen having final certificates be given a preference right under other land laws. This action was required by the General Land Office before patents would be issued on any lands within the 5,000 acre limitation. Operating under the mistaken belief that they had a right to reconvey lands on which final certificates had been issued, the State of Idaho relinquished 8,000 acres to the federal government. At that time twenty-seven entrymen had made final proof on the land relinquished. In the 1950's these lands were open for entry under the Desert Land laws and the Homestead Act.

In 1954 the mistake was discovered, probably when someone tried to file on land on which a final certificate had been issued. To alleviate the situation a special law was passed in the United States Congress requiring the reconveyance of the lands so affected back to the State of Idaho to be held in trust for the entrymen or their heirs holding final certificates.

This action in 1954-56 has led many to believe that it was taken under the powers granted by United States Code, Section 641 a-d, which was designed to bring the Carey Act up to date in the states accepting the provision. The State of Idaho has never accepted this provision of the United States Code. The patenting of these lands to the State of Idaho was merely to correct an earlier error made by the State of Idaho and the Department of Interior.

When the project was finally completed a total of 6,366.36 acres had been patented. The amount expended in construction of the project probably did not exceed \$300,000.00.

BOISE PROJECT

Carey Act Number:	31
Location:	Ada and Elmore Counties
Acres Segregated:	Requesting a total of 229,901.87
Acres Patented:	None
Estimated Cost:	\$20,000,000.00
Final Cost:	Unavailable
Comments:	Project never started

The Boise Carey Act was probably the most phenomenal development ever started in Idaho. Ern G. Eagleson and Lewis L. Folsom initiated the project

in 1909. Even though the project was never started, the proposal is set out below to show the imagination that went into some of the Carey Act proposals.

The water supply was to come from the Boise River and Salmon River drainages, and storage reservoirs. The project was divided into three sections, A, B, and C.

Section A entailed construction of a dam at Alturas Lake to raise the level and gather waters from the Salmon River, Fourth of July Creek and Roaring Creek. Through a tunnel five miles long the water would be diverted to Johnson Creek and then into the Salmon River Valley, irrigating about fifteen thousand acres.

Section B would gather the waters of the Salmon River, Valley Creek, and their tributaries into Red Fish Lake to be held behind a dam used to raise the surface of the lake. A tunnel seven miles long would then be used to transport the water to the South Fork of Payette River, and then by means of a tunnel five miles long into the North Fork of the Boise River. This section was to provide sufficient water to irrigate about thirty-seven thousand acres.

Section C entailed gathering the waters of the Salmon River, the Payette River, and the Boise River into a reservoir to be created by a concrete dam across the Boise River at Arrowrock. A canal forty miles long would carry the water into the Boise Valley and another canal would carry the water south across the desert to near Hills Ferry, Idaho.

The cost for this ambitious undertaking was placed at a conservative twenty million dollars, to be paid for by selling water for one hundred dollars per acre. To construct nineteen miles of mountain tunnel in 1909 can be considered an engineering task of some magnitude.

Various segregations were made by the proposers in an attempt to get one unit of land. A segregation was made in 1910 for 131,801.57 acres but it was relinquished for failure to show the plans were feasible or that there was an ample water supply. A temporary withdrawal for 70,011.40 acres was relinquished after the one year allowed for such withdrawals. A withdrawal of 27,687.66 acres was cancelled in 1912 by the General Land Office.

By 1919 most of the water permits issued to the two proposers had expired for lack of completion of diversion works and application of water to beneficial use.

In 1916 focus had shifted from a Carey Act project to a bitter squabble between the United States Reclamation Service and Mr. Eagleson over who had first thought of the dam at Arrowrock. The Reclamation Service was in the process of building a dam that Mr. Eagleson thought he had initially conceived. The Service countered by claiming that they had made preliminary surveys before Eagleson's proposals were even filed, and that Eagleson had copied their plans. The whole matter eventually fizzled out as did Boise's only Carey Act project.

BOWLER'S, P. D., RAFT RIVER PROJECT

Carey Act Number:	64
Location:	Cassia County
Acres Segregated:	None
Acres Patented:	None
Estimated Cost:	None
Final Cost:	None
Comments:	This project was never started

There is no information in the Carey Act files on this project. The only thing known is that the water supply was to come from the Raft River in Cassia County. No segregations were ever requested and the project was abandoned sometime after 1914.

BRUNEAU (LITTLE) PROJECT

Carey Act Number:	12
Location:	Owyhee County
Acres Segregated:	80,000
Acres Patented:	None
Estimated Cost:	\$2,650,000.00
Final Cost:	Approximately \$30,000.00
Comments:	Project never finished

This project was one of the many started to reclaim the vast amount of desert land in Owyhee County, Idaho. Two gentlemen involved in many of Idaho's Carey Act projects, Mr. I. B. Perrine and Mr. H. L. Hollister, initiated the project.

In May, 1908, the two men made their proposal to the State Land Board to reclaim the land. They had previously purchased, at a foreclosure proceeding, all the property rights, franchises, water permits, reservoir sites, and incomplete irrigation works belonging to the Bruneau Land and Irrigation Company. This was a defunct corporation organized to furnish water to lands previously entered under the Desert Land Act. They placed the cost of the project at \$2,650,000.00, with water rights selling for fifty dollars per acre. Roughly 80,000 acres were requested for segregation by Perrine and Hollister, and the entire amount was segregated by the Department of Interior.

After a more thorough examination the two men decided to abandon the project and no contract was entered into between the state and the two men within the six month period required by Idaho law. It was at this point that the Bruneau Irrigation Company was formed and they soon made a proposal to reclaim 16,190.98 acres of land contained in the Perrine-Hollister segregation. Later the Bruneau Irrigation Company requested that an additional 15,583.82 acres be included in any contract between the state and the company. The final contract entered into in 1910 set aside 45,000 acres to be reclaimed by the company at a cost of \$1,600,000.00. Soon after, however, the Department of Interior withdrew some of the land along the Bruneau River as possible sites for future development of power sites and dams. The proposers felt these sites were essential to the success of their project. The Bruneau

Irrigation Company had already expended approximately \$30,000.00 and being unable to begin finally abandoned the project after a foreclosure by bondholders. A trustee was appointed to represent the bondholders and he in turn sold the project to the South West Irrigation Company. This company made no effort at construction and went defunct within a few years.

In December, 1918, the state submitted an amended relinquishment covering all the land included in the segregation list of Perrine and Hollister, except for 840 acres which had been set aside for a pumping project through a contract with the Grand View Extension Company, a separate Carey Act project. The results of this project are fully considered under the Grand View Carey Act project.

The greatest hindrance to the development of these lands was the withdrawal by the Department of Interior of much of the land along the Bruneau River as possible power sites.

BIG BRUNEAU (First Effort)
(also known as the Twin Falls - Bruneau Project)

Carey Act Number:	13
Location:	Twin Falls and Owyhee Counties
Acres Segregated:	527,040.87
Acres Patented:	None
Estimated Cost:	\$22,000,000.00
Final Cost:	\$40,000.00
Comments:	Project never got beyond the preliminary engineering stage

In 1908 two companies made almost simultaneous proposals to develop lands in the Bruneau area. The first company, the Twin Falls Bruneau Land and Water Company, was represented by W. S. Kuhn, J. S. Kuhn, H. L. Hollister, J. H. Purdy, and I. B. Perrine. The other company making a proposal was the Twin Falls Land and Water Company. The lands to be irrigated and the water supply for each system was practically identical.

Twin Falls Bruneau Land and Water Company represented by W. S. Kuhn, et al, filed the first proposal on March 14, 1908. The source of water for this project was the Snake River with a point of diversion at the dam near Milner, Idaho. At the time this request was made the reliable surface flow of the Snake River had been appropriated, but by the use of a storage dam it was felt that the flood runoff could be developed. The estimated cost of the proposed works was placed at twenty million dollars, with water selling for forty-five dollars per acre. Their proposal was to embrace five to seven hundred thousand acres.

On June 3, 1908, the Twin Falls Land and Water Company filed a request for a project in the same area, involving only 380,000 acres. The estimated cost for this project was placed at ten million dollars, with water selling for fifty-five dollars per acre.

A report made by the State Engineer in 1908 favored the Twin Falls Land and Water Company proposal because it seemed more feasible, the water rights

were prior in time to those of the Bruneau Land and Water Company, and the cost was not so prohibitive.

Segregation list number 40 was granted the Twin Falls Land and Water Company Project and 283,933.02 acres were segregated by the Department of Interior for development.

In 1910 the company decided to include land on the north side of the Snake River in the project. This was estimated to cost another \$12,000,000.00 bringing the total cost to \$22,000,000.00. The project would then have one thousand miles of laterals, and one hundred and forty miles of main canal when completed. The segregation was approved for an additional 283,967.05 acres and designated list number 56. After modifications to the list numbers, the total amount of acreage segregated for the project amounted to 527,040.87 acres.

After the segregations were allowed, problems developed over water supply for the project. Finally, after numerous extensions in time were granted, the project was abandoned because of lack of sufficient water to reclaim the land. Almost \$40,000.00 had been expended by this time on financing and preliminary surveys. The project might have been successful on a smaller scale, but the company repeatedly resisted attempts to limit their segregations. By March 31, 1919, all the land in the lists had been relinquished and restored to the public domain. Apparently there was great potential in the project, as the State Engineer, Jas. Stephenson, Jr., stated in 1908, *"the project in question is one of unusual merit and will prove a noteworthy success and a goodly increase of the irrigated area of the State."*

At this point it is interesting to note the interconnection of individuals actively participating in the Carey Act. For example, I. B. Perrine and H. L. Hollister initiated the Bruneau (Little) Project, and they were also the proposers of the Big Bruneau (First Effort). During all of this I. B. Perrine was a director of the Twin Falls Canal Company on the Twin Falls South Side Project.

BIG BRUNEAU (Second Effort)

Carey Act Number:	13A
Location:	Twin Falls and Owyhee Counties
Acres Segregated:	Requested 554,258.19
Acres Patented:	None
Estimated Cost:	\$65,000,000.00
Final Cost:	None
Comments:	Segregations never approved

This project was the third attempt to irrigate and reclaim lands in the Bruneau area. After the Twin Falls Land and Water Company had ceased their operations, the Twin Falls - Bruneau Land and Water Company again requested a segregation of land and an acceptance of their proposal. The request made by the company was very similar to the one they had made in 1908 which had been rejected in favor of the Twin Falls Land and Water Company's proposal.

resulting in the Big Bruneau (First Effort) Project.

The estimated cost for the project was placed at sixty-five million dollars. The proposers planned on using the dam already constructed at Milner, Idaho and using the Snake River as a natural channel for conveying water for the project.

In 1919 the company filed a request for segregation of land from the public domain, designated list number 76, totalling 251,359.45 acres in the Boise land district and 302,898.74 acres in the Hailey land district. In 1920 the General Land Office rejected the application for segregation on the grounds that most of the land in question had already been withdrawn from the public domain in 1902 by the United States Reclamation Service for future development. In 1921 the company requested that the State Land Board no longer consider the company for the project. This was the last attempted project in the Bruneau area.

CAMAS IRRIGATION AND POWER COMPANY PROJECT

Carey Act Number:	56
Location:	Camas County
Acres Segregated:	None
Acres Patented:	None
Estimated Cost:	Not available
Final Cost:	Not available
Comments:	Project never got beyond preliminary planning stage

The project is one of the many later projects on which little information is available. Camas Irrigation and Power Company was organized to pursue construction of the project. From what information is available it appears that they planned on reclaiming lands on the Camas Prairie by means of pumping ground water.

No segregations were ever approved for the project, nor was any acreage patented.

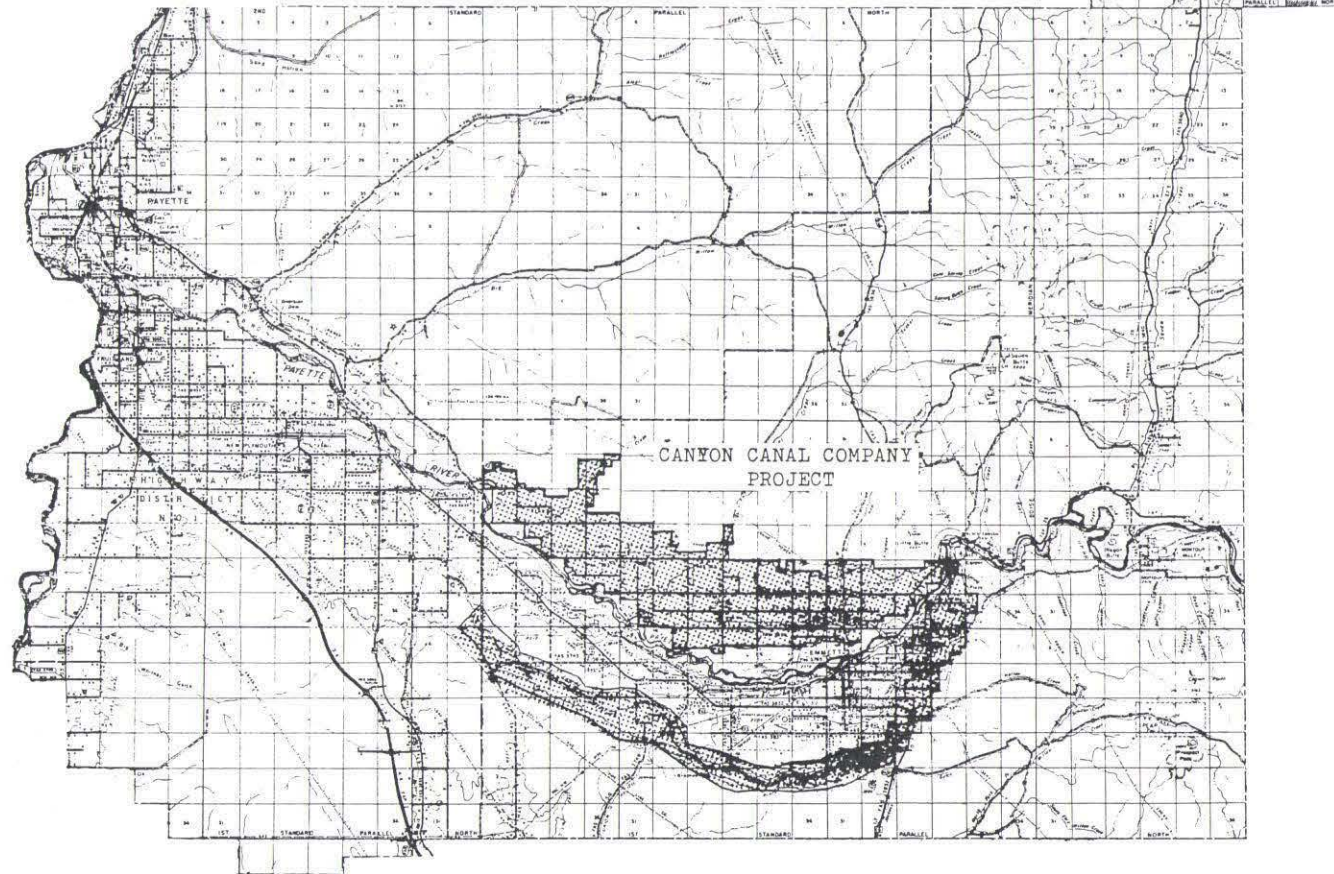
CANYON CANAL COMPANY PROJECT

Carey Act Number:	16
Location: (See Figure 4)	Gem and Payette Counties
Acres Segregated:	5,829.02
Acres Patented:	5,829.02
Estimated Cost:	\$300,000.00
Final Cost:	\$1,100,000.00
Comments:	Successful from the standpoint of acres patented

The first proposal to reclaim lands in the Emmett area was made in 1898 by J. B. Puckett. Mr. Puckett, representing the Iowa Irrigation Company, made a proposal and a request for a segregation totalling 17,000 acres. The

FIG. 4
CANYON CANAL COMPANY PROJECT
PAYETTE AND GEM COUNTIES

THIS PLAT IS A SKETCH OF THE AREA ORIGINALLY SEGREGATED;
IT DOES NOT NECESSARILY CORRESPOND TO THE AREA PATENTED



segregation was approved but it was later forfeited back to the state. Later in 1898 a request was filed by the Canyon Canal Company for 19,000 acres, which was amended to 5,829.02 acres. This segregation was granted by the Department of Interior as segregation list number 3.

In 1903 the contract between the state and the company was formulated. It called for a main canal of thirty-two miles from the point of diversion on the Payette River to the lower valley. The estimated cost of the dam, canals, tunnels, and laterals was placed at three hundred thousand dollars, with water rights selling for thirty dollars per acre.

After construction started it was soon apparent that the company had underestimated the cost of construction and the project was rapidly being forced into debt. In 1908 the company requested that the price for water be raised from thirty dollars to forty-five dollars per acre. It was also during this period that the company began issuing bonds, by 1910 the cost had more than doubled the original estimate.

The second problem that developed on the project related more to the state than to the construction company. Rumors started circulating around the valley that the State Land Officials had defrauded the settlers in the openings of the lands. This rumor was quickly picked up by the local papers and many urged that a suit be brought against the State Land Board and ex-Governor Hunt for malfeasance in office. The controversy arose because many of the settlers claimed that on the day of the opening, the lands were not given to the entrymen in the order in which the entrymen were in line at the land office. One settler wrote that he was required to wait outside even though he was third in line, then he was later conducted into a "*dark back room*" where he was told which land was his and that he had no opportunity to select the land he wanted. Charges were also circulating that the Republican Land Board had discriminated against Democrat applicants. To settle the matter a hearing was held in the State Senate. The matter was quickly settled at least to the satisfaction of the then current state officials. It was shown that before the application was accepted the applicant had to have a copy of a water contract from the construction company. The construction company had already designated the land on which this particular water right would be valid and the land office officials issued the land according to the land listed on the water contract by the company.

In the 1910 the project was turned over to the operating company, Emmett Bench Canal Company, along with outstanding bonds totalling over five hundred thousand dollars. This company was subsequently succeeded by the Emmett Irrigation District. After the project was accepted the outstanding obligations of the company were apportioned for all the land in the district.

From a standpoint of acres patented this was certainly one of the most successful Carey Act project, however, this overlooks the financial problems involved. One may ask, did the benefit gained in reclaiming the desert land equal a cost of one hundred and seventy-three dollars per acre? The answer is probably yes, and the project has to be considered an overall success.

CENTRAL IDAHO IRRIGATION DISTRICT

Carey Act Number:	10-A
Location:	Jefferson County
Acres Segregated:	14,491.67
Acres Patented:	Unknown
Estimated Cost:	Unknown
Final Cost:	Excess of \$940,000.00
Comments:	Very unsuccessful due to lack of water and financing

Since the above project is so closely related to the Owsley (First and Second) projects it will be more fully discussed after that project.

CRANE FALLS POWER AND IRRIGATION COMPANY PROJECT (Pumping)

Carey Act Number:	33
Location:	Owyhee County
Acres Segregated:	None
Acres Patented:	None
Estimated Cost:	\$788,275.00
Final Cost:	None
Comments:	Project proposal never approved

This Carey Act project was initiated to reclaim lands contained in segregation list 21, originally set aside for the Little Bruneau Project. From the start, the project was jeopardized by lands withdrawn under the Homestead Act and the Desert Land laws by other entrymen.

The proposal was to irrigate 1,680.00 acres by means of a pumping plant on the Snake River. The Crane Falls Power and Irrigation Company estimated that the project would cost \$788,275.00.

Two companies, the Crane Falls Power and Irrigation Company and the Grand View Land and Irrigation Company, were competing for the contract from the state for these lands lying along the Snake River. In June of 1909, the State Board of Land Commissioners rejected the Crane Falls proposal in favor of the one made by the Grand View Company. Further developments are considered under the Grand View Project.

DEEP CREEK IRRIGATION PROJECT

Carey Act Number:	57
Location:	Twin Falls County
Acres Segregated:	None
Acres Patented:	None
Estimated Cost:	Unavailable
Final Cost:	Unavailable
Comments:	This was never a Carey Act project

This was never an official Carey Act project from the standpoint of any proposal made, acreage segregated, or acreage patented. In 1906 five thousand

acres of land was filed on under the Desert Land law. Two dams and a canal system was constructed by the Deep Creek Land and Water Company, a corporation organized to sell water to the entrymen.

When the company was formed there was no state requirement that they had to first obtain permission from the Department of Reclamation before selling water rights. In 1909 the law was passed but by this time the settlers had patented and reclaimed 3,200 acres. The state refused to patent the remaining 1,800 acres until a certificate was obtained. The corporation finally complied and permission was given by the state for the sale of water rights, however, by this time it appeared that there was not enough water to go around.

