

ORIGINAL

INDEX OF EXHIBITS

VOLUME I

RECEIVED  
7-25-90

1. Memorandum from Director, U.S. Dept. of the Interior, Bureau of Land Management received 5/15/64 State Office, Bureau of Land Management, Phoenix, Arizona
2. A Historical Analysis of Portions of the Salt and Gila Rivers, Arizona prepared by Elaine C. Lacy, dated February, 1987
3. An Historical Analysis of the Salt River 1830-1912, Prepared by Barbara Behan, Dated 5/12/88
4. Inspection Report of Camp McDowell
5. Personal History of George Robert Finch
6. Hurley v. Abbott - Action to Quiet Title
7. Hurley v. Abbott - Amended Complaint
8. Hurley v. Abbott - Answer of H. Criswell
9. Hurley v. Abbott - Answer and Cross Complaint of United States of America
10. Hurley v. Abbott - Answer of Lou Perkins
11. Consolidated Canal Company v. Tempe Irrigation Canal Company -Answer of Tempe Irrigation Canal Company
12. Consolidated Canal Company v. The Arizona Canal Company, et al.- Complaint dated June 16, 1894
13. Consolidated Canal Company v. The Arizona Canal Company, et al. - Summons and Answer of Defendant M. Wormser
14. The Utah Canal Enlargement and Extension Company v. The Utah Irrigation Ditch Company, et al. - Complaint
15. The Utah Canal Enlargement and Extension Company v. The London Company, et al., Complaint
16. The Consolidated Canal Company v. The Utah Canal Enlargement and Extension Company - Complaint

Maricopa County, Lower Salt River

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4/7/03

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17. The Consolidated Canal Company v. The Tempe Irrigation Canal Company - Amended Complaint
18. Consolidated Canal Company v. Tempe Irrigation Canal Company -Demurrer and Answer of Tempe Irrigation Canal Company
19. Consolidated Canal Company v. Arizona Canal Company - Complaint, dated August, 1894
20. M. Wormser v. Charles T. Hayden - Complaint
21. Frank B Austin v. A. J. Chandler, et al., - Complaint
22. A. J. Peters v. The Consolidated Canal Company - Complaint
23. W. S. Johnson, et al. v. The Consolidated Canal Company - Complaint
24. James C. Goodwin v. Granvill H. Oury - Complaint
25. James C. Goodwin v. Granvill H. Oury - Handwritten Complaint
26. C. A. Saylor, et al. v. The Consolidated Canal Company - Complaint
27. A. J. Peters, et al. v. The Consolidated Canal Company - Complaint
28. L. L. Harmon, et al. v. The Consolidated Canal Company - Complaint
29. J. C. Carmichael v. Bill Galbreath and John H. Ivy - Complaint
30. Vernon L. Clark, et al. v. The Bartlett Heard Land and Cattle Company, et al. - Amended Complaint
31. W. W. Dobson, et al. v. James Johnson - Complaint
32. Correspondence from the Department of the Interior, General Land Office, Washington, D.C., dated October 5, 1894 and handwritten notes
33. Correspondence from the Department of the Interior, United States Geological Survey to the Director, United States Reclamation Service, Dated May 14, 1912
34. Ground Waters of Salt River Valley (24 pages)

35. Correspondence from Department of the Interior, United States Geological Survey, Chief Division of Hydro Economics to F. H. Newell, Chief Engineer, U.S. Geological Survey dated April 28, 1904
36. Inspection Report - Salt River Project dated May 19, 1906 to Mr. F. H. Newell, Chief Engineer, U.S.R.S.
37. Volume I, Arizona - Salt River Project Preliminary History (8 pages)
38. Correspondence from Maricopa County Commercial Club to Mr. J. L. B. Alexander, U.S. Attorney, Phoenix, dated March 21, 1908
39. Drafting Div. Files, Correspondence from the Director to the Secretary of the Interior, Washington D.C., report regarding entire canyon of the Salt River, Arizona will need irrigation works
40. Department of the Interior, Office of the Secretary of Reclamation Service, Salt River Project, Water Rights, August 2, 1912 to October 23, 1912 (26 pages)
41. Correspondence from Department of the Interior, United States Indian Service, Klamath Agency, Oregon to Secretary of the Interior, Washington, D.C., dated August 25, 1904
42. National Archives Pacific Southwest Region - Letters sent by Agent, Box No. A013061-114680
43. Handwritten correspondence to Commissioner of Indian Affairs, Washington, D.C. from Claude M. Johnson, dated Pima, Sacaton, July 13th
44. Handwritten correspondence to Commissioner of Indian Affairs, Washington, D.C., from C. W. Crouse, dated Pima, Sacaton, April 15, '90
45. National Archives Pacific Southwest Region, Letters sent by Agent, Box No. 013126 - 114703
46. Handwritten Correspondence to Commissioner of Indian Affairs, Washington, D.C., from C. W. Crouse, dated Pima, Sacaton, June 20, '90
47. Correspondence to Commissioner of Indian Affairs, Washington, D.C. from C. W. Crouse, dated Sacaton, Arizona, March 4, 1891

48. National Archives Pacific Southwest Region, Letters sent by Agent March 16, 1892 to January 3, 1893, Box No. 013126-114703
49. Correspondence to Charles T. Hayden, Tempe, Arizona from C. W. Crouse dated Sacaton, Arizona, June 13, 1892
50. Correspondence to Commissioner of Indian Affairs, Washington, D.C., from C. W. Crouse dated Sacaton, Arizona, July 8, 1892
51. Correspondence to Commissioner of Indian Affairs, Washington, D.C., from United States Indian Service, dated Sacaton, Arizona, August 1, 1892
52. National Archives Pacific Southwest Region, Letters sent to the Office of the Commissioner of Indian Affairs 1896-1905, Box 2
53. Correspondence to Commissioner of Indian Affairs, Washington, D.C. from U.S. Indian Agent dated Pima Agency, Sacaton, Arizona, March 8, 1901
54. National Archives Pacific Southwest Region, Letters sent by Agents January 1, 1904 to May 31, 1906
55. Correspondence to Commissioner of Indian Affairs, Washington, D.C., from Superintendent, Pima Training School, dated Sacaton, Arizona, September 30, 1904
56. Correspondence to Commissioner of Indian Affairs, Washington, D.C., from Pima Training School, dated Sacaton, Arizona, February 25, 1905
57. Correspondence to Commissioner of Indian Affairs, Washington, D.C. from Superintendent, Pima Training School, dated Sacaton, Arizona, March 13, 1905
58. Correspondence to Commissioner of Indian Affairs from Superintendent Pima Training School, dated Sacaton, Arizona, April 10, 1905
59. National Archives Pacific Southwest Region, Letters sent by Agent 8/13/07-9/9/08, Box No. A013061-114680
60. Correspondence to Louis C. Hill, Supervising Engineer, U.S.R.S. from Superintendent, Pima Agency, dated Sacaton, Arizona, September 11, 1907

61. National Archives Pacific Southwest Region, Letters sent by Agent 6/1/06 to 9/15/08, Box No. A013061-114680
62. Correspondence to Commissioner of Indian Affairs, Washington, D.C. from Superintendent, Pima Training School, dated Sacaton Arizona, January 14, 1908
63. Correspondence to Commissioner of Indian Affairs, Washington, D.C. from Superintendent, Pima Training School, dated Sacaton Arizona, July 10, 1908
64. National Archives Pacific Southwest Region, Pima Indian Agency, Misc. Corresp., Box 9
65. Handwritten Correspondence to Mr. P. B. Hughes from Superintendent Pima Training School, dated Sacaton, Arizona, December 14, 1908
66. Handwritten correspondence to Superintendent Indian Schools, Sacaton, AZ from Salt River Agency dated December 21, 1908
67. Handwritten correspondence to Barney from Jim Alexander dated December 21, 1908
68. Handwritten correspondence to Barney from Jim Alexander dated December 22, 1908
69. Report - the project for building a substantial bridge across Salt River at the foot of Central Avenue ( 6 pages)
70. Handwritten correspondence on Fort Hotel letterhead to J. B. Alexander from S. C. Mason, dated 1/23/09
71. Handwritten correspondence to Barney from Jim Alexander, Salt River Pima Agency, dated 1909
72. National Archives Pacific Southwest Region, Pima Indian Agency, Education, Box 8
73. Correspondence to Commissioner of Indian Affairs, Washington, D.C., from Superintendent, Pima Training School, dated Sacaton, Arizona, June 30, 1909
74. National Archives Pacific Southwest Region, Pima Indian Agency 1909-1910, Accounts, Authorities for Purchase & Indian School Support, Box 10
75. Voucher or Claim, Trav. Expenses to H. M. Alexander - \$13.00 dated November 30, 1909

76. Voucher or Claim, Trav. Expenses to W. E. Hester, \$20.10 dated December 31, 1909
77. National Archives Pacific Southwest Region, Pima Indian Agency, letters to and from the Superintendent, Box 10
78. Correspondence to James B. Alexander, Superintendent Pima Indian School from Acting Commissioner of Indian Affairs dated August 4, 1910
79. Correspondence to Louella Mahancy from Acting Commissioner of Indian Affairs dated August 4, 1910
80. Notice to Civil Service Commission from C. F. Hauke, Second Assistant Commissioner, Office of Indian Affairs, dated July 2, 1910
81. Report of Medical Conditions, Salt River, Arizona dated 1910
82. National Archives Pacific Southwest Region, Phoenix Indian School, correspondence to the Commissioner 1915-1920, Box 6
83. Correspondence to Commissioner of Indian Affairs, Washington D.C., from Superintendent dated February 10, 1916
84. Basis of Settlement of Litigation between Buckeye Irrigation Company and Salt River Valley Water Users' Association (9pp.)

***EXHIBIT 1***



UNITED STATES  
DEPARTMENT OF THE INTERIOR  
BUREAU OF LAND MANAGEMENT  
WASHINGTON 25, D. C.

IN REPLY REFER TO:  
JWB  
5/15/64  
6.05a  
Grp 372, Arizona  
2572

7.372

MAR 5 1963

RECEIVED  
STATE OFFICE

MAY 15 1964

Memorandum

To: SD, Arizona

From: Director

BUR. OF LAND MGMT.  
PHOENIX ARIZONA

Subject: Consideration and opinion on reestablishment of a portion of the boundary, Salt River Indian Reservation, T. 1 N., R. 5 E., G&SRM.

By your memorandum of October 26, 1962, you requested our consideration and opinion on the matter of identifying and reestablishing the boundary of the Salt River Indian Reservation along the Salt River within T. 1 N., R. 5 E., Gila and Salt River Meridian. That memorandum was accompanied by a most comprehensive report on the historical background of the reservation, together with all apparent historical maps of the general area. In response to the request of the Chief, Division of Engineering, dated December 19, 1962, you furnished, by memorandum dated January 23, additional data relating to past stream flow of the Salt River and a 1960 aerial mosaic of the river upon which you have delineated the last vestiges of the river's north channel as determined by an on-the-ground inspection.

The consideration of the position of the southerly boundary of the Salt River Indian Reservation turns around two points: first, the intent of the Executive order by which the reservation was established; and second, the present position of the boundary in consideration of the movements of Salt River since the date of the reservation's establishment.

This Bureau has a prime and direct interest in the determination of the position of this boundary through a continuing public land interest in lands outside the reservation. In general terms, lands and resources north of this boundary inure to the benefit of the Indians while the land and resources south of this line are subject to laws and regulations pertaining to public lands. Of immediate value are the deposits of sand and gravel, which are apparently in great demand, within the old river bed.

You report that there is a conflict between what you believe to be the proper position for the reservation boundary, that is, the so-called

Exhibit "B"



north channel of the river, with that which the Superintendent of the Pima Agency, Bureau of Indian Affairs, believes to be the proper position, that is, the so-called south channel of the river. However, nothing of a documentary nature has been submitted by you, and presumably by the Indians, to support their position with material facts. It is the intent of this memorandum to examine the conflict of interest and to give you our opinion thereon by which you may proceed with the official reestablishment of the controversial boundary.

T. 1 N., R. 5 E., was originally surveyed in 1868 by W. F. Ingalls, Deputy Surveyor, as shown upon the official plat approved October 22, 1868. The field notes and plat depict the presence of Salt River in the northwesterly portion of the township, flowing in a general WSW direction, through two distinct and separate channels for almost the entire distance. The channels are labeled respectively, "North Channel of Salt River" and "South Channel of Salt River". The intervening island area is 1/2 to 3/4 mile in width. Upon the plat this island area carries the notation, "Land sandy subject to overflow, Soil 3rd rate." The original survey did not meander or segregate the river channels or island area and their representation upon the plat is by sketching, coordinated with the recorded section line crossings.

At the time of the original survey, and on the date of Arizona's admission into the Union, Salt River would have to be considered as a non-navigable stream. In those years the stream flow was a variable thing ranging from flash flooding to complete absence of any water. During the spring and early months there was undoubtedly a good flow therein as runoff from the melting snows in its headwaters. At about the turn of the century and subsequently, retention dams have been constructed on the upper reaches of the Salt River and its major tributary, the Verde River, for irrigation and power purposes. Consequently, the river has ceased flowing except for flash flooding or the release of excess impounded waters. This cessation of flow has practically stabilized the position of the river bed since the time of the dam construction.

By Executive Order dated June 14, 1879, a tract of public lands within T. 1 N., R. 5 E., and Tps. 2 and 3 N., Rs. 5, 6 and 7 E., was set apart in the territory of Arizona as a reservation for the Pima and Maricopa Indians. The portion of the Executive Order pertinent to the boundary question at hand reads:

"Beginning at the point where the range line between Ranges 4 and 5 east crosses the Salt River; thence up and along the middle of said river to a point where the easterly line of Camp McDowell Military Reservation, if prolonged south, would strike said river; \* \* \*."

The E. O. also contains these stipulations:

"It is hereby ordered that so much of townships 1 and 2 north, ranges 5 and 6 east, lying south of the Salt River, as are now occupied and improved by said Indians, be temporarily withdrawn from sale and settlement until such time as they may severally dispose of and receive payment for the improvements made by them on said lands."

This last part of the order can only be interpreted as a termination of Indian rights to any lands south of the river and it can hardly be presumed that any such rights or occupancy of lands in 1879 are now outstanding in either individual Indians or the tribe. The order does not designate whether it was the intent of the boundary to follow the north or the south channel. In reaching an opinion on this question, we must then consider the collateral evidence as to its position as proposed or interpreted by Government officials having general administrative authority over the territorial lands and as shown upon the historical maps which you have submitted. The preponderance of this evidence is in favor of the north channel.

The reserved tract has since become known as the Salt River Indian Reservation.

Executive Orders dated September 28, 1911, and October 23, 1911, added lands within T. 2 N., R. 5 E., to the existing reservation, which additions do not affect the question at hand.

The map identified as, Sketch of a portion of Salt River, traced in Adjutant General's Office, Jan'y. 9, 1879, shows thereon a "Proposed Res'n" whose south boundary is shown as following the north channel.

A map not identified otherwise but containing the notation, Traced in Adjutant General's Office, March 4, 1879, depicts a shaded area, presumably the reservation, as extending to the south channel. This particular map is the only historical map that treats the south channel as the boundary.

The map of Arizona Territory, prepared by the Army in 1879, shows the reservation boundary along the north channel. This map was found here in Washington in the National Archives and is an addition to the maps submitted by you.

The map identified as, Gila River Reservation and Surroundings, Pima Agency, A. T., also being possibly House Document, H. 399-1879, shows the north channel as the reservation line. We have not been able to find, however, this map in the House documents for the year 1879. The

map is quite material for it was prepared by the Pima Indian Agency and can only be construed as their consideration at that date of the position of the reservation line as between the north and south channels.

Perhaps the most pertinent map is that prepared by the Surveyor General at Tucson, dated July 12, 1879, titled, Plat showing Lands Reserved for Pima and Maricopa Indians by Executive Order of June 14, 1879. The reservation boundary is shown along the north channel. This is an official plat in every sense whose purpose in preparation was to guide the Government in its administration and disposal of lands in the vicinity of the reservation. If it did not properly represent the extent of the reservation, then it would have been incumbent upon the Indian Service to seek an amendment thereof. There is no evidence upon the plat, of any objection or amendment.

In 1888, L. D. Chillson, Deputy Surveyor, executed a resurvey and subdivision of so much of T. 1 N., R. 5 E., into 40-acre tracts as was situated at that time north of the right bank of Salt River. One book of the field note record of this work states on its face, "Meander Lines of Right Bank of Salt River - - - which constitutes the South Boundary of the Salt River Indian Reservation." Those meander lines were of the right bank of the north channel. It is apparent from the record that the surveys were requested and paid for by the Indian Office.

In 1910, R. A. Farmer, Topographer, executed a dependent resurvey and subdivision of sections within T. 1 N., R. 5 E., of reservation lands, based on the Chillson surveys. This work did not reach south of the right bank of the north channel of Salt River. In Mr. Farmer's repeated phrasing, the meandering of the right bank is described as, "Right bank of Salt River which river is S. bdy. of the Salt River Indian Reservation." The immediate record does not reflect that the surveys were made for the benefit of the Indian Service or were paid for by that agency but such conditions must have prevailed as this Bureau had no direct interest in such survey of the reservation lands. The Farmer survey has apparently been employed by the Indians for purposes of issuing allotments and trust patents.

Other maps which you have submitted are only of incidental interest to this vicinity and do not show any historical or collateral evidence of the reservation boundary. The 1912 and 1952 topographic maps published by the Geological Survey each depict a boundary line within the river bed. These lines are generalizations only, representative of office determinations perhaps, without basis of material evidence.

The preponderance and weight of evidence favors the recognition of the north channel of Salt River as being the south boundary of the reservation. In the apparent absence of protest or amendment by the Indians

to the boundary as shown upon many maps and as officially surveyed and established upon the ground by two official surveys, it must be considered that until recent years the Indians were apparently complacent with the boundary being along the north channel. In a similar matter the Solicitor considered the question of the historical position of a portion of the boundary of the San Carlos Indian Reservation (55 I.D. 560). In the syllabus of the opinion, it is said:

In determining the boundaries of an Indian reservation the recognition by the Interior Department of a boundary as such for more than 60 years will be held as controlling.

The case at hand is not unlike the San Carlos situation in age and recognition.

Therefore, it is our opinion and conclusion that the south boundary of the Salt River Indian Reservation within T. 1 N., R. 5 E., is the north channel of Salt River.

It is well established under common law that a riparian owner of lands upon either a navigable or nonnavigable stream follows with his ownership the shifting of the stream, if the change has been gradual (*New Orleans v. United States*, 10 Pet. 662). The movement of a stream can thus result in both a gain of lands through alluvium and a loss of lands by erosion.

Since the Executive Order established the southerly boundary of the reservation as the middle of Salt River, thereby granting to the reservation the stature of a riparian owner, it should be considered that this boundary has shifted as the river has subsequently moved.

The historical mapping evidence reflects that there has been some movement in the north channel of the river in a generally southerly direction since the original surveys of 1868. This movement has had the effect of adding considerable lands to the reservation as originally surveyed. There is no direct evidence that the river's movement has been by means other than by normal erosion and accretion. Movement in the nature of an avulsive action is not apparent although in all likelihood the erosional effect was accelerated during periods of flood when the river was active.

Since Salt River has ceased to carry any continuous flow of water, due to the retention of almost all waters by dams in its upper reaches, it may be considered that the river has reached a stabilized condition and is no longer subject to shifting or movement. Within this concept

then the position of the reservation boundary should be established within the considered position of the north channel, as the river ran at the time of the cessation of flow.

Upon the submitted 1960 aerial mosaic you have identified the last vestiges of this north channel. The channel is so identified upon the mosaic by the yellow coloring.

Therefore, you will accept this particular channel as being the abuttal of the reservation within T. 1 N., R. 5 E., and you will identify, mark and monument its centerline as the limiting northerly boundary of public land areas lying southerly thereof. Corners thereon will be marked in accordance with secs. 278-279 of the Manual.

The movement of the north channel, since the original survey, has been in a southerly direction. The adoption of the present position of the north channel, as described above, would have the effect of adding an estimated area of 200 acres of land to the reservation from that shown upon the 1868 plat. Considering the position of the reservation boundary as established by Farmer in 1910, there will be added an estimated area of 360 acres. In other words, the Indians are not suffering any loss of lands by the reestablishment of the boundary as proposed but are gaining thereby the estimated area of 360 acres. Within T. 1 N., R. 5 E., this is an additional 20 percent of the base lands.

At this time, no sectional subdivision or relotting of the lands added to the reservation will be undertaken. The area between Farmer's record meander line and the new boundary line will be shown upon the plat only as "accretion." See sec. 639 of the Manual.

The resurveys in T. 1 N., R. 5 E., will proceed in accordance with these opinions and directions as expeditiously as possible.

The aerial mosaic is being returned under separate cover. All other submitted material is being retained unless you have an expressed desire for its return.

*R. R. Hochmuth*

Acting

I concur. MAY - 6 1964

*J. A. Carr - J*

***EXHIBIT 2***

**A HISTORICAL ANALYSIS OF PORTIONS OF THE SALT  
AND GILA RIVERS, ARIZONA**

**Prepared For**

**Larry J. Richmond, I d.  
Phoenix, Arizona**

**Prepared By**

**Elaine C. Lacy  
Fred Andersen  
Constance Brown  
Dennis Preisler**

**of**

**RESEARCH MANAGEMENT WEST  
Tempe, Arizona**

**February, 1987**

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## INTRODUCTION

This report examines the history of portions of Arizona's Salt and Gila Rivers from the time of the first Anglo settlement, roughly the mid nineteenth century, to statehood, 1912. The study area includes the Salt River from Indian Bend Wash in Tempe to its confluence with the Gila River, and the Gila River from that confluence to the Maricopa County line. Particular attention will be given to settlements along the rivers, including their economic activities; uses of the rivers by local inhabitants; transportation within the study area; irrigation projects undertaken in the area; flood histories of the rivers; and other information pertaining to river uses during the study period.

The sources of the Salt River lie high in Arizona's White Mountains. It is formed by the joining of two rivers, the Black and White. The Salt then flows 200 miles through gorges and canyons, across alkaline beds that give it its flavor and name, and into the desert where it is captured behind giant dams. The Salt River bed continues through the Salt River Valley and the river is reborn as the Gila. The Gila River flows from New Mexico into Arizona on its way to join the Colorado River. The Salt and Gila meet in the Phoenix area. Before the Salt and Gila join, the Salt has drained 13,000 square miles of watershed, including that of the Verde. It has been fed by roughly 50 relatively large tributaries and about 20 smaller ones, and hundreds of miniscule streams.

Today the Salt River has been harnessed and is utilized down to almost the last cupful. After the Salt flows through the penstocks or over the spillway at Stewart Mountain Dam, it runs down to the Granite Reef Diversion Dam. Before reaching Granite Reef, the waters of the Salt mix with those of the Verde River. At that point the water is divided into two main canals. From the two canals, the flow is diverted into secondary canals, then into laterals, and finally into irrigation ditches. There is some overflow and wastage, which goes back into the Salt and Gila River channels through the New and Agua Fria River channels for northern canals, and directly into the confluence of the Salt and Gila in the southern canals.

The Salt River no longer exists after it joins the Gila, but the salt marshes between Phoenix and Gillespie Dam, and the salt cedars and tamarisks along the Gila's banks are evidence of the alkalinity which the Salt carried from the mountains to the north.

This report is concerned with the nature and use of the Salt and Gila Rivers before the building of the great dams. How were the rivers used earlier? What was the nature of the rivers? How did they change after the construction of the dams?

FIELD SURVEY NOTES

In the preliminary stages of the investigation, field survey notes were scanned on portions of the Salt and Gila River basins. The following townships were examined, which surround the Salt River from the west end of the Pima-Maricopa Reservation, past Mesa, Tempe and Phoenix, to the junction with the Gila River; then following the Gila past Avondale and Buckeye, to where the river begins to turn southward near Palo Verde. Also studied were two townships in southwestern Maricopa County where the Gila River leaves the county.

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TABLE 1  
TOWNSHIP AND RANGE

T 1 N, R 5 E  
T 1 N, R 4 E  
T 1 N, R 3 E  
T 1 N, R 2 E  
T 1 N, R 1 E  
T 1 N, R 1 W  
T 1 N, R 2 W  
T 1 S, R 1 W  
T 1 S, R 2 W  
T 1 S, R 3 W  
T 1 S, R 4 W  
T 1 S, R 5 W  
T 5 S, R 9 W  
T 5 S, R 10 W

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T1N,R5E: Field Survey Notes: Arizona, Book 2, Mar/Apr-1868.

The north and south channels of the Salt River are of equal size, but run through sandy soil, constantly changing position and size. (p. 355) Notes "luxuriant" grass both on mesa and in bottomland, and potential for irrigation, especially on bottomland, which "resembles that which the Maricopa and Pima Indians have under cultivation" on the Gila. (p. 354)

T1N,R4E: (Ibid.)