By 1914 the project was desperately short of water. The only apparent source of water appeared to be the Twin Falls Salmon River Carey Act Project that had been constructed in the area; in fact, the segregation requested by the Salmon River Project enclosed the Deep Creek area.

The only relation of Deep Creek to a Carey Act project is the fact that it was encompassed by the Twin Falls Salmon River Project and the company had purchased water for the area from this project.

DUBOIS PROJECT

Carey Act Number:	34
Location:	Butte, Jefferson, Clark, Fremont, and Madison Counties
Acres Segregated:	267,601.77
Acres Patented:	None
Estimated Cost:	\$7,500,000.00
Final Cost:	None
Comments:	Project never started

The first request to segregate land for the Dubois Project was made by Mr. H. D. Mason from New York State in May of 1909. His request was for a total of 317,540 acres and included the necessary applications to appropriate water out of the North Fork of the Snake River, Teton River, Fall River, and Camas Creek in Fremont County. The proposed works were to consist of four reservoirs together with the necessary ditches and laterals.

In October of 1909 another request for a project was filed with the State Land Board, embracing 199,459.85 acres of land and consisting of one large reservoir at Island Park estimated to cost four million dollars.

Rather than deciding which proposal was more warranted, the State of Idaho requested that all of the land be withdrawn. The Department of Interior complied with the request in 1909 and 267,601.77 acres of land was set aside under segregation list 36. After the segregations no contracts were entered into between the state and the proposers.

By 1911 it became apparent that the proposers would be unable to secure sufficient funds with which to build the necessary works. Since no construction had been started the water could not be diverted and put to a beneficial

use, so the proposers lost many of their water rights. In 1912 the Department of Interior held the lists for rejection.

ELMORE IRRIGATION COMPANY

Carey Act Number:	50
Location:	Elmore County
Acres Segregated:	Applied for 6,249.83
Acres Patented:	None
Estimated Cost:	None
Final Cost:	None
Comments:	The same as the Mountain Home Project

This was not a separate and distinct project. The Elmore Irrigation Company was the construction company on the Mountain Home Project. The Mountain Home Project will be covered later in the report.

GRAND CANYON PROJECT

Carey Act Number:	51
Location:	Bonneville County
Acres Segregated:	Not granted
Acres Patented:	None
Estimated Cost:	Not available
Final Cost:	None
Comments:	Project never started

There are no records available in the Carey Act files on this project. Apparently a proposal was made and a request for a segregation. The application for segregation was not granted.

GRAND VIEW LAND AND IRRIGATION COMPANY PROJECT

Carey Act Number:	26
Location: (See Figure 5)	Owyhee County
Acres Segregated:	Contracted 840 acres of the 78,446.70 acres in segregation list 21
Acres Patented:	40.00
Estimated Cost:	\$150,000.00
Final Cost:	\$45,000.00
Comments:	Only project to reclaim land in the Little Bruneau segregation

The area in this project was originally set aside under segregation list number 21 which totalled almost 80,000 acres for the Bruneau (Little) Project. When this proposal was made by the Grand View Land and Irrigation Company the Bruneau (Little) Project was defunct. The first proposal was to irrigate 1,200.00 acres of land located along the Bruneau River. The state approved the proposal but reduced the acreage to 840 acres.

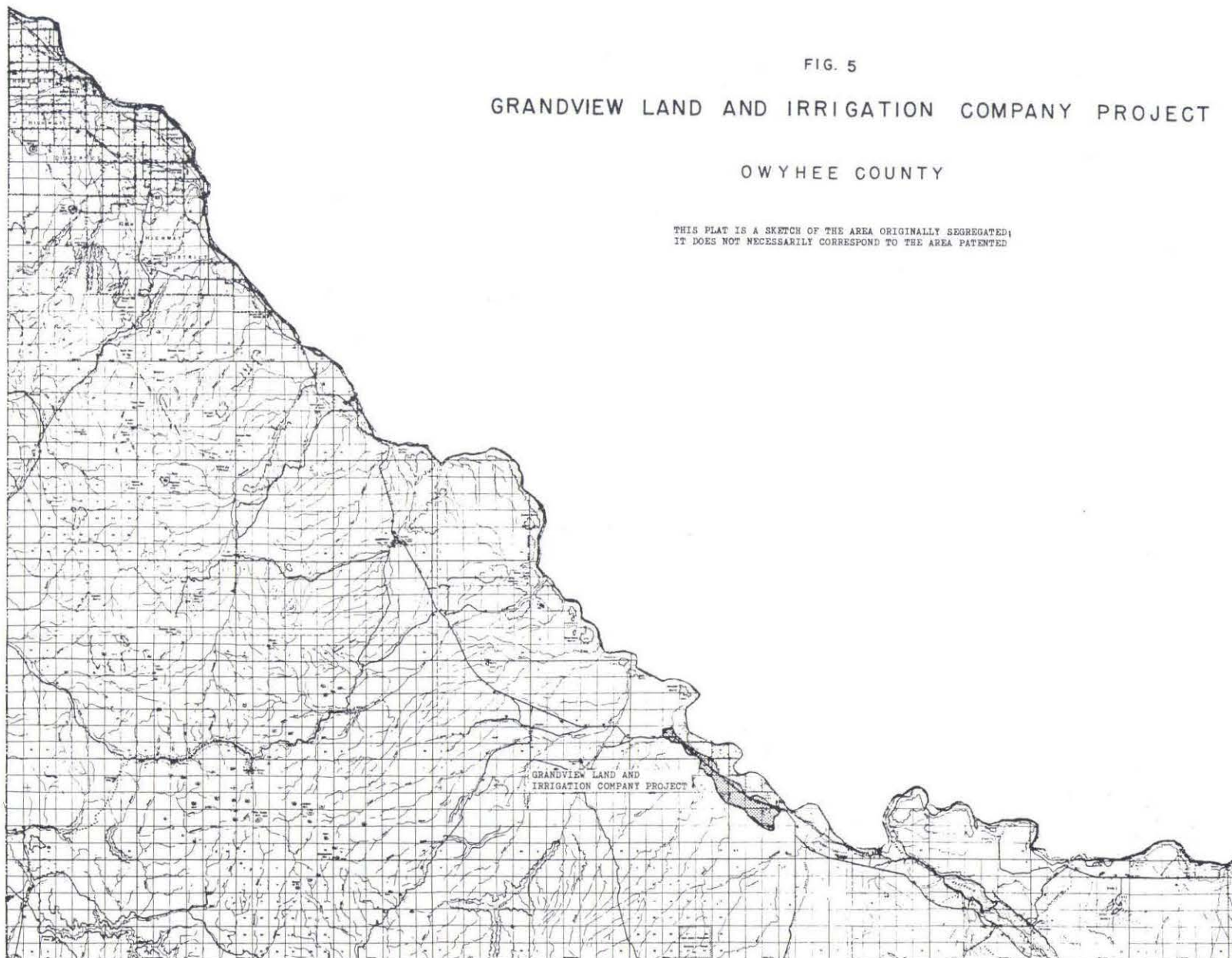
A contract between the State of Idaho and the company was entered into in 1920 and construction started; however, the company was soon in severe

FIG. 5

GRANDVIEW LAND AND IRRIGATION COMPANY PROJECT

OWYHEE COUNTY

THIS PLAT IS A SKETCH OF THE AREA ORIGINALLY SEGREGATED;
IT DOES NOT NECESSARILY CORRESPOND TO THE AREA PATENTED



financial condition. It had constructed 15 miles of canal and had started construction on the pumping plant. When it became apparent that the company would be unable to furnish the funds to finish the project the state had no choice except to cancel the contract in 1922.

Forty acres of land was reclaimed and the remaining 800 acres was relinquished back to the federal government. The total cost of this project plus the earlier Bruneau (Little) Project amounted to seventy-five thousand dollars, and at the close of the projects in the Bruneau area, forty acres were patented.

GRASMERE PROJECT

Carey Act Number:	28
Location:	Owyhee County
Acres Segregated:	Temporary withdrawal 53,206.06
Acres Patented:	None
Estimated Cost:	\$1,250,000.00
Final Cost:	\$10,000.00
Comments:	Area never permanently segregated

In 1909 a proposal was filed with the state to reclaim lands in Owyhee County. In order to complete surveys and make cost estimates a temporary withdrawal was granted by the Department of Interior for 53,206.06 acres of land. After the lands were segregated the federal government withdrew some of the lands as a possible future site for power developments. The promoters had planned on using the same site for a reservoir, to be known as Haraden Reservoir. Two other reservoirs were planned but Haraden Reservoir was felt to be essential to the overall plan. The water supply for the project was dependent upon the flood waters of Bull, Sheep, Nannie, and Mary creeks.

The temporary withdrawal was extended beyond the one year limit while the company tried to persuade the federal government to return the reservoir site. The proposers lost their battle and the federal government retained control. In 1916, since the proposers failed to come up with an alternate plan, the area was relinquished back to the federal government.

HANSEN, C. V., PROJECT

Carey Act Number:	36
Location:	Butte County
Acres Segregated:	3,456.96
Acres Patented:	None
Estimated Cost:	\$75,000.00
Final Cost:	Claimed by owner at \$26,000.00
Comments:	Project never started, inadequate water supply

This project was to be located in Butte County with a water supply from Cedar Creek. Mr. C. V. Hansen made his proposal in 1909 and amended it in 1911. A segregation was finally granted for 3,456.96 acres. His proposal

called for a lined canal running from the point of diversion into the valley and further discharged by laterals. The cost for the works was placed at \$75,000.00.

Examinations made by the State Engineer after the segregation was granted showed that there was an inadequate water supply for the project. Time was granted for the promoter to show a continuous and adequate water supply, which he was unable to do; and in 1913, the lands were restored to the public domain.

HEGSTED AND MASON PROJECT

Carey Act Number:	37
Location:	Teton County
Acres Segregated:	3,490.00
Acres Patented:	None
Estimated Cost:	\$100,900.00
Final Cost:	None
Comments:	Construction never started

In 1909 a proposal was filed by Victor Hegstead and Jacob Mason to reclaim lands in the Teton Basin with water from Horseshoe Creek. They planned on constructing a dam eighty-five feet high at the mouth of the creek. Later they considered using the dam already constructed at Pack Saddle Reservoir.

A segregation of 3,490.00 acres was granted in 1909, but this was later reduced to 2,680.00 acres. The company felt that a charge of twenty-five dollars per acre for water contract would be sufficient to cover the cost of construction and still make a profit.

The State Engineer's report on the project stated that the high cost of construction in this area would preclude an economic project. Much of the construction of ditches and canals would be in rocks and lava beds. The partners had also failed to present maps, specifications, and plans of the proposed works. In 1917 the state requested that the lands be relinquished and restored to the public domain. The Department of the Interior approved the relinquishment in September of 1917.

HIGH LINE PUMPING COMPANY PROJECT

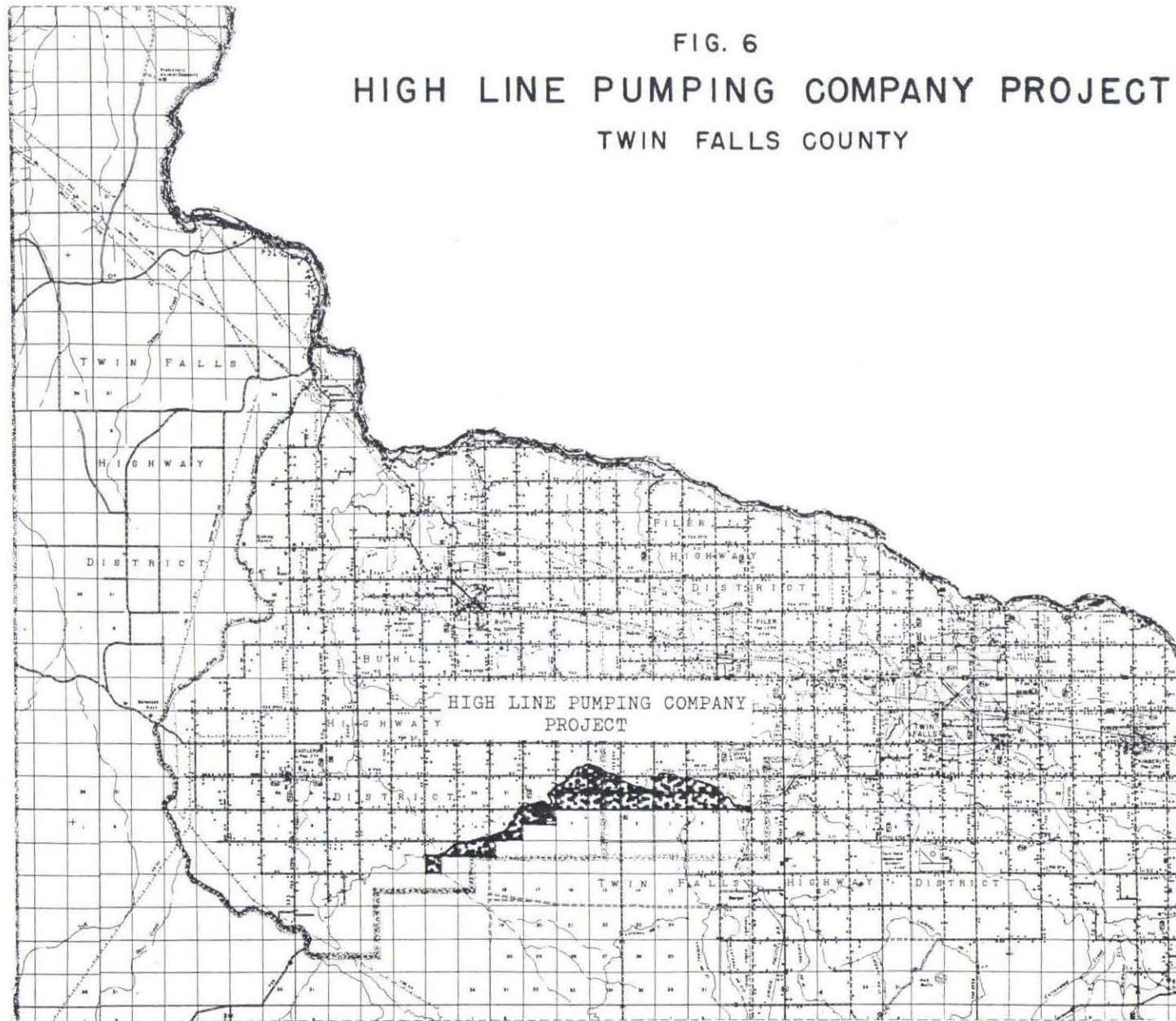
Carey Act Number:	25
Location: (See Figure 6)	Twin Falls County
Acres Segregated:	4,078.08
Acres Patented:	3,029.67
Estimated Cost:	\$120,000.00
Final Cost:	\$120,000.00
Comments:	Extension of the Twin Falls South Side Project

The lands in this project were originally filed on by the Twin Falls Land and Water Company. The land was above the company's High Line Canal and was not able to be reclaimed. The High Line Pumping Company was organized in 1910 by the directors of the Twin Falls Land and Water Company to construct a

FIG. 6

HIGH LINE PUMPING COMPANY PROJECT

TWIN FALLS COUNTY



pumping plant on the canal. Water would be lifted from the main canal and conveyed in smaller canals and laterals to the land. The total cost of the project was placed at \$120,000.00 with water rights selling for thirty-five dollars per acre.

The companies' proposal was granted and 4,078.08 acres were contracted to them from the Twin Falls South Side segregation. In 1911 notice was published that the company was ready to supply water for the land. Later the state accepted the works as completed and the High Line Canal Company took over operations of the irrigation works. When the work was completed fourteen miles of main canal had been constructed. This supplied enough water for the project to allow 3,029.67 acres to be patented.

HOUSTON DITCH COMPANY PROJECT

Carey Act Number:	18
Location: (See Figure 7)	Butte and Custer Counties
Acres Segregated:	1,884.46
Acres Patented:	None
Estimated Cost:	\$50,000.00
Final Cost:	Unknown
Comments:	Some acreage appears to be outstanding as final certificates

In 1908 a proposal was filed by the Houston Ditch Company to reclaim lands in Butte and Custer counties. 1,884.46 acres were segregated for the project under segregation list number 20.

The company proposed to irrigate the land from the Big Lost River. The point of diversion was to be in Custer County near Mackay, Idaho, with a main canal running 14.5 miles. The company planned to sell shares of stock representing water rights, each selling for thirty dollars. The State of Idaho and Houston Ditch Company entered into a contract in 1908.

Soon after the project was started the Houston Ditch Company conveyed all of its rights, title, and interest in the project to Darlington Land and Irrigation Company. In 1916 the company applied for a patent list for 1,844.46 acres and a statement that it was relinquishing forty acres because it was unable to irrigate the lands. A patent would have been conveyed except for a problem that had developed over stock in the company. The company had sold 4,000 shares of stock entitling the holder to receive one-eighth of a second foot of water. Later the company stated that it was reducing the acreage they planned to irrigate from 4,000 acres to 1,960 acres. This reduction affected both Carey Act lands and private lands in the project. After the reduction, the company made no effort to reduce the outstanding stock. The project was soon completed but the General Land Office refused to issue a patent until the outstanding stock was eliminated. The company refused to comply, probably because the money received from the sale of the shares had been used in constructing the project and the company had no funds with which to reimburse the shareholders. The General Land Office then threatened to cancel the patent list and the segregation. In 1922 the State of Idaho in an attempt to save the project ordered it sold. No patents were ever issued

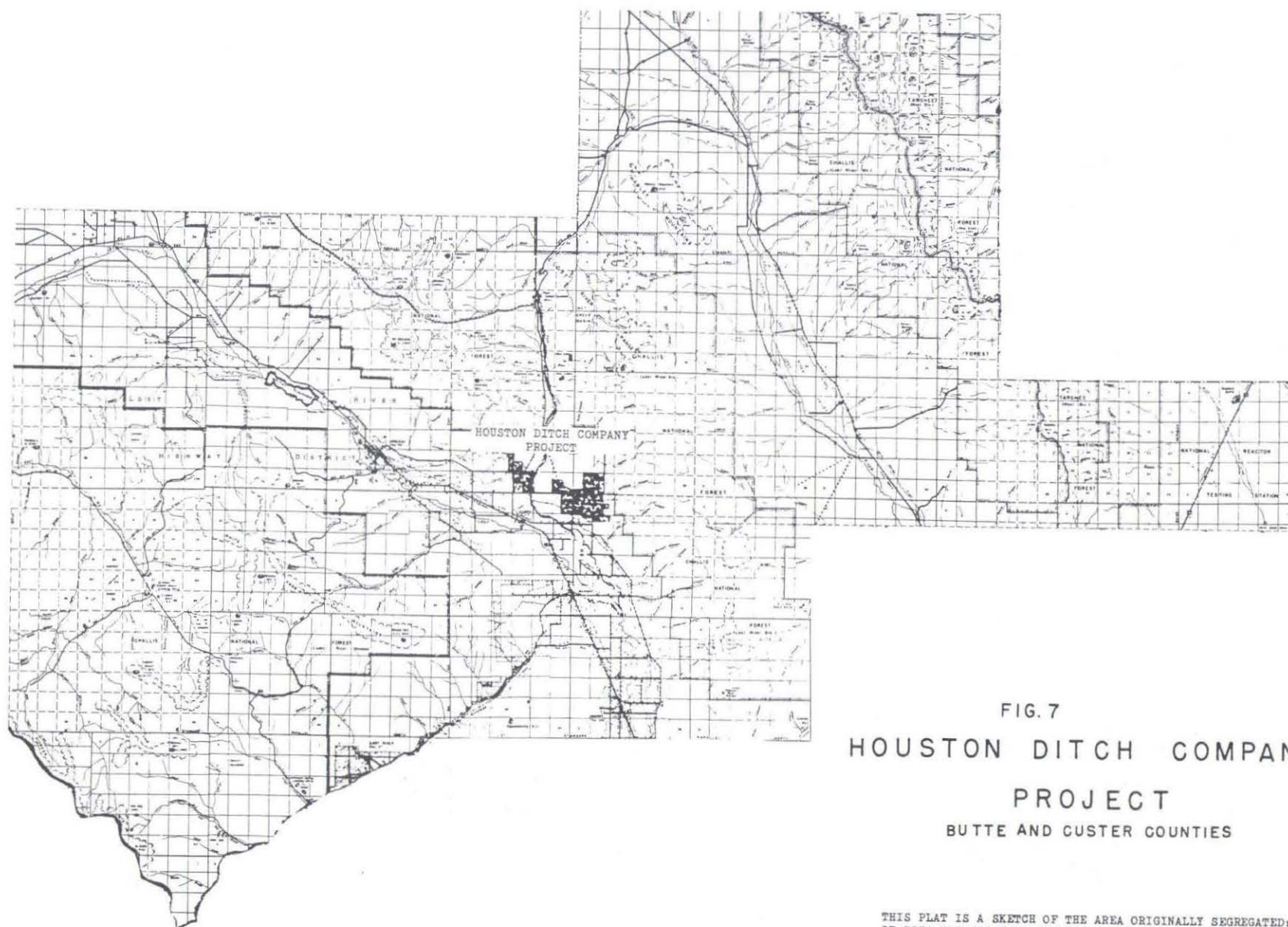


FIG. 7
HOUSTON DITCH COMPANY
PROJECT
BUTTE AND CUSTER COUNTIES

THIS PLAT IS A SKETCH OF THE AREA ORIGINALLY SEGREGATED;
IT DOES NOT NECESSARILY CORRESPOND TO THE AREA PATENTED

after this time but final certificates had been issued on 400 acres. By 1926 the segregation was cancelled excluding the above mentioned acreage.