The river enters Tp on east in sec. 12. Separates into two channels in sec. 17, "each having about the same amount of water...banks are generally 5 to 10 feet high, but occasionally...they are low and sandy. There are two esecas (acequias) taking water from Salt River in sec. 7 and runs westward into T1N,R3E which is used by the farmers for irrigating their land." (p. 283)

T1N,R3E: (Ibid.)

Width of river at line between secs. 23 and 24 is 4.49 chains.

(p. 145) At corner of secs. 13, 14, 23, 24, notes, "land is...sandy, unfit for cultivation and interspersed with numerous sloughs and at times portions of it are overflowed from 4 to 6 feet..." (p.146) This is a typical comment for many areas along the river. Between secs. 11 and 12 an irrigation ditch runs west. (p. 149) Land on line between secs. 16 and 21 is sandy and "washed or shifted about every season." (p. 183) General description of the township states there are two channels, continually changing course. Also notes "a settlement called Phoenix was formed in NE part of the township during the winter of 1867 and 1868. It now contains about 50 persons who have displayed great energy in the construction of irrigation ditches and the clearing of their land...the land bears every evidence of having been under cultivation at some former time." (pp. 212-213)

T1N,R2E: (Ibid.)

River enters Tp. in three channels in secs. 13, 24 and 25. They unite and leave Tp. in sec. 30. Cottonwood on banks and between channels. Most of Tp. covered with dense mesquite, esp. north of the river. (p.138)

T1N,R1E: (Ibid.)

On line between secs. 34 and 35, width of river is 6.40 chains. On line between secs. 33 and 34, width is 7.27 chains. On line between 32 and 33, width is 3.9 chains. On line between 31 and 32, width is 6.08 chains. (pp. 15, 26, 36, 43) "There is a good ford in sec. 35." (p. number missing) General description: land north of river is above average; south of river, second and third rate. Timber is cottonwood on riverbanks, also mesquite, sagebrush and arrowweed. All surveyors noted dense brush and timber in the entire area around the Salt-Gila-Agua Fria junctions.

T1N,R1W: (Book 1, 2/1868)

"The Gila River runs west through the Tp at the northern base of (the Estrella Mountains). It is a fine stream about 10.00 chains wide...and has a rapid current generally. (p. number missing)

T1N,R2W: (Book 1006, 2/1883)

North between secs. 25 and 26 "shallow water and rapid current." (p.7) "If the waters of the Gila River could be carried to the land...the land could be made very valuable and productive." (p.92)

T1S,R2W: (Book 1166, 1/1883)

"There is plenty of water in the Gila for irrigation." (p.97)

T1S,R3W: (Book 1167, 1/1883)

On line between secs. 11 and 12, "deep water, low banks." (p.18)

T1S,R4W: (Book 1168, 12/1882)

Width on line between secs. 23 and 24: 3.20 chains. (pp. 11-

13) General description: plenty of water. (p. 97)

T1S,R5W: (Book 1169, 12/1882)

On line between secs. 25 and 26, measured "across deep water."  
(p.8)

T5S,R9W: (Book 1157, 1/1887)

"The river contains an abundance of water not yet utilized."  
(p.61) "Soil good, a few trees." (p.9)

T5S,R10W: (Book 1158, 1/1877)

At western border of Maricopa County. Between secs. 13 and 14, river is about 3.50 chains wide. "Rich bottom land can be readily irrigated from the Gila River." (p.61)

These notes indicate that some portions of the Salt River had a flow of sorts in 1868. The notes show also that water was already being diverted from the river for irrigation purposes. It seems there was more water in the Gila than the Salt at the time they were surveyed.

*old gila river  
time*

SETTLEMENTS

TABLE 2  
EARLY SETTLEMENTS ALONG THE SALT AND GILA RIVERS

<u>NAME</u>	<u>DATE</u>	<u>TYPE</u>
<u>(Salt River)</u>		
Lehi	1877	Agricultural
Mesa	1878	Agricultural
Tempe		Commerce/Agricultural
Phoenix	1868	Agricultural
Cashion	1900	RR Stop/Agricultural
Avondale	1896	Stage Stop/Agricultural
Liberty	1895	Stage Stop/Agricultural
Buckeye	1888	Agricultural
<u>(Gila River)</u>		
Arlington	1900	Agricultural
Gila Bend	1871	Stage Stop/Agricultural
Agua Caliente	1870-1880	Health Resort

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Salt River Settlements

Lehi: Mormon settlers moving southward from Utah founded the town of Lehi on March 6, 1877. The community quickly became a self-contained agricultural settlement, and like many Mormon communities, its inhabitants resisted contact with nearby non-Mormon communities--thus trade between the communities was almost nonexistent. Within the first year, Lehi residents constructed a diversion dam and canal off the Salt River to irrigate their crops. The Mormon farmers were the first to develop and use old Indian irrigation canals: many of the canals had been dug by the Hohokam, the Pima and Maricopa Indians. The town never grew to a significant size, and was absorbed by the city of Mesa in the early years of the twentieth century..(1)

Mesa: Mesa, originally known as Mesa City, was also established by Mormons in October 1878. It, too, was a self-sufficient agricultural community. The settlers almost immediately organized the Consolidated Canal Company which undertook the building of a diversion dam and irrigation canal. The Mesa farmers had access to a reasonably steady supply of water from the Salt River. During periods of insufficient water supply, which were frequent, downstream farmers accused the Mesa farmers of taking more than their share of water. (2)

Tempe: Tempe was first called Butte City, then Hayden's Ferry. The town, located at a point where the Salt River flows between two Buttes, soon became an agricultural and trading center. During periods of high water in the Salt, travellers

from Phoenix to Mesa and the mining districts to the west crossed the Salt via a ferry operated by Charles Hayden, a prominent Tempe resident. The first bridge across the Salt was constructed at this same site. (3)

Phoenix: Phoenix, the largest community on the Salt River at the time Arizona achieved statehood, was settled in 1868 at the site of ancient Hohokam canals. It was first called Mill City. Like other nearby communities, Phoenix was an agricultural town, linked to the growing system of irrigation canals in the area, and to nearby communities by the Maricopa and Phoenix Railway, constructed in 1887. Phoenix grew rapidly, and soon became the political, economic and administrative center for the valley. (4)

Cashion: Cashion was established as a railroad stop in 1900. It later developed into an agricultural settlement, drawing water from the Agua Fria and Salt Rivers. The community had little connection with the Salt or Gila Rivers other than its proximity. (5)

Avondale: Avondale was founded in 1896, and was known as Coldwater Station in its early years. It was a stage stop on the Wells Fargo stage route along the northern banks of the Salt River, and was later a railroad stop. Avondale developed into an extensive agricultural region, drawing water from the Agua Fria and Salt Rivers as well as the underground water table. (6)

Liberty: Originally called Altamont, Liberty was founded in 1895. It was also a stop on the Wells Fargo route, and later became an agricultural community. At statehood, well drilling and canal building activities were underway at Liberty. (7)

Buckeye: The town of Buckeye was founded in October 1888 as an agricultural community, originally called Sydney. After the Buckeye Canal was completed in 1895, the town's name was changed to Buckeye. The arrival of the railroad in 1910 linked Buckeye to Phoenix, and was used to transport agricultural products to market not only in Phoenix but to markets further away. (8)

#### Gila River Settlements

Arlington: Arlington, yet another agricultural community, was founded during the construction of the Arlington Canal, in January 1900. The town was founded at the site of the diversion dam. The Santa Fe railroad later connected Arlington with outside markets for agricultural products. (9)

Gila Bend: Gila Bend was the site of an ancient Indian settlement. Located on the south side of the Gila River, the settlement was an important stage station on the Butterfield stage line; it was originally called the Gila Ranch Stage Station. In 1871, the Gila River Ditch Company built a 16 mile canal and a diversion dam, and began offering inducements to



settlers seeking land. The resulting settlement was nearer the river than the stage route. By 1878, the Southern Pacific Railroad passed through Gila Bend on its route to Tucson from the West Coast, and the community became an important railroad and automobile stop for east-west traffic. (10)

Agua Caliente: In the late nineteenth and early twentieth century, Agua Caliente was a hot springs resort. King S. Woolsey, an Army trailblazer, established a residence in the area around 1870. Natural hot springs flowed under the region, and Woolsey sold his holdings to a man who built a resort and advertised the hot springs for their healing properties. Woolsey had built a ferry to cross the Gila to connect Agua Caliente with Sentinel, the major stop on the Southern Pacific Railroad. This ferry operated well into the twentieth century. (11)

Agua Caliente drew health seekers from various parts of the country. Tourists took the train to Sentinel and boarded a wagon which took them to the ferry to cross the Gila. A local resident who moved to the area in 1910 said of the many visitors to Agua Caliente: "All the passengers came from Sentinel in those days. Every day they took a boat across the river to ferry across the passengers and the freight." (12) In 1926, the railroad reached Hyder on the north side of the river, so people no longer needed to cross the river to reach Agua Caliente. In the 1950s, a nearby farmer accidentally stopped the flow of the hot springs by drilling a well on his property. (13)

Several other communities sprang up in the late nineteenth century on or near the Salt and Gila Rivers. They included Heaton, Enid, Estrella, Ocapos, Bosque, Cole, Painted Rock, Sentinel, and Stanwix. All were stops on the Southern Pacific Railroad, built during the 1870s.

It is clear that early settlements in the Salt River valley were primarily agricultural. Many towns that were originally established as stage stops later became agricultural communities when irrigation canals were constructed in the area. Because of the mild climate and fertile land, farmers irrigated the land heavily, realizing they could grow crops year round. After 1909, the number of agricultural settlements increased because the soon-to-be-completed Roosevelt Dam would insure constant supplies of water. The dam would control much of the flooding of the Salt and Gila, which had previously destroyed many of the small diversion dams.

Prior to 1900, little commerce took place among the new communities along the Salt and Gila Rivers. The railroad acted as a catalyst for trade in the area by providing inexpensive and easy access to markets for the valley's agricultural produce. (14) There is no evidence the Salt or Gila Rivers were ever used as highways for transporting goods; in short, they were not used for commercial purposes.

RIVER USES

For the residents of the Phoenix area around the turn of the century, the primary role of the Salt and Gila Rivers was to provide irrigation water for agricultural projects. The rivers were used in isolated instances to transport people, but for the most part they were a hindrance to transportation. This section of the report documents the crossing of the Salt and Gila Rivers by ferries and gives historical accounts of boating down the rivers.

TABLE 3  
"NAVIGATING" THE SALT AND GILA RIVERS

DATE	TYPE CRAFT	CIRCUMSTANCES	OUTCOME
<b>(SALT RIVER)</b>			
1874-1909	Ferry (Hayden)	Across Salt at high water	Usually successful; often dangerous
1875	Logs	Down river; a test	Logs jammed in box canyon
1885	18' x 5' Boat	Down river; a test	Boat wrecked but repaired; safe
1905/1915	Rowboats	Rescue efforts, flood times	One drowning; always dangerous
<b>(GILA RIVER)</b>			
1846	Rafts/flat boats	Down river; Mormon Battalion	Problematic
1849	Rafts	Down river; Peoria Company	Successful
1874-1891	Ferries	Across river	Successful
1879	Row boat (\$10)	Down river	Successful
1889	Boat	Down river	Lost boat but rebuilt
1889	Ferry	Down river	Craft broke up
1895	Houseboat	Down river	Successful

## Ferries

The ferryboat business and boating in general on the Salt and Gila Rivers was seasonal, depending primarily on unreliable rains and the rivers' intemperate flow. In the best years, two months' ferrying was considered good business by operators. Ferries, which were used strictly to ferry goods and passengers back and forth across the river, could only be used when the rivers were their most violent and dangerous, that is at flood stage; and travellers considered them only as a last resort. Before the building of highway bridges, fording on foot, by wagon or on horseback was the preferred way of crossing the rivers.

(15)

The Salt River had a number of established ferry businesses, a few of which remained in operation until the construction of highway bridges in the early twentieth century. The first and most well-known of these enterprises was that established by Charles T. Hayden in 1874. Built of cottonwood trees and large enough to carry a wagon and team of horses, the ferry crossed the river attached by ropes to a cable suspended across the river. By lowering the rear of the craft, it could be propelled through the water by the current. The ferry was used only when flood waters made other types of fording impossible. Frequently the violent flow during floods would tear the raft from its cable mooring and hurtle it downstream, and the vehicle would then have to be retrieved or rebuilt. Hayden's Ferry continued to operate until 1909. (16)

Ferrying on the Gila also began in 1874. On January 31, James Moore launched the first boat for crossing the river at Morgan's Ferry. Later that year, on March 21, King S. Woolsey began using a ferry near his ranch at Agua Caliente. The same ferry was later used to transport vacationers to the hot springs resort at Agua Caliente. (17)

In 1891, a Gila ferry operator boasted a craft large enough to transport a six-horse team safely across the river. In 1908, citizens put pressure on the local government to establish a ferry located somewhere between the mouth of the Salt River and Agua Caliente on the Gila. In 1916, Arizona governor George W.P. Hunt crossed the Gila by ferry, perhaps on one of these larger craft. (18) (See Figure 1)

Other "ferries" on the Gila were not commercial ventures but were more on the order of makeshift improvisations. An item in the Arizona Citizen, dated August 7, 1881, reported that "The Gila River is now so high as to require use of boats in crossing. A flat boat that Superintendent Stewart had made a year and one half ago...now comes in handy." (19) One account of the 1891 flood on the Gila indicates that the usual method of crossing the river was in wagons, but that when rains made the river too high the best bet was to wait until the river went down again. (20)



Figure 1. Crossing the Gila River by Ferry, 1916.  
(Hayden Library Arizona Collection)

## Boating

Boating down the Gila, even before the construction of dams, appears to have been an unusual activity; during most months of the year the river could easily be forded in wagons or on horseback, and there were decent roads and railroads for travel between Yuma and Phoenix.

The earliest recorded attempts at boating down the Gila in Anglo history took place in the 1840s. In 1846, the Mormon Battalion, under Lieutenant Colonel Philip St. George Cooke, floated 70 miles down the Gila to Yuma. The expedition was beset with problems, but it provided invaluable information for later travellers. (21) The California gold rush of 1849 brought thousands of gold seekers down the Gila Trail or Cooke's Wagon Road. Some, like Cooke, attempted to navigate the Gila. One such group, the Peoria Company, attempted to use the Gila River as transportation when the majority of their animals died in the desert. The company made rafts from their wagons, loaded their goods aboard, and set off in three separate groups to reunite at the Colorado River junction. They floated 100 miles to the mouth of the river without loss of life. (22) Still, river trips down the Gila did not become commonplace; most considered the river's flow too unpredictable, even during the rainy season.

Other instances of trips down the Gila River are recorded. The Arizona Sentinel of January 25, 1879 includes an article entitled, "Phoenix to Yuma by Water." It asks the question, "Is the Gila River navigable?", and chronicles the successful navigation of the Gila from Phoenix to Yuma by three citizens of Phoenix. The three built a boat in Phoenix for ten dollars, loaded it with supplies, and successfully paddled the boat downstream. The Sentinel writer claims, "the advocates of navigation of the Gila obtained a solid fact" from the feat of the three adventurers. The only obstacle to clear navigation of the river, claimed the three men, were rocks in the Gila Bend area which could easily be blasted away to provide clear passage.

The Sentinel then called on enterprising Phoenicians to begin using the river as a means of transporting goods produced in the farms around the city. It states that "a flat-boat loaded with grain, pumpkins, or other fruits of the 'Orchard of Arizona' and drawing two feet of water" could easily be floated down to Yuma. Phoenix's produce could then be shipped to New York or London as well as other world markets. The writer claims that by using the river for transporting goods, it can break the monopoly of the railroads and stage lines that charge "extortionate fares." (23)

In 1889, the Tombstone Prospector reported the attempt by a group of men to float a large ferry boat from the Maricopa crossing on the Gila River to Gila Bend. The Maricopa Crossing was directly south of Phoenix and was a major link on the Tucson to Phoenix route. The men had no trouble until they reached a

point on the Gila about forty miles below Phoenix, where the boat hit a "snag" in the river. The current was flowing at about fifteen miles per hour, and the men lost control of the boat, which was subsequently cut in half. (24)

On April 3, 1889, a pair of Clifton prospectors set off from the Gila headwaters in the Black Range, New Mexico, on their way to the Colorado junction in Yuma. The pair lost their boat in the February, 1891 flood, but built another and finally arrived in Yuma in April 1891. They claimed to be the first to navigate the entire length of the Gila River. In 1895, a Graham County man sailed 400 miles down the Gila to Yuma in a houseboat. (25)

In the years just after these successful trips down the Gila, conditions on the river changed dramatically. Numerous communities began to spring up on both sides of the river, and they built diversion dams and canals for purposes of irrigation. The dams and canals obstructed the river and took water out of the main channel, hampering further attempts at navigating its length.

Although rare, incidences of successful navigation of the Salt River are also recorded. In June, 1885, five men set out from Tonto in a craft measuring 18 feet by 5 feet to sail down the Salt. The purpose of the venture was to determine whether logs could be floated from Silver Bell to Phoenix. If successful, one of the men, William Bunch, planned to build a sawmill at Silver Bell. After six days, the group landed safely at Tempe. Although at one point their boat wrecked in turbulent waters, it was the opinion of the sailors that logs could indeed be floated to the lower Salt River. (26)

It should be noted that a previous attempt to float logs down the Salt failed. In 1875, Charles Hayden wanted to build a lumber mill in Tempe, but the venture fell through when the logs he attempted to float down the river became lodged in a box canyon. (27)

As time passed and more water was diverted from the Salt River by diversion dams and irrigation ditches, boating on the Salt became more and more rare. The Arizona Republic of March 30, 1905, reported somewhat tongue-in-cheek that a 76-year-old man, Jacob Shively, built a boat at the Chamberlain Lumber Company in Phoenix, and carried it to the river in a two horse wagon with the intention of sailing the boat to Yuma. There is nothing further on the story in succeeding issues; if Mr. Shively had successfully completed the voyage it would have been newsworthy. Mr. Shively obviously intended to take advantage of the continuing high waters on the Salt during the floods of 1905.

In subsequent years there were several attempts at navigating the Salt River during floods. In the major flood of 1905, a widow and her children were rescued from an island in the Salt River by a sheriff's deputy and an "experienced boatman."

The husband had drowned attempting to rescue his family when his boat hit a barbed wire fence and capsized.(28) Navigating the river in this and other floods was extremely dangerous not only because of the velocity of the flow but because of the debris in the water.

During the flood of January, 1915, a sheriff and deputies braved the violent waters of the Salt in a rowboat to rescue a woman whose home had been isolated on a sandbar.(29) In June, 1941, another severe flood brought an aviation tower in the riverbed near collapse, forcing a group of law officers and linemen onto the river to repair the structure. Regarding the voyage, a reporter for the Arizona Republic wrote, "If the Nazi military machine had as much trouble crossing a river, the war would have ended long ago." (30)

The flood of January, 1966 inspired a south Phoenix businessman, Sark Deradourian, to charter the South Phoenix Yacht Club and lay claim to the river in the name of south Phoenix. To make good his claim, Deradourian launched a flagship at Central Avenue. It floated a few yards onto the river, was caught up in the strong current, and promptly sank, leaving its captain to swim for his life. Deradourian survived, as did the South Phoenix Yacht Club, which was incorporated in 1974. (31)

These isolated incidences of boating on the Salt and Gila Rivers indicate that the rivers were difficult to navigate at any time. The main use of the rivers was for irrigation purposes. The wording of two early court cases demonstrate this fact. In an 1896 case aimed at determining water rights for the Phoenix area, the court stated, "(E)ntering the valley from the northeast is the Salt River, a non-navigable stream." (32) A case filed in 1919 for the same purpose stated that "at times there is more than sufficient water flowing in said Gila River than can be diverted by all of the canals that supply water to the lands in this suit." (33)

## TRANSPORTATION

If the residents of the Salt and Gila River Valleys did not use the rivers for transportation, how did they get around? In this chapter on transportation, the stage lines and railroads that served the Phoenix area are described. In addition, a listing of bridges over the Salt and Gila is provided.

### Stage Lines and Railroads

Stage transportation was begun in the area after the Gadsden Purchase in 1854. The Butterfield Overland Stage followed a route on the south side of the Gila River. It operated only three years prior to the U.S. Civil War. The stage stop at Gila Bend was established to serve this route. After the Civil War, stages again began to travel from Tucson to Phoenix and Yuma. To the north, Wells Fargo ran a stage line that went from Prescott to Wickenburg and on to Phoenix. Stage travel proved difficult, costly and unprofitable, and was replaced by railroads in the 1870s. (34)

In 1877 the Southern Pacific began construction of the rail lines that crossed the southern half of Arizona. Beginning at Yuma, the line travelled an easterly course, following the south bank of the Gila River, until it reached Gila Bend. At that point it headed towards Tucson, then the largest community in the territory. The route from Yuma to Gila Bend was completed in the spring of 1878, and reached Maricopa in the summer of 1878. Travellers took a stage north to Phoenix and Prescott from Maricopa, necessitating the crossing of both the Gila and Salt Rivers. (35)

The Maricopa and Phoenix Railroad was built in 1887, and connected Phoenix with Maricopa. This linked the city with the Southern Pacific Railroad. In 1895 the Santa Fe, Prescott and Phoenix Railroad arrived from the north, connecting Phoenix with Prescott along a route that went from Phoenix through Avondale to Wickenburg and then to Prescott. Later the Southern Pacific built a route along the north bank of the Gila, which connected Buckeye and Phoenix. (36)

### Bridges

The first bridges over the Salt and Gila Rivers came with the railroads. The first bridge over the Salt was constructed for rails in 1891 (some references say 1887) at Tempe by the Maricopa, Phoenix & Salt River Valley Railroad. In 1895, another rail bridge was erected in Tempe with the arrival of the Santa Fe Railroad. When the flood of 1891 destroyed both bridges, the Santa Fe withdrew from Tempe and only the original rail bridge was restored, this time by the Phoenix & Eastern Railroad (later the Arizona Eastern, then the Southern Pacific). This bridge was twice again destroyed (in the floods of 1905 and 1907) and was twice rebuilt. The bridge remained the only structure to span



the Salt River until the concrete and steel Center Street highway bridge was completed in 1911. Two years later, in 1913 (some sources say 1909), the 1400 ft. Tempe highway bridge was erected. (37)

The only bridge over the Gila River (before 1912) in Maricopa County was constructed at roughly the same time as the Tempe rail bridge by the Maricopa, Phoenix & Salt River Railroad. It was located approximately two miles northeast of Sacaton Station. (38)

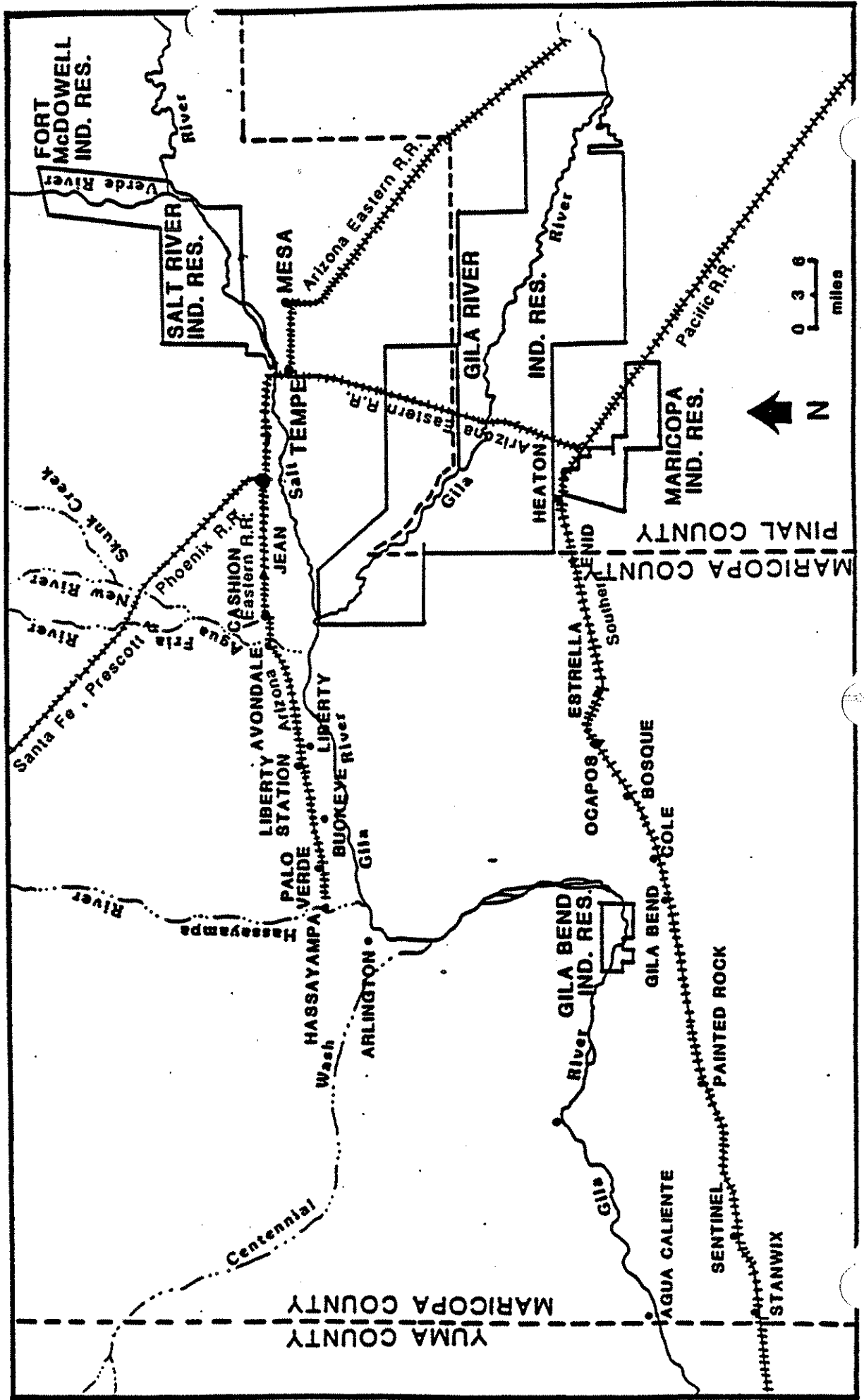


Figure 2. Landowners and Railroads, Salt and Gila River, 1900.