IDAGON IRRIGATION COMPANY, LTD.

Carey Act Number:	38
Location:	Owyhee County
Acres Segregated:	8,664.53
Acres Patented:	None
Estimated Cost:	\$590,000.00
Final Cost:	\$75,000.00
Comments:	No water was ever diverted nor was any acreage ever sold

When this project was proposed in 1909 to reclaim lands in Owyhee County it seemed very speculative. The original plans submitted by the proposers, W. H. Schenck, F. L. Page, and Emma M. Page, called for the project to embrace 50,000 acres at a cost of nine million dollars. These promoters soon formed the Idagon Irrigation Company, Ltd. and pressed the State Engineer for a report on their proposal.

In his report the State Engineer stated that the proposal was unfeasible in its original form. A survey showed that only a superficial survey of the area had been made. The State Engineer's survey of the topography showed that the proposed canal would rise 230 feet higher at one point than the elevation at the canal's intake point. One may wonder what gravity method the proposers had in mind to make water run uphill. He also felt that the cost of the system in comparison to the acreage that would be reclaimed would put the cost per acre of land beyond economic reach. Another determining factor was the water supply, which the state felt was only adequate for segregation of some 10,000 acres.

In light of these findings the proposers agreed to reduce the acreage and conduct additional surveys. In 1909 this additional work had been done and 8,664.53 acres were segregated for the project. With the reduced acreage the cost of the project was placed at \$590,000.00 and the promoters set the price for water contracts at sixty dollars per acre. Even with a reduced acreage the proposers were unable to get the project sufficiently underway. By September, 1913, all the lands were relinquished back to the federal government due to the financial inability of the company to even make a good start on the project.

IDAHO IRRIGATION COMPANY PROJECTS

Carey Act Number:	4
Location: (See Figure 8)	Blaine, Gooding, and Lincoln Counties
Acres Segregated:	167,757.41
Acres Patented:	107,393.95
Estimated Cost:	\$4,000,000.00
Final Cost:	\$4,000,000.00
Comments:	The main problem was lack of water

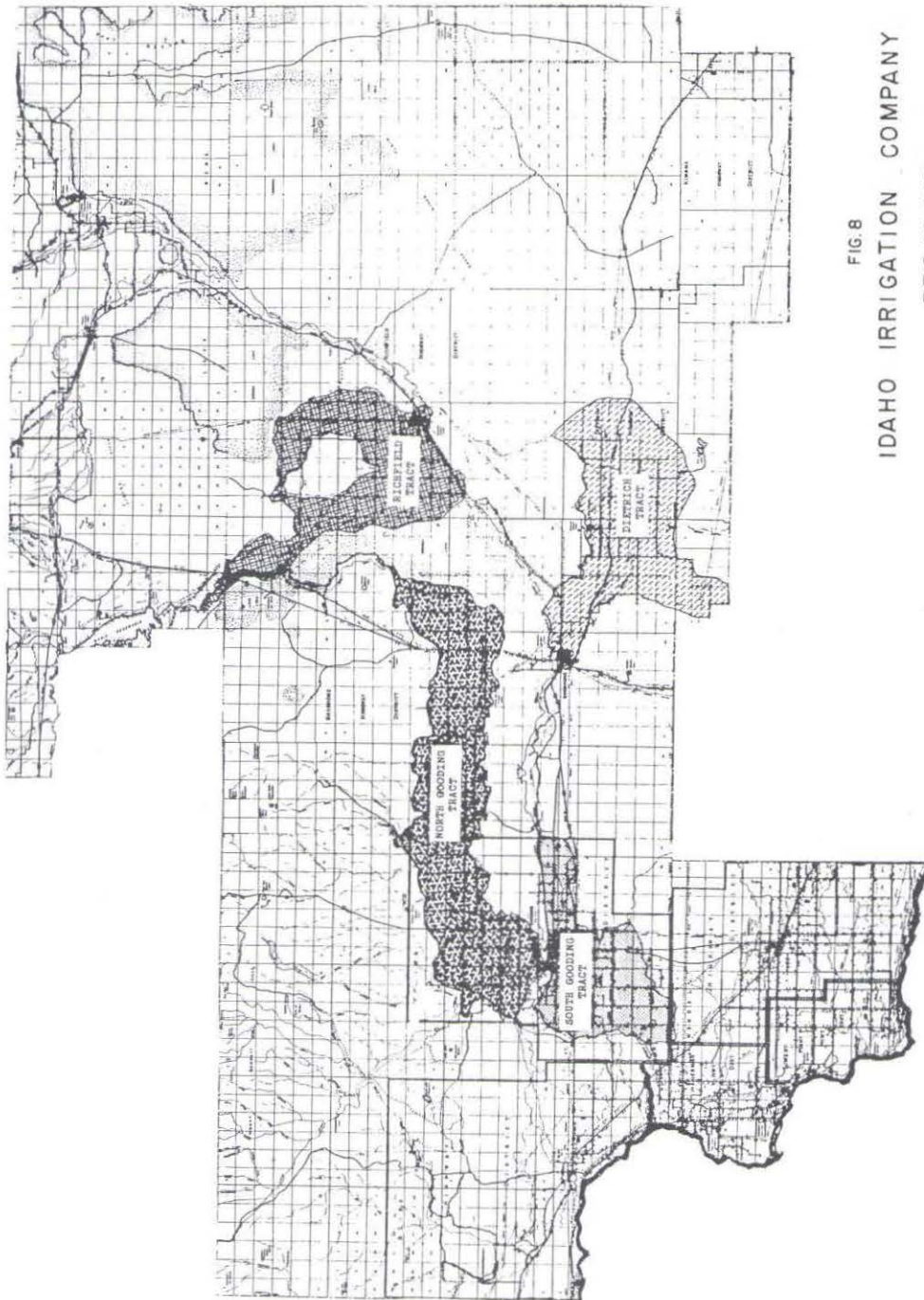


FIG. 8
IDAHO IRRIGATION COMPANY
PROJECTS
GOODING COUNTY

THIS PLAT IS A SKETCH OF THE AREA ORIGINALLY SEGREGATED.
IT DOES NOT NECESSARILY CORRESPOND TO THE AREA PATENTED.

On July 24, 1906 a proposal was submitted to the State Land Board to reclaim lands lying in Blaine, Gooding, and Lincoln counties. The water supply for the project was to come from the Big Wood River and a large reservoir was to be constructed in Blaine County. The natural stream bed of the Big Wood River was to be used to transport water into the valley, then water would be further dispersed through a main canal ten miles long and through twenty-five miles of laterals. The cost for the entire project was placed at \$4,000,000.00. Later on in the year, articles of incorporation were filed with the State of Idaho designating the Idaho Irrigation Company as the construction company on the project.

By 1909 the company had been granted six requests for segregations of land for reclamation. These requests amounted to 167,757.41 acres and most felt that the water supply would be adequate for over 150,000 acres. Later some of the above acreage was transferred to the Twin Falls North Side project.

After construction started on the project it appeared that the company had made a realistic appraisal of the cost involved. The main construction achievement of the Idaho Irrigation Project was the dam constructed at what is now called Magic Reservoir. In the State Engineer's report in 1917 he states that the reservoir contained 177,600 acre feet of water and that all canals were of ample capacity to serve the acreage in the project. All of this should have meant that the project was destined to be a great success, but it wasn't. As early as 1913 contrary to the many reports, water appeared to be the main problem. In order to protect their interest and to stop the construction company from selling any more water rights, a Farmer's Protective Association was formed in 1915.

In 1915 a patent for 117,677.24 acres was issued to the State of Idaho to be held in trust until the settlers reclaimed the land. A court decision later caused some 12,000 acres to be relinquished back to the federal government. During this period the controversy over water came to a climax with a decision by Judge Frank S. Dietrich in the District Court of the United States. The action was to restrain the company from selling further water. Judge Dietrich found for the settlers and ordered the project limited to roughly 65,000 acres, until additional water was available, the remainder of the lands had to be removed from the project. This decision to limit the project undoubtedly caused many hardships in the area, but it was necessary before any of the land could be permanently reclaimed. In 1922 the United States Supreme Court affirmed the action of the District Court. At this time the operating company, the Big Wood River Reservoir and Canal Company, was already managing the project.

In 1924 the project was turned over to the settlers and they assumed control of the operating company. During the depression the project succeeded in putting in a canal from the American Falls Reservoir at a cost of \$6,300,000.00. This Snake River water was applied to much of the land in the Gooding tract. From the records it appears that the original estimation of the water supply was only one-half of what was needed for segregation. Today there are about 98,000 acres in the project and 800 farm units.

KEATING CAREY LAND COMPANY PROJECT

Carey Act Number:	22
Location: (See Figure 9)	Lemhi County
Acres Segregated:	15,226.71
Acres Patented:	3,683.50
Estimated Cost:	\$250,000.00
Final Cost:	\$49,500.00
Comments:	Insufficient water supply hampered development of the project

In 1910 Mr. Tom Keating filed a proposal with the State Land Board to reclaim land under the Carey Act. The construction company for the project was to be the Keating Carey Land Company. Water was to be taken from Timber Creek, the West Fork of Timber Creek, and Eight-Mile Creek; and diverted to lands lying in Lemhi County through the use of a main canal $5\frac{1}{2}$ miles long and some small dams. The company placed the estimated cost of the project at \$250,000.00.

The State Engineer reported that the project would only be feasible if a diversion was made on Timber Creek. The company agreed to this and a contract between the State of Idaho and the Keating Carey Land Company was signed in 1912.

By 1913 the company had made one diversion from Timber Creek and none from the other creeks. Everyone realized by now that the water supply had been grossly overestimated. The State of Idaho agreed to advertise an opening on 4,000 acres only on the condition that the company would relinquish back to the federal government 5,203.08 acres, which the company agreed to do.

By 1916 the water shortage was critical and the company was ordered to cease selling water rights and an additional 6,317.64 acres were relinquished. With the acreage left the project was deemed completed by the state in 1919 and it was authorized that the settlers could take over the project through their operating company, the Keating Canal Company.

At the time the state accepted the contract the company still had water rights outstanding in excess of 3,400 shares. The General Land Office required that the company reduce its shares before a patent would be issued. By the end of 1919 the company complied with the request and 2,516.51 acres were patented to the settlers. Two more patents were later granted bringing the total to 3,683.50 acres.

With the reduced acreage the project cost \$49,500.00. In proportion to the original estimated cost and the acres originally segregated, the company still exceeded the estimated cost.

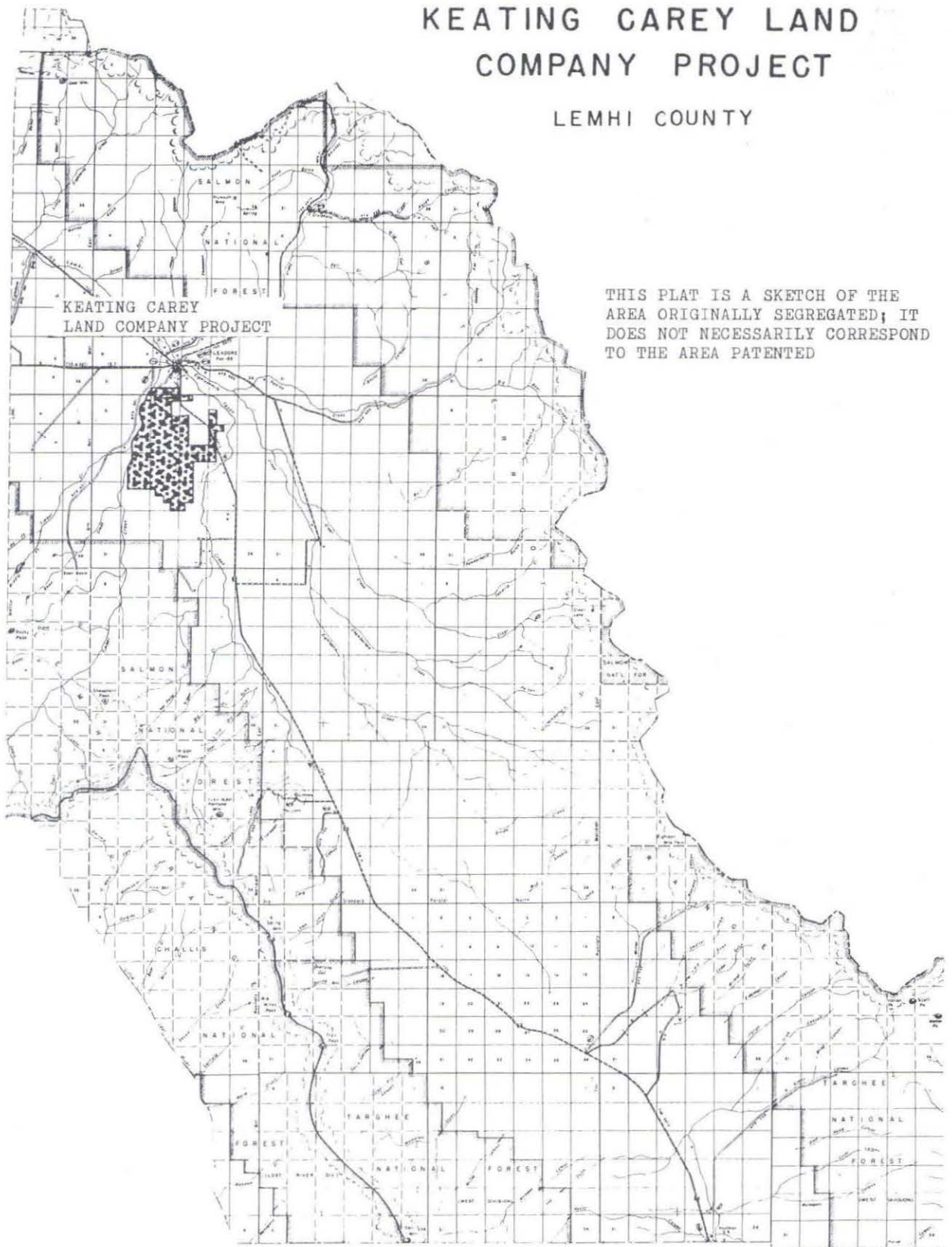
KING HILL PROJECT

Carey Act Number:	8
Location: (See Figure 10)	Owyhee, Elmore, Gooding, and Twin Falls Counties

FIG. 9

KEATING CAREY LAND COMPANY PROJECT

LEMHI COUNTY



KING HILL PROJECT (cont'd.)

Acres Segregated:	17,666.22
Acres Patented:	For both projects 13,702.71
Estimated Cost:	\$600,000.00
Final Cost:	For both projects \$2,982,332.00
Comments:	Poor construction and high costs, the only projects to be taken over and completed by the federal government

KING HILL EXTENSION PROJECT

Carey Act Number:	9
Location: (See Figure 10)	Owyhee and Elmore Counties
Acres Segregated:	9,454.51
Acres Patented:	For both projects 13,702.71
Estimated Cost:	\$465,000.00
Final Cost:	For both projects \$2,982,332.00
Comments:	Very unsuccessful

The first project in this area was started in May of 1903 by the Glens Ferry Land and Irrigation Company. It was located in Owyhee, Elmore, Gooding, and Twin Falls counties with water supply from the Malad River. The company requested the first segregation on March 8, 1904 for 17,666.22 acres of land. By 1908 the company was deep in debt and having problems with the construction. In an attempt to secure additional financing it was dissolved and reorganized into the King Hill Irrigation and Power Company.

With the new reorganization the company again started construction of the diversion works. Water was obtained at the point of diversion and carried in a flume and a canal to the Snake River, there it crossed the river by means of an inverted siphon. Once on the other side of the river a canal was constructed in earth alongside of the mountain for approximately 20 miles. Due to the poor foundation of the canal, seepage was great and the walls were prone to break.

In 1908 the lands in the King Hill Project were open for settlement. It was also in 1908 that the company decided against consolidating and improving the original project, but instead expanded and started another project lower on the river, which was named the King Hill Extension Project. A request was filed with the state for a segregation of 9,454.51 acres of land in 1909. The upper or King Hill Project was reduced to about 10,000 acres, bringing the total for both projects to 19,000 acres.

Even in 1909 many people felt that neither the diversion works nor the water supply would be sufficient to reclaim the acreage in both projects. To provide water for the new project the Board of Directors of the King Hill Extension and Irrigation Company agreed to deliver 50% of its stock in exchange for 300 second feet of water from the King Hill Irrigation and Power Company.

By 1910 the companies were almost bankrupt and were trying to get the state to accept the contracts as completed and thus relieve them of any future burden. At the request of the settlers, who complained that the works were

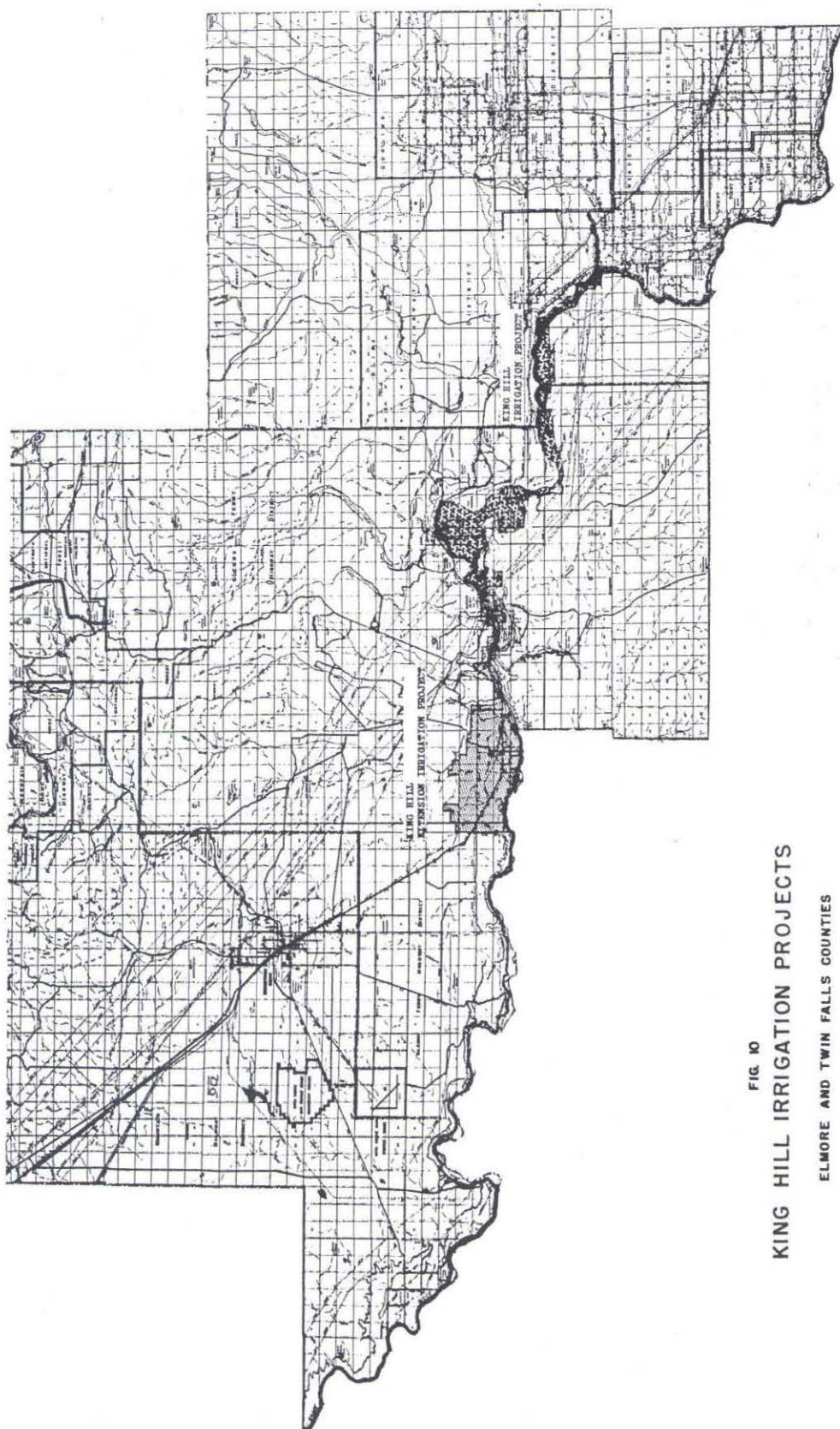


FIG. 10
KING HILL IRRIGATION PROJECTS
ELMORE AND TWIN FALLS COUNTIES

THIS PLAN IS A SKETCH OF THE AREA ORIGINALLY SUBMITTED;
IT DOES NOT NECESSARILY CORRESPOND TO THE AREA PATENTED

poorly constructed and the water supply was insufficient, the Attorney General for the State of Idaho started proceedings to compel specific performance of the contracts. The companies were unable to meet the terms of their contracts and were forced into bankruptcy, the contracts being forfeited in 1912. This wasn't the result the state had hoped for and action had to be immediately taken to protect the settlers on the project.

The State Land Board authorized the lending of Carey Act trust funds to deserving projects, subsequently the State of Idaho gave the receiver who held the project, \$35,000.00, taking receivership certificates as collateral to protect the loan. After this the project was to be sold pursuant to the Idaho Code at a sheriff's sale. On November 19, 1912 the project was advertised for sale in a local newspaper. On the date of the sale only one bidder appeared and he represented the State of Idaho. His purpose was to protect the interest of the state, represented by the receivership certificates. His bid of \$30,000.00 was accepted and the State of Idaho became the owner of two Carey Act projects.

Realizing that it did not have the ability nor the assets to complete the contracts, the State of Idaho began negotiations with the United States Reclamation Service whereby they would take over the project. To facilitate the negotiations the State Legislature in 1913 authorized that the projects could be turned over to the federal government. Between 1913 and 1914 when the negotiations were in progress the projects were operated by the receiver. Approximately \$18,500.00 was loaned by the State of Idaho during this period to keep the projects alive. In 1915 a manager was appointed by the state and he operated jointly with the receiver for two years. In 1915 an additional \$26,000.00 was appropriated by the State Legislature. The United States Reclamation Service indicated that before they would assume control of the project an irrigation district would have to be formed. Pursuant to this request the King Hill Irrigation District was formed in 1916.

It was in 1917 that the federal government agreed to take over the project and complete it as much as possible. By this time the project had been reduced by relinquishments to around 16,000 acres. The State of Idaho quit-claimed all of its interest in the project to the United States Reclamation Service and the state also agreed that the \$26,000.00 appropriated by the 1915 Legislature could be used for annual maintenance. It was also in 1917 that the United States Congress appropriated \$200,000.00 yearly until completion of the project. In 1919 the construction had been largely completed and the lands that couldn't be reclaimed were relinquished back to the federal government and the areas of the project consolidated.

The King Hill projects were two of the most dismal of the Carey Act undertaking. The estimated cost of both projects was placed at about one million dollars while the final cost probably ran closer to three million dollars. Over one million dollars was spent by the original construction company and its backers, almost two million dollars was spent by the federal government, and over eighty thousand dollars by the State of Idaho. The original construction company had gone bankrupt and much of the land was relinquished back to the federal government; however, 13,702.71 acres of previously desert land had been patented to Idaho farmers, and the project is still very active.

LEMHI IRRIGATION PROJECT

Carey Act Number:	39
Location:	Lemhi County
Acres Segregated:	10,480.32
Acres Patented:	None
Estimated Cost:	\$150,000.00
Final Cost:	None
Comments:	Project never started because of inadequate information as to water supply

Little information is available on the Lemhi Irrigation Project. A request for segregation of land was made in 1910. The proposers planned on constructing a dam four feet high across the Lemhi River in order to divert water for the project. Investigations made by the Department of Interior and the State of Idaho shortly after the proposal was made revealed an inadequate water supply. The area was then reduced to 7,500 acres. The proposers suggested that a diversion could be made at a point above a power dam on the Salmon River. The problem was that the power company had a prior filing for 400 second feet and if the project was allowed to divert its water, there wouldn't be enough to meet the needs of the power company.

The federal government requested that the proposer submit additional information on the sufficiency of the water supply. On February 17, 1913, because of the failure of the proposers to meet this request, the project segregation was cancelled and the contract rejected.

LITTLE LOST RIVER PROJECT

Carey Act Number:	41
Location:	Custer and Blaine Counties
Acres Segregated:	20,243.73, later reduced to 8,000.00 Temporary withdrawal of 8,000.00
Acres Patented:	None
Estimated Cost:	\$320,000.00
Final Cost:	\$10,000.00
Comments:	Segregations rejected and project abandoned

Very little information is available on this project in the Department of Reclamation files. The proposal was to reclaim the lands lying in Custer and Blaine counties with water from the Little Lost River. The proposers planned on constructing a reservoir on the river.

Two segregations were requested for the project. The first was filed on August 20, 1909 for 20,243.73 acres of land. On June 6, 1910 another request was filed in the form of a temporary withdrawal of 8,000.00 acres. The first request was later reduced to 8,000.00, the same amount as was embraced in the temporary withdrawal. Even with this reduction in size the segregation was denied, apparently because of inadequate information as to the water supply. The second request of 8,000.00 acres was rejected on March 8, 1912

and by 1914 the project had been abandoned altogether.

THE LOST RIVER RECLAMATION PROJECT

Carey Act Number:	55
Location:	Gooding and Jerome Counties
Acres Segregated:	None
Acres Patented:	None
Estimated Cost:	Unavailable
Final Cost:	None
Comments:	Development never exceeded the proposal stage

No information is available on this project. Apparently the Lost River Reclamation Company was incorporated to act as the construction company, but no action was ever taken. The most unique feature of this project was that the planned water supply was artesian.

MARYSVILLE CANAL PROJECT

Carey Act Number:	17
Location:	Fremont County
Acres Segregated:	6,572.50
Acres Patented:	5,852.50
Estimated Cost:	\$127,000.00
Final Cost:	In excess of \$250,000.00
Comments:	Bankruptcy and inadequate water supply were a few of the problems that plagued the project

The Marysville Project was one of the earliest projects proposed in Idaho, preceded only by the American Falls Project and an earlier project in the Twin Falls area sponsored by B. G. Mullin, later known as the Twin Falls North Side Project.

The proposal for the project was first made in 1898 by a firm known as the Marysville Canal and Improvement Company. The project was to embrace around 9,500 acres of land. Much of the land in the area had already been settled on and was in some stage of reclamation. These early settlers had even constructed diversion works and canals to convey water to the land. As soon as the proposal was made these early settlers took action to quash it, probably out of fear that their land and water would be taken from them and used for the project. The conflict was finally resolved and the company obtained a segregation of 6,572.50 acres in 1904.

In 1904 the contract between the state and the company was approved. As originally conceived and outlined the project was to involve but one canal system diverting water from Fall River. This plan proved unfeasible and a new point of diversion was made by use of a low dam constructed of logs and rocks and a set of controlling gates. In 1906 a public land opening was advertised.

After construction was completed great losses began to occur because the diversion works had not been properly constructed. To correct the problem the dam was reconstructed but it later washed out. The third effort to construct the dam was more successful and the seepage losses were somewhat curtailed.

Soon after the project started financial problems arose. The original backing was obtained in the East where bonds were sold to finance the construction. By 1906 the funds derived from the sale of the bonds had been expended and the only way to raise additional revenue seemed to be to raise the cost of water. The company had originally charged ten dollars an acre for a perpetual water right, and in 1906 the company's request to raise the price of water contracts to twenty dollars was granted and construction proceeded.

In 1908 efforts were made to turn the project over to the settlers. To facilitate this an operating company, the Marysville Irrigation Company, was formed by the construction company. The settlers refused to accept the project as completed, but the company managed in April, 1908, to have a transfer meeting held in Boise before the State Land Board. Mysteriously, the settlers were not notified of the meeting nor were they represented. The State Board of Land Commissioners ordered that the canal system be transferred to the operating company. The settlers were outraged at the action, letters streamed into Boise, many containing thinly veiled threats against the State Land Board. In July after another public hearing had been held to hear the settlers' protests, the State Land Board rescinded the earlier order transferring the canal system.

In 1909 the project expanded and the company gained permission to serve approximately 1,480 additional acres of Carey Act land. The company planned to use diversion works already constructed by a group of settlers, known as the Yellowstone system. In return for permission to use their works, the farmers apparently obtained the promise of the Marysville Company that they would complete the system.

From 1910 to around 1915 the company's financial status deteriorated, all efforts to turn the project over to the settlers or to get the State of Idaho to accept the contract as completed had failed. Complaints were constantly being filed concerning poor construction of laterals and the lack of water at the farmer's headgate. In 1917 the original construction company, the Marysville Canal and Improvement Company, went bankrupt and a receiver was appointed. At the sale the project was purchased by Glenny and Hawley of Chicago, Illinois, who represented many of the bondholders. Later the project was conveyed to the Marysville Development Company, composed mainly of previous bondholders.

The new company took over the project and tried to bring it up to par. In 1918 the first patent was issued on the project for 4,251.66 acres. Later in 1920 another patent was issued for 1,600.84 acres. In 1923 the project was turned over for operation to the Marysville Canal Company composed of settlers on the project. Almost twenty-five years had transpired to reclaim 5,852.50 acres at a cost far in excess of \$250,000.00.

MILNER SOUTH SIDE PUMPING PROJECT

Carey Act Number:	49
Location:	Twin Falls and Cassia Counties
Acres Segregated:	3,686.19
Acres Patented:	None
Estimated Cost:	\$22,500.00
Final Cost:	\$2,000.00
Comments:	Many years of inaction, project land eventually relinquished

There has been much confusion over the Milner South Side Pumping Project. In many of the Carey Act files the same project name has been used indiscriminately to designate two different projects; one sponsored by the Twin Falls Land and Water Company; the other sponsored by the Twin Falls North Side Land and Water Company. Carey Act project number 30 was assigned to the project sponsored by the Twin Falls North Side Land and Water Company. The project was intended to be an extension of one of the segregations made on the Twin Falls North Side Project.

In 1910 the Twin Falls Land and Water Company filed a request for a segregation, which was granted and 3,686.19 acres of land was set aside under segregation list number 49. The land was to be served by means of a pumping plant located on the Twin Falls South Side Canal. Eleven years elapsed without the project ever really getting underway.

In the early 1920's another company, the Murtaugh Canal Company, expressed an interest in reclaiming the lands in segregation list 49. The Murtaugh Canal Company secured a contract with the state and proceeded with construction of a small pumping plant which was located on a canal owned by the Twin Falls Canal Company, the operating company for the Twin Falls South Side Project. Apparently little was done to reclaim any of the lands and the plant was later purchased by the Milner Low Lift Irrigation District.

After almost twelve years in inaction all the lands in segregation list 49 were relinquished back to the federal government and on June 23, 1921 the project was officially closed.

MOUNTAIN HOME PROJECT

Carey Act Number:	50
Location:	Elmore County
Acres Segregated:	Applied for 6,249.83
Acres Patented:	None
Estimated Cost:	None
Final Cost:	None
Comments:	Segregation never allowed

Not all proposals filed with the State Land Board were pure Carey Act proposals in the sense that the term is generally used. Some were filed as an attempt to avoid limitations found in other land laws, such was the Mountain Home Project. No Carey Act file was ever made on this project, what

information that is available was obtained from the files on irrigation companies at the Department of Reclamation.

The Mountain Home Cooperative Irrigation Company was organized under the laws of Idaho. Sometime in the late 1910's, the company decided on expanding the land it was serving from 900 acres to a much larger area. As soon as the settlers heard of the plan they protested to the state the sale of any additional water rights by the company. Many of the settlers felt that the existing water was inadequate at its current level without future expansions to further diminish the supply.

The Mountain Home Cooperative Irrigation Company then decided to approach the problem from a different point of view, they incorporated the Elmore Irrigation Company in Seattle to operate as a Carey construction company. The plan was to use the waters from Long Tom, Camas, Lime, Cat, Canyon, and Squaw creeks; to transport the waters through the existing facilities owned by the parent corporation, and on to the new land obtained by a Carey Act segregation.

The Elmore Irrigation Company made the proposal to the State Land Board and asked that 6,249.83 acres be segregated for the project. This request was refused by the State Land Board on the grounds that the water supply was inadequate for the acreage in the segregation. Unable to obtain a segregation of additional lands through the Carey Act the company gave up plans for future expansion.

OWSLEY - FIRST AND SECOND PROJECTS

Carey Act Number:	10
Location:	Jefferson County
Acres Segregated:	
1. First Owsley Project	14,834.63
2. Second Owsley Project	14,491.67
Acres Patented:	
1. First Owsley Project	12,825.72
2. Second Owsley Project	14,091.67 *
Estimated Cost:	
1. First Owsley Project	\$150,000.00
2. Second Owsley Project	Unknown
Final Cost:	
1. First Owsley Project	Over \$50,000.00
2. Second Owsley Project	Unknown
Comments:	The Owsley-First Project was relatively successful, the Owsley-Second Project was not, lack of water being the main problem

* Most of the acreage in the Owsley-Second Project was patented to the State of Idaho, but later was relinquished back when water proved unavailable.

Of the three projects started in Jefferson County, related to the Owsley area; two were under the Owsley name, and the third was called the Central Idaho Irrigation Project.

The initial project was known as Owsley-First Project. The original construction company on the project was the Owsley Carey Land and Irrigation Company. This company made a proposal in June of 1909 to reclaim lands in Jefferson County, which was later amended and the first segregation of 8,611.56 acres was made in October of 1909. Water was to come from Camas Creek and Mud Lake and a combination of gravity flow and pumping was to divert the water to the land. The estimated cost of the project was placed at \$150,000.00. The main canal was to be 2½ miles long, with 11 miles of laterals planned.

The first problem to face the promoters was in the advertising field, how do you promote a project in an area called "Mud Lake." Faced with a name like that the promoters knew that it would be difficult, if not impossible, to attract settlers from the East, so it is not surprising that the name "Crystal Lake" soon began to appear in all the company's publications. Both names, of course, refer to the same body of water.

From the period following the first segregation numerous modifications were made to the contract and additional segregations were granted. Even with the enlarged acreage, attempts were made to increase the acres segregated from the original 14,800. By 1911 the works had progressed sufficiently to allow the issuance of notice of availability of water. There was some doubt as to the adequacy of the water, so all monies received by the company on water contracts were for a time held by the State Land Board.

When the project was completed in 1918 it consisted of a main canal with a pumping plant diverting the water into two large laterals. Altogether 12,825.72 acres were patented under the first project. The promoters had been moderately successful with their first undertaking and by the time the Owsley Canal Company began to operate the project, they were in the process of planning their second project.

The Owsley-Second Project began around 1914 with a proposal made by the same construction company that had built the Owsley-First Project. At first, the company asked for 31,000 acres, but after this had been rejected by the General Land Office, the company in 1915 accepted a segregation of 14,491.67 acres. This land was segregated under the stipulation that a contract would be entered into if the State Engineer found the water supply to be adequate. This started a period of controversy that ranged over four years. In 1915 the State Engineer stated that the water supply was probably inadequate for even the first project, let alone large enough to support an additional project in the area. By 1919 the State of Idaho had changed its position and in February entered into a contract with the Owsley Carey Land and Irrigation Company for the reclamation of the land segregated for the project. A short time later the Owsley Carey Land and Irrigation Company sold all of its interest in the project to the Pingree Land Company. In 1920 the Pingree Land Company was authorized to give notice of the availability of water, and by the end of 1920 the system was completed as far as construction of the diversion works was concerned. To facilitate negotiations being carried on with the settlers over acceptance of the works the construction company formed the Maktin Operating Company.

The completion of the works and the setting up of an operating company did not solve the company's main problem, lack of water. Although the

diversion works were claimed to be completed, little land was sold and the vast majority of it was barren of cultivation or settlement. Unable to attract settlers to an area where a continuous supply of water could not be guaranteed the company was unable to sell water contracts to cover its construction debts. In 1921 the Pingree Land Company was forced into receivership.

Sometime after the bankruptcy of the company the Crystal Lake Farm Company entered the picture as the successor in interest. In order to allow what entrymen were on the project to prove up on their claims, extensions of time were granted to the settlers until 1923.

By 1924 it became apparent that there would never be enough water to cause the reclamation of these lands. By this time, however, the State of Idaho had received a patent to 14,091.67 acres in the Owsley-Second Project. This patent was secured under the provisions of the Carey Act that allowed lands to be patented to the state in trust when ever sufficient water was provided in permanent waterways to reclaim the land. Just exactly when such an amount of water was furnished is unknown.

On May 1, 1924 the State of Idaho notified the Crystal Lake Farm Company that the contract that they had for the reclamation of the project was forfeited. This left the State of Idaho the possessor of over 14,000 acres in trust without any Carey Act company actively trying to reclaim the lands.

In 1925 the third interest in the Owsley area made its proposal. The Central Idaho Irrigation District was closely connected with the operating company on the Owsley-First Project, the Matkin Operating Company. In 1925 the irrigation district entered into a contract with the state for the reclamation of the above lands. Altogether \$940,000.00 in bonds were sold by the irrigation district to finance the project. At one time the district managed to irrigate 3,000 acres of the 14,400 in the project. By 1926 the state was ready to admit that there would never be enough water to reclaim the area. In 1928 the state sent notices to all the entrymen on the project that they were delinquent for failure to make proof of cultivation or reclamation, and then cancelled the contract with the company. All the settlers left the land and in 1936 the court dissolved the Central Idaho Irrigation District. Left in the wake of the project was \$940,000.00 in almost worthless bonds.

In 1944 some of the lands were relinquished back to the federal government to serve as a bombing range. On June 4, 1957 the United States accepted reconveyance of 8,649.42 acres of land in the above Carey Act project that had been patented to the State of Idaho.

OWYHEE IRRIGATION PROJECT

Carey Act Number:	23
Location:	Owyhee County
Acres Segregated:	3,295.92
Acres Patented:	160.00
Estimated Cost:	\$65,000.00
Final Cost:	\$58,000.00
Comments:	A poorly planned project, totally inadequate water supply

The proposal to reclaim these lands in Owyhee County was made in 1907 by various promoters. The Owyhee Irrigation Company was formed to construct the necessary diversion works. Various dams were planned and it was felt that the water and drainage from Louse Creek would furnish enough water to fill the reservoirs.

In 1908, 3,295.92 acres were segregated for the project by the Department of Interior at the request of the construction company. The company initially set the price of water contracts at \$30.00 per acre, but later they petitioned for an increase to \$45.00 which was granted. The diversion works were completed by 1910 but Louse Creek did not provide enough water to fill the main reservoir above the one-third mark, the \$15,000.00 spent for the dam had been completely wasted.

Unable to furnish enough water to reclaim more than 160 acres the company agreed in 1921 to relinquish the remainder of the land to the federal government. The total amount expended by the stockholders of the company to reclaim 160 acres of land had been \$58,000.00.

OWYHEE LAND AND IRRIGATION COMPANY PROJECT

Carey Act Number:	42
Location:	Owyhee County
Acres Segregated:	29,323.05
Acres Patented:	None
Estimated Cost:	\$1,000,000.00
Final Cost:	\$10,000.00
Comments:	Project never started

This ambitious project was proposed in 1908 with plans to reclaim 29,323.05 acres. The Owyhee Land and Irrigation Company was incorporated to act as the construction company in 1909. A contract was later formed between the State of Idaho and the construction company.

The proposer planned on developing a gravity system using water from Castles, Boulder, Spring, and Meadow creeks. The main canals were to run forty miles, with one hundred miles of laterals eventually being constructed. The company set the price of the water contracts at \$55.00 per acre.

The project was never started and no information can be found as to the reason for the failure of the company. By 1916 the lands were relinquished back to the federal government for failure of the company to comply with the state contract.