## IRRIGATION CANALS/DAMS

Almost immediately after settling the Salt and Gila River Valleys, residents began appropriating the seasonal water supplies for irrigation purposes. This section of the report documents the construction of major irrigation ditches and diversion dams in the early years of valley settlement.

### Salt River

The first water rights claim was filed in 1867, and the first irrigation ditch off the Salt River was begun that same year. Over the next few years farmers and speculators filed on 365,650 miners' inches of flow of the Salt, many times its capacity. At the same time, the farmers of the valley went "ditch mad," according to the Salt River Herald. (39) Some of these early ditches are listed in Table 4.

The significance of these canals is that implicit in the creation of a canal head on the river was the construction of some structure to raise the level of the water so that it would flow steadily into the canal--i.e., a dam. What is not always clear is whether or not the diversion dams impeded navigation. Some systems used a small dam which helped push water into a ditch cut below the river's level; other systems dammed the entire width of the river. The dams were easily destroyed and rebuilt during and after floods.

A government report of 1887 describes a typical dam: "Stakes are first driven across the channel, and between these bundles of willow trees...are laid, with butts down stream, and weighted with a layer of boulders (sic); tule reeds in bundles are also used, mixed with willow and cottonwood trees. In alternate layers the dam is built up to a height of 5 feet. The willows sprout and the whole forms a mass of living brush and boulders." (40) Obviously this type of structure would present a formidable obstacle to navigation.

The oldest diversion dam was the Swilling (Jointhead) Dam. Jack Swilling, an ex-Confederate soldier, dredged a ditch for irrigation purposes in 1868. The dam began to be called Jointhead when the Swilling ditch was expanded in the 1870s by the addition of a branch called the Maricopa Canal. At that time the Swilling Ditch was called the Salt River Valley Canal. (41) The users of this canal had some of the most valuable water rights in the valley (confirmed by the Kent Decree of 1910), and would have been the most likely of all valley settlers to outlast floods and droughts. William Code refers to the dam in 1900, noting that the canal received water during dry seasons from the Crosscut Canal which was constructed in 1889. He reported a flow of about 60 cfs at the dam, mostly from seepage from the "sixty-odd thousand acres" of irrigated land above the headgate. (42)

The Jointhead Dam was washed away several times during floods, but was continuously rebuilt. In 1911 work was begun on a new Jointhead Dam as part of a series of improvements the U.S. Reclamation Service was making in the delivery system of the Salt River Project.(43) The work was completed in November, 1913. Figure shows the dam upon completion.

Small canals, including the Wilson, Griffin, Chivari, Monterey, Little Giant, and others, were probably not used after the 1890s. According to historian A.J. McClatchie, "As more and better dams were constructed above the heads of these smaller canals, less and less water reached their heads, and they were necessarily gradually abandoned." (44)

The major improvement in the canal system prior to the Salt River Project was the combination of the delivery systems under the Arizona and Consolidated Canals. The Arizona Dam was rebuilt in 1887 after being destroyed by flood, and became the only permanent dam on the river until it was partially destroyed again in 1905. During times of low and medium river flow the Arizona Dam intercepted the entire flow of the river, except for a small amount which seeped beneath it. (45) All of the northside canals normally received their water from the Arizona Canal through the Crosscut by the early 1890s. Furthermore, after the construction of the Consolidated Canal in 1891, all the water for southside canals also came through the Arizona Canal for about four miles, then was diverted through the McDowell Crosscut south across the bed of the river and dumped back in the main channel just above the Consolidated Dam, which fed all the southside canals. (46)

Thus after about 1891 the entire normal flow of the Salt was diverted for irrigation. The only water in the bed after that time was seepage water, flood water, or water turned into the river in connection with canal repairs or dam construction.

### Gila River

Three diversion dams were constructed on the Gila River within the study area which could be considered permanent. There were also a number of canals which were out of use before statehood. See Table 5 for a listing of irrigation ditches on the Gila River.

The Buckeye Dam was completed in 1888, and remained in place well into the twentieth century. It was damaged in several floods, but was repaired each time. The Phoenix Herald reported in 1898 that 100 ft. of the dam had been torn out by a flood and that a large crew was at work on repairs. In 1902 owners of the dam constructed a tramway to the area from a local rock quarry in order to supply stone for dam repairs and improvements. The continuous supply of rock was useful in subsequent repairs. Later that year, the dam withstood a flood of six feet over its top with only minor damage. The dam was repaired again in floods

of 1907 and 1914.(47) :

The Arlington Canal was begun in 1890, probably with a typical rock diversion dam. A notice of appropriation was filed by the Arlington Canal Co. in 1907. A permanent concrete diversion dam was built in 1913-1914. At that time, about 4800 acres were irrigated by the canal, diverting substantially all the water in the river at that point.(48)

Gila Bend Dam was started in 1892. Sloping down into the river bed at an angle, the dam was 2,400 feet long and was initially constructed of rocks and timbers. Like most of these dams, it was damaged by floods several times. In 1897 the canal company was in receivership, and another dam and heading was built 1 1/2 miles upriver in 1902. Thereafter it was known as the Enterprise Canal, and operated continuously through at least 1914, when it was diverting 15 to 25 cfs. Gillespie Dam was built at this site in 1921.(49)

Other canals on the Gila included the Lower Gila Bend Canal, the East Riverside or Peoria Canal, the Aztec Canal, the Citrus Canal and the Palomas Canal. Most had short life spans and temporary dams that were not replaced after flood damage.(50)

#### Granite Reef Dam

Because the crude brush diversion dams used to divert water into canal headings were so often damaged or destroyed by floods, the government built the Granite Reef Diversion Dam, 30 miles east of Phoenix, in 1908. This was the first permanent dam on the Salt River. Granite Reef Dam diverted all the water of the Verde and Salt River except flood waters.

#### Roosevelt Dam

The violent flood and drought cycles in the Salt River Valley led local farmers and landowners to recognize that a water storage system was necessary if agricultural development in the area was to continue. More water was claimed by farmers for irrigation than flowed in the Salt River annually; the farmers began to call for government reclamation as early as 1900. Roosevelt Dam was begun in 1905 and completed in 1910. It was constructed to irrigate 200,000 acres of land.

The permanent dams, diversion dams and canals constructed on the Salt and Gila Rivers are important factors in determining the rivers' regimes. The diversion dams in many cases impeded navigation of the rivers by their very structures, especially in cases where they were replaced with more substantial building materials, as in the case of the Jointhead Dam on the Salt and the Buckeye Dam on the Gila. In addition, the diversion of river flow into the irrigation canals reduced the amount of water in the rivers substantially, especially in the Salt River. What

little water flowed through the bed was diverted for agriculture from the earliest days of settlement of the valley. The permanent dams of course had the same effect; water flowed down the channel of the Salt only at times of major flooding. The effect of diversion of the seasonal flow of the Salt and Gila Rivers was a dramatic change in the nature of the rivers.

TABLE 4  
IRRIGATION DITCHES, SALT RIVER  
1867-1890

(Note: Ditches are listed moving downstream from the upper study area on the Salt)

DITCH	DATE	LOCATION OF HEAD
Tempe	1870	South bank, sec. 34, t2n, r5e
Hayden	1870	South bank, sec. 15, t1n, r4e
Grand	1878	North bank, near Scottsdale Rd
Swilling	1867	North bank, about 40th Street
San Francisco	1870	South bank, west of Hayden Mill
Wilson	c.1872	North bank, about 4 mi west of Swilling head
Juan Chiviri	1869	North bank, sec. 17, t1n, r3e, about 1 mile south of Phx
Prescott	1872	South bank, sec. 20, t1n, r3e, (opposite Juan Chiviri)
Monterey	1871	North bank, sec. 23, t1n, r2e
Farmers	1871	Same as Monterey
Mexican	c.1872	Downstream from Monterey head, exact location unknown
St. Johns (Maricopa)	c.1890	Several miles above Gila confluence

TABLE 5  
 IRRIGATION DITCHES, GILA RIVER  
 1882-1892

(Note: Ditches are listed moving downstream from confluence with Salt River to Maricopa County Line)

DITCH	DATE	LOCATION OF HEAD
Buckeye	1888	4 miles below Salt junction
Arlington	c.1889	13 miles below Buckeye head
Gila Bend (Enterprise)	1892	25 miles north of Gila Bend
Lower Gila (Riverside)	1885	15 miles north of Gila Bend
Citrus	c. 1882	Gila Bend Indian Reservation
Aztec	1885	Unknown
Sentinel Bend	1892	Agua Caliente
Palomas	1887	Agua Caliente

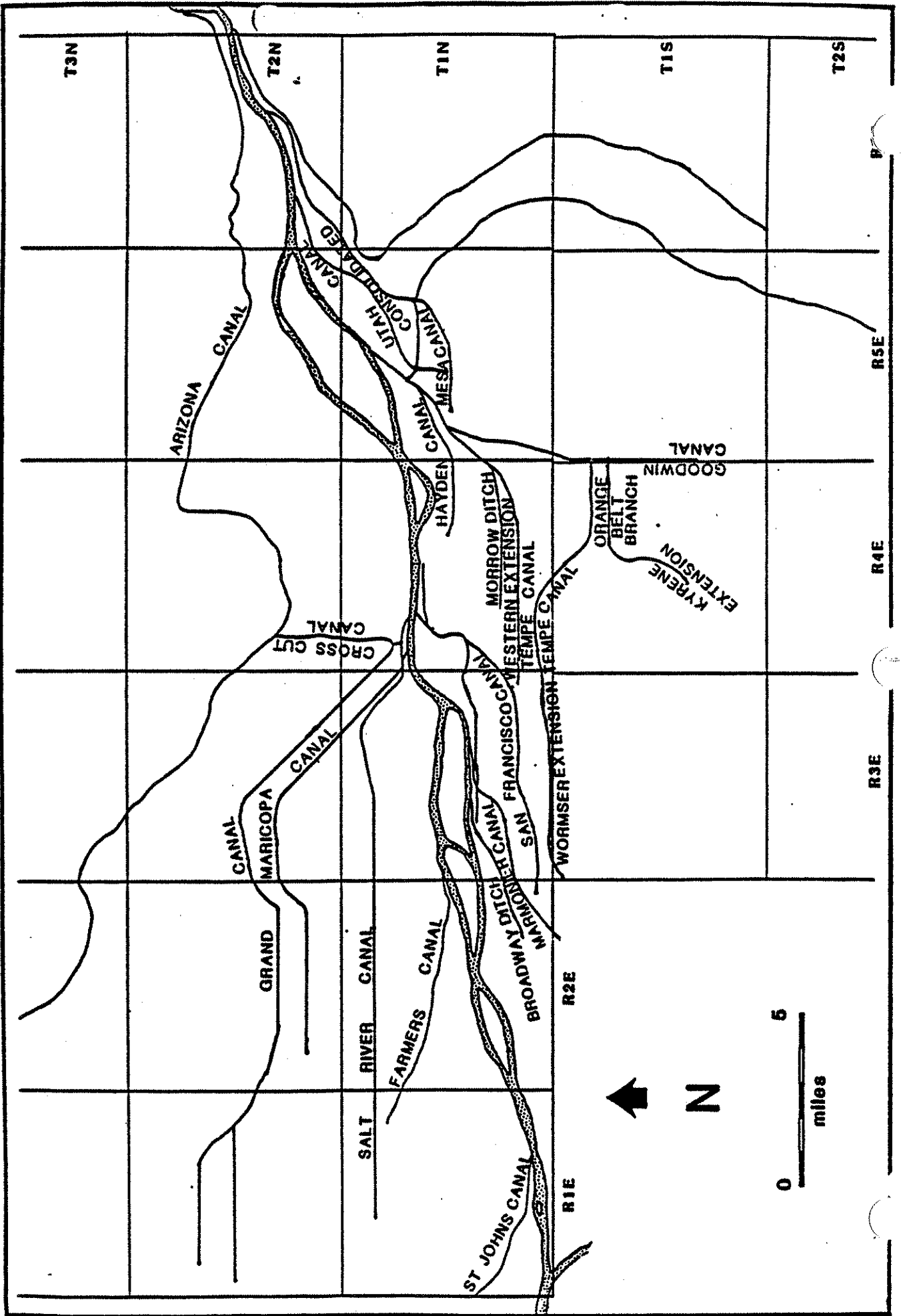


Figure 3 Irrigation Ditches, Salt River.



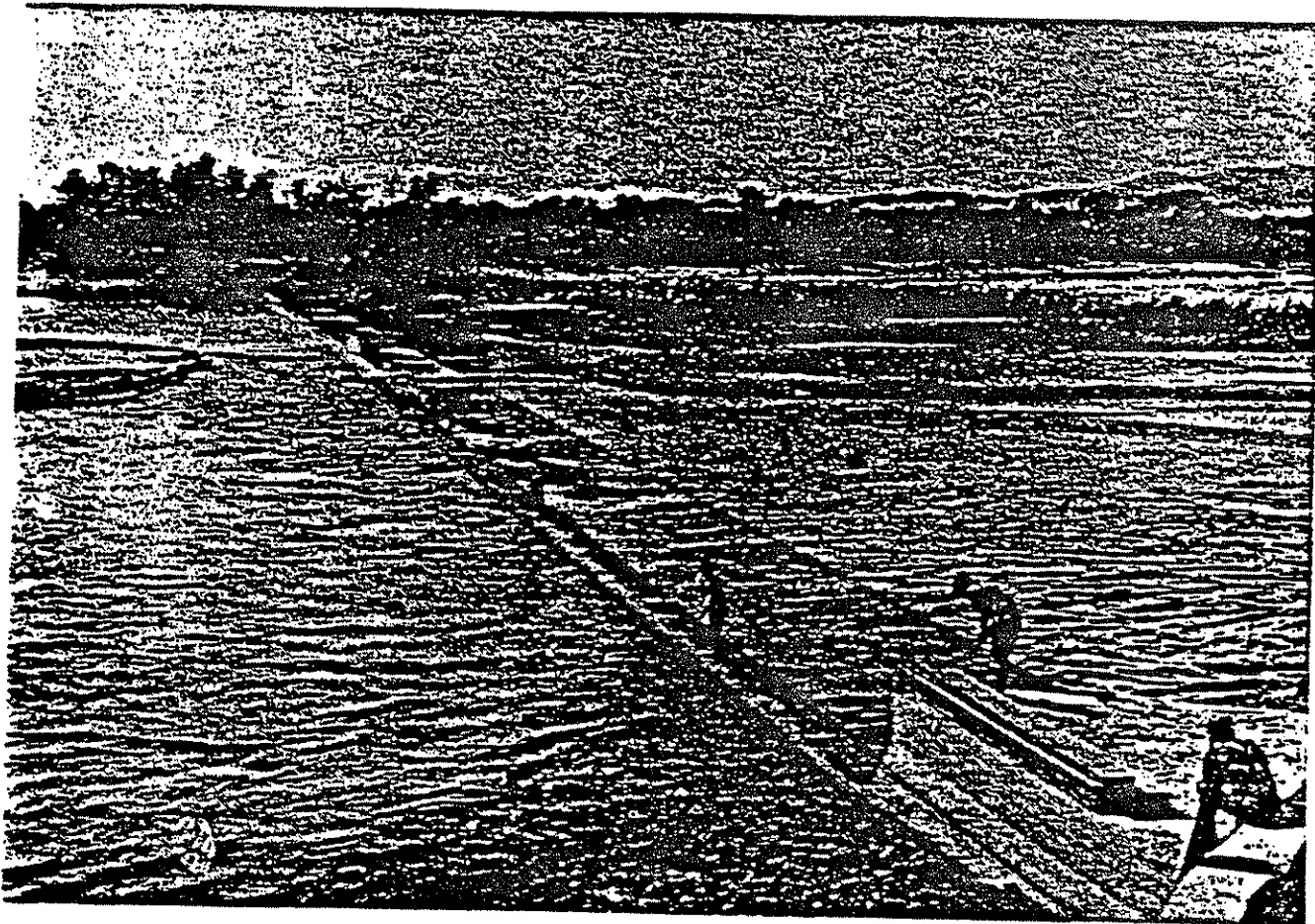


Figure 4. Jointhead Dam, 1919.  
(Hayden Library Arizona Collection)

## FLOODS

All major floods of record on the Salt and Gila Rivers occurred from late September through February. The causes of flooding were almost always heavy rainfall for an extended period, warm weather after a period of heavy snowfall, or excessive rainfall on snow.

Reliable data on flood severity prior to 1905 are scarce. Sources indicate floods occurred in 1838, 1862, 1869, 1880, 1883, 1884, 1889, 1891, 1895, and 1896, but in none of them was discharge measured. For the most part, sources of information on these floods are newspaper records, and the severity and nature of the flood differs with each reporter. (51)

A prolonged rainy spell in 1890 caused the Salt to rise almost 17 feet above normal, and the Tempe railroad bridge and miles of railroad track were washed away. The following year was a wet one in all areas of the Southwest. In February 1891 a major flood hit the Phoenix area. The railroad bridge in Tempe was lifted from its piers by the flood. (52) Both the Salt and Gila Rivers flooded their banks and did extensive property damage. The Salt rose 18 feet above normal, tearing out irrigation ditch heads and causing canals to break their banks. The flood of 1891 is generally considered the most damaging flood in Arizona history. Estimated discharge was 250,000 cfs. (53)

The next major flood appears to have been in February 1905. Phoenix reported the heaviest annual rainfall ever: 19.13 inches. On the night of April 12, 1905, the Salt River again roared out of control. The Santa Fe Railroad bridge went down and the Arizona Dam was damaged. Floodwaters reached as high as Jefferson Street in Phoenix. (54) In November of 1905, rains falling on snow in the Verde watershed caused more extensive flooding. A newspaper report claimed the Salt was higher than at any time since the flood of 1891. (55)

The last flood to top Roosevelt Dam flowed through the low notch in the unfinished dam almost every day from May to November, 1909. (56) Thereafter all the water of the Salt River watershed was captured behind Roosevelt Dam until 1916 when the reservoir reached capacity.

The last flood in the study area before statehood occurred in January 1911, when a flood of the Verde sent four feet of water over Granite Reef Dam. (57) (Another flow of the Salt was created in the river bed later that month when the Arizona Canal was closed for enlargement work for ten days. The water in the river bed "at the crossing" --probably Tempe--was described as "hub deep." After the canal was reopened, the river returned to its "natural size," i.e. a minimal flow. (58)

Throughout the remainder of 1911, 1912 and 1913, drought conditions prevailed. There was a storm in mid-March, 1912, which briefly closed the river bed to wagons at Tempe. There were also unofficial reports of water topping Granite Reef Dam. Once again all the water above Roosevelt Dam was caught behind the dam (59). The drought was not completely over until a week of rainy weather hit the watershed in November 1913, followed in February 1914 by a strong flood on the Verde which sent two feet of water over Granite Reef. (60)

### Flow

There was very little water in the Salt River on the day Arizona became a state. At that time concrete foundation piers were being poured for the Tempe bridge, and water in the riverbed presented a minor inconvenience. On February 13, 1912, the Republican reported that the work had been going smoothly: "One of these (piers) will be in the main channel, and it is hoped to be able to switch the stream above the old P&E bridge and run it nearer the south bank (leaving) dry ground for the pier...and the work will thereby be made less difficult."

In all likelihood the water in the Salt on February 13, 1912 was some of the return flow mentioned by Code in 1900. Increased irrigation and seepage would make the amount of water in the channel slightly above what Code reported in 1900, or 60 cfs. The water could not have been the normal undiverted flow of the Salt or Verde, since all normal flow of these rivers was being diverted to the Arizona and Consolidated Canals, which now both headed off Granite Reef Dam. Any excess flow of the Salt was being added to storage behind Roosevelt Dam, which would not reach capacity until 1916. The Verde River was not at that time controlled by a storage dam, but it was possible to coordinate releases from Roosevelt depending on the measured flow of the Verde, to minimize flooding while assuring a supply for irrigation.

During this period the Arizona Republican reported contents of Roosevelt reservoir almost daily, as well as the normal flow of the Salt at Granite Reef Dam and at Jointhead. For example, on February 1, 1912, the following was reported:

Normal flow at Joint Head, miners inches	3,975 (66 cfs)	
Normal flow at Granite Reef, miners inches	20,800	<i>20,800 wrong = 99 cfs</i>
Contents of reservoir, acre feet	431,725	
Contents of reservoir 1 year ago	144,032	

Since no water flowed past Granite Reef Dam, any water in the bed of the Salt within our study area after 1908 would have come from flooding, underflow or return flow. In 1900, Code stated that all the water in the Salt was diverted at the head of the Utah Canal, yet a flow of about 60 cfs (2,400 miners' inches) was usual at Jointhead. The bed was dry below this point, but at Buckeye head, 24 miles downstream and just below the mouth of the Salt, average volume was 150 cfs. Twenty miles farther down, at

Arlington head, 50 cfs was normal. (61)

In 1905, Willis Lee also noted the substantial return flow. The water was diverted at the Tempe Canal head north of Mesa. Near Jointhead, Lee estimated the flow at 35 cfs. West of Phoenix, water returned to the surface in a flow of about 15 cfs. Lee estimated the volume of return flow from irrigation at 100,000 acre feet a year passing out of the Salt River Valley into the lower Gila Valley. He estimated the total subterranean flow through the Salt River Valley at 287,000 acre feet per year. (62) J.D. Schuyler (1903) noted that the water table was so close to the surface along the river banks that in some places it emerged from springs, or could be brought to the surface by digging a shallow ditch. This was true especially in the Buckeye area. (63)

138 fs

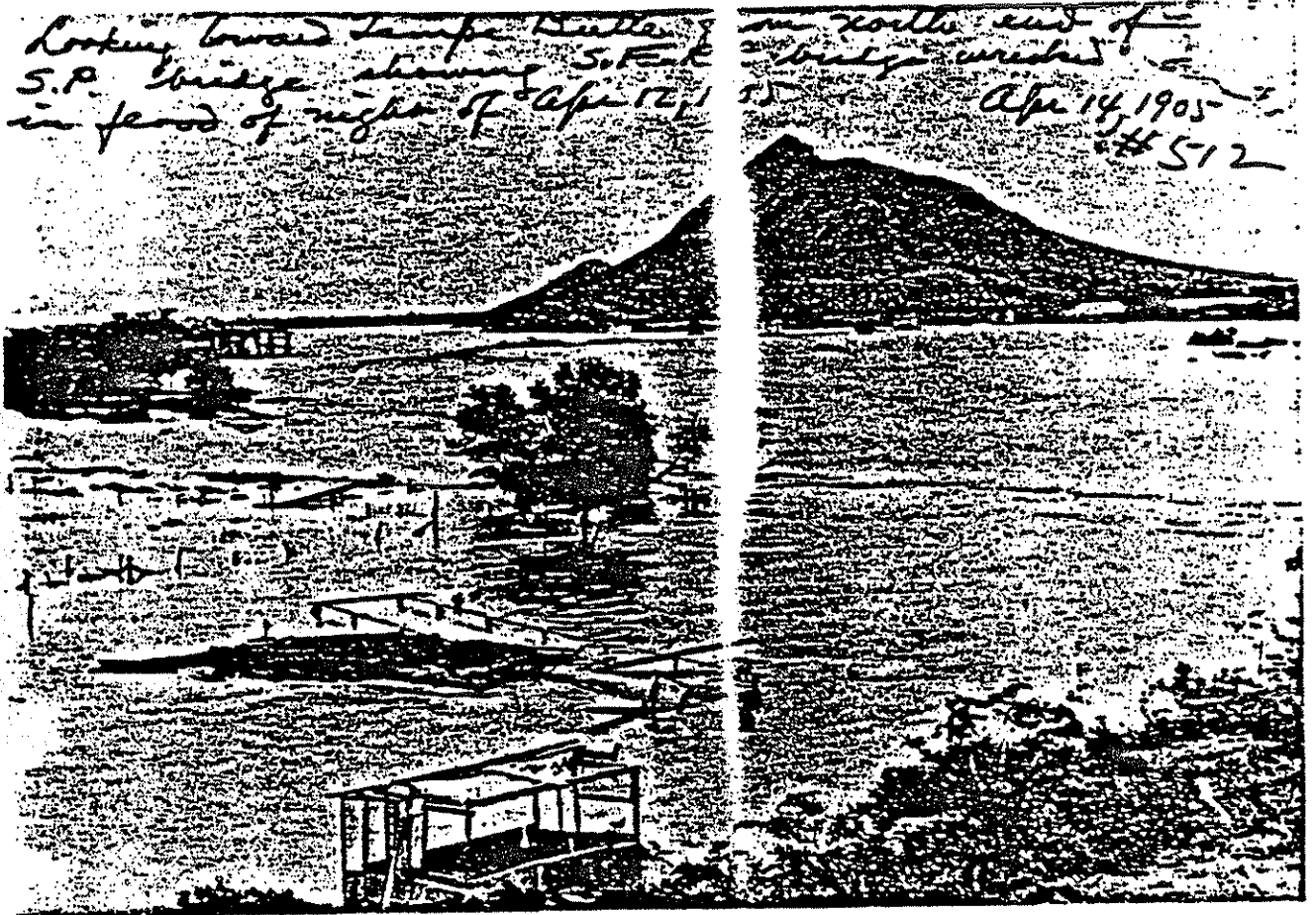


Figure 5. Flood on the Salt River, 1905. Note railroad bridge.  
(Hayden Library Arizona Collection)