PAHSIMEROI

Carey Act Number:	58
Location:	Lemhi County
Acres Segregated:	Unknown
Acres Patented:	None
Estimated Cost:	Unknown
Final Cost:	Unknown
Comments:	Sponsored by Charles Spearman, no other records available

LOWER PAHSIMEROI

Carey Act Number:	40
Location:	Custer and Lemhi Counties
Acres Segregated:	7,143.02
Acres Patented:	None
Estimated Cost:	\$200,000.00
Final Cost:	None
Comments:	Only a paper survey made and project appeared very unfeasible

UPPER PAHSIMEROI

Carey Act Number:	52
Location:	Lemhi County
Acres Segregated:	Requested 40,305.90
Acres Patented:	None
Estimated Cost:	\$400,000.00
Final Cost:	Unavailable
Comments:	Project never started

There were three projects suggested in Lemhi County involving much of the same land. From the little information available it appears that the Upper Pahsimeroi was the first project, followed by the Lower Pahsimeroi Project and finally the Pahsimeroi Project suggested by Charles Spearman.

It is not hard to envision the fever that existed around 1910 when Carey Act projects were starting everywhere and the famous Twin Falls South Side Project had met with such great financial success. Everything looked good to Carey Act promoters, and in many instances, conflicts arose over which proposals the State Land Board would accept. The rush to obtain land for Carey Act developments can easily be equated to some of the larger land openings held in the early West. The Pahsimeroi projects are typical of the fever that had gripped many in southern Idaho.

From the sources available it appears that M. I. Church started the rush in Lemhi and Custer counties with his request for a segregation of 40,305.90 acres made sometime in 1909. The water supply for this project was to be furnished from the Pahsimeroi River and its tributaries. Soon after the filing of segregation list number 43, it was rejected by the Department of Interior. Before the rejection of the first proposal, M. I. Church had been working on a second proposal intended as an extension of the first request. The water for this project was to come from the Salmon River. 7,143.02 acres were requested to be set aside for this extension. Like the first request, the General Land Office rejected it. A special agent sent to investigate the proposal felt that the projects either together or separately would be unfeasible. There would be 20 miles of main canal to connect the two and the transportation losses would be great. The agent also found conflicting statements as to the water supply. Apparently, as often was the case, no survey had been made of the topography. In conducting his survey of the land the Carey Act Engineer for Idaho found that 75% of the canal, if the companies' descriptions were followed, would be tunnel. The General Land Office recommended that two temporary

withdrawals be requested in place of the two rejected segregations requests. This was done and a total of 16,902.69 acres were withdrawn. These were also rejected by 1914.

Little information is available on the third Pahsimeroi Project, sponsored by Charles Spearman. The water supply for this project was the Pahsimeroi River.

PERRINE, I. B., PROJECT

Carey Act Number:	65
Location:	Owyhee County
Acres Segregated:	Temporary withdrawal 601,000
Acres Patented:	None
Estimated Cost:	None
Final Cost:	Preliminary engineering work amounted to \$50,000.00
Comments:	Project an extension of the Bruneau projects

This was the last Carey Act project ever started in the State of Idaho. It was proposed by two men who had for many years been involved in Carey Act projects in Owyhee and other counties. H. L. Hollister and I. B. Perrine had been directly connected with the Bruneau (Little) Project, and with the Big Bruneau Project. Both of these projects failed, but many people felt that there was tremendous merit in reclaiming these lands. In 1932, I. B. Perrine requested the largest segregation ever made in the State of Idaho for 601,000 acres of land. In order to complete the necessary survey work and to lay plans for the development of the project a temporary segregation was requested and granted. Almost \$50,000.00 was expended for this survey during the period of the temporary withdrawal.

The withdrawals expired in 1934, a formal segregation never being requested. In 1936, I. B. Perrine and H. L. Hollister assigned their entire rights, title, and interest in the project to the Twin Falls Extension Company. This company requested that the land that had lapsed under the Perrine-Hollister segregation be reseggregated. The General Land Office denied the company's request in 1937 because the lands were not unappropriated public land, but were withdrawn for a grazing district under the Taylor Grazing Act.

PORTNEUF-MARSH VALLEY PROJECT

Carey Act Number:	20
Location:	Bannock County
Acres Segregated:	11,913.96
Acres Patented:	11,354.15
Estimated Cost:	\$275,000.00
Final Cost:	\$500,000.00
Comments:	A successful project other than financial difficulties

Portneuf-Marsh Valley Irrigation Company was formed as a partnership for the purposes of constructing a Carey Act project in Bannock County. On

December 18, 1908, the company filed a proposal with the State Board of Land Commissioners for the construction of irrigation works to reclaim desert land under the provisions of the Carey Act. As a result of this proposal the state entered into a contract with the United States on May 14, 1908, whereby 11,913.96 acres were withdrawn from the public domain and from all forms of entry except for this particular Carey Act project.

On June 3, 1908, the State Land Board entered into a contract with the Portneuf-Marsh Valley Irrigation Company. The company agreed to construct a distribution system for conveying water from the Portneuf River to land in the project and to construct a dam fifty feet high near Chesterfield, Idaho, to impound 27,000 acre feet of water. A main canal of twenty-five miles and laterals of twenty-two miles were to be constructed.

To finance the work the price of water contract was set at \$35.00 an acre. By 1915 most of the works had been completed, but the original estimation of cost had almost been doubled. From about 1913 the company had been making numerous attempts to get the settlers to accept the system. The settlers contended that the diversion works had not been constructed as specified in the contract, and the Marsh Valley Users Association was formed to represent the settlers in their dealings with the company.

This association and the company reached an agreement in 1915 whereby the settlers would accept the project on condition that the company pay the newly formed Portneuf-Marsh Valley Canal Company \$31,000.00 to complete the project. By the time the project was turned over the construction company was far into debt. On October 26, 1927, the District Court of the United States, Eastern Division, issued a decree of foreclosure selling the property to the trustee and plaintiff in the action; Howard W. Brown and John R. Chapin, who were trustees for the bondholders of the Portneuf-Marsh Valley Irrigation Company. The trustees later conveyed the assets of the company to Bannock Investment Company who remained in charge of the project through the 1940's, selling the remaining acreage and handling the reconveyance of some of the land back to the federal government.

PRATT IRRIGATION PROJECT

Carey Act Number:	24
Location: (See Figure 11)	Oneida County
Acres Segregated:	4,674.02
Acres Patented:	3,948.68
Estimated Cost:	\$60,000.00
Final Cost:	\$135,000.00
Comments:	Some problems over water, otherwise a successful project

The Pratt Irrigation Company made a proposal to the State Land Board in 1907 to reclaim lands in Oneida County by use of the water in the Deep Creek drainage area. In 1908, 4,674.02 acres were set aside for the project under segregation list 15.

Subsequently in 1910 a contract was executed between the State of Idaho and the Pratt Irrigation Company in which the company agreed to construct an

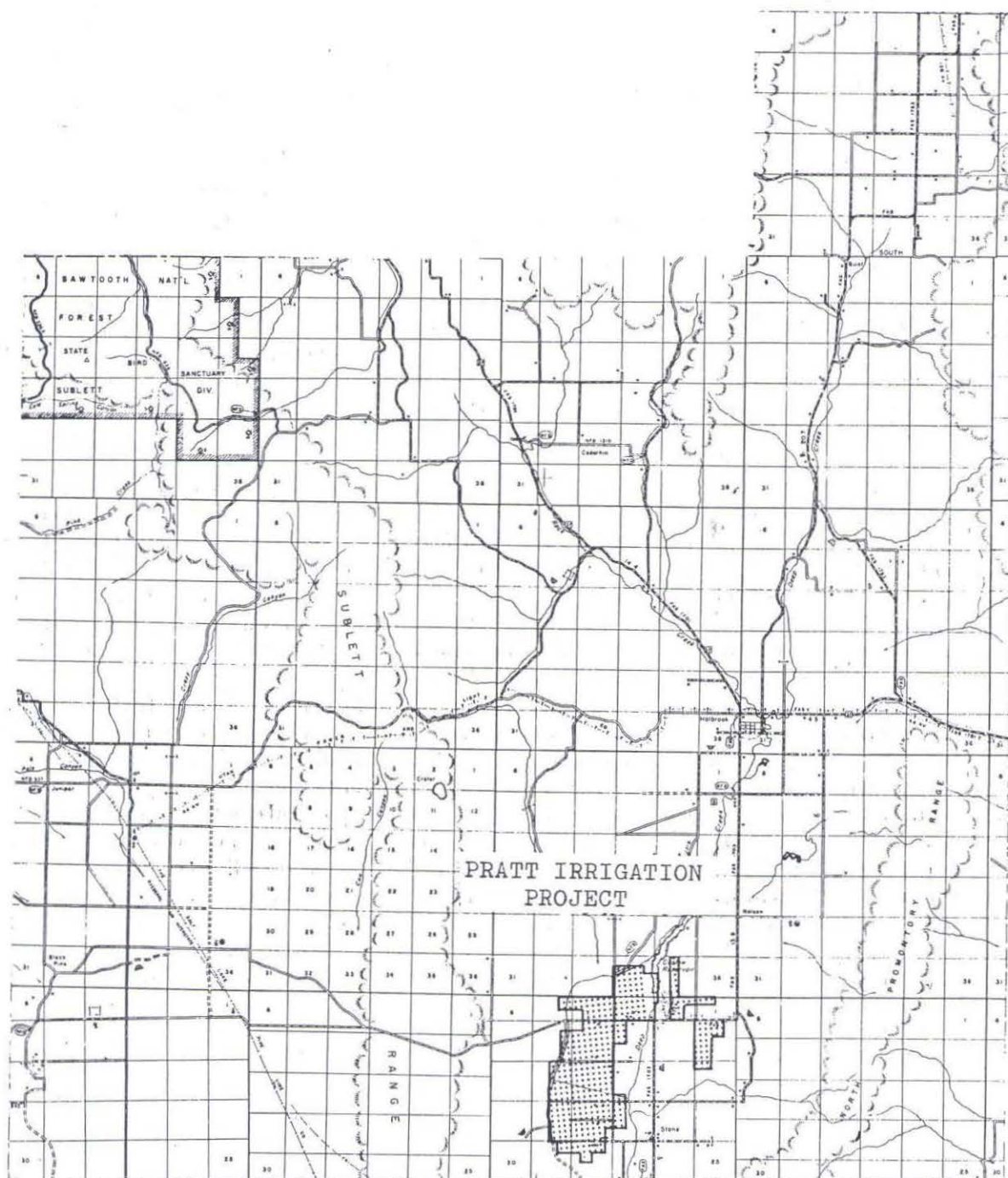


FIG. II
PRATT IRRIGATION PROJECT
 ONEIDA COUNTY

THIS PLAT IS A SKETCH OF THE AREA ORIGINALLY SEGREGATED;
 IT DOES NOT NECESSARILY CORRESPOND TO THE AREA PATENTED

irrigation system consisting of a dam forty-eight feet high to impound approximately 6,600 acre feet of water in Deep Creek and Giant Springs. Water would then be carried through a ten mile main canal and dispersed through 5 miles of laterals.

The Pratt Irrigation Company raised the initial capital by selling bonds to various interests, mainly in Utah. When the project was half completed the company was foreclosed on by the Utah Savings Company, which then completed the construction work.

Most of the problems on this particular project arose over water. The Curlew Irrigation and Reservoir Company, a Utah concern, claimed the oldest priority to the water being used on the Pratt Project for their area in Utah. After many years of debate the matter reached Judge Stocklager of Fifth Judicial District Court, State of Idaho in 1914. This court attempted to resolve the differences and effect a compromise. It gave the Curlew interest 27.96 second feet of continuous flow. Apparently many parties in Utah felt that the Idaho court was without jurisdiction to apportion water for use within the State of Utah and they refused to abide by the court's decree.

Even with conflicts over water supply the State of Idaho received a patent from the federal government in 1916 for 3,948.68 acres. On June 29, 1921 the State of Idaho accepted the project as completed and the Delmore Canal Company became the operating company on the project.

SAILOR CREEK RESERVOIR PROJECT

Carey Act Number:	43
Location:	Owyhee County
Acres Segregated:	2,987.83
Acres Patented:	None
Estimated Cost:	None
Final Cost:	None
Comments:	Project never started

Little information is available on the Sailor Creek Project, proposed by the Sailor Creek Reservoir Company. The water supply was to come from Sailor Creek. In 1911 the company requested a temporary withdrawal of 2,987.83 acres in order to complete preliminary investigation. The project never proceeded beyond this point and the acreage was returned to the federal government after one year.

SNAKE RIVER IRRIGATION PROJECT

Carey Act Number:	29
Location:	Owyhee County
Acres Segregated:	8,066.52
Acres Patented:	1,283.40
Estimated Cost:	\$467,500.00
Final Cost:	\$325,000.00
Comments:	Lack of water plagued this project

At the time this project was conceived a large amount of the land the proposers wished to include in their project was being held by private entrymen under the Desert Land Act. The Snake River Irrigation Company realized the problems that would be involved, so before requesting a segregation, entered into contracts with the prior settlers whereby the settlers released their land and received in return very advantageous prices on future water contracts.

In 1908 a proposal was made by the company to the State of Idaho. At this time the Crane Falls Irrigation Company was also interested in the same land. The State Engineer felt that the Snake River Irrigation Company proposal was more warranted from an economic view and in 1910 a contract between the State of Idaho and the Snake River Irrigation Company was executed. Water was to come from the Snake River and diverted by means of a ten foot dam, then lifted through a pumping plant to the lands above the river.

The company was operating on a very limited budget. Most of the construction was completed by 1912, but there were many outstanding obligations. In 1910 notice was published as to the availability of water. By this time, the company was contending that the project was completed. The settlers contended the works had not been completed as contemplated by the contract. The State Engineer was requested to make a report to the State Board of Land Commissioners in 1916. In his report the State Engineer stated that certain alterations and improvements totalling \$15,000.00 were necessary before the state could consider the contract completed. Soon a suit was brought in the Federal District Court against the construction company for the amount of power the company had been furnished for the pumping plant. This claim amounted to \$80,000.00. Also pending were numerous suits by the settlers against the construction company. A trustee was appointed to resolve the matter, it was finally agreed that the construction company should give the trustee \$100,000.00 of water contracts that had been previously sold, which the trustee was to collect. After collecting this amount the trustee was to pay \$15,560.00 to the settlers and the settlers would in turn drop their law suits. The trustee then was directed to pay \$44,407.00 to the power company in full satisfaction of the power company's claim.

In 1917 the settlers through their operating company, the Snake River Irrigation District, took over control of the project. The only remaining problem was the water supply. The compromise agreement reached in the court had no affect on this important matter. Conditions in the project remained so deplorable that in 1932 this project, the Oakley Project, and the Little Lost River Project, were suggested as beneficiaries of the Reconstruction Finance Corporation under the Emergency Relief Act of 1932. At the conclusion of the project 1,283.40 acres had been patented to settlers on the project.

SNOW, EDWIN, PROJECT

Carey Act Number:	62
Location:	Boise and Owyhee Counties
Acres Segregated:	2,503.07
Acres Patented:	None
Estimated Cost:	None
Final Cost:	None
Comments:	Segregation rejected and project never started

There is little, if any, information on projects with a Carey Act project number larger than 40 in the Carey Act files.

The project contemplated by Mr. Snow was small as only two requests for segregation in April of 1921 were made. One request was for a segregation of 1,863.07 acres and the other was for 640 acres. Both of these requests were rejected by the Department of Interior and no further attempts were made to start a project.

SOUTHWEST IDAHO IRRIGATION COMPANY PROJECT

Carey Act Number:	59
Location:	Owyhee County
Acres Segregated:	None
Acres Patented:	None
Estimated Cost:	None
Final Cost:	None
Comments:	Project never started

Very little information is available on this Carey Act project. There are no files or information available on the project in the annual reports. Apparently the proposer never got beyond the preliminary stages since no segregation of land was ever granted. It is known that the proposers planned on using water from Jack, Wichahoney, and Marys creeks.

STARRH, T. A., PROJECT

Carey Act Number:	48
Location:	Cassia County
Acres Segregated:	Requested 46,321.48
Acres Patented:	None
Estimated Cost:	None
Final Cost:	None
Comments:	Project never started

No information on this project is available in the Carey Act files. Independent sources indicate that T. A. Starrh may have been connected with the Las Vegas Fruit and Land Company, a Carey Act construction company that had segregated 8,857.43 acres in the State of Nevada.

The water supply for the Idaho proposal was to come from Buckhorn, McCulley, and Cottonwood creeks. All of these streams were for the most part dry, apparently the promoters hoped to capture the spring flood waters. The promoters requested a segregation of 46,321.48 acres, but this request was rejected in 1901. After the rejection of the segregation the project became defunct.

SUNDERLIN, C. A., PROJECT

Carey Act Number:	53
Location:	Ada County
Acres Segregated:	Temporary withdrawal of 14,767.68

SUNDERLIN, C. A., PROJECT (Cont'd.)

Acres Patented:	None
Estimated Cost:	None
Final Cost:	None
Comments:	Project sponsored by an irrigation district but never started

The C. A. Sunderlin Project seemed to have the support and backing of the Boise City Valley Irrigation District. Most of the information on the proposal was found in irrigation district file number 30 in the Department of Reclamation.

The promoters planned on irrigating lands in Ada County by using a pumping plant to deliver water to lands lying above a canal to be constructed from Barber Dam. A temporary withdrawal was requested and granted in 1912 for 14,767.68 acres.

Pursuant to the Idaho Code the State Engineer reported on the proposal later in 1912. The State Engineer felt that the water supply was inadequate for the project. Even at this early a date most of the surface flow of the Boise River had been appropriated. The State Engineer also felt that the high cost of the pumping, and charges for power precluded the project from ever being economically feasible.

Discouraged, the promoters did not pursue the plan and the land was relinquished after the one year period.

SUNNYSIDE PROJECT

Carey Act Number:	49
Location:	Ada and Elmore Counties
Acres Segregated:	None
Acres Patented:	None
Estimated Cost:	None
Final Cost:	None
Comments:	Project never started

Little information about this Carey Act project can be found in the Carey Act files. A corporation was organized in the State of Washington, the Southern Idaho Reclamation Company, to act as a Carey Act construction company. The water for this project was to come from Wood, Cat, and Camas creeks, and Fall Creek, a tributary of the Boise River. Storage water for the project was to come from the Long Tom Reservoir.

No segregation was ever requested by the company and they soon became defunct.

TABOR IRRIGATION PROJECT

Carey Act Number:	44
Location:	Bingham County
Acres Segregated:	Requested 21,760.00

TABOR IRRIGATION PROJECT (cont'd.)

Acres Patented:	None
Estimated Cost:	None
Final Cost:	None
Comments:	Project defunct

Like so many of the later Carey Act projects, the Tabor Irrigation Project, sponsored by the Tabor Irrigation Company, never got beyond the initial planning stages. The Tabor Irrigation Project was somewhat unique in that the promoters planned on pumping ground water.

The company requested that 21,760 acres be segregated for the project in Bingham County. On March 18, 1912 the request for the segregation was rejected and there was no further development of the project.

THOUSAND SPRINGS PROJECT

Carey Act Number:	19
Location:	Custer County
Acres Segregated:	6,371.77
Acres Patented:	None
Estimated Cost:	\$90,000.00
Final Cost:	\$100,000.00
Comments:	Construction works completed but water was unavailable

Few projects started in the State of Idaho could match the Thousand Springs Project in frustration. In this project land was segregated, diversion works completed, but the entire acreage had to be relinquished back to the federal government because of the lack of water to reclaim even one acre of land.

On April 22, 1909, the Thousand Springs Land and Irrigation Company, L.T.D., requested that 6,371.77 acres of desert land in Custer County be segregated for a Carey Act project. The request was approved on July 6, 1910, and a contract between the State of Idaho and the company was executed. The company agreed to construct a reservoir on Thousand Springs and a canal system approximately 20 miles above the present town of Mackay, Idaho. The estimated length of the main canal was placed at 6.5 miles and laterals at 15 miles. The estimated cost of the project was placed at \$90,000.00 with perpetual water rights selling for \$30.00 per acre.

From the information available this project should never have been approved by the State of Idaho. Most of the available water for the project was to come from the Big Lost River and Thousand Springs. Both of these rivers had a large number of prior appropriators. Even from the beginning the success of the project depended upon the construction company reaching some kind of an agreement with the previous settlers. Mr. Clark had the largest single appropriation and he agreed to transfer it to the company. At the time of the proposal the company assured the state that they could persuade the other settlers to accept stored water in lieu of their previous rights.

By 1922 the construction company had completed most of the canals and the reservoir at a cost of \$100,000.00; but the water rights had not been secured. The company was apparently unsuccessful in trying to get the previous settlers to relinquish any of their water rights. In 1922, work terminated due to litigation over the water rights. The Utah Construction Company claimed a water right on the Big Lost River superior to that claimed by the Thousand Springs Land and Irrigation Company. When the matter was settled the Utah Construction Company prevailed, their appropriation proved to be the prior right and it appeared to be greater in second feet than any recorded flow for the river.

This virtually foreclosed the possibility of the Thousand Springs Project ever obtaining enough surface water to apply on the lands. On October 17, 1923 the State of Idaho relinquished the entire segregation of 6,371.77 acres and the project was abandoned.

TWIN FALLS LAND AND WATER COMPANY PUMPING PROJECT

Carey Act Number:	45
Location:	Twin Falls and Cassia Counties
Acres Segregated:	17,888.36
Acres Patented:	None
Estimated Cost:	\$600,000.00
Final Cost:	None
Comments:	Project unsuccessful, acreage relinquished

The Twin Falls Land and Water Company undertook three Carey Act projects in the State of Idaho, the Twin Falls South Side Project, the Big Bruneau (First Effort) or as it was also known, the Twin Falls-Bruneau Project, and the Twin Falls Land and Water Company Pumping Project. This latter project has often been confused with the Milner South Side Project undertaken by the Twin Falls North Side Project.

The proposal was filed in 1907 for 17,888.36 acres of desert land in Twin Falls and Cassia counties. A contract between the State of Idaho and the Twin Falls Land and Water Company was executed on November 12, 1908. The company placed the cost of this project at \$600,000.00 and apparently planned on pumping water for the lands from either the High Line or Low Line canals constructed for the Twin Falls South Side Project.

The records are insufficient as to what made the company decide not to proceed with the project; it might be traced to the fall of the large financing institutions in the East that had financed many of the Carey Act projects. On December 18, 1914 the total acreage was relinquished back to the federal government.

TWIN FALLS NORTH SIDE PROJECT

Carey Act Number:	5
Location: (See Figure 12)	Jerome and Gooding Counties
Acres Segregated:	261,945.87

TWIN FALLS NORTH SIDE PROJECT (cont'd.)

Acres Patented:	178,062.17
Estimated Cost:	\$3,000,000.00
Final Cost:	\$6,300,000.00
Comments:	Many problems, but project was eventually finished

TWIN FALLS OAKLEY PROJECT

Carey Act Number:	2
Location: (See Figure 12)	Cassia County
Acres Segregated:	43,893.56
Acres Patented:	10,990.10
Estimated Cost:	\$1,500,000.00
Final Cost:	\$1,577,126.24
Comments:	Overestimation of water necessitated reduction of acreage

TWIN FALLS SALMON RIVER PROJECT

Carey Act Number:	3
Location: (See Figure 12)	Twin Falls County
Acres Segregated:	127,707.29
Acres Patented:	32,968.43
Estimated Cost:	\$3,000,000.00
Final Cost:	\$3,600,000.00
Comments:	Tremendous reduction in segregation to match available water

TWIN FALLS SOUTH SIDE PROJECT

Carey Act Number:	14
Location: (See Figure 12)	Twin Falls and Cassia Counties
Acres Segregated:	244,025.98
Acres Patented:	192,750.66
Estimated Cost:	\$1,500,000.00
Final Cost:	\$3,600,000.00
Comments:	The most successful and famous Carey Act project

There were four major Carey Act projects in the Twin Falls area. To place the developments in each project in the proper perspective the four projects have been considered together. It was in the Twin Falls area that the Carey Act realized its greatest success in the State of Idaho and it was here that it realized many of its failures. The total acreage patented to individuals through these four projects represents the largest privately constructed reclamation project in the United States.

The Mullins Proposal

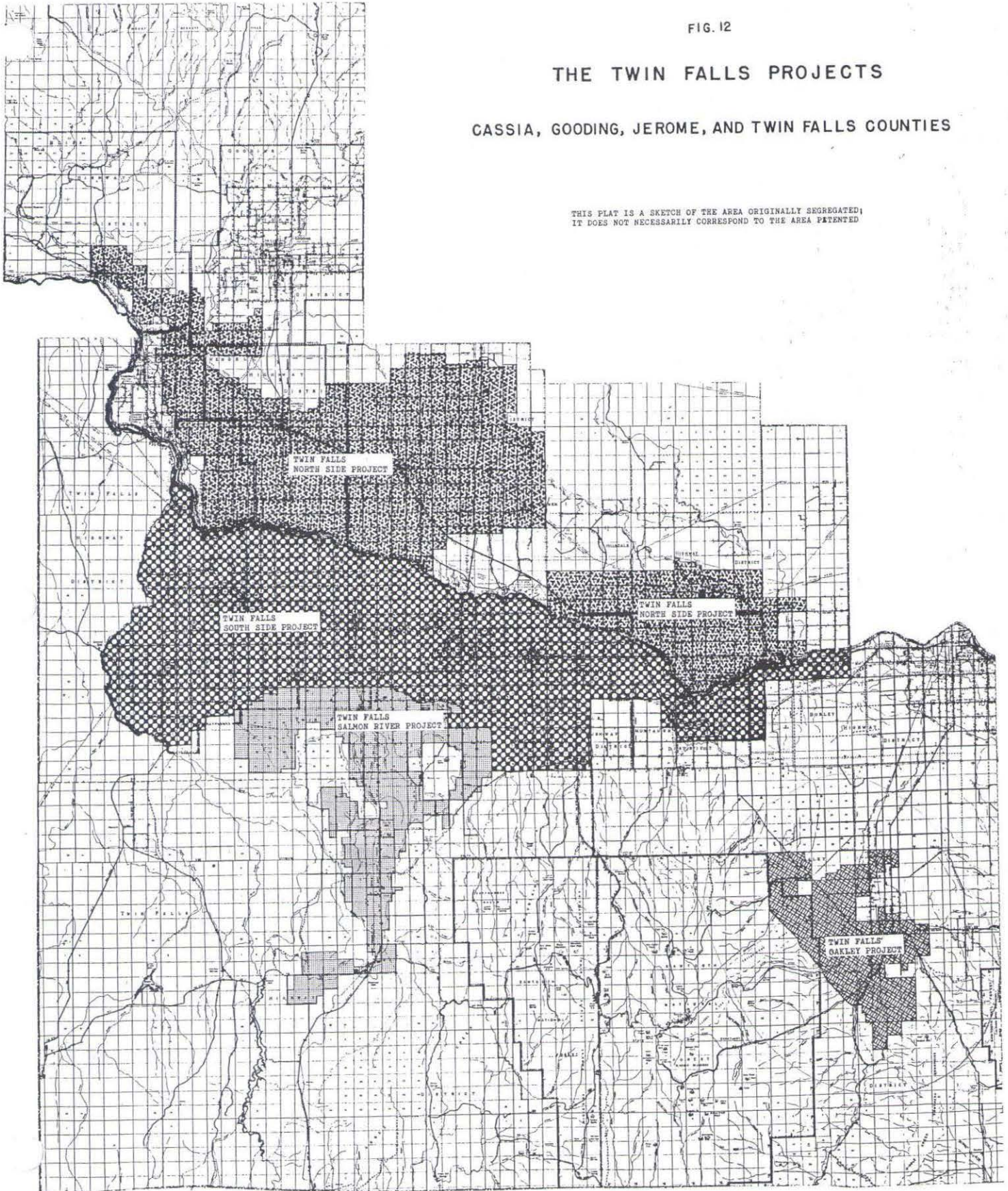
The first proposal in the area was made by the Mullins Canal and Reservoir Company sometime in 1899. The proposal was for 6,543.26 acres and

FIG. 12

THE TWIN FALLS PROJECTS

CASSIA, GOODING, JEROME, AND TWIN FALLS COUNTIES

THIS PLAT IS A SKETCH OF THE AREA ORIGINALLY SEGREGATED;
IT DOES NOT NECESSARILY CORRESPOND TO THE AREA PATENTED



would cost \$100,000.00 to build. Reservoirs were planned to store water on the Snake River and canals and laterals were to be constructed to carry water to the area. The lands to be reclaimed were on the north side of the Snake River near the present town of Hagerman. The proposal was accepted by the state and construction was soon started by the Mullins Canal and Reservoir Company.

Twin Falls South Side Project

On October 12, 1900, another proposal was filed with the State Land Board by a group of wealthy financiers from the town of Pittsburgh, Pennsylvania. These were ambitious, farsighted men who had plans of reclaiming some 250,000 acres of land, the largest reclamation project to be attempted to that date. These men had been working for some time preparing the necessary permits and applications. They had obtained a permit to appropriate 3,400 second feet of the surface flow of the Snake River. Plans had been approved to construct a dam on the Snake River at Milner, Idaho. A corporation, the Twin Falls Land and Water Company, was formed by the proposers in the State of Utah. The main directors of this company were soon to gain national stature for the project, Stanley B. Milner was the President, I. B. Perrine was the Vice President, and J. H. Lowell was the Secretary. Mr. Bickell was the engineer for the project while Mr. Murtaugh, Mr. Filer, and, Mr. Kimberly produced the financial backing needed to start the project. The promoters placed the cost of the dam and the necessary canals and laterals at \$1,500,000.00. In 1901 the company's request for a segregation was granted and 244,025.98 acres were withdrawn from the public domain for the project.

The contract between the construction company and the state was executed in 1903 and the construction was soon underway. The first area to be developed was the Low Line Canal, later construction started on the High Line Canal. When the dam at Milner, Idaho was finally finished in 1905 it was known as the finest Carey Act dam constructed. When it became evident that the project was going to be successful, the promoters requested an additional segregation of 27,000 acres on the north side of the Snake River, known as the Clover Creek segregation.

Some of the area above the gravity system could not be irrigated, and the Twin Falls Land and Water Company entered into an agreement with a subsidiary, the High Line Pumping Company, whereby they would reclaim this land by means of a pumping project. In 1910 an agreement was entered into between the state and High Line Pumping Company and 4,078.08 acres were set aside from the Twin Falls Land and Water Company's segregation for this project.

In 1909 the State of Idaho accepted the Twin Falls South Side Project as completed within the terms of the contract. One year later the project was turned over to the settlers' operating company, the Twin Falls Canal Company. Included in this transfer were the remaining shares of stock held by the construction company and still unsold, totalling 42,174 shares. In the early 1920's the company concluded the project by relinquishing unusable lands.

By 1932 the project was operating efficiently except for some seepage problems and some reconstruction on the Milner Dam. A total of \$3,600,000.00

had been expended in construction of the irrigation works, and 192,750.66 acres had been reclaimed.

From the standpoint of the settlers, the construction company, and the state, this project would have to be termed a success. The most important contribution of the Twin Falls South Side Project was that it proved that reclamation was feasible on a wide scale. Only one mortgage was given by the construction company and it was soon paid off. The success of this project spurred new Carey Act development in the State of Idaho, soon involving another Pittsburgh interest, the Kuhn brothers.

The Kuhn Projects

The Kuhns of Pittsburgh were wealthy brothers who owned train lines, municipal water lines, electric car interests, and were connected with the American Water Works and Guarantee Company of Pittsburgh. As soon as word reached the East of the success of the Twin Falls South Side Project the Kuhns began making plans to start their own projects in the surrounding area. Many of the men connected with the successful south side project were solicited by the promoters of the new projects. (84)

The Kuhns immediately started selecting and making the necessary arrangements to secure land for the project. They finally decided on developing three separate tracts as three separate projects. The first contacts made in Idaho by the Kuhns were with the Twin Falls Land and Water Company. The Kuhns were already acquainted with most of these men and many of them had already become deeply involved in the newly proposed projects. Negotiations were started in 1907 and by April an agreement had been reached whereby all the rights, title, and interest that the Twin Falls Land and Water Company had in lands lying on the north side of the Snake River were conveyed to the W. S. Kuhn and his associates. This was known as the first segregation amounting to 30,000 acres and marked the beginning of the Twin Falls North Side Project.

In August of 1907 the second project was started by the Kuhns. This project was located in Twin Falls County on the Salmon Falls Creek drainage. In January of 1908 segregation list 14 was filed for 125,979.29 acres.

On June 15, 1908 another proposal was filed by the Kuhn brothers, this time for lands lying in Cassia County, near the present town of Oakley. The water supply for this project was Goose Creek and the surrounding drainage. Three days after the proposal 43,573.56 acres were segregated for the Twin Falls Oakley Project. (85)

In approximately fifteen months the Kuhns had started three Carey Act projects and had segregated 199,552.85 acres of desert land. Every company started by the Kuhns and all of their projects adopted the name "Twin Falls," hoping to capture some of the success and reputation the Twin Falls South Side Project had generated around the United States. Due to their different locations and water supply, the three projects did not develop along parallel lines, instead, the degree of success obtained by each of the projects is quite varied.

Twin Falls North Side Project

Much of the time initially spent on this project was obtaining more land than was included in the original segregation of 30,000 acres. For their first segregation the company planned on constructing three storage reservoirs on the north side to retain water for the project. Construction was started on the Jerome Reservoir and it was hoped that the reservoir would be the main source of storage.

Rather than filing on a new segregation the Kuhns began negotiations with the Mullin's Project, that had been stagnating due to financial and construction problems. After the negotiations were completed and additional segregations were granted the project amounted to over 200,000 acres.

In order to finance this project a bond issue of \$5,000,000.00 was authorized, to be secured by a deposit of contracts for the sale of water rights in the proposed irrigation system. The bonds were also guaranteed by the American Water Works and Guarantee Company of Pittsburgh. Investment companies were formed by the various promoters in an effort to capitalize on the nearby Carey Act projects. The purpose of these companies was to secure townsites, generally state school sections or scrip land, and then subdivide the land into commercial lots. Thus small towns in the area still bear the names of many of these promoters. These early investment companies also owned the town utilities and transportation lines. It was here that the promoters made their profits.

The irrigation system was to be built pursuant to contracts with the State of Idaho, which called for the construction of over 700 miles of main canals and laterals of certain required capacities, two reservoirs, and acquiring of a joint interest in the diversion dam on the Snake River at Milner, Idaho.

The first problem to develop was over the two reservoirs constructed by the company for \$600,000.00. They were miserable failures; the largest of the two, Jerome Reservoir, failed to hold water because of the large area behind the dam required a certain depth in order to discharge through the gates because no canal had been constructed on the reservoir's bottom. Another problem was the large losses due to ground seepage.

It was in 1913 at the demand of the state that the company contracted with the United States Reclamation Service for the enlargement of the Jackson Lake Reservoir. As long as the company was able to obtain the necessary credit to make payments to the government to pursue construction things looked promising; however, this was not the case.

In July, 1913, the American Water Works and Guarantee Company and one hundred other subsidiary corporations failed. The failure so involved the Twin Falls North Side Land and Water Company that it was impossible for it to meet the maturing interest or principal of its outstanding bonds (now totalling \$3,700,000.00), to complete its several contracts with the State of Idaho, or to make the payments due the government on the Jackson Lake enlargement. Soon after this a Bondholders' Protective Committee was formed. The government ceased work in Jackson, Wyoming on the enlargement, and without the

prospect of water the project ground to a halt. Damage claims for short water deliveries aggregating over \$200,000.00 were soon instigated by water users.

It was at this point that the man credited with saving the project appeared, R. E. Sheppard, who soon became manager of the project. Through consolidation of the land area and through cooperation of all parties involved, work soon resumed on the project. The federal government agreed to commence construction on Wyoming project. By 1921, 125,500 acres were in cultivation including 10,100 acres reclaimed by the Milner Pumping Project that had been started by the Twin Falls North Side Project. A court decision, Twin Falls Canal Company v. Chas. N. Foster, set the water supply for the project and as a result of this a contract was reached between the construction company, the state, and the settlers, whereby they agreed to limit the project to 185,000 acres.

At the completion of the project 100 miles of main canal had been constructed and 800 miles of laterals. In 1920 the works were turned over to the operating company, the North Side Canal Company.

Twin Falls Salmon River Project

Many of the problems that affected the Twin Falls North Side Project also hampered the development of the Twin Falls Salmon River Project, such as the failures of the eastern financial institutions that were backing all of the Kuhn interests. Even with this, the project has always had its own unique problem, lack of water.

The original proposal placed the estimated cost of construction at \$3,000,000.00. The contract entered into between the construction company, the Twin Falls Salmon River Land and Water Company, and the state, planned on irrigating 127,707.29 acres previously segregated for the project. The water supply for the project had been estimated by one of the promoters. He estimated the runoff of the Salmon River drainage at 400,000 acre feet per year, studies currently conducted by the Department of the Interior place the runoff at closer to 96,000 acre feet at the end of the Salmon Creek drainage in Nevada. (86)

To divert water for the project a concrete dam was constructed on Salmon Creek. After the dam was constructed the tremendous water shortage became evident. From this time on the problems in the Twin Falls Salmon River Project can be traced to efforts to reduce the original acreage to an amount equal to the available water supply. Through numerous cuts, orders from the State Land Board, refusals of patents, and court decrees; the acreage was finally reduced to around 35,000 acres. In 1924 the settlers took over operation of the project through their operating company, the Salmon River Canal Company.

The reduction of the area of the project was a great hardship to many of the entrymen outside of the retained area. It led to the enactment of House Bill 246, Session Law 1921, that granted refunds to settlers for money expended on fees and for acreage. The Smith Act, United States Code, §§ 644, was passed in 1920 giving preference rights to settlers excluded from a project

in order that they might perfect their entry under other federal land laws.

Twin Falls Oakley Project

In order to better understand the developments on the Oakley extension of Kuhn plan, a summary of the early history is presented.

The first settlements on Goose Creek, from which the Oakley Project received its water supply, were made in the early 1870's by three families at the crossing of the old Oregon Trail, some eight or ten miles south of the present town of Burley and twelve or fifteen miles north of the present town of Oakley. Later, Mormon settlers from the vicinity of Grantsville, Utah, settled around the present town of Oakley in 1879. Water was immediately taken from the mouth of Goose Creek and even at this time a water shortage appeared in the making.

This was the situation when the Kuhn interests appeared in the area and started conducting surveys as to the feasibility of reclaiming land under the Carey Act. A construction company was formed, the Twin Falls-Oakley Land and Water Company, and a proposal was filed with the State Land Board. Information as to the annual runoff was lacking so the promoters relied heavily on the representations of the older settlers as to the amount of water available for the project and in turn the State Land Board relied heavily on the representations of the various promoters.

Early in the stages of the project the company realized it needed all the water it could obtain. With this objective in mind they entered into agreements with the older settlers whereby they released their water rights in turn for new water contracts with the company.

The Kuhn interests proceeded with the construction of the necessary irrigation works to reclaim the 43,893.56 acres they had segregated for the project. When the dam on Goose Creek was completed it was the largest earth dam in the world.

In 1913 the American Water works and Guarantee Company, which had financed the \$1,467,000.00 bonds still outstanding, failed, forcing the Twin Falls-Oakley Land Water Company into the hands of a receiver. A committee of bondholders was formed to protect their interest and water contracts were required to be filed as security. The committee of bondholders also took over the construction company.

Many of the problems in the Oakley area paralleled the Salmon River Project. By 1919 various attempts had been made or were in the process of being made to reduce the acreage of the original segregation. There was a major reduction of entrymen in 1919 for failure to make proof. Litigation developed and continued until 1931 over the reduction of area. The area in the project was finally condensed into a compact unit, cutting heavy transportation losses. Much of this occurred after the settlers assumed control of the project in 1916 through their operating company, the Oakley Canal Company. Water was eventually found to be adequate for about 21,000 acres, a far cry from the original 50,000 acres planned by the various promoters.

TWIN FALLS RAFT RIVER PROJECT

Carey Act Number:	46
Location:	Cassia County
Acres Segregated:	First List rejected; second list amounted to 20,268.05
Acres Patented:	None
Estimated Cost:	None
Final Cost:	None
Comments:	Project never started

The Raft River Reclamation Company was incorporated in Utah to work in Cassia County on a Carey Act project. From the proposer's point of view the eventual success of the project depended on the Oregon Short Line Railroad Company completing its projected line from Burley, Idaho to Strevell, Idaho.

In 1911 the Raft River Reclamation Company made its first request for segregation of 29,725.02 acres, this request was rejected by the General Land Office. Another request for 20,268.05 was granted in 1911 under segregation list 55.