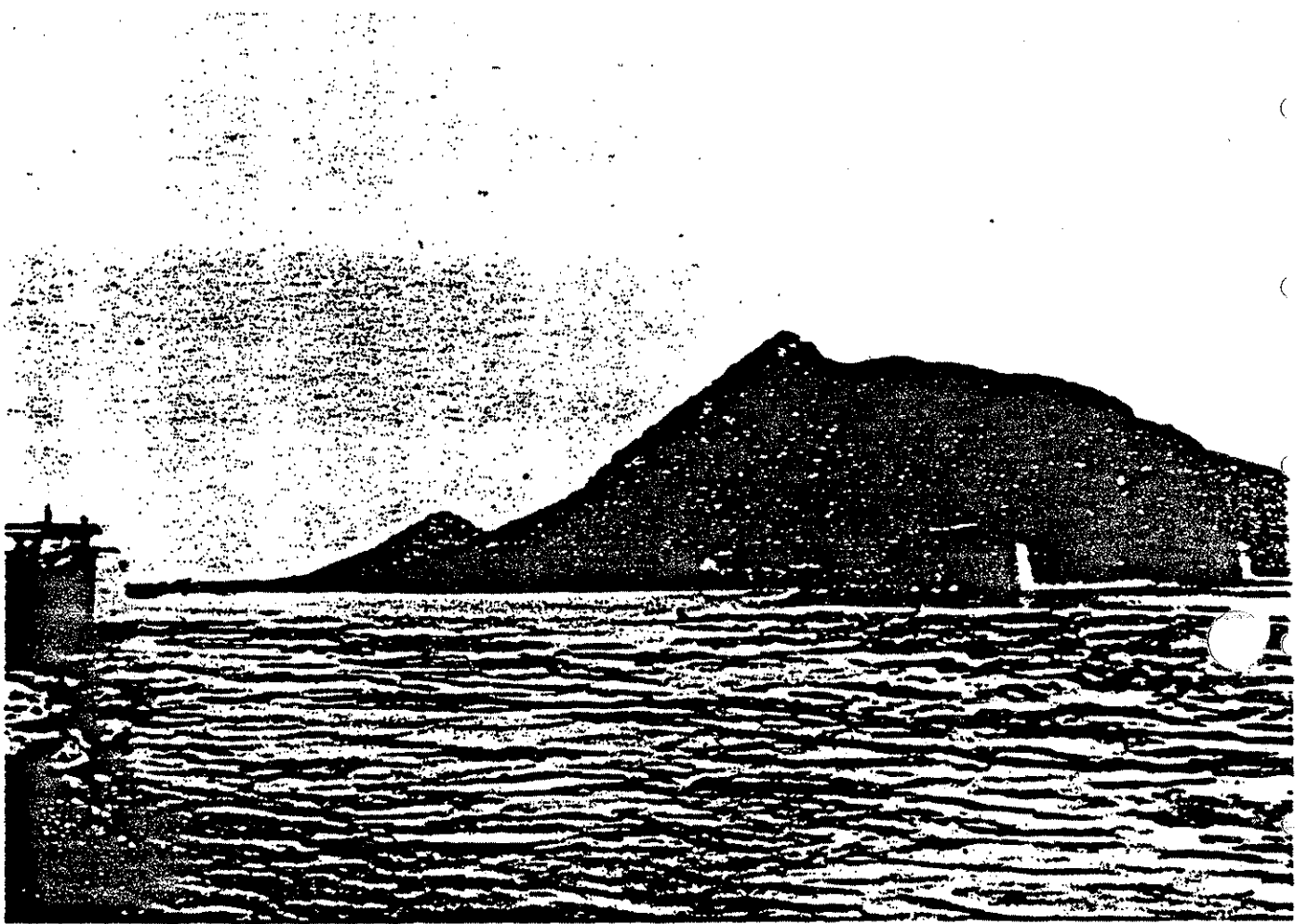


Figure 6. Flood on the Salt, 1905. Note velocity of flow.  
(Arizona Historical Foundation)



Figure 7. Fording the Salt River at Tempe, 1911.  
(Arizona Historical Foundation)

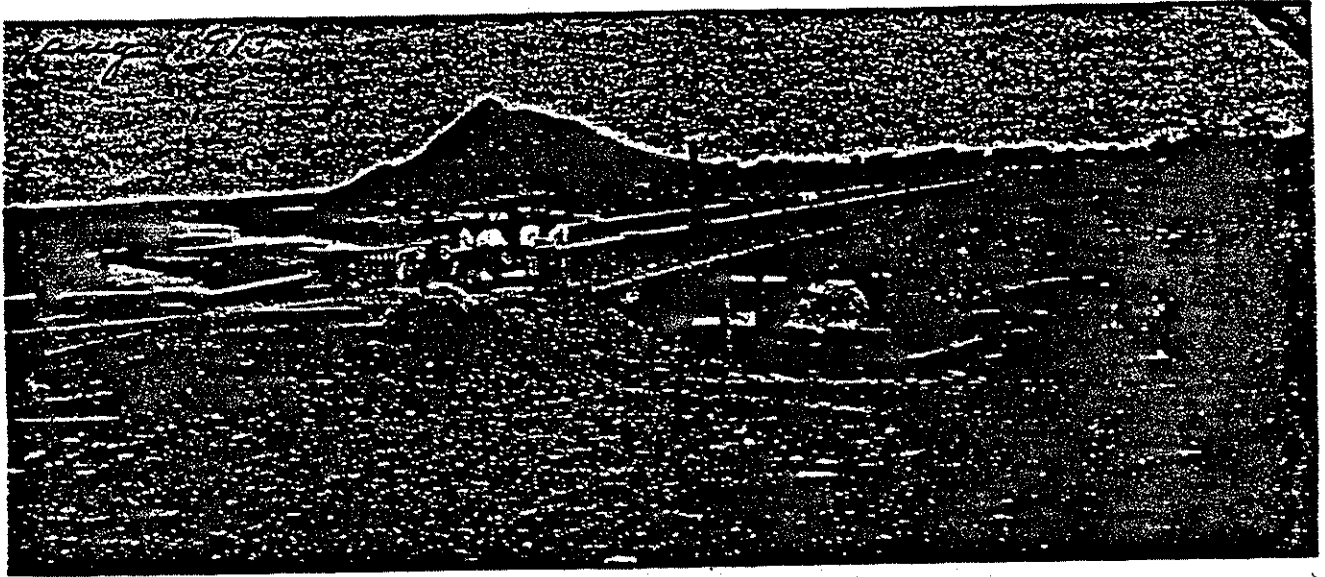


Figure 8. Old Tempe Bridge, 1913. Note meagre flow of water in non-flood time.  
(Hayden Library Arizona Collection)



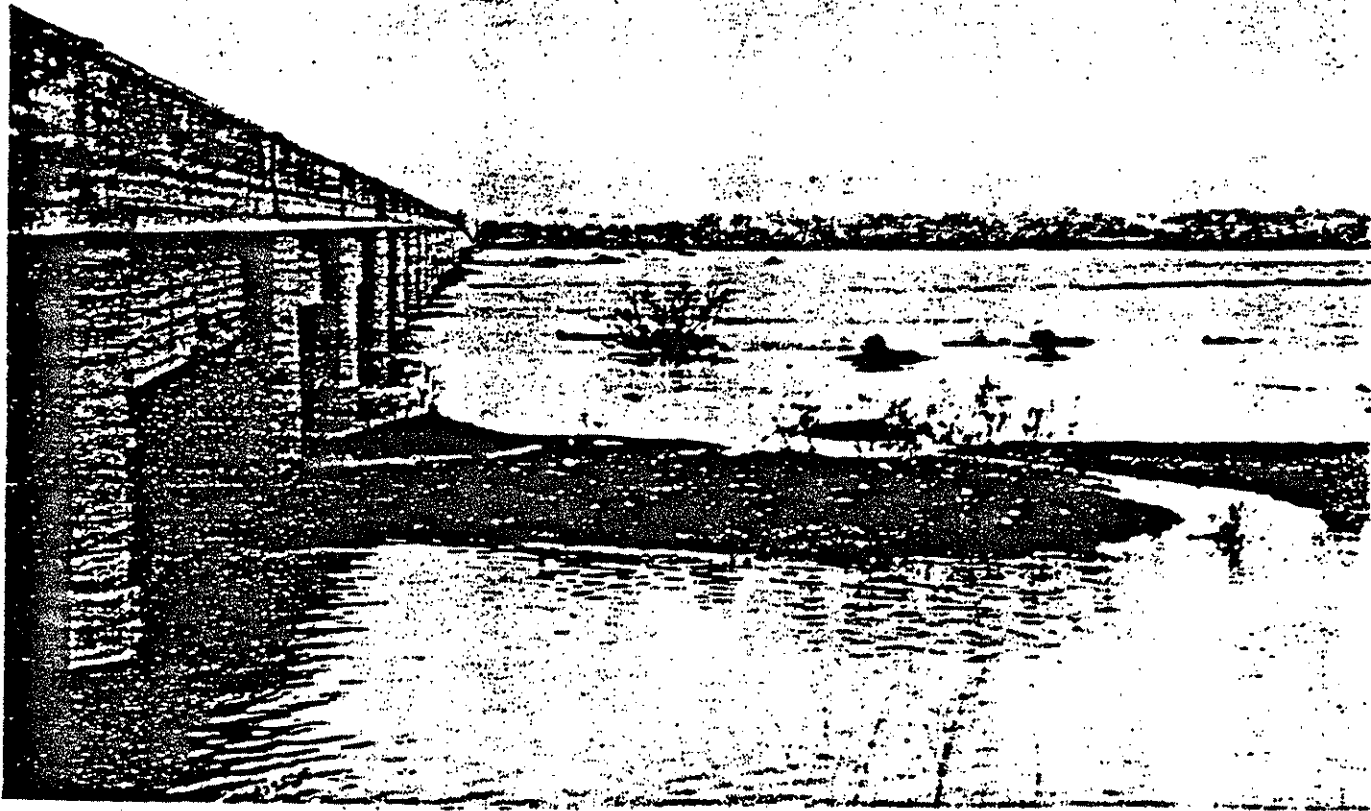


Figure 9. Flood on the Salt River, 1921.  
(Arizona Historical Foundation)

## CONCLUSIONS

Topographical surveys of portions of the Salt and Gila Rivers undertaken between 1868 and 1883 indicate that the Salt River had shifting, sandy channels, often overflowed its banks, was easily forded, and was used for irrigation purposes as early as 1868. The Gila was wide, had a rapid flow, and tended to be more shallow in the area near its confluence with the Salt. Surveyors remarked on the river's suitability for providing irrigation water.

White men settling the Salt and Gila River Valleys in the last half of the nineteenth century established agricultural communities. The mild temperatures in the region were an inducement to grow crops year round, but because of the desert setting, these early settlers recognized that the land would have to be irrigated in order to develop the region agriculturally. Many farmers constructed irrigation canals at sites where Indians had built irrigation ditches centuries earlier.

Many of the early communities along the Salt and Gila Rivers were self-contained. We found no evidence that extensive commerce took place between these communities until the coming of the railroad. We found no record of commerce taking place via rivers.

The flow pattern of the Salt and Gila Rivers was seasonal. During most of the year, the rivers were easily forded either on foot, on horseback, or in wagons. During periods of high water, roughly one or two months of the year, ferries were used to cross the rivers at various locations. Perhaps the most often used ferry on the Salt was the Hayden Ferry at Tempe, which was in use from 1874 to 1909. Ferries crossed the Gila between 1874 and 1891. It appears that the usual method of crossing the Gila was by wagon or on horseback.

There were isolated attempts to navigate long stretches of the Salt and Gila Rivers during periods of high water. (The Salt River was dry or had miniscule amounts of water most of the time, and the Gila was easily forded.) The fact that such attempts were recorded in the local newspapers shows that such incidences were rare, often dangerous, and thus newsworthy. The only account of a successful navigation of the Salt was that of a group attempting to discover if logs could be floated down the river. The party wrecked their boat, but either repaired or rebuilt it, and successfully completed their journey. An earlier attempt to float logs down the Salt proved unsuccessful. There is no record that logs were ever floated down the Salt. Most other records of attempted navigation of the Salt describe rescue attempts during flooding.

Almost every voyage down the Gila appears to have been a dangerous feat. Even before the construction of diversion dams,

the river had shallow sections and boulders, and was unpredictable. Most of the vessels that successfully completed their journey were wrecked at one time or another, or encountered obstacles of some sort. Had trips downriver not been so dangerous or difficult, it seems obvious that such voyages would have been undertaken with more frequency.

Irrigation canals began diverting Salt and Gila waters as early as the 1860s. By about 1890 virtually all the water of the Salt River was used for irrigation purposes. Numerous diversion dams on the Salt and Gila Rivers and two permanent dams on the Salt were constructed prior to 1912. The permanent dams, Granite Reef Dam and Roosevelt Dam, made it possible for farmers of the region to irrigate on a more permanent basis (given the irregularity of river flow and the severity of floods.) Roosevelt Dam decreased the frequency and severity of floods on the Salt and Gila. A comparison of photographs of the 1905 flood (see pages 27 and 28, above) and of the flood of 1921 (page 21) demonstrates this fact.

The construction of these dams also ended even the possibility of navigating the lower reaches of the Salt and Gila Rivers; they actually stopped the flow of the Salt and most of that of the Gila. Any water in the Salt riverbed after 1910 was the result of underflow, return flow, or a release of water into the riverbed while a dam was being repaired. The photographs of 1911 and 1913 (pages 29 and 30, above) show the Salt with only trickles of water. The bed was usually completely dry.

Given the lack of evidence of commercial use of the Salt and Gila Rivers in the study area, and the fact that the flow was scanty and unreliable, it is doubtful that either the Salt or Gila River was considered navigable even before the construction of dams on the rivers. The infrequency of attempts to sail down either river, the newsworthiness of such attempts, and the difficulties encountered by those who made those trips indicates that the rivers were not generally considered navigable at the time. Diversion dams, irrigation canals, and the permanent dams on the Salt effectively ended even the possibility of river navigation by 1910.

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January 31, 1874

James Moore builds boat to cross Gila; launches it at Morgan's Ferry.

Arizona Citizen (Phoenix Herald), 2:2  
March 21, 1874

King S. Woolsey builds boat for crossing Gila.

Weekly Arizona Miner, 4:1  
February 5, 1875

Morgan's Ferry, on Gila River. (Advertisement)

Arizona Sentinel, 3:3  
January 25, 1879

Discussion of navigation of Gila from Phoenix to Yuma. Arrival of a skiff and three bold navigators.

Arizona Citizen (Phoenix Herald), 3:7  
August 7, 1881

"The Gila River is now so high as to require use of boats in crossing. A flat boat that Superintendent Stewart had made a year and a half ago...now comes in handy."

Phoenix Daily Herald, 3:1  
March 11, 1885

"The stage from Maricopa had some delay in crossing the Gila this forenoon consequent upon shifting quicksands impeding the ferryboat and was nearly two hours late."

Mohave County Miner, 2:3  
April 13, 1889

Prospectors left Clifton for Southern California. "It's many a forced bath they will take before reaching this end of their journey."

Mohave County Miner, 2:2  
May 11, 1889

"Party of Clifton voyagers floating down the Gila got to Florence in one piece. Only difficulty...a box canyon below San Carlos....had to get out and transport goods by wagon at rapids....Below rapids to Colorado...smooth sailing."

Arizona Sentinel, 3:2  
March 28, 1891

Ferryboat ready for crossing of Gila large enough to carry a loaded six-horse team safely.

Arizona Enterprise, 1:2  
April 18, 1891

Two prospectors floated a boat from the Gila's headwaters in the Black Range, New Mexico, to Yuma. They lost their boat in the high waters from the February 1891 flood, but built another and continued to Yuma. Claimed to be the first to float the entire length of the river.

St. Johns Herald  
May 7, 1891

Two guys claimed to have floated 800 miles down the entire length of the Gila and that they were the first to do so.

Phoenix Daily Herald, 3:2  
September 7, 1893

"The ferry boat has again been called into use at Polomas, the Gila being so high that teams cannot cross."

The Oasis, 3:1  
May 31, 1894

"The Gila is navigable a long distance up from Yuma at present due to the backing of the waters of the Colorado. In the Colorado the flow is very large, due to the meltage of the snows in Colorado and Utah. Steamboat excursions up the Gila from Yuma are the rage of late."

Arizona Sentinel, 3:2  
March 9, 1895

A 400-mile trip was made by a houseboat on the Gila River. Trip started in Graham County and finished in Yuma County in 1895.

Arizona Republic, 7:4-5  
April 9, 1908

"Board Needs Committee on Bridges and Ferries." Calls for the establishment of a ferry to be located somewhere between the mouth of the Salt River and Agua Caliente on the Gila River to be used three months out of the year.

#### SALT RIVER

Arizona Citizen (Phoenix Herald), 2:3  
February 28, 1874

BR  
"Phoenix: A new ferry boat has been built at Hayden's ferry crossing on the Salt River so that in future passengers will not be caused delay due to rise in the river."

Arizona Citizen (Phoenix Herald), 2:7  
May 3, 1884

Man (George E. Drew) nearly drowned when ferry he was on broke away from the cable. Was saved when someone pulled him out by the hair. (Was a miracle; Drew was nearly bald.)

Arizona Gazette, 3:2  
June 3, 1885

Five men, including William Bunch, John Meadows and Lew Robinson, started in a boat from Eddy's Ranch to explore the Salt River Canyon through which a boat was never known to pass due to rapids and boulders. Their boat was 18 ft by 5 ft. Object was to ascertain whether logs could be floated from Sierra Anchas to Phoenix. If so, Bunch would begin a sawmill at Sierra Anchas. (Silver Belt)

Arizona Gazette, 3:1  
June 5, 1885

Boat party arrived June 4 after six days journey. "Landed their craft in Tempe. They report having enjoyed a most exciting and

interesting trip--on one occasion they were wrecked. The object was to determine if saw logs could be rafted to the lower Salt River, and the undisputed conclusion is that they can. In fact, Mr. Bunch...has partially contracted for the delivery at Tempe of over 1,000 railroad ties."

Arizona Gazette, 3:2  
June 6, 1885

SR  
A long column interview with one of the above party. They caught large quantities of Salt River trout (white salmon?)--"resemble the trout of California," weighed 8-10 lbs. They tied up at the dam of Grand Canal.

Tombstone Prospector, 3:2  
January 24, 1889

Large ferryboat, used for years on the Salt River at the Maricopa Crossing, strikes willow snag in the middle of the river and is cut in two, January 9, 1889. Is valued at \$1,000 by owners, Vol Gentry and William Cox.

Tempe News, 3:3  
Shureman & Singletary operate a ferry above the bridge at Tempe. Round trip takes 5 minutes in 1893.

Tempe News, 3:2  
March 27, 1897

Ferry operating on the Salt River in Tempe in 1897.

The Arizona Republican, 6:3  
February 1, 1898

"The river is going down. The Hows & Finch Ferry was in readiness and would be running now had the river stayed up."

Arizona Republic, 8:2-5  
April 18, 1941

Flooded Salt nearly causes collapse of 133 foot aviation tower in the riverbed near Jointhead. Makeshift "navy," made up of the sheriff's safety squad, ferried a dozen power linemen of the Salt River Valley Water Users Association to the falling tower to erect guywires and prevent its collapse. "If the Nazi military machine had as much trouble crossing a river the war would have ended long ago."

## VITA

ELAINE C. LACY  
1316 West Irisado Cr.  
Mesa, Arizona 85202  
(602) 838-7909

P.O. Box 26765  
Tempe, AZ 85281  
(602) 820-9640

### EDUCATION

Ph.D. candidate, Arizona State University (Major: History  
Minor: Marketing)  
M.A. Public History, Arizona State University, 1985  
B.A. History, University of Hawaii, 1982

### PROFESSIONAL EXPERIENCE

May 1985 to present: Principal, Research Management West

September 1986 to present: Teaching Assistant, Department of  
History, Arizona State University.

May-August 1986: Research Analyst, Institutional Analysis,  
Arizona State University

August 1985-May 1986: Research Associate, Department of History,  
Arizona State University

February-August 1985: Research Analyst, Institutional Analysis,  
Arizona State University

August 1984-February 1985: Research Assistant, Institutional  
Analysis, Arizona State University

May-August 1984: Administrative Assistant, Summer Humanities  
Institute, Arizona State University

August 1983-May 1984: Research Assistant, Department of History,  
Arizona State University

September 1975-September 1980: Owner/Manager, House of Nutrition,  
Honolulu, Hawaii

### ELECTED POSITIONS HELD

1978-1980: Member, Honolulu City Council Neighborhood Board

1976-1977: President, Merchant's Association, Koko Marina  
Shopping Center, Honolulu, Hawaii

***EXHIBIT 3***

✓ LAVINA - INTO system

AN HISTORICAL ANALYSIS OF THE SALT RIVER *SR*  
1830-1912

Barbara Behan  
HIS 591 - *Asu Pagar?*  
May 12, 1988

INDEXED



## INTRODUCTION

The Salt River is an important element in the development of modern Arizona. Like many western rivers, it has played a crucial role in economic growth of the region surrounding it. The purpose of this study is to provide historical analysis of the Salt River as a navigable waterway at the time of statehood. The objectives are to identify documented instances of navigation over a period of time preceding statehood, as well as provide historical context to determine the actual suitability of the river to navigation.

The study considers historical events dating from the first documented Anglo penetration of Arizona around 1830 up to the time of statehood in 1912. Geographically, the scope of the study covers the Salt River from its headwaters at the confluence of the Black and White rivers in the White Mountains to the confluence with the Gila River. The focus is on the historical development of the economy and settlements around and along the Salt River.

This report uses certain terms defined here for clarity and consistency. First, navigation is defined as the act of travelling by water, for purposes commercial, recreational, or simply transportational; does not include crossing or fording. Second, a flood is defined as a rising and overflowing of a river over its banks onto normally dry land. Third, the ordinary condition of a river is defined as that condition in which the river is free of any irrigational or other manmade devices which would impede its natural flow. Fourth, irrigation is defined as supplying land with water by artificial diversion of natural water sources. Fifth, a

usual  
flow condition

settlement is defined as any group of people in an area for the purposes of economic or military activity.

The study provides background historical information on the history of Arizona and the Salt River region and then considers three geographical segments of the river in greater detail.

BACKGROUND: ARIZONA AND THE SALT RIVER REGION 1830-1912

Sometime in the 1830s the first Anglos on record arrived in the part of Mexico that was to become Arizona. These "mountain men", fur trappers from the East and Canada, trapped mostly along the Gila River. A few ventured up into the Salt River Valley and beyond, but were discouraged by the hostility of the tribes of Indians which controlled the area. Most of the trappers continued west to the Colorado. Although there is evidence that some built boats for use on this river, no mention is made of boating on the Salt.<sup>1</sup>

Arizona in the mid-1840s boasted a population of approximately six hundred, of whom few were non-Indian or non-Mexican. In 1848 Arizona became part of the New Mexico Territory of the United States, although Indian domination continued. Tucson and Yuma comprised the only settlements of any size. The U.S. government conducted several land surveys during this time, but the region surrounding the Salt River, still largely controlled by Apaches and other Indian groups, was avoided in this activity.

With the creation of the territory in the wake of the Civil War, Arizona began its era of rapid growth. Two factors after 1863

greatly increased growth and development in the state at large and the Salt River area in particular: the conquest of the Indians and the coming of the railroad. Soon after these were accomplished the western mining boom hit Arizona, signaling the territory's entry into industrialization.<sup>2</sup> This and other industries--cattle and sheep ranching, lumbering, and agriculture--grew rapidly in the Salt River region.

Many more government surveys and exploratory expeditions were organized after the creation of the Arizona Territory. One of these was the 1872 expedition by Lt. George Wheeler and his first assistant, Lt. David Lockwood, whose assignments were to survey the land topographically and prepare maps of the territories. Wheeler, Lockwood and their groups made a thorough survey of the land surrounding the Salt River; their reports give detailed, although non-scientific, descriptions of the land and its tremendous potential for agricultural growth in the Salt River Valley area. Both also described at length the ferocity of the native Apache groups, identifying the barrier this and lack of rail transportation placed on economic growth at the time.<sup>3</sup>

The Wheeler expedition correctly predicted the shape of economic growth to come in the Salt River Valley. Although each territorial industry--mining, ranching, lumbering, and farming--had some bearing on settlement around and use of the Salt River, agriculture and its compulsory use of irrigation clearly made the heaviest demands on Salt River water. The Desert Lands Act of 1877 rewarded irrigation development and the farming boom in the Salt River Valley created the fastest growing settlement area in the state.

The new mining, ranching, and farming efforts had similar effects in creating other settlements along and near the length of the Salt River.

Prior to initial establishment of the railroad in 1880, transportation was a major barrier to economic growth and settlement of these areas. The existing military roads and stage lines were unsuitable for the needs of large-scale mining, ranching, lumbering, and agriculture; these industries grew to importance only after the railroads were built. By the 1890s the transportation problem was solved. Rail lines, including one from Globe to Phoenix, adequately covered the Salt River region, to the benefit of all major economic activities. In 1881 Acting Governor John J. Gosper summarized the great effects of the railroad to Arizona in his annual report to the Secretary of the Interior:

The completion of the [railroads]...has, during the year past, worked a wonderful change in all the business interests of the southern half of the Territory, and reflex influences of which have favorably affected all parts of our great Territory.<sup>4</sup>

The removal of the Indian threat from the Salt River region was a second crucial factor in its growth. Following the Civil War, the U.S. Army set up military posts about the territory to aid in subduing the Indians in a long, protracted campaign. The Apache groups, including those in the upper Salt River area, posed the greatest problem and had been the most successful in keeping out other settlement prior to the Civil War. However, by 1886 the Indian battles were over and the various tribes confined on

reservations. Several reservations were established on or near the Salt River.

Territorial legal developments concerning the Salt River and water generally made all rivers, creeks, and streams in the territory public property. In 1892 the Kibbey Decision declared the Salt River a "natural non-navigable stream" and confirmed the doctrine of prior appropriation. This law states that the water's first user in time maintained first rights to it as long as productive use was made of it.<sup>5</sup>

As territorial growth continued, the Salt River Valley maintained the highest growth rate of all regions. Agriculture expanded and with it demands on the water of the Salt River. In 1902, passage of the Newlands Act created the Federal Reclamation Service and initiated several reclamation projects for the West, including two in Arizona. Construction of Roosevelt Dam on the Salt River was begun in 1905 and completed in 1911. The Salt River Valley Water Users Association, organized in 1903 and representing Valley landowners, took responsibility in 1917 for operation and management of Roosevelt and other Salt River dams.

In 1912, the territory of Arizona became a state.

#### HISTORICAL ANALYSIS OF THREE SEGMENTS OF THE SALT RIVER

This section analyzes characteristics of the river itself and provides historical context for economy, transportation, and river usage along three geographical segments of its course (see Figure 1).

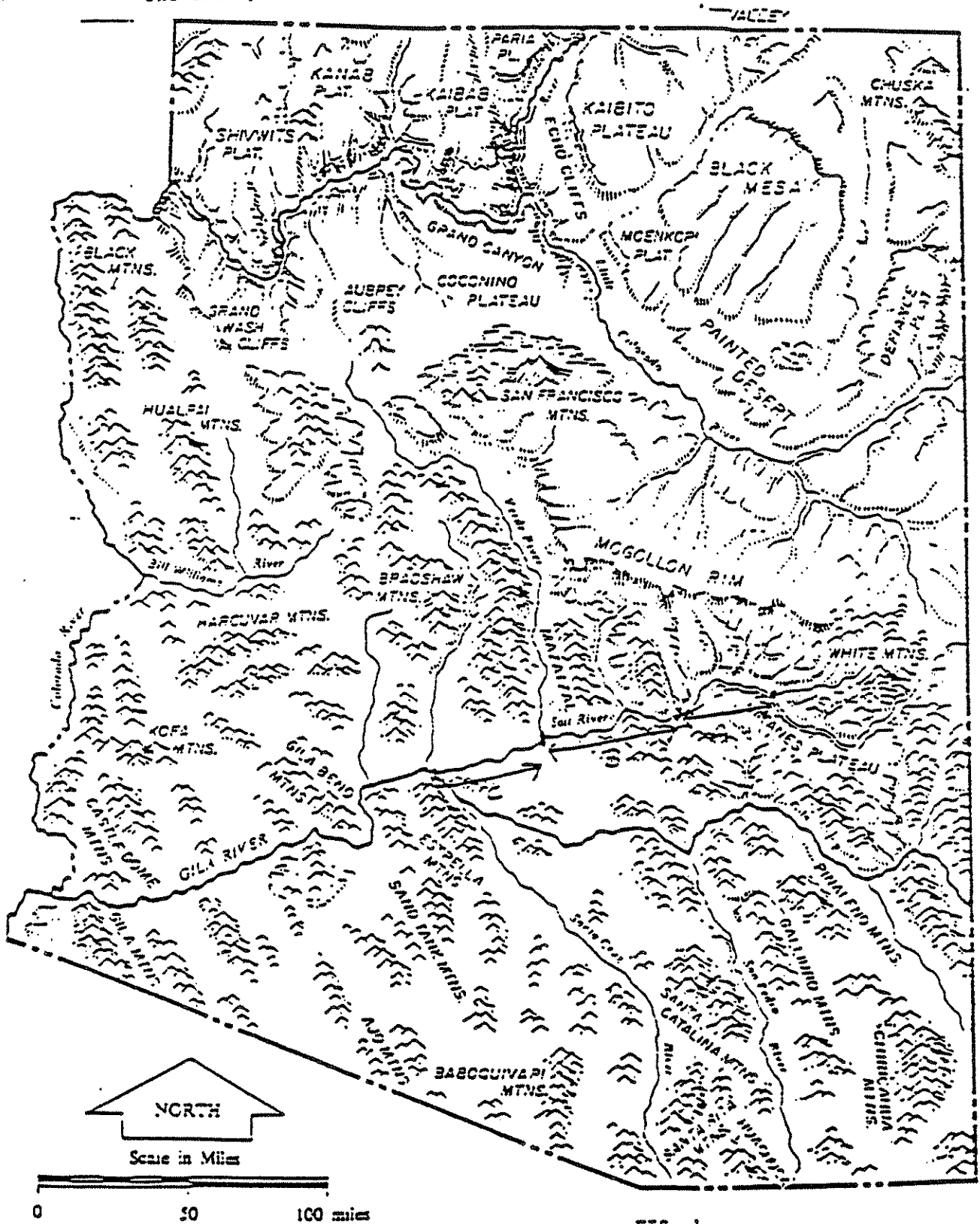


FIG. 1.

- A-UPPER SALT SEGMENT:  
Confluence to Cherry Creek
- B-MIDDLE SALT SEGMENT:  
Cherry Creek to Verde River
- C-SALT RIVER VALLEY SEGMENT:  
Verde River to Gila River

Salt River Characteristics. The Salt River runs from the confluence of the Black and White rivers in the White Mountains to the confluence with the Gila River southwest of present-day Phoenix. Its nearly 200-mile course begins in the White Mountains, and travels through mountainous country of gorges and narrow canyons, along the Matanes Plateau, past the Sierra Ancha, and Mazatzal, and other minor mountain ranges. Some forty miles outside of metropolitan Phoenix the river leaves the mountains and runs through the broad, flat Salt River Valley to its confluence with the Gila River southeast of Phoenix.

Before federal reclamation began shortly after the turn of the century, the Salt River ran unhampered by any large, permanent dams. However, irrigation with small dams and canals was practiced from the time of prehistoric Indians. Some of these early Indian canals provided the means by which Phoenix came into existence as an irrigated agricultural settlement. With the coming of Anglo settlement, the irrigation of the Salt River Valley went through three stages of development: first by individuals, then by canal companies which built extensive canal systems on the lower Salt, and finally by federal reclamation in the form of the Salt River Project.<sup>6</sup>

During the time span encompassed by this study, the river was characterized by inconsistency and unpredictability. The highest water levels generally occurred during the winter and early spring months. Unusually high floods occurred on the Salt in 1890-91 and again in 1905; the latter flood destroyed the bridge of the Santa Fe Railroad over the river. An historian of Phoenix area

development, Geoffrey P. Mawn, also has described the Salt as follows:

[it is] an unpredictable river...at times a torrential stream with a water flow ranging from several hundred thousand cubic feet per second to less than one hundred cubic feet. <sup>7</sup>

The Salt River flood of 1890-91 was strong and destructive enough to change growth patterns in the community of Phoenix. Primary sources almost invariably refer to the Salt as such an unpredictable river. The Kibbey Decision of 1892 described the "very great variations in the volume of water which it carries".<sup>8</sup> In his report of the United States Geological Survey of 1891-92, John Wesley Powell echoed that description: a study of discharge of 29 western rivers found the Salt as having the highest variability between low and high discharges of all the rivers surveyed.<sup>9</sup> The resulting very wide river bed of the Salt River Valley enabled containment of all but the most extreme high runoffs. Finally, in a 1901 promotional pamphlet on Phoenix and Maricopa County, state historian James H. McClintock wrote that,

For the greater part of the year the Salt River is a river only in name. Yet is it one of the most considerable of the flood streams in the nation. It has an average volume ten times that of the Gila.<sup>10</sup>

As Valley settlers later would find, the temperament of the Salt River had an effect on the river's suitability to navigation.

I. Upper Salt Segment: Black and White Rivers Confluence to Cherry Creek Confluence

Geographically, this portion of the river is wild and rugged,



travelling through mountainous country and deep gorges and flowing over waterfalls and rock piles. In 1872, surveyor Lt. David Lockwood described the river's course near the headwaters as "extremely tortuous...very much broken and cut up by vast canyons".<sup>11</sup> The San Carlos and Fort Apache Indian reservations, which assumed their current organization in 1897, occupied much of the land surrounding the headwaters and upper segment of the river.<sup>12</sup>

Settlements. Non-Indian settlements in this area were scarce. Silver mining activity around the mid 1890s produced the mining camp of McMillanville, approximately 20 miles west of the headwaters and eight miles south of the river. The settlement existed as a boom town for some fifteen years, and then disappeared. There is no evidence that the camp made direct use of the Salt River.<sup>13</sup>

Other non-Indian penetration of this area included the Cooley prospecting party of 1869, which located gold in a bank of the Salt River but found the river canyon too rough to explore further. There is no evidence that the party travelled by water in its explorations. Sometime after the Civil War the U.S. Army set up a temporary camp, Camp Hentig, above the confluence of the White and Black rivers. The camp was disbanded with the close of the Apache wars. Additionally, at least one source has indicated that some sort of salt mining activity occurred on the upper reaches of the river at the "Salt Banks" salt works in the late nineteenth century. No reference was found of any sort of water travel in connection with this activity.<sup>14</sup>

TABLE 1

UPPER SALT SEGMENT  
Settlements

NAME	LOCATION	ACTIVITY
Camp Hentig McMillanville	NE of headwaters Approx. 23 mi. SW of headwaters	Military Silver mining

Sources: See endnotes for Upper Salt segment.

Apache Indians. The Cibecue Apaches in the upper Salt River region were part of the easternmost band of the Western Apache tribe, the White Mountain Apaches. These ranged south from the White Mountains to the Pinaleno Mountains. Only one major point of Indian/non-Indian contact occurred during the Apache Wars in this region. In 1872 an altercation at Skull Cave near Cherry Creek resulted in several Indian deaths. Relations for the most part were peaceful after the establishment of the present configuration of reservations in 1897.<sup>15</sup>

Before confinement on the reservations, the Apache tribes depended on a variety of subsistence activities, including irrigated agriculture. Most Apache farms in the upper Salt region were located along permanent tributaries such as Cedar, Cibecue and Canyon creeks, the river itself being too swift, inconsistent or inaccessible to be used for successful irrigation. Water also held many purposes in daily life and had holy significance in the culture. However, there is no evidence that the Apaches in the upper reaches of the Salt used or considered it as a means of transportation.<sup>16</sup>

Water Use Summary. Water use in the upper Salt region consisted of some diversion irrigation on tributary streams and possible salt mining activity on the Salt itself.

## II. Middle Salt Segment: Cherry Creek Confluence to Verde River Confluence

This segment of the river encompasses the region presently covered by Roosevelt, Apache, Canyon, and Saguaro lakes. It forms

a southern boundary to the region known as the Tonto Basin, important in the territorial period for mining and ranching activity. Although it flows through mountainous country, the river and its course are somewhat less treacherous than in the upper Salt region.

Settlements and Economy. Settlements in this region during the time span studied were numerous and economically diverse, representing mining, ranching, and farming interests (see Table 1). The many small settlements near present Roosevelt Lake developed mainly to support cattle and sheep ranching. A small community called Maryville developed just east of the Verde confluence and irrigated nearby agricultural lands with water from the Salt. Additionally, several temporary military camps existed in this region as on the upper Salt. These included Camp Tonto between Tonto and Cherry creeks; Camp Reno on the west side of Tonto Creek, a few miles north of the Salt; and Camp O'Connell, near the Salt River-Cherry Creek confluence. None of these camps existed for more than a few years, and transportation among them appears to have been limited to road travel.<sup>17</sup>

Although no evidence was found of settlements devoted solely to lumbering in this region, there is some evidence that the timber industry had an impact here. Earl Zarbin has written that a sawmill operated on the Salt River upstream from Phoenix; although the exact location is unknown, it is likely that it existed along this middle segment of the river in wooded country.<sup>18</sup>

Globe and Mining. By far the largest and most prosperous settlement in the middle section of the Salt River region was

TABLE 2

MIDDLE SALT SEGMENT  
Settlements

SETTLEMENT	LOCATION*	ACTIVITY
Camp O'Connell	Northeast of Salt/Tonto confluence	Military
Camp Reno	North of Salt on Tonto Creek	Military
Catalpa	Little Salt River Valley (now under Roosevelt Lake)	Sheep ranching
Cline	Near Tonto/Verde Confluence	Ranching
Globe	Approx. 25 mi. south of Salt in Pinal Mountains	Silver/Copper mining
Kirby	Near present Roosevelt Lake	Mormon Settlement
Livingston	On Salt approx. 15 mi. east of Cherry Creek	Unknown
Maryville	On Salt east of Verde confluence	Ranching/farming
Miami	West of Globe	Copper mining
Pinal	Silver King Mine near Globe	Quartz Milling
Silver King	Silver King Mine near Globe	Mining camp
Stanton	Near Salt north of Globe	Ranching

\*Mileages are estimated

Sources: See endnotes for Middle Salt segment.

Globe, situated some 25 miles south of the Salt River. It was originally established in the mid 1880s to support silver, and later copper, mining in the nearby mountains. Silver mining in the district was very successful. In the 1870s and 1880s, the Silver King was the most productive mine in the territory outside of the Tombstone district.<sup>19</sup> The persistence of Globe as a community depended on the continued success of the mines and the few large companies which controlled them. In 1907, the Inspiration Mine Company effected the establishment of Miami, a few miles west of Globe.

River Uses Near Globe. There is no evidence that the community of Globe or surrounding mining settlements economically depended on the Salt River. In the mid-1880s, mining interests made plans for the construction of "extensive works on the Salt River, where the low-grade ores of the Tonto Basin and Globe District can be cheaply worked by the never-failing power of that stream".<sup>20</sup> The smelting works, however, were never built.<sup>21</sup>

Neither is there evidence of mining-related water transportation in the area. In its early days Globe was an isolated camp, probably linked to surrounding mines only by road. Although early transportation problems presented a barrier to mining growth, the single antidote was the coming of the railroad. Robert Spude, a mining historian, has stated that in the 1880s the Colorado was the "one river that eased the burden of transportation" for the industry (emphasis added).<sup>22</sup>

Navigation. One documented instance of successful boating is on record. Although the trip was undertaken for commercial purposes,

it is unclear whether it involved actual transport of commercial goods. In May 1885 the operator of the sawmill mentioned above, a William Burch, obtained a contract to deliver railroad ties to Tempe, and launched a boat upstream of the Tonto confluence to determine whether sawn logs could be floated downstream. Burch and three other men travelled in the boat and reached Tempe, apparently unharmed, six days later. The trip was proclaimed a success; however, it is unknown whether the party actually transported logs with them in this venture.<sup>23</sup>

Twelve years earlier, in 1873, Charles T. Hayden of Tempe had twice attempted a project in floating logs downriver in an effort to obtain lumber for the flour mill he was building. The first trip, undertaken in May, involved boating in a canoe and the actual attempted transport of logs; the party was forced to abandon the canoe and the logs at a very narrow point in the canyon. The second trip also did not succeed.<sup>24</sup> (NOTE: Research for lumbering in this region of the Salt River is not conclusive. Certain sources were not consulted due to time constraints, and conclusions presented here are not final.)

Water Use Summary. Settlements in and around the middle section of the Salt River used the river for agricultural purposes in the westerly nonmountainous areas and perhaps for some support of ranching and lumbering activities around the Tonto confluence. There is one instance of navigation whose documentation is at present not conclusive. There is no evidence of sustained commercial boating on this segment of the river.

### III. Salt River Valley Segment: Verde Confluence to Gila Confluence

Geoffrey P. Mawn described the Salt River Valley immediately following the Civil War as "an unoccupied expanse of arable land covered by growths of Sonoran desertscape and littered with the ruins of and remnants of the prehistoric Hohokam Indians".<sup>25</sup> Although this description fails to take into consideration the sporadic presence of modern Indians in the Valley, it is an accurate picture of the general lack of habitation and development in the area.

Where the Salt River leaves the mountains it enters the broad Valley known today as the Valley of the Sun. It was here that the agricultural future of metropolitan Phoenix lay. Soon after the end of the war, the situation described above quickly changed. The coming of the railroad, the cessation of the Indian threat, as well as becoming the center of territorial government and organization all contributed to the growth potential of the Valley.

Settlements. As mentioned elsewhere, the first settlements in the Salt River Valley were Indian villages, some dating to prehistory. From that time, the Salt River had been diverted and used for irrigation. It was these ancient canal systems which indirectly led to the establishment of Phoenix.

In 1865, Camp McDowell was established a short distance north of the Salt on the Verde River. Like the other military posts of the period its purpose was to protect overland routes and assist in control of hostile Indians. Crossings of the Salt River enroute to Camp McDowell were frequent. A detailed account of life at the



TABLE 3  
SALT RIVER VALLEY SEGMENT  
Settlements

NAME	LOCATION*	NOTES
Camp McDowell	7 mi. N of Verde Confluence	Military; experimental hay farming
Chandler	Extreme SE of Phoenix	Established 1912
Gilbert	Extreme SE of Phoenix	Established 1912
Glendale	NW of Phoenix	Founded by Illinois settlers in 1892
Guadalupe	SE of Phoenix; S of Tempe	Established by Yaqui Indians from Mexico
Hayden	Original site of Mesa	Established by Yaqui Indians in 1888
Helling's Mill	E of Phoenix	Name changed to Mesa in 1888
Lehi	E of Phoenix; S of Salt	Also known as Mill City
Mesa	E of Phoenix; S of Salt	First Mormon settlement; absorbed by Mesa
Nephi	E of Phoenix & Tempe; S of Salt	Mormon: Agriculture & related
Phoenix	W of Mesa	Mormon: Absorbed by Mesa
San Pablo	2 mi. N of Salt River	Agriculture & related commerce
Scottsdale	Adjacent to Tempe	Mexican portion of Tempe community
Tempe	E of Phoenix; N of Salt River	Adopts name of Scottsdale in 1896
	E of Phoenix on Salt River	Mormon: Agriculture & related activities

\*Location relative to Phoenix

Sources: See endnotes for Salt River Valley segment.

Camp is given by Martha Summerhayes, wife of Army Col. John "Jack" Summerhayes, who was stationed there for two years in the 1870s. The Summerhayes' had occasion to cross the Salt River at the standard crossing on the way to the Camp, but give no record of navigable use of the river.<sup>26</sup>

In 1866 the soldiers at Camp McDowell began experimental farming of hay. Geoffrey Mawn states that the purpose for this was that transporting hay on the existing road system was prohibitively costly and another means of providing hay to animals was needed. In the next four years, new settlers took the lead and began farming, probably making use of the ancient Indian canals that were still faintly visible. In 1870 the group of settlers established themselves as the community of Phoenix in the area of present-day downtown Phoenix.<sup>27</sup>

The next community to come into existence grew up around a flour mill erected in 1871 by William P. Hellings. The mill was built on the north side of the Salt River northwest of the initial Phoenix settlement. In time the town was called Mill City, then East Phoenix, and finally was absorbed by Phoenix itself. In the next few years Charles T. Hayden built and began operating his mill at Hayden's Ferry, later known as Tempe.<sup>28</sup>

A major influx of new settlers began in 1877 with the arrival of nine Mormon families from Utah. These settled at what would become the town of Lehi, later to be absorbed by Mesa. The original Mormon settlers were followed by others settling at Hayden, later called Mesa. This group chose the site of Mesa upon finding the ruins of an extensive old canal, which convinced them of the

feasibility of irrigated farming in the area. A portion of this canal was redeveloped by the Mesans and became the Mesa Canal. Many of the Mormon settlers stayed in Hayden's Ferry, and later Nephi, a colony west of Mesa which was absorbed by that town. Other smaller Mormon settlements sprang up but were of short duration.<sup>29</sup>

The 1880s saw the establishment of several factors which were favorable to the Valley's growth. In 1880 the first railroad to span the territory was built, and by the 1890s the lines reached Phoenix. As described, the Indian threat was finally laid to rest during these years as the various tribes were confined to reservations. In 1889, the territorial capitol moved from Prescott to Phoenix and established relative law and order. During this decade, growth continued in Phoenix and the east valley communities. New settlers included a group of settlers from Peoria, Illinois who established themselves at Peoria, Arizona, northwest of Phoenix, in 1888.<sup>30</sup>

Other towns surrounding present Phoenix were established in the late nineteenth and early twentieth centuries. In 1892 the town of Glendale was founded by the New England Land Company and members of the Church of the Brethren of Illinois. Tempe was incorporated in 1894, and in 1896 the community north of Tempe adopted the name of Scottsdale. In 1912, the towns of Gilbert and Chandler were established. Less well-known, ethnic communities also existed. These included Pima and Maricopa Indian villages on the reservations, established in the mid-1870s. There is some indication that the Pima tribe had villages in existence around the

Gila-Salt confluence well before this time. In addition, the settlement of Guadalupe was established by a group of Yaqui Indians fleeing political repression in Mexico in the late nineteenth century, and a Mexican community called San Pablo existed near Tempe until its eventual absorption into that town.<sup>31</sup>

Economic Activity. The primary activities of Valley settlements, and those which depended most on the Salt River, were agriculture and agriculture-related. Irrigation was the central element, and shaped the location and growth patterns of the communities.

Canal building grew rapidly as new settlers arrived. The primary mode of this operation was the canal company, a joint-stock organization in which farmers bought shares of water and usually paid a small fee for upkeep of the canal systems. Jack Swilling organized the first such company shortly after the initial experimental hay farming at Camp McDowell. Subsequent canal companies were established and demands on the Salt River water increased rapidly. This led to the Kibbey Decision of 1892 confirming the doctrine of prior appropriation, which has been described previously.<sup>32</sup>

In 1893, John Wesley Powell made his Thirteenth Annual Report of the United States Geological Survey to the Secretary of the Interior. Powell was greatly impressed by the canal works on the Salt, particularly the largest, operated by the Arizona Canal Company. He described the system in his report and found it to be "of peculiar interest, owing to the extraordinary high flood discharges of the stream from which the canal is diverted".<sup>33</sup>

Milling was an important agriculture-related activity in the early Valley economy. Wheat had long been an Indian staple crop, and the Pimas continued to trade with the new settlers in a fine-grade wheat for grinding. There is some indication that flour mills were in use south of the Salt River Valley during the time of the Civil War; however, the Mellings Mill was the first built in the Valley. This mill was steampowered; at least two others, Hayden's Mill on the Salt at Tempe and the Crismon Mill on the Grand Canal, used water power. (Charles Hayden made use of his share in the Tempe Canal Company to provide the necessary water power for his mill).<sup>34</sup>

By the time of statehood, Phoenix, as the capitol of the territory and central city of the Valley, was well on its way to becoming an agricultural marketing center of the Southwest. Although its economy expanded beyond strict agriculture, these activities remained the most heavily dependent on the water of the Salt River.