By 1914 the project was abandoned without any beginning being made. The reason given by the promoters for failure of the project was the decision of the Oregon Short Line Railroad Company not to build the line to Strevell, Idaho. In 1915 the lands were relinquished back to the federal government.

TWIN FALLS SHOSHONE PROJECT

Carey Act Number:	47
Location:	Twin Falls County
Acres Segregated:	None
Acres Patented:	None
Estimated Cost:	None
Final Cost:	None
Comments:	No segregation was requested

This project never got beyond the preliminary stages of development. Little information is known about the proposal other than a gravity irrigation system using water from Shoshone Creek was planned. A construction company was formed, the Twin Falls Shoshone Land and Water Company, but it soon became defunct. No request for a segregation was granted and activity on the project soon terminated.

VAN METER AND NELSON PROJECT

Carey Act Number:	54
Location:	Adams County
Acres Segregated:	Temporary withdrawal 18,196.33
Acres Patented:	None
Estimated Cost:	None
Final Cost:	None
Comments:	Land relinquished after one year period

There are no records available on this Carey Act project. The proposal was made in 1910 by two proposers. No company was ever formed and the activity on the proposal ceased after the one year period allowed for a temporary withdrawal expired.

WARM SPRINGS PROJECT

Carey Act Number:	61
Location:	Lemhi County
Acres Segregated:	None
Acres Patented:	None
Estimated Cost:	None
Final Cost:	None
Comments:	Project proposal abandoned

No information on this project is available in the Carey Act files. Henry T. Hill apparently made a proposal but no segregation was ever requested. It appears that the lands were to be selected in Lemhi County with water coming from the Little Lost River.

WEST END TWIN FALLS IRRIGATION PROJECT

Carey Act Number:	11
Location: (See Figure 13)	Twin Falls and Owyhee Counties
Acres Segregated:	46,016.27
Acres Patented:	7,934.43
Estimated Cost:	\$760,000.00
Final Cost:	\$760,000.00
Comments:	Project unsuccessful because of lack of funds and water

This project was to be located in Twin Falls and Owyhee counties south of, and adjoining the famous Twin Falls South Side Project. The proposal to irrigate these lands was first made in 1907 by the West End Twin Falls Irrigation Company. The records are unclear but it appears that the proposers planned on using the facilities of the Cedar Creek Reservoir and Irrigation Company as part of their diversion works.

46,016.27 acres were segregated for the project in 1908 and in 1909 the State of Idaho entered into an agreement for the reclamation of the lands with the West End Twin Falls Irrigation Company. After construction was one quarter completed, a Carey land opening was held and the company began selling water contracts for the project land. The receipts for the sale of these water rights netted the company \$217,326.96. This was not enough to complete the project and the company turned to the East Coast for financing.

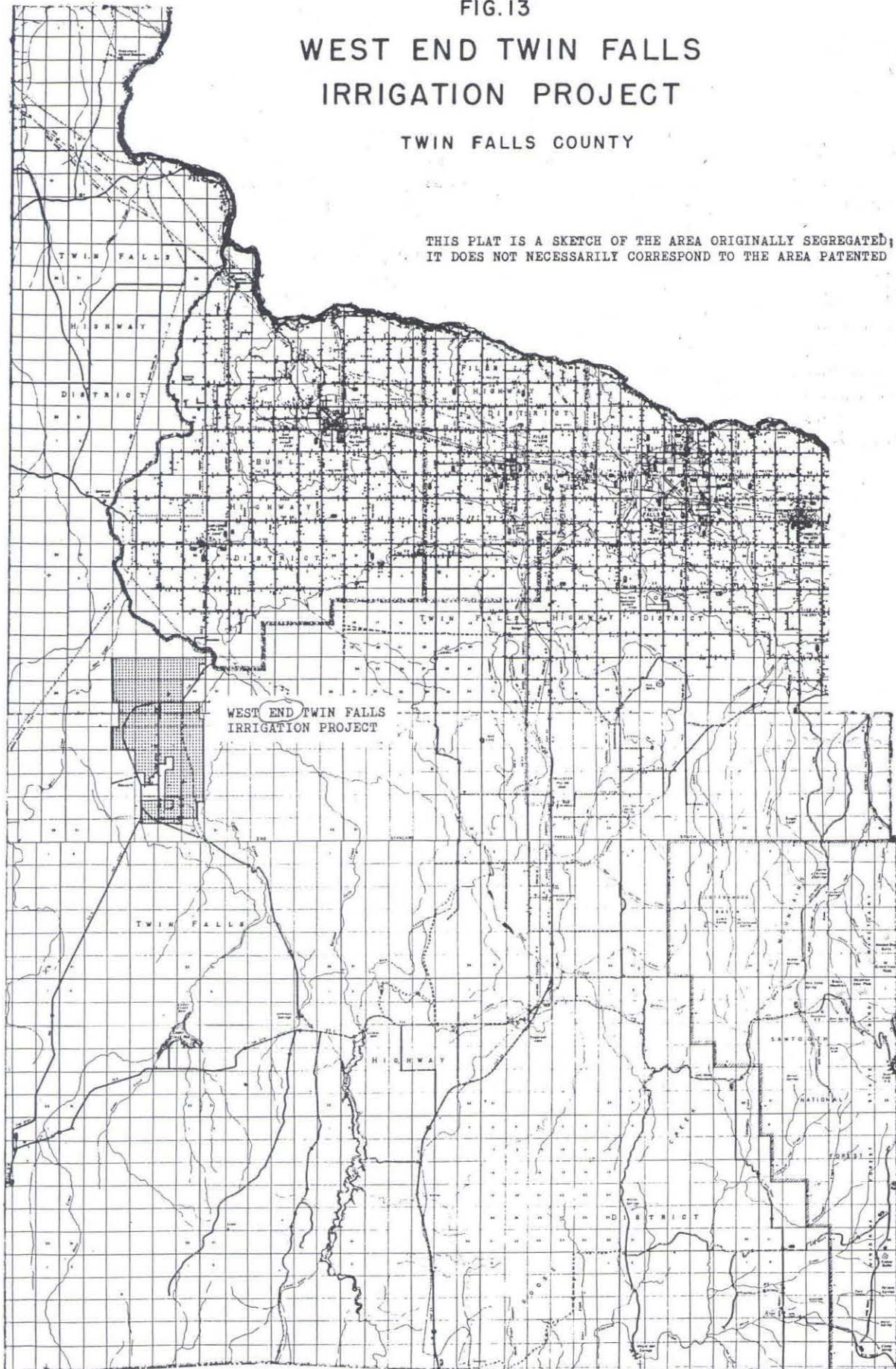
It was about this time that a leading irrigation bond house, Trowbridge and Niver, failed. It became impossible to sell Carey Act bonds. Besides the mounting problems over financing, the company learned that the water supply had been overestimated. Information as to the water supply had been obtained at odd times of the year. Tests in 1914 showed that there was probably only enough water for 18,000 acres.

FIG. 13

WEST END TWIN FALLS IRRIGATION PROJECT

TWIN FALLS COUNTY

THIS PLAT IS A SKETCH OF THE AREA ORIGINALLY SEGREGATED;
IT DOES NOT NECESSARILY CORRESPOND TO THE AREA PATENTED



Late in 1913 the construction on the project ceased. Extension after extension was granted to enable the company to get its financial affairs in order. In 1916 the State of Idaho decided that the contract with the West End Twin Falls Irrigation Company should be forfeited along with various performance bonds put up by the company and various sureties.

There was still much feeling that some of the project area could be saved. After much consideration the State Land Board stated that a new contract would be considered on a unit by unit basis, the first unit being 8,000 acres. It was at this point that the Idaho Farm Development Company offered to accept such a contract and in 1919 the work on the first unit was started by the new construction company, the rest of the land being relinquished back to the federal government. In 1922 the State of Idaho accepted as being completed the first unit of the Idaho Farms Development Company's undertaking. In 1923 7,934.43 acres were patented to settlers on the project.

WICHAHONEY LAND AND WATER COMPANY

Carey Act Number:	60
Location:	Owyhee County
Acres Segregated:	30,000
Acres Patented:	None
Estimated Cost:	\$750,000.00
Final Cost:	None
Comments:	Attempted revival of the Bruneau (Little) Project

In 1915 the Wichahoney Land and Water Company succeeded to the interests of the Bruneau Land and Water Company. The latter company had been involved in the Bruneau (Little) Project, Carey Act project number 12.

The Wichahoney Company planned on reclaiming 30,000 acres of land in Owyhee County. The proposers planned to divert water from the Bruneau River by means of a dam, then carry the water by flume and pipe until it reached the main canal which was to be 47 miles long.

Soon after the proposal was made the State Engineer filed a report stating that he felt that the project was unfeasible. One of the reasons given was that the cost of the project would be closer to \$2,500,000.00. He also felt that the water supply would be inadequate for the proposed acreage. The company had made few attempts to place the water rights in proper order and many were due to expire. After the State Engineer's report the proposers abandoned their scheme.

B. SUMMARY

In the span of some forty years sixty-four Carey proposals were filed with the State Land Board in Idaho. Carey Act project numbers go to 65, but there is no record of any proposal for Carey Act project number 63. In analyzing the development of the Carey Act in Idaho particular attention was given to the reasons behind the failures of the projects. By studying the failures of the projects it is possible to see if the failures are attributed

to some inherent defect in the Carey Act.

The problems Idaho had with the Carey Act stem from two sources, the cost of financing a project, and after a project was completed, of supplying the project with adequate water for reclamation. In the final analysis, financing was more of a problem of economics than of the operation or administration of the Carey Act. A review of Idaho's sixty-four projects demonstrates that almost every project exceeded the estimated cost of construction, in fact, the general rule was that the final cost was double the original estimate. The result of this underestimation is obvious, almost every project experienced the failure of at least one construction company, often even more.

After a substantial number of failures of construction companies it became increasingly difficult to finance a Carey project or to complete those already under construction. In the early 1900's the problem became so acute that it was almost impossible to sell bonds to the general public or to find people willing to invest as stockholders in a construction company. As more companies failed less investors could be found, and being unable to secure additional funds to complete the projects already underway, more companies went bankrupt or had their contracts with the State of Idaho forfeited. This caused the general public to become even more wary of investing their money in any type of a Carey Act undertaking. In short, a perpetual circle had developed.

In estimating the cost of a Carey project it must be remembered that few, if any, engineers had any experience in constructing irrigation works with large scale distribution systems. Even if a reservoir could be constructed, large seepage or poor construction techniques would render it unusable, further driving up the cost of construction when a suitable substitute for the reservoir had to be found. Many engineers were handed the specifications for construction of the project after some ambitious promoter with no knowledge of the terrain or the cost of constructing the diversion systems had secured a segregation and entered into a contract with the state.

Most of the problems over cost could have been eliminated with a more realistic appraisal of the construction difficulties and sound financing of the project before the project began. This in turn would have built a foundation of trust with the general public in the Carey Act necessary to start additional projects and to complete the projects already underway.

The other factor in the failure of the Carey Act was the almost total lack of information as to the available water supply for a particular undertaking. While irrigation engineering may have been a young science, information and knowledge as to stream flow and annual runoff was almost nonexistent. It may be more amazing that the Carey Act faired as well as it did. Many Carey Act proposals were accepted by the State of Idaho solely on the verification of the promoter that the water supply was ample. Even when data was available it was often inaccurate and incomplete. Added to all of this is the fact that during the early 1900's many Idaho streams recorded record runoffs followed by many dry years leading into the 1930's.

Often a project was found to only have enough water for one-third the acreage segregated for the project. Generally the company would voluntarily

relinquish the land back to the federal government, but in a few instances, the matter reached the courts which limited the project. Often this would mean that well developed farms lying outside a compact area or furthest from the water supply were eliminated from a project. Whenever this happened, the entryman had two choices, one, to try and develop his title without water under some other federal land law, like the Homestead Act, or two, to abandon his farm and seek a home site elsewhere. The plight of these entrymen often gained national recognition in the press, doing little to endear the Carey Act to the general public.

Like financing, the lack of water for a Carey proposal was not a defect inherent in the Carey Act. Promoters were required to file proof of a valid water right sufficient to reclaim the segregation at the time of the proposal, but in the early 1900's, the State of Idaho had neither the records of stream flow nor adequate personnel to check on each proposal. Often the word of the promoter was the only information available. In the 1920's it is interesting to note that more and more Carey proposals were being rejected for lack of adequate data as to the sufficiency of the water supply. This can be traced to the improved techniques and methods used in obtaining the necessary data to pass on a proposal.

The main problems encountered in the operation and administration of the Carey Act, lack of funds and water, were not inherent defects in the Carey Act itself; but rather the result of poor planning and lack of adequate information.

THE CURRENT STATUS OF THE CAREY ACT

The Carey Act is still a valid federal land law. Most of the states accepting the Carey grant feel that the usefulness of the Carey Act is over, but this remains to be seen.

On the federal level no legislative enactments were passed after 1920 amending the Carey Act until 1954. The latest additions to the Carey Act were enacted as Sections 641a-641d of the United States Code.

The purpose of these amendments was to take some 30,000 acres that had been patented to various states, mainly Wyoming, out of limbo. (87) Much of this acreage had been prematurely patented to the states, to be held in trust until the settlers had made final proof of reclamation. Due to state laws on irrigation and cultivation the requirements were never met by the settlers and the state remained in control of the land as trustee. There were also another 35,000 acres that had been segregated but on which no final action had been taken. These lands, for those states accepting this provision, would be re-conveyed to the federal government if no final certificates had been issued on the land and there were no settlers on the land with an equitable claim to ownership. (88) The states were given three years, or until 1957, in which to accept this amendment to the Carey Act. The State of Wyoming was apparently the only state to accept this provision.

The purpose of the last amendment was to tie up the loose ends of the Carey Act, and not as some have suggested, to abrogate the Carey Act. The

Carey Act is as ready for operation today as it was in 1894 with a full body of active federal laws and regulations. (89)

Many factors have to be considered before any generalized statement as to the success or failure of the Carey Act in Idaho can be made. Most important, we must remember that the State of Idaho received 618,000 acres of previously desert, arid land. This land brought new settlers and future residents to the State of Idaho. This land now composes some of the richest farm land in the state. The overall benefit gained from the construction of dams and canals, the settlement of farms, the birth of towns and cities, and the production of crops on the economy of Idaho is impossible to measure. The development of all this would not have been possible on the tremendous scale that it was without the Carey Act and the pioneers that made it work. The overall benefit of the Carey Act must be balanced against the hardships and failures that occurred. In doing this the conclusion must be reached that the Carey Act was successful in accomplishing its purposes and most of the problems encountered in the operation of the Act would have been eliminated with careful preparation and planning before the inauguration of a proposal.

RECOMMENDATIONS

An examination by the Department of Reclamation should be conducted of the regulations governing the Carey Act. These regulations were last revised in 1920 (and 1954) and should be brought into a current setting.

An opportunity was presented in 1954 to each state accepting the Carey Act to bring the land out of the state of limbo that had occurred in many states, including Idaho. Idaho never availed itself of this portion of the United States Code, §§ 641a-641d.

Carey land can exist in three different forms. The first occurs where a patent was issued to the State of Idaho to be held in trust until it was reclaimed by settlers, and this never happened. The second is where a final certificate was issued on the land but for some reason the settler never received a patent to the land. Generally the settler cannot now be located. The third form that the land can exist in is if it was segregated for a project but never properly relinquished back to the Department of Interior.

I recommend that the following steps be taken to close the existing Carey Act files as to these lands. If any land in the third group can be located, it should be immediately relinquished to the federal government. The first and second groups represent a more complicated problem entailing the reactivation of Sections 641a-641d by the United States Congress. It might be possible, but it is extremely doubtful, that the Department of Interior will follow the procedure of 641a-641d without a reactivation. Since we are dealing with land on which a final certificate has been issued it will probably take a reactivation of the law to divest whatever title may be present in the entryman or his heirs.

Once this has been accomplished a study must be undertaken on a project by project basis to determine the current form of the land. The plat book at

this time may be brought up to date; however, even the projects listed in the book are often short 3,000 or 4,000 acres of the amount segregated for the project.

After a reactivation of the law and the complete analysis of the Carey land segregated for Idaho it will be an easy matter to complete the necessary reconveyances.

The State of Idaho will receive a patent to all land upon which a final certificate was issued to do with as it wishes. These lands should then be conveyed to the State Land Board. The United States Code and the Code of Federal Regulations adequately state the necessary steps to be taken to effectuate such a transfer. The federal government will receive a relinquishment of any claim the State of Idaho may have had to any lands patented to the state but on which no claims of ownership have arisen.

After the completion of the above conveyances the Carey Act files are ready to be closed. A microfilm recording of all the Carey Act files should be made and stored for future use.

REFERENCES

1. 3 KINNEY ON IRRIGATION AND WATER RIGHTS, pp 2388 (2d ed. 1912).
2. 26 Cong. Rec. pp 7515 (1894).
3. 26 Cong. Rec. pp 8123 (1894).
4. 28 Stat. 422; 43 U.S.C. §§ 641 (1894).
5. 3 KINNEY ON IRRIGATION AND WATER RIGHTS, pp 2385 (2d ed. 1912).
6. Idaho allows two liens, one for construction and one for maintenance and upkeep on the irrigation works. Brown v. Portneuf-Marsh Valley Irrigation Co., (DC Idaho) 229 F. 338, 5 F. 2d 895, aff'd. 274 U.S. 630, 47 S.Ct. 692, 71 L. Ed. 1234 (1925).
7. 29 Stat. 422; 43 U.S.C. §§ 641 (1896).
8. Bothewell v. Bingham County, 24 Idaho 125, 132 P. 972, aff'd. 237 U.S. 642, 35 S.Ct. 702, 59 L. Ed. 1157 (1913).
9. 28 Stat. 422; 43 U.S.C. §§ 641 (1894).
10. Desert Land Act, 19 Stat. 377, 43 U.S.C. §§ 321 (1877). Defined as:
"all lands exclusive of timber lands which will not, without artificial irrigation produce some agriculture crop, shall be deemed desert land."
11. 31 Stat. 1188; 43 U.S.C. §§ 641 (1901).
12. 41 Stat. 1085; 43 U.S.C. §§ 641 (1921).
13. 36 Stat. 237; 43 U.S.C. §§ 643 (1910).
14. 36 Stat. 925; 43 U.S.C. §§ 523-525 (1911).
15. 41 Stat. 407; 43 U.S.C. §§ 644 (1920).
16. Ariz. Rev. Stat. ch. 3, § 37-701 (1956); Deerings Gen. Laws, Act 6283, § 1-51 (1937); Colo. Rev. Stat. ch. 112, § 112-2-1 (1963); Idaho Code, ch. 17, § 42-1701 (1947); Rev. Code Mont. ch. 21, § 81-2101 to 81-2130 (1947), Repealed, Laws of 1963, ch. 147 § 242, Laws of 1965, ch. 280, § 22; Nev. Rev. Stat. ch. 324, § 324.020 (1967); N.M. Stat. ch. 7, § 7-4-1 (1953); Ore. Rev. Stat. ch. 555, § 555.010 (1955); Laws of S.D., P. 135 (1909); Utah Code, ch. 3, § 65-3-1 (1953); Rev. Code of Wash. ch. 77, § 79-48 (1959); Wyo. Stat. ch. 8, § 36-83 (1957).
17. State v. Twin Falls Salmon River Co., 30 Idaho 41, 166 P. 220 (1916).
18. Twin Falls Salmon River Land and Water Co. v. Caldwell, (CCA. Idaho). 272 F. 356, aff'd. 266 U.S. 85, 45 S.Ct. 22, 69 L. Ed. 178 (1921).

REFERENCES (Cont'd.)

19. State v. Twin Falls Salmon River Land and Water Co., 30 Idaho 41, 166 P. 220 (1917).
20. 36 Stat. 237; 43 U.S.C. §§ 643 (1910).
21. Idaho Code, 42-2004 (1895).
22. Idaho Code, 42-2005 (1895).
23. Idaho Code, 42-2006 (1895).
24. Idaho Code, 42-2008 (1895).
25. Idaho Code, 42-2012 (1895).
26. Idaho Code, 42-2018 (1895).
27. Idaho Code, 42-2601 (1909).
28. Idaho Code, 42-2603 (1909).
29. Idaho Code, 42-2605 (1909).
30. Idaho Code, 42-2504 (1917).
31. Idaho Code, 42-2105 (1921).
32. Idaho Code, 42-2037 (1895).
33. Twin Falls Land and Water Co. v. Twin Falls Canal Co., (DC Idaho) 7 F. Supp. 238, aff'd, 79 F. 2d 431, cert. denied 296 U.S. 654, 56 S.Ct. 381, 80 L. Ed. 466 (1953).
34. State v. Twin Falls Salmon River Land and Water Co., 30 Idaho 41, 166 P. 220 (1917).
35. Idaho Code, 42-2005 (1895).
36. Idaho Code, 42-2009 (1895).
37. Idaho Code, 42-2009 (1895).
38. Idaho Code, 42-2011 (1895).
39. Idaho Code, 42-2019 (1895).
40. Idaho Code, 42-2026 (1895).
41. Idaho Code, 42-2028 (1895).