Boating on the Salt River. Several instances of boating on this section of the Salt River have been recorded. Generally these fall into one of three categories: ferries, recreational boating, and isolated, one-time instances of varying nature. No record of sustained commercial navigation was found.

Ferrying on the Salt River was a business to many, and several ferry companies have been identified. Among them: Hayden's Ferry at Tempe, the Salt and Gila River Ferry Company (exact crossing location unknown), and the Haws and Finch Ferry of the Salt (exact crossing location unknown).<sup>35</sup> Local newspaper items such as the

following were common in the last quarter of the nineteenth century, and give testimony to the characteristics of the river:

The new boat of the Gila and Salt River ferry company was launched on the turbulent waters of the Rio Salinas yesterday. <sup>36</sup>

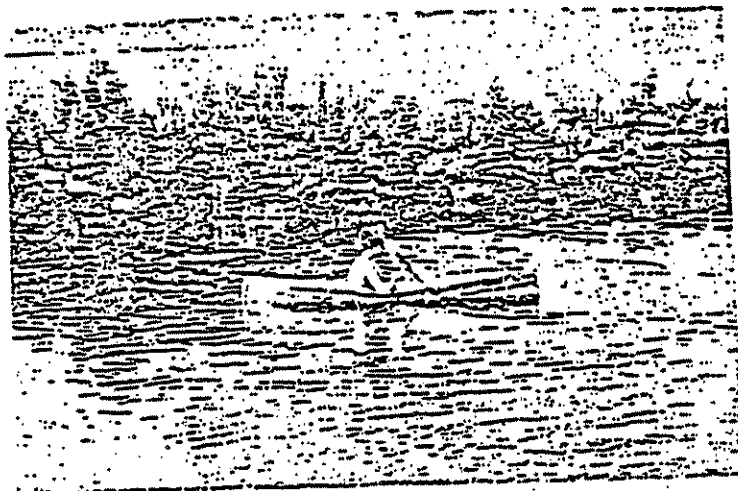
The river is going down. The Haws and Finch ferry was in readiness and would be running now had the river stayed up. <sup>37</sup>

However, while these ferries represented sustained boating use of the river, their purpose was not to use the river for transportation but simply to get to the other side.

Other references to boating on the Salt River include two photos of unidentified location, one of unidentified date (see Figure 2). Neither photo is accompanied by explanatory text. From the size of the boats and the dress of the occupants, it is likely that these are instances of recreational boating. Research into recreation in territorial Phoenix and vicinity indicates that fishing and swimming along the river were not uncommon, but neither do these uses appear to have been major pastimes. Canals were the site of picnics and swimming parties and may have provided as much or more recreational resources as the river itself. <sup>38</sup>

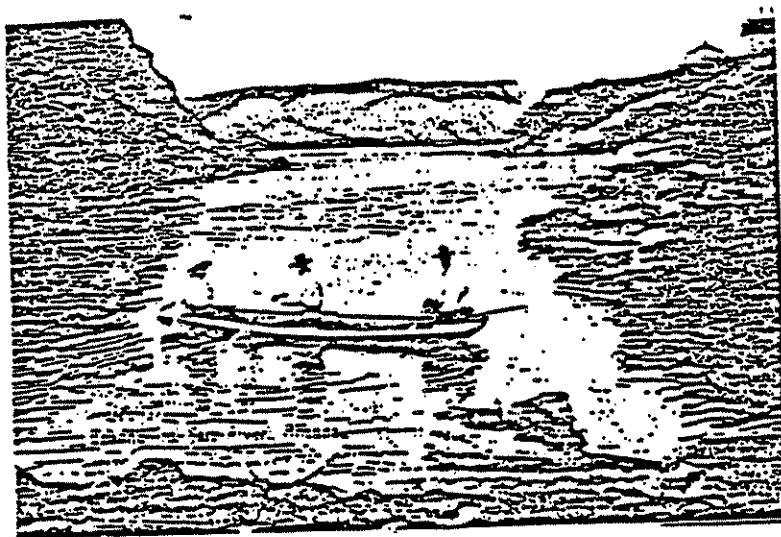
Various other instances of boating are on record. General Irwin McDowell is reported to have possessed canvas pontons in the 1860s for the Salt River crossing on the way to Camp McDowell. (It is likely that the crossing mentioned by Martha Summerhayes occurred at the same spot, although her account does not mention use of pontons.) In April 1884 the Arizona Republican reported that a mail skiff capsized in the Salt River while crossing behind a larger boat, probably a ferry. According to the wording of the article, the skiff may have been used regularly for taking mail

Figure 2.



Boating on Salt River.

Helen W. Seargeant, House by the Buckeye Road (San Antonio, TX: The Naylor Co., 1960).



Arizona (vol. 1, no. 1, Feb. 1910), p. 16.

across, but not down, the river. Another boating incident occurred in 1905 when an engineering crew, which included territorial legislator Benjamin A. Fowler, floated partway down the Salt on a surveying expedition. The party found it "a poor stream for navigation", being caught up twice in the distance of a mile.<sup>39</sup>

One documented record was found for true navigation on the Salt. In 1884, two men shipped five tons of wheat on a flatboat downriver from Hayden's Ferry to the mouth of Swilling canal and up to Hellings Mill. The incident was reported in the Weekly Arizona Miner as proof that the "Salt River is Navigable for Small Craft". The article does not elaborate on any further navigation of this sort or by the parties involved.<sup>40</sup>

Water Use Summary. By far the most important use of the Salt River along this segment was irrigation for farming. Other uses included providing water power for flour mills, and limited recreational use. Of the several documented instances of boating, one has been definitively identified as "navigation".

### CONCLUSIONS

The research has shown that few instances of navigation are on record for the entire Salt River. Two documented examples, one of uncertain nature, do not provide solid evidence of sustained or ongoing occurrence. In general, the economic activity along all regions of the Salt River was not conducive to or dependent on commercial boating.



Along all segments of the river, transportation was dependent on railroads and other roads alone. The lack of adequate transportation before the railroads, and the hindrance this caused to economic growth, is well documented. However, none of the primary sources mention the Salt as an alternate commercial highway. In contrast, several sources mention navigation on the Colorado as an important part of the transportation network in territorial Arizona. Had the Salt been considered viable for such use, it is likely that one or more sources would mention it along with the Colorado. Similarly, the evidence is very strong in favor of the argument that the Salt was not even considered as a navigable route but was seen as useful almost exclusively for irrigation. Newspapers, promotional pamphlets, published and unpublished works, as well as federal and territorial government documents of the time all mention the tremendous potential of the Salt for irrigation and farming use. Few mention its suitability for navigation (the two that do have been described previously). Documentation of the river's fluctuations and unpredictability further support this argument.<sup>41</sup>

A final conclusion is that the river may never have been seen by non-Indians in its "ordinary condition". Irrigation canals existed since prehistoric times, as recorded by numerous sources. These sources do not indicate the extent to which these canals altered the flow of the river as it ran in the nineteenth century; however, the fact that canals existed at all runs counter to the definition of ordinary condition, which implies no alteration of the original course.<sup>42</sup>

In summary, arguments may be made for the navigability of the Salt River at the time of statehood based on the two documented instances; however, the case is stronger for non-navigability. This argument is based on the following conclusions: that the river was too unpredictable and variable to be navigated feasibly on a sustained basis; that too few instances of navigation are on record to suggest that regular navigation occurred; that the sources indicate a lack of consideration of the Salt River as navigable at the time; finally, that overall lack of actual navigation suggests that the river was not susceptible to navigation.

## ENDNOTES

1. Odie Faulk, Arizona: A Short History (Norman, Oklahoma: University of Oklahoma Press, 1970), 56-8, and Henry P. Walker and Don Bufkin, Historical Atlas of Arizona (Norman, Oklahoma: University of Oklahoma Press, 1979), 17; both sources describe general routes of mountain men. Some confusion exists as to how far the trappers went up the Salt River: Walker and Bufkin suggest that James Ohio Pattie's route went far up the river; however, Pattie's own chronicle of his Arizona expeditions indicates that he ventured up only a short distance. See James Ohio Pattie, The Personal Narrative of James Ohio Pattie (N.P.: J.B. Lippincott Co., 1962). None of these accounts of mountain men documents boating on the Salt River.
2. Robert Lester Spude, "Mineral Frontier in Transition: Copper Mining in Arizona 1880-1885" (Master's thesis, Arizona State University, 1976), 4, 219.
3. U.S., Department of War, "Report on Exploration of the Public Domain in Nevada and Arizona", Lts. George M. Wheeler and David W. Lockwood, H. ex. doc. 65, 42nd Congress, 2nd session, 3,23,52,65,67-8 (1872)..
4. Arizona, "Report of the Acting Governor of Arizona to the Secretary of the Interior" (1881), 916.
5. Faulk, 169. M. Wormser, et al., v. Salt River Valley Canal Co., et al., No. 708, Decision, Second Judicial Court of Territory of Arizona (1892), 5.
6. This three-stage framework of development is borrowed from Faulk, 171.
7. Geoffrey P. Mawn, "Phoenix, Arizona: Central City of the Southwest, 1870-1920" (Ph.D. Dissertation, Arizona State University, 1979), 1, 139.
8. Wormser v. Salt River Valley Canal Co., Decision, 1.
9. U.S., Geological Survey, Thirteenth Annual Report of the United States Geological Survey to the Secretary of the Interior, 1891-92: Part III: Irrigation, by John Wesley Powell (Washington: Government Printing Office, 1893), 10-11, 175-76.
10. James H. McClintock, Arizona state historian, Arizona: With Particular Attention to its Imperial County of Maricopa, a Land of Plenty Under Smiling Skies (Phoenix: Press of the Arizona Republican, 1901), 25. This descriptive pamphlet is found in the McClintock Collection, Phoenix Public Library.
11. Department of War, "Report on Exploration", 65. Gives descriptions by Lt. David W. Lockwood, second in command to Lt. George Wheeler.
12. U.S., Office of Indian Affairs, Annual Report of the

Commissioner of Indian Affairs to the Secretary of the Interior for the Year 1873 (Washington, Government Printing Office, 1897), 114.

13. Will C. Barnes, Arizona Place Names (Tucson: University of Arizona Press, 1960), 108.

14. Weekly Arizona Miner, Nov. 6, 1869, 3/4, and notes from James C. Barney Collection, Arizona Historical Foundation. Walker and Bufkin, 25-6, 36-7. Barnes, 117.

15. Keith Basso, et al., "Persistence and Change in Western Apache Culture" (unpublished manuscript, University of Arizona, N.D.), 3. Walker and Bufkin, 37-8.

16. Basso, 3, 6, 14-15, 43-59, 63. This is a detailed anthropological study of Western Apache culture and was consulted to determine if the Apaches would have had cultural reasons to navigate the river. Neither this study nor the Annual Report of the Commissioner (1873) provide evidence of boat use by Apaches.

17. Barnes, p. 98, 99, 107, 117; describes town sites and economies. See also Patrick Hamilton, Resources of Arizona (Phoenix: N.P., 1884), 256-288 for a description of cattle and sheep ranching around Pinal Mountains and on tributaries of Salt River in the middle segment. Weekly Arizona Miner, June 7, 1873, 1:5. Walker and Bufkin, 25-6, 36-7. U.S., Department of War, Military Division of the Pacific, "Report on Roads and Conditions of the Buildings at Military Posts in Arizona" (1868), 3.

18. Earl Zarbin, "Pioneers tried to float logs down Salt River for sawmill in Valley", Arizona Republic, Dec. 22, 1985, n.p.

19. Spude, 45-49.

20. Hamilton, 128.

21. Spude, 19.

22. Ibid., 3. See also Department of War, "Report on Exploration", 24, for mention that railroad expansion into mining districts would expand their profitability.

23. Zarbin, n.p. The exact wording of the relevant paragraphs follows: "In May 1885, another expedition was made on the Salt River to determine if sawed logs could be carried downstream to Tempe. This time, William Burch, a sawmill operator upstream on the Salt River, contracted to deliver railroad ties to Tempe. Burch was accompanied by three men. They launched a boat in the Salt River about four miles above the river's junction with Tonto Creek in the Tonto Basin. Six days later, they reached Tempe".

24. Ibid. The very narrow point which Hayden's party encountered probably was the same one described by Burch's crew.

25. Mawn, 4.
26. Martha Summerhayes, Vanished Arizona: Recollections of the Army Life of a New England Woman (Lincoln, Nebraska: University of Nebraska, 1979), 194-96. "Report on Roads and Conditions...", 4.
27. Mawn, 7-8.
28. Discussions of early milling are found in Barnes, 191; "A Highway Tour to Flour Mills", The American Miller (March 1, 1926), 1; "Construction of first flour mill in Valley described by writer", (unknown local newspaper and date, probably around turn of century), located in McClintock Collection clipping file. Zarbin describes Charles T. Hayden as being in the process of building his mill in 1873; Judge Kibbey, in the Wormser v. Salt River Canal Co. Decision, confirms that the mill was operational in 1874.
29. Walker and Bufkin, 28, and Barnes, 186. Powell, 135. Barnes, 189.
30. Barnes, 191.
31. Ibid., 182, 195, 193, 179, 182. Various sources mention the presence of Indian groups in the Salt River Valley itself, including Walker and Bufkin and Pattie; two sources indicate the existence of actual settlements of Pimas in the Gila-Salt River confluence area in Civil War times or earlier: Hamilton, 295, and "A Highway Tour to Flour Mills", 1, which quotes state historian James H. McClintock: "I think the first flour mill to succeed the native metates in southern Arizona was...at the Pima Villages, captured by the Confederates in 1862". Barnes, 183, 193, discusses Guadalupe and San Pablo.
32. Faulk, 169. Wormser v. Salt River Valley Canal Co., Decision, 5.
33. Powell, 175-6.
34. Two sources document the trade with Pimas for their superior-grade flour: Hamilton, 295, and "A Highway Tour to Flour Mills", 1. H. W. Jeffries to James H. McClintock, Dec. 19, 1925, McClintock Collection. M. Wormser, et al., v. Salt River Valley Canal Co., et al., mentions Charles Hayden's ownership in the Tempe Canal Co. and his use of water rights to power his mill.
35. Hayden's Ferry, #249, Old Settler's Photograph Collection, Tempe Historical Society.
36. Arizona Gazette, April 21, 1884, 3:1.
37. Arizona Republican, Feb. 1, 1898, 6:3.
38. John Myers Myers, "The Salt's Navy Attests to a Once-Moist River", Arizona Days and Ways (Dec. 9, 1956), 22. For discussions of general recreation on and around Salt River in territorial days, see

Helen H. Seargeant, House by the Buckeye Road (San Antonio: The Naylor Co., 1960); "Pastimes and Recreation in Olden Phoenix", Sheriff's Magazine (Aug-Sept. 1955), 75; Etta G. Young, "How Arizona Entertains", Arizona (Feb. 1912), 6; "Red-blooded sports are enjoyed by citizens of Phoenix in early days", clipping from local newspaper of unknown date, McClintock Collection; and notes on recreation in James C. Barney Collection.

39. "Mail Lost", Arizona Gazette, April 14, 1884, 3:2, reads: "Yesterday morning's mail for Maricopa was lost in Salt River. The mail and passengers are taken over in the skiff which starts about 100 feet above the big boat. Yesterday it seems that both boats left the bank about the same time and the skiff being washed down with the current struck the rear corner of the big boat on the upper side and was at once capsized." "The Price Fixed on the Canals", Arizona Republican, Dec. 9, 1905, 6:2-4; one of the passengers on the was was a Mr. Fowler, recently "commissioned by the board of governors to go to Washington". This probably was Benjamin A. Fowler, a territorial legislator active in promoting national irrigation legislation for Arizona.

40. Weekly Arizona Miner, May 3, 1873, 3:2; the entire text of the news item follows: "The Salt River is navigable for small craft as, last week, L. Vandermark and Wm. Kilgore brought five tons of wheat, in a flat boat, from Hayden Ferry, down the river to the mouth of Swilling Canal and thence down the canal to Hellings and Co.'s mill". An investigation into the two men named in the article was made in the McClintock Collection biography file; however, no information was found.

41. Primary sources which mention the Salt as irrigable but do not describe it as navigable include, but are not limited to, the following: Hamilton, Resources (1884); Department of War, "Report on Exploration"; Geological Survey, Thirteenth Annual Report; Wormser v. Salt River Valley Canal Co., Decision; McClintock, Arizona (1901); a collection of descriptive and promotional pamphlets issued by the Phoenix Chamber of Commerce, Sunset Magazine Home-seekers Bureau, Commission of Immigration for Maricopa County and other agencies during the first twenty years of this century, located in McClintock Collection; and documents, clippings, and notes in other files at McClintock Collection, Barney Collection (Arizona Historical Foundation), and Geoffrey P. Mawn research notes collection (Arizona Historical Foundation).

Primary sources which document navigation in Arizona on the Colorado River but do not mention Salt River navigation include Hamilton, Resources; Summerhayes, Vanished Arizona (1979); Gosper, "Report of Acting Governor" (1881); Wheeler, "Report on Expedition"; and Pattie, Personal Narrative (1962). Several secondary sources, including Spude and Faulk, also document Arizona navigation applied to the Colorado River but fail to mention such boating on the Salt.

42. "A Valley Reborn: The Story of the Salt River Project" (Phoenix: Salt River Project, N.D.), 2-3; Geological Survey, Thirteenth Annual Report, 133, 135; Hamilton, 361; Mawn, 4.

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Photo Collections: Arizona Historical Foundation; Tempe Historical Society Old Settlers Collection

***EXHIBIT 4***

## Inspection Report of Camp Mc Dowell.

Camp Mc Dowell is situated on the west bank of the Verde seven miles from its junction with the Rio Salado. See Page 263 descriptions of Military Posts and Garrisons issued from our office.

The Quarters and Storehouses, Hospital, Guard-house, etc. are not at present as described on Page 263. The buildings at this Post are now as follows:

One building, Officers Quarters, six sets - three of three rooms, three of two rooms made of adobe with shingle roofs, bay windows. One building, officers quarters, four sets, two of three rooms, two of two rooms made of adobe, shingle roofed, one used as Headquarters.

Five sets of quarters as above - have kitchens of two and three rooms to each set all of which are now being shingled.

Two sets of Company Quarters, adobe, one hundred, and fifty by twenty, with detached kitchens all in good order with shingle roofs.

One guard-house, adobe, mud roof, not in good condition.

Storehouses, One Commissary and Quartermaster's, one hundred and thirty by twenty-three of adobe, shingle roofed with good cellars, all in good order. Two others about one hundred feet each now being furnished with shingle roofs and used as blacksmith shop, carpenter shop, baker's shop, saddler's shop, etc all in fair order.

Hospital built of adobe, shingle roof, formerly Commanding Officers Quarters.

The dispensary, ward, store room, dining room and kitchen in good order.

Magazines about twelve by twelve of adobe with mud roof.

One building, adobe, mud roof, seventy by twenty used as

In the Subsistence Department. In the L. M. Dept. there is but one citizen employed, a blacksmith. The following is a list of transportation at the post;

Horses.	Summations. (1)	Serviceable
Mules.	Twenty-two (22)	do.
<del>Army wagons</del>	Six (6)	do.
Wagon Throughbars	Two (2)	do.
Carts	Four (4)	do.

The following is a list of Contracts in the Quartermaster and Subsistence Departments.

Name of Contractor	Articles	Price	Remarks.
John Smith	Hay	\$ 14.00 per ton	Expires June 30th, 1875
P. M. Mead	Banley	17 1/2¢ per lb.	" " 30th "
L. W. Womers	Soft wood	\$ 4.00 per cord	" " 30th "
Edison Oliver	Transportation	\$ 1.50 per 100 miles.	From Depot to Camp M <sup>o</sup> Davis. It expires June 30, 1875.

Mead & Co.	Beef	12 2/3¢ per lb.	For issue
do do	do	13 2/3¢ " "	For sale
do do	Mutton	14 2/3¢ " "	For issue
do do	do	15¢ " "	For sale
C. P. Head	Beans	23¢	
C. T. Hayden	Comm meal	04 1/2¢	
M. Colburn	Flour	03 5/8¢	
W. J. Jankendorf	Beans	18 1/2¢	

The contract for fresh meats is for seven-eighths (7/8) beef, and one-eighth mutton.

The condition of affairs at the post was satisfactory.

I desire before closing this report to



One building, adobe, about seventy by twenty, mud roof, used as Post Library and store rooms — not in good order.  
Squadron Quarters — various old adobe buildings with mud roofs, not in good order.

Engine House, adobe, mud roof, in fair order.

The garrison of this Post consists of Capt. A. W. Corlies, Co. "C", 8th Infantry, Commanding Post.

Lt. W. C. Rowdy, Co. "D", 8th Infantry, attached as A. S. 2, M. and Acty Signal Officer of Post, and Asst. Surgeon A. D. Wilson, Post Surgeon.

Total commissioned 3. Substituted men, 44.

Present and absent 53.

First Sgt. J. W. Sumnerhays on detached service at Chumburg.

2nd Subst. N. E. Cunningham not joined.

The troops of the Command were found in good order on inspection; meat in cans; arms in clean and efficient condition; the barracks well policed and comfortable.

Alone as elsewhere on the frontier, in the reduced state of organization of the Companies, the call for labor of the men is such that there can be but little opportunity for drill or instruction. Nevertheless the Companies appear creditably on parade.

The Hospital was visited and everything found to be in proper order. The funds of Capt. Rowdy, A. S. 2, M. and A. C. S. were examined and found correct.

Reports of these inspections are forwarded herewith.

The Storehouses, Workshops, Corrals, etc. of the 2, M. Dept. were found to be in good order and condition, all property being well cared for and not in excess of wants. The same remarks pertain to storehouses and property belonging to

state that the Post Library (which I visited) was found to be made up largely of Patent Office and other official reports from the Public printer. These I suppose had been deposited on the shelves in exchange for other valuable books carried off. A view of this incident, and the observations within the last few years of the miserable condition of Post Libraries generally, which are habitually composed of remnants of sets of books having no great value, lead me to the conclusion, which is very general throughout the line, that post libraries should be no longer attempted to be maintained. Company and Regimental Libraries which I have seen are well preserved. The division of books among companies on leaving a post is fatal to the Post Library.

I find wherever I inspect, the complaint universal that the margin of Savings from the Company rations, which under recent orders is compulsorily sold to the Subsistence Department, realizes so small an amount as practically to nullify the intent of the law giving to the soldier a larger ration of specific articles than he could eat, that he might apply the surplus to the purchase of food of other kinds.

I am, Sir,

Very Respectfully

Your obedient servant.

Jas. A. Hardie  
Supt. Genl.

NARS R9159  
Inspection Reports  
H-36-IG0-1875

Inspector Genl. Hardie arrived at McDowell on Sat. Eve May 15, 1875 and left at 7 AM Monday May 17<sup>th</sup> 1875. See Itinerary of his trip from Ft. Whipple to Ft. Lowell in same file.

6481 D.G. 1875

***EXHIBIT 5***

11-10-1907  
7-10-1907  
I am not writing this history for publication, but for the purpose of recording instances that have occurred during the last sixty years of my life.

GEO. ROBERT FINCH  
I, G.R. Finch, was born on the 17th day of July, 1864, on King's River, Fresno County, California.

In the year 1871, we left a band of horses we had loaded our homestead for. Our destination was across the plains to Texas. When we arrived at the Colorado river, we had to ferry the river on a boat which was manipulated without a cable, so we floated a mile down the river before reaching the other side. The picture across is still in my memory and I shall never forget the faces of those 125 head of horses floating behind the boat: a number of the horses were fastened to the boat: the others were following. It was a miracle that none of the horses were lost while crossing the river, which was from seven to sixteen feet deep.

My father seemed possessed with a knowledge of travel, he never used any map but he always arrived at the most suitable place for his live stock accomodation. We often detoured a hundred miles to gain a twenty-four or five mile grazing place.

We followed the Colorado to its junction at the Gila river. A troop of soldiers met us at Indian Wells and informed us that we were coming into a dangerous city. The government was being troubled with Apaches, and troops were necessary for the protection of the settlers there. This information did not daunt father, so we proceeded on our journey.

My next memory is of being at the present site of the Maricopa station, where there was no sign of a railroad. I knew of no railroads at this time in the state at all.

After crossing the Gila we came over the old stage route towards Phoenix.

David, This story is of your Great Great Grandfather  
UNRECORDED



We arrived in Tempe on Jan. 11, 1892, in a four horse wagon,

The town was then composed of the Hayden store and Flour mill, a saloon in block 61, and part of the present building known as the Lenington block, where the Daggs brothers had a bank. The DAGG brothers was a sheep concern, and I readily found employment in hauling hay for <sup>the</sup> sheep. This job I was able to hold, and increase my bank account, which enabled me to buy a lot on the corner of sixth street, where I built a three room cottage.

During the summer I came in contact with one John La Barge, a mining man, who was willing to go in partners with me in the feed-yard business, all the time keeping my teams employed. The little business prospered. On one of his trips to the mine, Mr. La Barge contracted pneumonia and died. Mrs. La Barge, not being able to handle the interest he had left, sold it out to me. The property and fixtures were located in block 61. The town began to grow and there developed a demand for transportation commodities.

In those days the horse and buggy was the only resource of transportation, so from a feed-yard, I soon developed into a livery business. Within two years I had developed a through livery line, including the transfer outfit. Now the country began to settle up and the Arizona Eastern had made its terminal from Maricopa to Phoenix, with only one train a day to Phoenix. I had to increase my livery line to 15 rigs and 30 horses.

I became very active in the city, serving on the City council two years, helped build and organize the present High-School, which I served as clerk for four and one half years. I was responsible for installing athletics in the High-School, which did not appeal to many of the patrons. I left the High-School Board and was elected two terms on the Grammar School Board. I ventured into the business of undertaking, under the firm business of Finch and Carr, Mr. Carr being the proprietor of the firm. While he was away, it evolved upon

rief, and the professor had to hire some men to carry her back.  
On March 31, 1908, I lost a good pal. Father, who became enfeebled, we sent to Hot Springs. After being there a week I got word that Father was worse, I jumped the train, went to Maricopa, and then over the Santa Fe, to Hot Spring Junction, there I hired a saddle-horse and rode six miles to the river. At a ranch house, I told my troubles to Jasiah Anderson. He evidently had trouble of his own, because he met me at the door with his gun. After satisfying himself that everything was all right, he informed me that the Gila river was very high, but volunteered his services to pilot me across at twelve o'clock at night. He started me in the river about a half a mile from the place where I was to come out on the opposite side. As I swam down the river he kept up with me the best he could, encouraging me the best he could all the time. When I arrived at a bend in the river, he told me to land. I had bound my clothes on top of my head, and after putting on my clothes, I ran two miles further to the Hot Springs.

I immediately made arrangements to take father home. We boated Father across the river, and through the courtesy of Mr. Anderson, who furnished a wagon and team to take Father to the train, we in due time brought him home. But through the best of doctors care, we had to give him up.

Hayden's store, then conducted on the present site of the Tempe Mill, was a country store, and they supplied almost everything in the way of a farmers need. I recollect one time seeing a boot-jack on display. All the freight at that time was evidently ferried up the Colorado river, at a point above Yuma. So the Colorado river was navigable and Arizona had a sea-port.

***EXHIBIT 6***

TERRITORY OF ARIZONA,

COUNTY OF MARICOPA, ss.

IN THE DISTRICT COURT OF THE THIRD JUDICIAL DISTRICT OF THE  
TERRITORY OF ARIZONA,  
in and for the County of Maricopa.

Patrick T. Hurley,  
Plaintiff,

vs.

Chas. F. Abbott, et al  
Defendants.

ACTION TO QUIET TITLE.

Comes now Patrick T. Hurley, plaintiff, and complaining  
of Charles F. Abbott,

- Abbott, J. C.
- Abbott, Marion
- Abriel, R. B.
- Abriel, H. G.
- Acobedo, A. C.
- Acodo, Juan
- Acksoni, Nicholas
- Ackel, Salin
- Adams, Anna B.
- Adams, A. J.
- Adams, J. C.
- Adams, C. F.
- Adams, Emmett C.
- Adams, C. H.
- Adams, H. W. (Trustee)
- Adams, Jennie
- Adams, H. P.
- Adams, D. A.
- Adams, W. E. (Guardian)
- Appli, E.
- Aguard, J. A.
- Ignor, Eva
- Agnew, Charles
- Aiken, Edith
- Ainsworth, C. F.
- Akows, Blanche A.
- Akers, C. H.
- Akers, C. H. and H. R. Frittle.
- Akers, Jennie B. (Trustee for Minors)
- Albarado, Bros.
- Albarado, G. F.
- Albaros, Joe.
- Albaros, J. H.
- Albright, W. R.
- Alexander, C. W.
- Alexander, Do Carr
- Alexander, Esther A.
- Alexander, J. D.
- Alexander, Mary A. (Heirs)
- Alexander, Rhodie E.
- Alexander, J. L. B.
- Alexander, W. C.
- Alexander Brick Company

and for cause of action says that he is an inhabitant of the Territory of Arizona and is the owner in fee simple of the following described real estate, situate in the County of Maricopa, Territory of Arizona, to wit, being the South East Quarter of Section Fourteen (14), Township One (1) North Range Two (2) East Gila and Salt River Base and Meridian, and the West Half of the Northeast Quarter of Section Twenty (20), Township One (1), North Range Two (2) East Gila and Salt River Base and Meridian and being in all two hundred and forty (240) acres of Land; that said lands are arid and can not be cultivated or made productive of crops of any kind without the application thereto of water from other sources than from and by the natural rainfall thereon; that the Salt River is an unnavigable stream flowing through said Maricopa County, Arizona, along such a course that water may be, and has and is, diverted therefrom and made and caused to flow to and upon the lands of the plaintiff hereinbefore described.

That heretofore, to wit, in the year of 1870, the then owner and occupant, he then and there being an inhabitant of said Territory of Arizona, and the direct predecessor in interest of this plaintiff, of said lands as described as aforesaid, diverted and caused to be diverted from said Salt River, water sufficient, and which plaintiff swears were necessary for the proper irrigation of said lands, to wit, one hundred and twenty (120) inches minners measurement, continuous flow, and caused the same to flow and otherwise to be conducted, to and upon said lands by means of ditches and canals and other works, and thereby irrigated said lands and made them productive of valuable crops. That said owner of said lands thereafter continued to so divert and cause to be diverted and conducted and caused to be conducted said amount of water from said Salt River sufficient

and necessary to irrigate and in fact did thereafter continuously irrigate, said lands and thereby produce valuable crops thereon; that immediately therefrom and thereafter and continuously and claiming by and through said original owner this plaintiff and his mesne grantors from said original owner have ever since said year 1870, continuously diverted from Salt River said amount of water sufficient and necessary to irrigate said lands and have conducted and caused the same to be conducted to and upon said lands and there have ever since said year 1870 used the same for the irrigation thereof and have by reason thereof continuously raised valuable crops thereon.

The plaintiff further says that he is credibly informed and believes that the said defendants adversely claim, and each of them adversely claims, the right to divert said water from said river and to use the same adversely to the right and title of the plaintiff, and the right to deprive this plaintiff of the use thereof.

WHEREFORE, plaintiff, prays that his right and title to divert said amount of water, to wit, one hundred and twenty (120) inches miners measurement, continuous flow, from said Salt River, and to use the same for the proper irrigation of his said lands and for the production of crops thereon, may be established and that the defendants, and each and every one of them severally, be debarred and forever estopped from having and claiming any right or title in and to the use of water adverse to complainant.

Jos. R. Hibber.  
Attorney for Plaintiff.

TERRITORY OF ARIZONA, )  
County of Maricopa ) SS.

Patrick T. Hurley, being duly sworn on his oath deposes and says that he is the plaintiff and complainant in the foregoing complaint; that he has read said complaint and knows the contents thereof; that the matters and things in said complaint stated and set out are true within his own knowledge, except as to those matters and things therein stated on information and belief and those he verily believes to be true.

P. T. Hurley

Subscribed and sworn to before me this 16 th day of Jan. 1905.

Eliaz P. Darlevy, Clerk.

***EXHIBIT 7***



No. 4564.

IN THE

# District Court

MARICOPA COUNTY,  
ARIZONA.

*PATRICK T. HURLEY,*

*vs.*

*CHARLES F. ABBOTT, et al.*

**Copy of  
Amended Complaint.**

**JOSEPH H. KIBBEY,**

**Attorney for Plaintiff.**

THE H. H. BO REA. CO., PRINTERS, PHOENIX, ARIZONA.

TERRITORY OF ARIZONA, } ss.  
County of Maricopa, }

IN THE

# District Court

Of the Third Judicial District of the Territory of Arizona,  
in and for the County of Maricopa.

PATRICK T. HURLEY,  
*Plaintiff,*

vs.

CHARLES F. ABBOTT,  
AND OTHERS.

Action to Quiet Title.

Comes now Patrick T. Hurley, plaintiff, and by this his amended complaint, complaining of

Abbott, Charles F.  
Abbott, J C  
Abbott, Marion  
Abriel, R R  
Abriel, M de  
Accedo, C A  
Acedo, Juan  
Ackaoui, Nicholas  
Ackel, Sallin  
Adams, Anna D  
Adams, A J  
Adams, J C  
Adams, C F  
Adams, Emmett C  
Adams, G H  
Adams, H W (trustee)  
Adams, Jennie  
Adams, M F  
Adams, S A  
Adams, W E (guardian)  
Aepfl, P  
Agard, J A  
Aguet, Iva  
Agnew, Charles  
Aiken, Edith  
Ainsworth, C F  
Akers, Blanche A  
Akers, C H  
Akers, C H and H R Trille  
Akers, Jennie B (trustee for authors)  
Albarado Bros.  
Albardo, G P  
Albares, Jos.  
Albares, J M  
Albright, W R  
Alexander, C W  
Alexander, De Carr  
Alexander, Esther A  
Alexander, J B  
Alexander, Mary A (heirs)  
Alexander, Rhodie B  
Alexander, J J, B  
Alexander, W C  
Alhambra Brick Co.  
Alhambra Mercantile and Real Estate Company  
Alianza Hispano Americano  
Alkire, Aseneta P  
Alkire, Frank T  
Alkire, Geo. A  
Alkire Land and Cattle Company  
Alkire, Maude B  
Allen, Annie K  
Allen, Almira  
Allen Bessie  
Allen, Clara  
Allen, Charles H  
Allen, C J  
Allen, Elijah  
Allen, Henry E  
Allen, J M  
Allen, J S  
Allen, Jas W  
Allen, John W  
Allen, W H  
Allen, G E  
Allison Bros  
Allison, Annie R  
Allison, J A  
Almudo, Jesus  
Alsop, Annie D (estate)  
Althoff, Henry  
Ambrose, Eliza  
Ambrose, S C J  
Ames, Mary  
Amirault, L. A  
Amuse, W N  
Amusey, Robt.  
Anderson, Anna  
Anderson, Anton  
Anderson, Aviva V  
Anderson, Josiath J  
Anderson, J K  
Anderson, John L

E L Fendricks	J W Reilston
J J Humbert	Mrs H H Rodgers
G W Heath	A M Ranger
A J Humbert	W F Schnebly
F E Jordan	David Scott
W I Johnson	W P Scott
Wm A Jones	L T Smith
Ed Jones	Wm Stephens
Isaac Jones	David W Stewart
W A Jordan	D J Shea
E L Jordan, J A Ketcherside	P W Strahan
A W Kinsey	Eggert & Christine Stofen
John Lay	Eugene Scuff
Louis Lebsch	Emilie D Stewart
John & Mary Shepler	Wm Schroeder
I. D Loper	Reanos Thompson
John H Lee	J J Turner
Estate of S N Lively	John L Taylor
Wm Lane	W W Van Deren
Johnston T Moore	L A Willard
Heirs of Mary V Mulholland	H T Williams
Simma Mahurin	Wallace Willard
J E Mahurin	Ed Wingfield
Blisworth W Monroe	S G Wallingford
Ed Mahurin	J H Wingfield
E T Mulholland	James H & Sarah Wingfield
Estate of D J Marr	John Wood
J I Marr	W G Wingfield
Wm F Wilbur	Mrs M G Willard
E H Meek	Arthur Whittaker
E L Jordan	C D Willard
Wm Marshall	C W Woods
James C Maxwell	Len Young
Mrs P P Mahan	John Lawler
C F Mahan	John Doe
Lucinda V Nichols	Richard Roe
W W Nichols	Mary Roe
M L Osborn	Ann Roe
Heywood Cattle Co	Sallie Roe
James Page	Josiah Wentworth
J D Price	Josiah Haskins
Mrs Amelia Pendarvis	Jeremiah Hoskins
G W Pattee	Hermann Aagaard
J B Ricketts	

and for cause of action says that he is an inhabitant of the Territory of Arizona, and is the owner in fee simple of the following described real estate situate in the County of Maricopa, Territory of Arizona, to-wit, being the South-east Quarter of Section Fourteen (14), Township One (1), North Range two (2), East of Gila and Salt River Base and Meridian, and the West Half of the North-east Quarter of Section Twenty (20), Township One (1), North Range Two (2), East of Gila and Salt River Base and Meridian, and being in all two hundred and forty (240) acres of land; that said lands are arid and can not be cultivated or made productive of crops of any kind without the application thereto of water from other sources than from and by the natural rain fall thereon; that the Salt River is an unnavigable stream flowing through said Maricopa County, Arizona, along such a course

that water may be, and has been and is, diverted therefrom and made and caused to flow to and upon the lands of the plaintiff hereinbefore described.

That heretofore, to-wit, in the year 1870, the then owner and occupant, he then and there being an inhabitant of said Territory of Arizona, and the direct predecessor in interest of this plaintiff of said lands described as aforesaid, diverted and caused to be diverted from said Salt River waters sufficient, and which plaintiff avers were necessary for the proper irrigation of said lands, to-wit, one hundred and twenty (120) inches, miners' measurement, continuous flow, and caused the same to flow and otherwise to be conducted to and upon said lands by means of ditches and canals and other works, and thereby irrigated said lands and made them productive of valuable crops. That said owner of said lands thereafter continued to so divert and caused to be diverted and conducted and caused to be conducted said amount of water from said Salt River sufficient and necessary to irrigate, and in fact did thereafter continuously irrigate, said lands and thereby produce valuable crops thereon; that immediately therefrom and thereafter, and continuously, and claiming by and through said original owner this plaintiff and his mesne grantors from said original owner have ever since said year 1870 continuously diverted, and caused to be diverted, from said Salt River said amount of water sufficient and necessary to irrigate said lands, and have conducted, and caused the same to be conducted, to and upon said lands, and there have ever since said year 1870 used the same for the irrigation thereof, and have by reason thereof continuously raised valuable crops thereon.

The plaintiff further says that he is credibly informed and believes that the said defendants adversely claim, and each of them adversely claims, the right to divert said water from said river and to use the same adversely to the right and title of the plaintiff, and the right to deprive this plaintiff of the use thereof.

Wherefore, plaintiff prays that his right and title to divert said amount of water, to-wit, one hundred and twenty (120) inches, miners' measurement, continuous flow, from said Salt River, and to use the same for the proper irrigation of his said lands, and for the production of crops thereon, may be established, and that the defendants, and each and every one of them severally, be debarred and forever estopped from having or claiming any right or title in and to the use of said water adverse to the complainant.

JOSEPH H. KIBBEY,  
Attorney for Plaintiff.

TERRITORY OF ARIZONA, }  
County of Maricopa. } ss.

Patrick T. Hurley, being duly sworn, on his oath deposes and says that he is the plaintiff and complainant in the foregoing amended complaint; that he has read said amended complaint and knows the contents thereof; that the matters and things in said complaint stated and set out are true within his own knowledge, except as to those matters and things therein stated on information and belief and those he verily believes to be true.

PATRICK T. HURLEY.

---

Subscribed and sworn to before me this Fourth day of February, 1905.

ELIAS F. DUNLEVY,  
*Clerk District Court.*

***EXHIBIT 8***

No. 4564.

IN THE

District Court

MARICOPA COUNTY,  
ARIZONA.

PATRICK T. HURLEY,

vs.

CHARLES F. ABBOTT, et al.

Answer

of

*H. Casswell*

Lands

Sec. .... Township ..... Range .....

Filed July 29 - 1945 at 11 AM

*Charles F. Hurley*

*Patrick T. Hurley*

*Albert*

*Clerk*

The defendant for himself.

TERRITORY OF ARIZONA, }  
County of Maricopa. }

IN THE  
**District Court**  
Of the Third Judicial District of the Territory of Arizona,  
In and for the County of Maricopa.

PATRICK T. HURLEY, }  
Plaintiff, }  
vs. } ANSWER.  
CHARLES F. ABBOTT, }  
ET AL. }

Comes now the defendant..... *H. Criswell*

and for answer to the complaint herein this defendant says that..... *he* ..... is the owner in fee simple of the following described real estate situate in the County of Maricopa, Territory of Arizona, to wit:  
*SE 4 Section 7, T. 1 N., R. 2 E*

being in all *160* ... acres of land; that said lands are arid, and cannot be cultivated or made productive of crops of any kind without the application thereto of water from other sources than from and by the natural rainfall thereon; that the Salt river is an unnavigable stream flowing through said Maricopa County, Arizona, along such course that water may be, and has been and is, diverted therefrom and made and caused to flow to and upon the lands of the defendant herein before described.

That heretofore, to wit, in the year *1881*, the then owner and occupant, he then and there being an inhabitant of said Territory of Arizona, and the direct predecessor in interest of this defendant of said lands described as aforesaid, diverted and caused to be diverted from said Salt river waters sufficient, and which plaintiff avers were necessary for the proper irrigation of said lands, to wit: *6 2/3* inches, miners' measurement, continuous flow, and caused the same to flow and otherwise to be conducted to and upon said lands by means of ditches and canals and other works, and thereby irrigated said lands and made them productive of valuable crops. That said owner of said lands thereafter continued to so divert and caused to be diverted and conducted and caused to be conducted said amount of water from said Salt River sufficient and necessary to irrigate, and in fact did thereafter continuously irrigate said lands and thereby produce valuable crops thereon, and claiming by and through said original owner this defendant, and his mesne grantors from said original owners have ever since said year *1881*... continuously diverted, and caused to be diverted, from said Salt River said amount of water sufficient and necessary to irrigate said lands, and have conducted, and caused the same to be conducted, to and upon said lands, and there have ever since said year *1881*... used the same for the irrigation thereof, and have by reason thereof continuously raised valuable crops thereon.

The defendant further says that he is credibly informed and believes that the said plaintiff and the other defendants adversely claim, and each of them adversely claims, the right to divert said water from said river and to use the same adversely to the right and title of the plaintiff, and the right to deprive this plaintiff of the use thereof.

Wherefore, defendant prays that his right and title to divert said amount of water, to-wit, *6 2/3* inches, miners' measurement, continuous flow, from said Salt River, and to use the same for the proper irrigation of his said lands and for the production of crops thereon, may be established, and that the plaintiff and others and each and every one of them severally, be debarred and forever stopped from having or claiming any right or title in and to the use of said water adverse to the defendant.

TERRITORY OF ARIZONA, }  
COUNTY OF MARICOPA, } ss.

..... *H. Criswell* ..... being first duly sworn, on his oath deposes and says that he is the defendant in the foregoing answer; that he has read said answer and knows the contents thereof; that the matters and things in said answer stated and set out are true within his own knowledge, except as to those matters and things therein stated on information and belief and those he verily believes to be true.

..... *H. Criswell* .....

Subscribed and sworn to before me this *20<sup>th</sup>* day of *July*, 1905.

..... *J. Phillips* .....  
Notary Public

*My Com expires Jan. 19<sup>th</sup> / 1908.*

***EXHIBIT 9***



No. 4564.

IN THE

# District Court

MARICOPA COUNTY,  
ARIZONA.

PATRICK T. HURLEY,

VS.

CHARLES F. ABBOTT, et al.

Copy of  
Answer and Cross  
Complaint

JOSEPH L. B. ALEXANDER,  
United States Attorney.

ART PRINTING CO., PRINTERS, PHOENIX, ARIZONA

AUGUST 31, 1907

IN THE

# DISTRICT COURT

Of the Third Judicial District of the Territory of Arizona,  
in and for the County of Maricopa.

PATRICK T. HURLEY,  
*Plaintiff,*

vs.

CHARLES F. ABBOTT,  
ET AL.,  
*Defendants.*

# 4564

Comes now the United States of America by Joseph L. B. Alexander, United States Attorney for the Territory of Arizona, leave of the court being first had and obtained, and answering admits that plaintiff is an inhabitant of the Territory of Arizona and is the owner in fee simple of the following described real estate, situated in Maricopa county, Arizona Territory, to wit: The southeast quarter of Section 14, T. 1 N., R. 2 E. of the Gila and Salt River Base and Meridian and the west half of the northeast quarter of Section 20, Township 1 N., R. 2 E. of the Gila and Salt River base and Meridian; admits that such lands are arid and cannot be made productive of crops of any kind without the application thereto of water from other sources than from and by the natural rainfall thereon; admits that the Salt river is an unnavigable stream flowing through said Maricopa county, Arizona, along such a course that water may be and has been and is diverted therefrom and made and caused to flow to and upon lands of the plaintiff above described; and having no knowledge or means of knowledge as to other matters and things in said complaint contained, upon information and belief, denies each and every allegation in said complaint contained, not herein before specifically admitted. And the United States further answering and by way of cross-complaint against the plaintiff herein and against all the other defendants named in the said complaint herein and

against Anna T. Adams, Edith Alken, Esther A. Alexander, W. S. Amrose, J. L. Anderson, Arizona Land Company, Ashland Land and Cattle company, J. W. Bailey, A. L. Baker, A. L. Baker and A. E. Asher, Mrs. J. J. Barnum, Sam Barrett, Bayless Beecher, Hynto Bernal, F. A. Blount, Brady (heirs), N. M. Broadway, M. B. Brooks, Elizabeth C. Brown, Thomas S. Burroughs, George H. Campbell, C. E. Cartwright, S. S. Church, Annie M. Clark, Sophia Cokeley, F. J. Coyle, Mary M. Culver, S. Damer, W. S. Daniel, Charles Davis, Mrs. W. G. Davis, J. H. Diffenderfer, J. M. Dowell, Mary Estabrook, Louisa Fiscoe, Sarah A. Fitch, Frank Daniel, A. M. Frederick, W. M. Frederick, Nannie C. Fulwiler, Mrs. Ruth Gibson, W. H. Gill, George Gillmor, Glendale Land company, Justus Goebel, Jose Granilla, Mary A. Gray, Mary Green, John G. Grjalva, Mrs. C. V. Goddard, Wm. Hammer, J. J. Harris, A. S. Hawley, L. C. Haynes, Highland Land and Water company, Marie Hof, C. A. Hoffman, J. A. Holly, J. W. Holsapple, M. B. Horovitz, L. J. Horton, Mary Horton, J. E. Hunsaker, William Irwin, A. R. Jenkins, Charles A. Johnson, Julius Johnson, L. B. Johnston, W. S. Johnston, R. E. Jones, C. E. Kirk, Daniel Kloss, Ben Leumer, R. J. T. List, W. D. List, Mrs. M. J. Longmoor, Frank Lovett, M. S. R. J. Lutgerding, Maricopa Loan and Trust company John W. Marshall, W. M. Martin, M. H. Meyer, Dolores Miranda, Robert N. Moore, Nellis Morton, John T. McGee, W. McKee, Sarah E. Nye, Elling Olsen, Orange Co., Jean Ortelg, H. R. Patrick, Mrs. T. W. Pemberton, G. Peterson, Phoenix Trust company, H. W. Pierson, Refugio Pina, George E. Porter, Mariana Priest, Hannah Proops (estate of), A. Quist, John Quist, H. Renaud, J. A. Riggins, Ritey & Bennett, Lida P. Robinson, E. G. Rogers, Martin Rohrig, P. Rulz, H. L. Sanderson, Mary A. Smith, Wm. H. Teasley, Tempe Water and Development company, Oliver C. Thompson, W. E. Thorne, Gordon Tweed, E. F. Van Kirk, Federick C. Weekes, L. S. White, Frank E. Whitten, D. A. Williams, J. A. Williams, Hadee Williamson, Charles T. Wise, J. M. Yaple, Sue Ross Yaple, R. Reynolds and James Helmer alleges:

I.

That the Salt and Verde rivers, and each of them, are non-navigable streams, flowing through and upon the public lands of the United States and draining a large watershed, being public lands of the United States and lying within the Territory of Arizona; that the course of said rivers and each of them is such that the waters flowing therein easily can be and are diverted therefrom and made and caused to flow to and upon lands adjacent or accessible thereto for the purposes of irrigation and cultivation thereof; that said Verde river empties into said Salt river at or near the head of the Arizona canal in Maricopa county, Arizona, and the waters thereof flow into and become a part of the waters of the said Salt river below said confluence of said Salt and Verde rivers.

II.

That all lands along the course of said rivers and adjacent or accessible for irrigation therefrom and belonging to the plaintiff, to the United States and to the other defendants herein, are naturally arid and incapable of producing valuable crops without the application of water thereto.

III.

That the United States of America is the owner and in possession of the southeast quarter of Section 20 and east half of the southeast quarter of Section 21, Township 2 North, Range 3 East of the Gila and Salt rivers Base and Meridian, and that in the year 1879, the then owner, who was an inhabitant of the Territory of Arizona, and a direct predecessor in interest of the United States in said land, diverted and caused to be diverted from the said Salt river, at a point of diversion below the confluence of said

Salt and Verde rivers, and conducted and caused to be conducted to and used upon said lands, water sufficient for the proper irrigation thereof and the cultivation of valuable crops thereon. That immediately therefrom and thereafter and continuously the United States and its predecessors in interest have ever since the said year 1879 diverted and caused to be diverted from the said Salt river and conducted to and used upon said land for the irrigation thereof and production of valuable crops thereon, an amount of water sufficient and necessary therefor, which the United States avers to be and to have been 75 inches, miner's measurement, continuous flow.