REFERENCES (Cont'd.)

42. Idaho Code, 42-2031 (1895).
43. Idaho Code, 42-2033 (1895).
44. Idaho Code, 42-2101 (1917).
45. Idaho Code, 42-2201 (1913).
46. North Side Canal Co. v. Idaho Farms Co., 60 Idaho 748, 96 P. 2d 232 (1939).
47. Idaho Code, 42-2205 (1913).
48. Idaho Code, 42-2013 (1899).
49. Evans v. Swendsen, 34 Idaho 290, 200 P. 136 (1921).
50. Idaho Code, 42-2013 (1899).
51. Such an incident was recorded on the Canyon Canal Project.
52. Idaho Code, 42-2014 (1911).
53. Idaho Code, 42-2014 (1895).
54. Idaho Code, 42-2013 (1899).
55. Idaho Code, 42-2013 (1895).
56. Idaho Code, 42-2013 (1895).
57. Idaho Code, 42-2019 (1895).
58. Pierson v. Loveland, 16 Idaho 628, 102 P. 340 (1909).
59. In Re Robinson, 61 Idaho 462, 103 P. 2d 693 (1940).
60. Faris v. Blaine County Irrigation Co., (DC Idaho) 3 F. Supp. 381, (1933).
61. Idaho Code, 42-2025 (1895).
62. Bennett v. Twin Falls North Side Land and Water Co., 27 Idaho 643, 150 P. 336 (1915).
63. In Re Robinson, 61 Idaho 462, 103 P. 2d 693 (1940); Leland v. Twin Falls Canal Co., 51 Idaho 204, 3 P. 2d 1105 (1931).
64. Golze, Reclamation in the United States, pp 19 (1961).
65. Arizona Rev. Stat. ch. 3, §§ 37-701 (1956).

REFERENCES (Cont'd.)

66. Deering's General Laws, Act 6283, §§ 1-51 (1937).
67. Colorado Rev. Stat. ch. 112, §§ 112-2-1 (1967).
68. Rev. Code Montana, ch. 21, §§ 1-2101 to 81-2130 (1947), Repealed, Laws of 1963, ch. 147 §§ 242, Laws of 1965, ch. 280, §§ 22.
69. Nevada Rev. Stat. ch. 324 §§ 324.020 (1967).
70. New Mexico Stat. ch. 7, §§ 7-4-1 (1953).
71. Oregon Rev. Stat. ch. 555 §§ 55.340 (1955).
72. S. D. Taylor, Carey Act Projects, (1913). This report is on file at the Department of Reclamation for the State of Idaho.
73. Oregon Rev. Stat. ch. 555 §§ 55.340 (1955).
74. Laws of South Dakota, pp 135 (1909).
75. Utah Code, ch. 3, §§ 65-3-1 (1953).
76. Rev. Code of Washington, ch. 77, §§ 79-48 (1959).
77. Wyoming Stat. ch. 8, §§ 36-83 (1957).
78. Twenty-Sixth Biennial Report, Commissioner of Public Lands and Farm Loan of Wyoming, pp 34 (1956).
79. 28 Stat. 422; 43 U.S.C. §§ 641 (1894).
80. 35 Stat. 577; 43 U.S.C. §§ 645 (1908).
81. Twin Falls South Side Project, Carey Act files, Department of Reclamation, Boise, Idaho.
82. Little Bruneau Project, Carey Act files, Department of Reclamation, Boise, Idaho.
83. The following information has been obtained from the Carey Act records kept by the State of Idaho. The information is available in the Carey Act files, Department of Reclamation, Boise, Idaho.
84. I. P. Perrine and H. L. Hollister were connected with the Twin Falls South Side Project and soon became the directors of the Twin Falls Salmon River Project.
85. Later in 1916 an additional 320 acres were segregated.

REFERENCES (Cont'd.)

86. Water Resources Data for Idaho, U. S. Department of Interior (1966)..
87. U. S. Congress Code and Admin. News, 83rd Congress 2nd Session, pp 30133 (1954).
88. Ibid 1.
89. F.C.R. Title 43, Chap. 11.

EXHIBIT 2

RECEIVED

JUN 29 2007

DEPARTMENT OF
WATER RESOURCES

DISTRICT COURT - SRBA
TWIN FALLS CO. IDAHO
FILED

2007 JUN 28 PM 4 18

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

In Re SRBA
Case no. 39576

ORDER OF PARTIAL DECREE

For Water Rights: 63-0303 and 63-3613

On March 9, 2007 the Idaho Supreme Court issued its opinion in *U.S. v. Pioneer Irr. Dist.*, 144 Idaho 106, 157 P.3 600, 609 (2007), an appeal from SRBA Consolidated Subcase 91-63. At issue was the ownership of certain Bureau of Reclamation project water rights claimed by both the United States, acting through the United States Bureau of Reclamation, and various irrigation delivery organizations who deliver the project water to their shareholders. The Supreme Court ruled that, while the United States' name should appear on the partial decree, title to the use of the water is held by the beneficial or end users of the water. Accordingly, the Supreme Court ordered the following remark to appear on the face of the partial decrees:

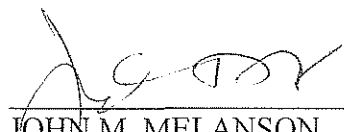
The name of the United States of America acting through the Bureau of Reclamation appears in the Name and Address sections of this partial decree. However, as a matter of Idaho constitutional and statutory law title to the use of the water is held by the consumers or users of the water. The irrigation organizations act on behalf of the consumers or users to administer the use of the water for the landowners in the quantities and/or percentages specified in the contracts between the Bureau of Reclamation and the irrigation organizations for the benefit of the landowners entitled to receive distribution of this water from the respective irrigation organizations. The interest of the consumers or users of the water is appurtenant to the lands within the boundaries of or served by such irrigation organizations, and that interest is derived from law and is not based exclusively on the contracts between the Bureau of Reclamation and the irrigation organizations.

ORDER OF PARTIAL DECREE

On April 9, 2007, the Idaho Supreme Court filed the Remittitur. No further objections remain and no further action is required of this Court other than issuance of the partial decrees.

Therefore, IT IS ORDERED that the above-captioned water rights be decreed as set forth in the attached *Partial Decrees pursuant to I.R.C.P. 54(b)*.

DATED June 29, 2007.



JOHN M. MELANSON
Presiding Judge
Snake River Basin Adjudication

IN THE DISTRICT COURT OF THE FIFTH JUDICIAL DISTRICT OF THE SRBA
STATE OF IDAHO, IN AND FOR THE COUNTY OF TWIN FALLS
TWIN FALLS CO. IDAHO

In Re SRBA)
)
Case No. 39576)
_____)

PARTIAL DECREE PURSUANT TO
I.R.C.P. 54(b) FOR
Water Right 63-03613

FILED
2007 JUN 28 PM 4 18

NAME AND ADDRESS: UNITED STATES OF AMERICA
BUREAU OF RECLAMATION
1150 N CURTIS RD STE 100
BOISE, ID 83706-1234

SOURCE: BOISE RIVER TRIBUTARY: SNAKE RIVER

QUANTITY: 15000.00 AFY

TOTAL RESERVOIR CAPACITY IS 286,600 ACRE FEET WHEN FILLED TO
ELEVATION 3216 AND MEASURED AT THE UPSTREAM FACE OF THE DAM. THE
BUREAU OF RECLAMATION MAY TEMPORARILY STORE WATER IN THE
SURCHARGE CAPACITY, WHICH IS ABOVE ELEVATION 3216 DURING FLOOD
EVENTS OR EMERGENCY OPERATIONS.

PRIORITY DATE: 06/25/1938

POINT OF DIVERSION: T03N R04E S13 LOT 5 (SWNE) Within Boise County
LOT 7 (NWSE)

PURPOSE AND PERIOD OF USE:	PURPOSE OF USE	PERIOD OF USE	QUANTITY
	Irrigation Storage	01-01 TO 12-31	15000.00 AFY
	Irrigation from Storage	03-15 TO 11-15	15000.00 AFY

PLACE OF USE:
THE PLACE OF USE IS WITHIN THE BOISE FEDERAL RECLAMATION PROJECT
WITHIN ADA, CANYON, BOISE AND ELMORE COUNTIES, IDAHO AND MALHEUR
COUNTY, OREGON (BIG BEND IRRIGATION DISTRICT).

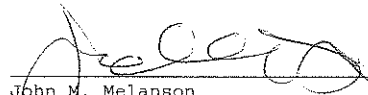
OTHER PROVISIONS NECESSARY FOR DEFINITION OR ADMINISTRATION OF THIS WATER RIGHT:

THE NAME OF THE UNITED STATES OF AMERICA ACTING THROUGH THE
BUREAU OF RECLAMATION APPEARS IN THE NAME AND ADDRESS SECTIONS OF
THIS PARTIAL DECREE. HOWEVER, AS A MATTER OF IDAHO CONSTITUTIONAL
AND STATUTORY LAW, TITLE TO THE USE OF THE WATER IS HELD BY THE
CONSUMERS OR USERS OF THE WATER. THE IRRIGATION ORGANIZATIONS
ACT ON BEHALF OF THE CONSUMERS OR USERS TO ADMINISTER THE USE OF
THE WATER FOR THE LANDOWNERS IN THE QUANTITIES AND/OR PERCENTAGES
SPECIFIED IN THE CONTRACTS BETWEEN THE BUREAU OF RECLAMATION AND
THE IRRIGATION ORGANIZATIONS FOR THE BENEFIT OF THE LANDOWNERS
ENTITLED TO RECEIVE DISTRIBUTION OF THIS WATER FROM THE
RESPECTIVE IRRIGATION ORGANIZATIONS. THE INTEREST OF THE
CONSUMERS OR USERS OF THE WATER IS APPURTENANT TO THE LANDS
WITHIN THE BOUNDARIES OF OR SERVED BY SUCH IRRIGATION
ORGANIZATIONS, AND THAT INTEREST IS DERIVED FROM LAW AND IS NOT
BASED EXCLUSIVELY ON THE CONTRACTS BETWEEN THE BUREAU OF
RECLAMATION AND THE IRRIGATION ORGANIZATIONS.

THIS PARTIAL DECREE IS SUBJECT TO SUCH GENERAL PROVISIONS
NECESSARY FOR THE DEFINITION OF THE RIGHTS OR FOR THE EFFICIENT
ADMINISTRATION OF THE WATER RIGHTS AS MAY BE ULTIMATELY
DETERMINED BY THE COURT AT A POINT IN TIME NO LATER THAN THE
ENTRY OF A FINAL UNIFIED DECREE. I.C. SECTION 42-1412(6).

RULE 54(b) CERTIFICATE

With respect to the issues determined by the above judgment or order, it is hereby CERTIFIED, in accordance with Rule 54(b), I.R.C.P., that the court has determined that there is no just reason for delay of the entry of a final judgment and that the court has and does hereby direct that the above judgment or order shall be a final judgment upon which execution may issue and an appeal may be taken as provided by the Idaho Appellate Rules.



John M. Melanson
Presiding Judge of the
Snake River Basin Adjudication

IN THE DISTRICT COURT OF THE FIFTH JUDICIAL DISTRICT OF THE
STATE OF IDAHO, IN AND FOR THE COUNTY OF TWIN FALLS
DISTRICT COURT - SRBA
TWIN FALLS CO., IDAHO

In Re SRBA)
)
Case No. 39576)
_____)

PARTIAL DECREE PURSUANT TO
I.R.C.P. 54(b) FOR

Water Right 63-00303

FILED
2007 JUN 28 PM 4 18

NAME AND ADDRESS: UNITED STATES OF AMERICA
BUREAU OF RECLAMATION
1150 N CURTIS RD STE 100
BOISE, ID 83706-1234

SOURCE: BOISE RIVER TRIBUTARY: SNAKE RIVER

QUANTITY: 271600.00 AFY

TOTAL RESERVOIR CAPACITY IS 286,600 ACRE FEET WHEN FILLED TO
ELEVATION 3216 AND MEASURED AT THE UPSTREAM FACE OF THE DAM

PRIORITY DATE: 01/13/1911

POINT OF DIVERSION: T03N R04E S13 LOT 5 (SWNE) Within Boise County
LOT 7 (NWSE)

PURPOSE AND PERIOD OF USE:	PURPOSE OF USE	PERIOD OF USE	QUANTITY
	Irrigation Storage	01-01 TO 12-31	271600.00 AFY
	Irrigation from Storage	03-15 TO 11-15	271600.00 AFY

PLACE OF USE:
THE PLACE OF USE IS WITHIN THE BOISE FEDERAL RECLAMATION PROJECT
WITHIN ADA, CANYON, BOISE, ELMORE COUNTIES, IDAHO, AND MALHEUR
COUNTY, OREGON (BIG BEND IRRIGATION DISTRICT).

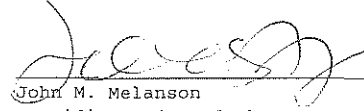
OTHER PROVISIONS NECESSARY FOR DEFINITION OR ADMINISTRATION OF THIS WATER RIGHT:

THE NAME OF THE UNITED STATES OF AMERICA ACTING THROUGH THE
BUREAU OF RECLAMATION APPEARS IN THE NAME AND ADDRESS SECTIONS OF
THIS PARTIAL DECREE. HOWEVER, AS A MATTER OF IDAHO CONSTITUTIONAL
AND STATUTORY LAW, TITLE TO THE USE OF THE WATER IS HELD BY THE
CONSUMERS OR USERS OF THE WATER. THE IRRIGATION ORGANIZATIONS
ACT ON BEHALF OF THE CONSUMERS OR USERS TO ADMINISTER THE USE OF
THE WATER FOR THE LANDOWNERS IN THE QUANTITIES AND/OR PERCENTAGES
SPECIFIED IN THE CONTRACTS BETWEEN THE BUREAU OF RECLAMATION AND
THE IRRIGATION ORGANIZATIONS FOR THE BENEFIT OF THE LANDOWNERS
ENTITLED TO RECEIVE DISTRIBUTION OF THIS WATER FROM THE
RESPECTIVE IRRIGATION ORGANIZATIONS. THE INTEREST OF THE
CONSUMERS OR USERS OF THE WATER IS APPURTENANT TO THE LANDS
WITHIN THE BOUNDARIES OF OR SERVED BY SUCH IRRIGATION
ORGANIZATIONS, AND THAT INTEREST IS DERIVED FROM LAW AND IS NOT
BASED EXCLUSIVELY ON THE CONTRACTS BETWEEN THE BUREAU OF
RECLAMATION AND THE IRRIGATION ORGANIZATIONS.

THIS PARTIAL DECREE IS SUBJECT TO SUCH GENERAL PROVISIONS
NECESSARY FOR THE DEFINITION OF THE RIGHTS OR FOR THE EFFICIENT
ADMINISTRATION OF THE WATER RIGHTS AS MAY BE ULTIMATELY
DETERMINED BY THE COURT AT A POINT IN TIME NO LATER THAN THE
ENTRY OF A FINAL UNIFIED DECREE. I.C. SECTION 42-1412(6).

RULE 54(b) CERTIFICATE

With respect to the issues determined by the above judgment or order, it is hereby CERTIFIED, in accordance with Rule 54(b), I.R.C.P., that the court has determined that there is no just reason for delay of the entry of a final judgment and that the court has and does hereby direct that the above judgment or order shall be a final judgment upon which execution may issue and an appeal may be taken as provided by the Idaho Appellate Rules.

A handwritten signature in dark ink, appearing to read "John M. Melanson", is written over a horizontal line.

John M. Melanson
Presiding Judge of the
Snake River Basin Adjudication

CERTIFICATE OF MAILING

I certify that a true and correct copy of the ORDER OF PARTIAL DECREE was mailed on June 28, 2007, with sufficient first-class postage to the following:

BOISE PROJECT BOARD OF CONTROL

Represented by:
ALBERT P BARKER
1010 W JEFFERSON, STE 102
PO BOX 2139
BOISE, ID 83701-2139
Phone: 208-336-0700

PIONEER IRRIGATION DISTRICT
SETTLERS IRRIGATION DISTRICT

Represented by:
ANGELA SCHAER KAUFMANN
101 S CAPITOL BLVD, 10TH FLOOR
PO BOX 829
BOISE, ID 83701-0829
Phone: 208-345-2000

FARMERS COOPERATIVE DITCH CO
NAMPA & MERIDIAN IRRIGATION

Represented by:
DANIEL V. STEENSON
455 S THIRD ST
PO BOX 2773
BOISE, ID 83701-2773
Phone: 208-342-4591

FARMERS UNION DITCH COMPANY

Represented by:
JERRY A. KISER
620 WEST HAYES
BOISE, ID 83702
Phone: 208-336-1020

COMMITTEE OF NINE

Represented by:
JOHN K SIMPSON
1010 W JEFFERSON, STE 102
PO BOX 2139
BOISE, ID 83701-2139
Phone: 208-336-0700

FARMERS COOPERATIVE DITCH CO
NAMPA & MERIDIAN IRRIGATION

Represented by:
S. BRYCE FARRIS
455 S THIRD ST
PO BOX 2773
BOISE, ID 83701-2773
Phone: 208-342-4591

PIONEER IRRIGATION DISTRICT
SETTLERS IRRIGATION DISTRICT

Represented by:
SCOTT L CAMPBELL
101 S CAPITOL BLVD 10TH FLOOR
PO BOX 829
BOISE, ID 83701-0829
Phone: 208-345-2000

BOISE PROJECT BOARD OF CONTROL

Represented by:
SHELLEY M DAVIS
1010 W JEFFERSON, STE 102
PO BOX 2139
BOISE, ID 83701-2139
Phone: 208-336-0700

COMMITTEE OF NINE

Represented by:
TRAVIS L THOMPSON
113 MAIN AVE W, STE 303
PO BOX 485
TWIN FALLS, ID 83303-0485
Phone: 207-733-0700

UNITED STATES OF AMERICA

Represented by:
US DEPARTMENT OF JUSTICE
ENVIRONMENT & NATL' RESOURCES
550 WEST FORT STREET, MSC 033
BOISE, ID 83724

DIRECTOR OF IDWR

PO BOX 83720
BOISE, ID 83720-0098



EXHIBIT 3

INCORPORATED UNDER THE LAWS OF THE STATE OF IDAHO

NUMBER

215

SHARES

Seventy One
(71.5)

Ballentyne Ditch Company, Limited

This Certifies that

Thomas M. Ricks

is the record

holder of

Seventy One (71.5)

Shares of the Capital Stock of

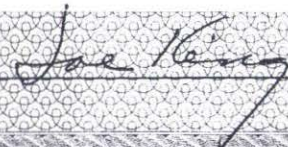
Ballentyne Ditch Company, Limited

*transferable only on the books of the Corporation by the holder hereof in person or
by Attorney upon surrender of this Certificate properly endorsed, or assigned.*

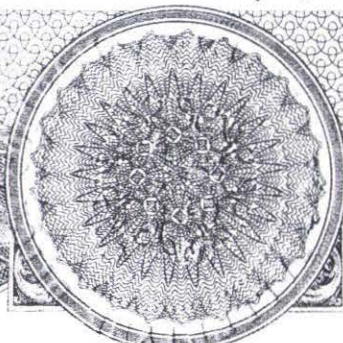
IN WITNESS WHEREOF, the said Corporation has caused this Certificate to be signed
by its duly authorized officers and its Corporate Seal to be hereunto affixed
this 21 day of May 2008



SECRETARY



PRESIDENT





For Value Received, hereby sell, assign and transfer
unto

Shares
of the Capital Stock represented by the within
Certificate, and do hereby irrevocably constitute and appoint
Attorney
to transfer the said Stock on the books of the within named
Corporation with full power of substitution in the premises.

Dated

In presence of

NOTICE: THE SIGNATURE OF THIS ASSIGNMENT
MUST CORRESPOND WITH THE NAME AS WRITTEN UPON THE
FACE OF THE CERTIFICATE, IN EVERY PARTICULAR, WITHOUT
ALTERATION OR ENLARGEMENT, OR ANY CHANGE WHATSOEVER