IV.

That the United States is the guardian of Juan Enas, Harry Smith, Manuel Stewart, Jose Anton, Ralph Blackwater, Charles Matthews and approximately 151 other Indians belonging to the Pima tribe and living upon lands within the Salt River Indian Reservation, north of the Salt river in Maricopa county, Arizona, under the Arizona canal. That said Indians aforesaid and their predecessors are now and for more than thirty years last past have been irrigating and cultivating 4256.42 acres of land upon said reservation, through and by means of the Arizona canal since its construction and theretofore through and by means of an Indian ditch, discontinued by them upon the completion of said Arizona canal, and raised valuable crops thereon by means of water by them diverted and caused to be diverted from said Salt river at a point of diversion below the confluence of the said Salt and Verde rivers, and conducted and caused to be conducted to and upon said lands and have continuously appropriated and diverted and caused to be diverted, and conducted and caused to be conducted, from the said Salt river to their said lands for the irrigation and cultivation thereof, 500 inches of water, miner's measurement, continuous flow, and have at all times put said 500 inches of water to a beneficial use; that said 500 inches, miner's measurement, continuous flow is necessary to the proper irrigation and cultivation of said lands aforesaid.

V.

That the United States is the guardian of Valenzuela, John Hice, Frank Phillips, Charley Washington, William Harris and, approximately fifty-four other Indians, belonging to the Pima, Papago and Maricopa tribes, and living upon the lands within the Lehi settlement of the Salt River Indian Reservation, south of the said Salt river, in Maricopa county, Arizona, under the Utah canal. That said Indians aforesaid and their predecessors are now and for more than twenty-seven years last past continuously have been irrigating and cultivating 1073.2 acres of land of said reservation through and under the Utah canal and are and have been raising valuable crops thereon by means of water by them diverted and caused to be diverted from said Salt river at a point below the confluence of said Salt and Verde rivers, and conducted and caused to be conducted to and upon their said lands and have continuously appropriated, diverted and caused to be diverted, and conducted and caused to be conducted, from said Salt river to their said lands for the irrigation and cultivation thereof, 300 inches of water, miner's measurement, continuous flow and have at all times put said 300 inches of water to beneficial use; that said 300 inches, miner's measurement, is necessary for the proper irrigation and cultivation of their said lands.

VI.

That the United States is the guardian of Richard Dickens, Yuma Mite and approximately 190 other Indians belonging to the Apache and Mohave

tribes, and living upon lands within the Camp McDowell Indian Reservation in Maricopa county, Arizona. That said Indians aforesaid are now and for many years last past they and their predecessors in interest have been continuously irrigating 1311.26 acres of land now comprised within the Camp McDowell Indian Reservation in Maricopa county, and raising valuable crops thereon by means of water which they and their predecessors in interest have diverted and caused to be diverted from the said Verde river at a point above the confluence of said Salt and Verde rivers, conducted and caused to be conducted to and upon their lands; that the amount of water so continuously appropriated, diverted and caused to be diverted, conducted and caused to be conducted, from said Verde river to their said lands for the irrigation and cultivation thereof is 425 inches, miner's measurement, continuous flow, and that said 425 inches, miner's measurement, continuous flow has been by them at all times put to beneficial use and is now necessary for the proper irrigation and cultivation of their said lands.

#### VII.

That on or about the 20th day of April, 1893, on or about the 23rd day of August, 1893, and on or about the 23rd day of August, 1901, the Hudson Reservoir and Canal company posted, filed and recorded according to law, the notice of appropriation of all the surplus and flood waters of the Salt river, therefore unappropriated. That on or about the first day of December, 1905, the United States posted, filed and recorded according to law its notice of appropriation of all the surplus and flood water flowings, or which might thereafter flow, in the said Salt river, at or past the dam of the Arizona canal in Maricopa county, Arizona, said dam being a short distance below the confluence of the said Salt and Verde rivers. That on or about the first day of October, 1902, under the provisions of the act of Congress of June 17, 1905, the United States began the surveys and investigation for the construction of a storage reservoir upon the Salt river above the confluence of the Salt and Verde rivers at a point at or near Roosevelt, Arizona, and of a comprehensive system of water storage, development and distribution for the irrigation and cultivation of lands lying within the Salt River valley in Maricopa county, Arizona, and embraced in the boundaries of the Salt river reservoir district, described as follows, that is to say: Commencing at a point on the right bank of Salt river at the mouth of the Verde river; thence in a southerly direction to the head gates of the Arizona canal; thence in a general westerly direction along the north line of the right of way of the Arizona canal to the end thereof, at or near the quarter corner between Sections 5 and 6, Township 3 north, Range 1 east; thence west to the left bank of the Agua Fria river; thence in a southerly direction along the left bank of the Agua Fria river to a point in Section 14, Township 1 north, Range 1 west, where the line of the St. John's canal intersects the Agua Fria river; thence in a southeasterly direction along the north line of the right of way of the St. John's canal to the north bank of the Salt river; thence across the Salt river to a point in Section 35, Township 1 north, Range 1 east, where the east line of the Gila River Indian Reservation intersects the south bank of the Salt river; thence in a southerly direction along the east line of the said Gila River Indian Reservation to the township line between Townships 1 and 2 south; thence following the boundary of the said Gila River Indian Reservation, east along the said township line to the range line between Ranges 4 and 5 east; thence south between Ranges 4 and 5 east; thence east between Townships 2 and 3 south, to the east line of the right of way of the east branch of the Consolidated canal; thence north, following the east line of the right of way

of the east branch of the Consolidated canal to the south line of Section 2, Township 2 south, Range 5 east; thence east to the section corner Sections 5, 6, 7 and 8, Township 2 south, Range 6 east; thence north between Sections 5 and 6 east, Township 2 south, Range 6 east, to the east bank of the Highland canal; thence in a general northerly direction along the east bank of said Highland canal to the left bank of Salt river; thence in a general northerly direction along the left bank of Salt river to a point opposite the mouth of the Verde river to the place of beginning; and ever since said first day of October, 1902, the United States has been and is now actively engaged in the construction of a storage reservoir at said Roosevelt upon said Salt river for the impounding and storage of the surplus and flood waters of said Salt river; that on or about the 23rd day of March, 1904, the Hudson Reservoir and Canal company conveyed to the United States by deed, all its right, title, interest, claim and demand in and to the reservoir site theretofore located by it upon Salt river, near Roosevelt together with all its water appropriations, water rights and water privilege by it theretofore owned or acquired. That the United States is now the owner thereof for the purposes aforesaid.

#### VIII.

That in furtherance of and as a part of the general project for said water storage, development and distribution as above set forth, the United States on or about the 15th day of June, 1906, acquired and there was conveyed to it by good and sufficient deeds of conveyance, executed and delivered to it, by the then owners, the Grand canal, the Water Power canal, the Maricopa canal, the Salt River Valley canal, together with the dam, flumes and appurtenances and together with the Joint Head dam. That on or about the 14th day of August, 1906, the United States acquired and they was conveyed to it by good and sufficient deed of conveyance, executed and delivered to it, by the then owner, the Arizona canal, together with dam, flumes, gates and appurtenances and that the United States is now the owner and holder of said canals and each of them; that said canals and each of them are situated upon the north side of the Salt river below the confluence of the Salt and Verde rivers, and were constructed and ever since have been constantly used and operated for the purpose of diverting the water from the said Salt river and carrying and conducting the same to and upon the lands of plaintiff and defendants and the United States and of various of the cross-defendants herein, lying thereunder and irrigable therefrom; that as the owner of said canals, the United States is charged with the duty of diverting from said Salt river and conducting to the land of the plaintiff, of the United States and of the said various defendants hereto and each of them, such portion of the waters naturally flowing in said Salt and Verde rivers, to which each may be severally entitled by law upon payment to it of a reasonable compensation for said service; that in the attempt to discharge said duty aforesaid, the United States has ever since its acquisition and operation of said canals aforesaid, diverted and carried water from said Salt river through and by means of its said canals aforesaid and distributed the same to the plaintiff, the United States and such of the defendants and cross-defendants herein, as it was informed were entitled thereto, but that the said United States was and is in fact ignorant of the rights of the said several distributees of said water and had and has no means of ascertaining which, if any of them, were or are so entitled thereto.

#### IX.

That in furtherance of and as a part of said general project aforesaid, the United States on the first day of December, 1905, began to construct

and is now actively engaged in the construction of a diversion dam across the Salt river at Granite Reef, in Maricopa county, Arizona, and below the confluence of the Salt and Verde rivers, for the purpose of diverting from the said Salt river all the waters flowing therein and distributing and causing to be distributed such waters to the land owners and water users, plaintiff, defendants, the United States and cross defendants herein as aforesaid, under the various canals on the north side of said Salt river, so owned by the United States, and also the land owners and water users, defendants and cross-defendants herein under the various canals on the south side of said Salt river, to wit, the Highland canal, the Consolidated canal, the Mesa canal, the Utah canal, the Utah Extension canal, the Tempe canal, the San Francisco canal, and the Broadway canal, as the said various land owners and water users plaintiff, defendants, the United States and cross-defendants herein may be severally entitled to by law.

X.

That the plaintiff, defendants, the United States and cross defendants and each of them, claim to have valid rights to the use of the waters naturally flowing in the Salt and Verde rivers; that the flow of the waters in the Salt and Verde rivers is fluctuating and extremely irregular, varying from 2,500,000 inches, miner's measurement, to less than 5000 inches, miner's measurement, and in seasons of scarcity, at the lower stages of the river's flow, the said waters flowing therein are insufficient to supply the needs of all the claimants thereto, parties hereto, all and each claiming to have rights to the use thereof and the rights or claims of said claimants, parties hereto, are conflicting and adverse to the plaintiff, the United States and to each other. That the United States has no knowledge of the rights of the plaintiff and of the several defendants and cross-defendants as to the use of said water nor means of knowledge, and has no knowledge as to which, if any of said claimants is entitled to service of water at the various stages of the river's flow, nor has the United States knowledge as to the nature or extent of the right to the use of water at the various stages of the river's flow, to which said claimants, if any, may be so entitled nor has the United States any knowledge as to the relative rights of said claimants as between themselves, the plaintiff and the United States, nor has the United States any knowledge as to the order in time to which said claimants may be entitled to be served with water at such stages of the river's flow, and especially when the waters flowing in said rivers are insufficient for the needs of all claiming a right to use the same. That until the several rights of the said various claimants, parties hereto, to the use of said waters flowing in said Salt and Verde rivers have been settled and the extent, nature and order in time of each right has been judicially determined, the United States cannot know, which, if any of the various claimants therefor are entitled to the use of the said waters of the Salt and Verde rivers at the said various stages of the river's flow, and is unable to properly divide and distribute the same to the parties entitled thereto, as it is by law required to do.

XI.

That the United States has no interest in and to the waters flowing in the Salt and Verde rivers other than its right, as above set forth, to the use of water for the irrigation and cultivation of the southeast quarter of Section 20, and the east half of the southeast quarter of Section 21, Township 2 north, Range 2 east, of the Gila and Salt river Base and Meridian, and as to the use of water for the irrigation and cultivation of lands of the aforesaid Indians, its wards, lying and embraced within the boundaries

of the Salt river, Leht and Camp McDowell Indian Reservations, and the right to store and impound the surplus and flood waters of said Salt and Verde rivers by means of dams and reservoirs now being constructed or which may be hereafter constructed by it; that the right of the United States, acting for itself and in behalf of said Indians aforesaid, to the waters of the Salt and Verde rivers for the irrigation and cultivation of said lands aforesaid, as hereinabove set forth, is admitted and recognized by the plaintiff, the defendants and the cross-defendants herein.

WHEREFORE, the United States prays:

1. That the court decree it to be entitled to use of the waters of the Salt and Verde rivers, at all seasons, sufficient water to properly irrigate and cultivate the southeast quarter of Section 20, Township 2 north, Range 2 east, of the Gila and Salt river Base and Meridian, and the east half of the southeast quarter of Section 21, Township 2 north, Range 3 east, of the Gila and Salt River Base and Meridian, under economical and approved methods of irrigation;

2. That the court decree that the Indians living upon the Salt River Indian Reservation on the north side of the Salt river, under the Arizona canal, be entitled to use of the waters of the Salt and Verde rivers at all seasons, sufficient water to properly irrigate and cultivate their said land aforesaid, under economical and approved methods of irrigation;

3. That the court decree that the Indians living upon the Leht Settlement of the Salt River Indian Reservation, on the south side of the Salt river, under the Utah canal, be entitled to use of the waters of the Salt and Verde rivers, at all seasons, sufficient water to properly irrigate and cultivate said lands aforesaid under economical and approved methods of irrigation;

4. That the court decree that the Indians living upon the Camp McDowell Indian Reservation be entitled to use of the waters of the Verde river at all seasons, sufficient water to properly irrigate and cultivate the said lands aforesaid under economical and approved methods of irrigation;

5. That the plaintiff, defendants and cross-defendants herein and parties hereto and each of them be required by an order of this court to come into court and set up and establish their several claims to the waters of the Salt and Verde rivers at any and all seasons and at any and all stages of said rivers' flow, and that the court fix and determine the several rights of the said plaintiff and the said various defendants herein and all of the parties hereto and of all other persons claiming rights to the use of the waters flowing in the Salt and Verde rivers;

6. And that the court further fix, determine and establish the nature, the extent and the order in time of each of said several rights;

7. That the several parties hereto and each of them be forever enjoined from in any wise obstructing or interfering with the rights of either or any of the other parties to this suit as so determined, fixed and established by the court;

8. That the United States recover of plaintiff and cross-defendants herein its costs and disbursements herein incurred and that the United States have such other and further relief as to the court may seem just.

JOSEPH L. B. ALEXANDER,

United States Attorney for the Territory of Arizona,  
County of Maricopa, } ss.

Joseph L. B. Alexander, being first duly sworn, on oath says that he the United States Attorney for the Territory of Arizona, and makes it

verification for and on behalf of the United States, that he has read the foregoing answer and cross-complaint and knows the contents thereof, and that the same is true of his own knowledge, save and except as to matters therein contained, stated upon information and belief, and as to them, he believes it to be true.

JOSEPH L. B. ALEXANDER.

Subscribed and sworn to before me, this 31st day of August, 1907.  
(Seal)

J. W. CRENSHAW, Notary Public.  
My commission expires June 1st, 1908.  
Filed August 31, 1907.

ELIAS F. DUNEJEVY, Clerk.  
By W. N. TIFFANY, Deputy Clerk.

AUGUST 31, 1907

IN THE

# DISTRICT COURT

Of the Third Judicial District of the Territory of Arizona,  
in and for the County of Maricopa.

PATRICK T. HURLEY,  
*Plaintiff,*

vs.

# 4564

CHARLES F. ABBOTT,  
ET AL.,  
*Defendants.*

Comes now the United States of America by Joseph L. B. Alexander, United States Attorney for the Territory of Arizona, leave of the court being first had and obtained, and answering admits that plaintiff is an inhabitant of the Territory of Arizona and is the owner in fee simple of the following described real estate, situated in Maricopa county, Arizona Territory, to wit: The southeast quarter of Section 14, T. 1 N., R. 2 E. of the Gila and Salt River Base and Meridian and the west half of the northeast quarter of Section 20, Township 1 N., R. 2 E. of the Gila and Salt River base and Meridian; admits that such lands are arid and cannot be made productive of crops of any kind without the application thereto of water from other sources than from and by the natural rainfall thereon; admits that the Salt river is an unnavigable stream flowing through said Maricopa county, Arizona, along such a course that water may be and has been and is diverted therefrom and made and caused to flow to and upon lands of the plaintiff above described; and having no knowledge or means of knowledge as to other matters and things in said complaint contained, upon information and belief, denies each and every allegation in said complaint contained, and herein before specifically admitted. And the United States further answering and by way of cross-complaint against the plaintiff herein and against all the other defendants named in the said complaint herein and

***EXHIBIT 10***

No. 4564

IN THE

**District Court**

MARICOPA COUNTY,  
ARIZONA.

PATRICK T HURLEY,

vs.

CHARLES F. ABBOTT, et al.

**Answer**

OF

*Don Perkins*

*Land 30 Acres in R.M. 14 of*

*Sec. 29 Twp. 2 S. R. 2 E*

*Filed July 27 1900 at 9 30 A*

*Clara H. Mumford*

*Clerk*

*Raymond S. Moberly*

*Deputy*

*Clerk.*

*The defendant for himself.*



# In the District Court

Of the Third Judicial District,

Of the Territory of Arizona, in and for the County of Maricopa.

PATRICK T. HURLEY,  
Plaintiff.

vs.

CHARLES F. ABBOTT,  
AND OTHERS  
Defendants.

Now comes the defendant Joseph Perkins

and for answer to plaintiff's complaint filed in the above entitled cause, alleges and says:

I.

That said defendant demurs to said complaint for the reason that the same does not state facts sufficient to constitute a cause of action against this defendant, wherefore defendant demands judgment for his costs therein.

II.

And should said demurrer be overruled, defendant for further answer to plaintiff's complaint, alleges and says that he denies each and every allegation in said complaint contained save and except the allegation that said lands described as owned by plaintiff are arid and cannot be cultivated or made productive of crops of any kind without the application thereto of water from other sources than from and by natural rainfall, and that the Salt River is an unnavigable stream flowing through the County of Maricopa, Territory of Arizona, along such a course that water may be diverted therefrom and made and caused to flow to and upon the lands described in said plaintiff's complaint.

III. by way of cross-complaint

And for further answer to the complaint of plaintiff, defendant alleges and say that he is the owner of the following described land situate in Maricopa County, Territory of Arizona, to-wit: Commencing at a point on the east line of the North West one fourth of section 29 in Township 2, North of range 11 East, distant 518.2 feet North from the center of said section, running thence West 822 feet, thence North 1417.2 feet to the line of the Maricopa canal, thence along the south line of said quarter section to where the east line of said canal thence South along said east line 1551.2 feet to place of beginning.

being in all thirty acres of land; that said lands are arid, and cannot be cultivated or made productive of crops of any kind without the application thereto of water from other sources than from and by the natural rainfall thereon; that the Salt river is an unnavigable stream flowing through said Maricopa County, Arizona, along such course that water may be, and has been and is, diverted therefrom and made and caused to flow to and upon the lands of the defendant herein before described.

That heretofore, to-wit: During the year 1896 the then owner and occupant then and there being an inhabitant of the Territory of Arizona, and a direct predecessor in interest of this defendant of said lands above described, diverted or caused to be diverted from said Salt river, waters sufficient, and which this defendant avers were necessary for the proper irrigation of the

to-wit: 100 inches, miners measurement, continuous flow, and caused the same to flow and otherwise to be conducted to and upon said above described land by means of ditches, canals and other works and thereby irrigated said quarter section above mentioned

and made the same productive of valuable crops. That said owner or possessor of said lands and his mesne grantors continued to so divert and caused to be diverted and caused to be conducted said amount of water from said Salt River, sufficient and necessary to irrigate, and in fact did thereafter continuously irrigate said described lands and thereby produce valuable crops thereon until the year 1903 this defendant became the owner and possessor of 30 acres of said piece or parcel of land, as aforesaid, and this defendant alleges and says that ever since the said year 1903 he has continuously diverted or caused to be diverted from said Salt River an amount of water sufficient and necessary to irrigate said 30 acres of land so now owned by defendant as aforesaid, to and upon said lands, and has ever since said year 1903 used the same for the irrigation thereof, and has by reason thereof continuously raised valuable crops thereon.

Defendant further avers that he is entitled to have, divert and receive of the waters of the said Salt River a pro rata share of the waters diverted by the original owner and his mesne grantors of said described land:

or sufficient to properly irrigate the said 30 acres of land so owned and possessed by defendant, to wit: 20 inches of water and a continuous flow thereof over and upon his said land for the purpose of raising valuable crops thereon.

The defendant further says that he is creditably informed and believes that the said plaintiff and the other defendants adversely claim, and each of them adversely claims the right to divert said water from said river and to use the same adversely to the right and title of the defendant, and the right to deprive this defendant of the use thereof.

Wherefore, defendant prays that his right and title to divert said amount of water, to-wit: 20 inches, miners' measurement, continuous flow, from said Salt River, and to use the same for the proper irrigation of his said lands and for the production of crops thereon, may be established, and that the plaintiff and others and each and every one of them severally, be debarred and forever stopped from having or claiming any right or title in and to the use of said water adverse to the defendant.

TERRITORY OF ARIZONA, } ss.  
COUNTY OF MARICOPA, }

*Alexander B. Smith*  
Independent Attorney

*Wiles Perkins, Agent for deft Wiles Perkins* being first duly sworn, on his oath deposes and says that he is the defendant in the foregoing answer; that he has read said answer and knows the contents thereof; that the matters and things in said answer stated and set out are true within his own knowledge, except as to those matters and things therein stated on information and belief and those he verily believes to be true.

*Alexander B. Smith*  
Independent Attorney

Subscribed and sworn to before me this 27 day of July 1905.

*Wiles Perkins*  
*David P. Kyle*  
Notary Public

***EXHIBIT 11***

In the District Court

of the County of  
[illegible]  
State of [illegible]

JUDGMENT FOR

[illegible]  
[illegible]

IN THE DISTRICT COURT OF THE THIRD JUDICIAL DISTRICT OF THE  
TERRITORY OF ARIZONA  
IN AND FOR THE COUNTY OF MARICOPA.

THE CONSOLIDATED CANAL  
COMPANY,

PLAINTIFF,

THE TEMPE IRRIGATING CANAL  
COMPANY, A JOINT STOCK ASSO-  
CIATION,

DEFENDANTS.

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Now comes The Tempe Irrigating Canal Company by J. T. Priest, the ~~person~~ <sup>person</sup> served as President of such Company, <sup>for an amended</sup> and in answer to Plaintiffs complaint, says:-

FIRST:- The Defendant, The Tempe Irrigating Canal Company, and J. T. Priest the ~~person~~ <sup>person</sup> served, demurs to said complaint, on the grounds that the same does not state facts sufficient to constitute any cause of action whatever against said Tempe Irrigating Canal Company and said J. T. Priest.

SECOND:- Said complaint does not give the names and residence of the constituent members of the alleged Tempe Irrigating Canal Company.

THIRD:- Said complaint does not state facts sufficient to show that the Tempe Irrigating Canal Company is a joint stock association or a partnership, having, owning or controlling property subject to condemnation by the plaintiff acting in its own right or as Agent for the Territory.

FOURTH:- Said complaint is vague, indefinite and uncertain in not alleging that the water appropriated, claimed and used by the defendants was at the date of the filing of said complaint flowing in, through or down Salt River, or passing the head, dam and ditch alleged to be owned, controlled

and operated by the plaintiffs.

WHEREFORE, The said Tempe Irrigating Canal Company and the said J.T. Priest pray judgment of the Court, that they be dismissed to go hence with their costs.

*Willy Williams*  
ATTORNEYS FOR SAID PARTIES.

And should the above demurrer be overruled, and said parties be required to answer further, then they say:-

FIRST:- The defendant, the Tempe Irrigating Canal Company, admit the allegations in Paragraphs 2, 3 and 4 of plaintiffs complaint, but deny each and every, all and singular the other allegations contained in Plaintiffs said complaint, and demand strict proof of the same, and ~~as~~ this said defendant puts itself upon the country.

WHEREFORE, Defendant pray judgment that plaintiff take nothing by this suit, and that defendant be dismissed to go hence with its costs.

*Willy Williams*  
ATTORNEYS FOR DEFENDANTS.

And for another and further answer to said complaint, and by way of Cross Complaint:- Frank B. Austin, John S. Armstrong, H. G. Adams, L. W. Blinn, J. W. Gatke, Administrator of the Estate of Charles Boikam, Deceased, E. M. Block, Otto Butler, J. H. Bolton, Jesse Bryant, G. H. Brown, C. A. Carpenter, R. E. Cassix, James Carroll, A. W. Cosner, T. Cosner, W. T. Cummings, C. A. Corbell, G. L. Compton, S. Ditwaller, M. Ellingson, E. G. Frankenburg, H. H. George, Charles Holdman, Leo Goldman, B. Goldman, Gonzales Brothers, Manuel Gonzales, V. Gart, Thos.

J. Goodwin, G. H. Gray, J. L. Gregg, George H. Gage, Agent, T. A. Gully,  
S. Granillo, M. Gonzales, H. A. T. Hanson, C. T. Hayden, S. D. Hayden,  
J. T. Haigler, L. L. Harmon, A. Alvey, Holmesly, A. R.  
Jenkins, W. J. Kingsbury, D. Kloss, W. R. Lewis, H. Lacey, Adminis-  
trator, of the Estate of Wm. Lacey deceased, B. M. Lemon,  
J. Leverman, J. Leverman & Company, C. Meyers, Thomas Morrow,  
W. Miller, A. Miller, C. M. Miller, J. H. Meyer, M. Miller, Y. Molino,  
G. Mandazio, C. W. McFarland, G. W. Nichols, H. W. Jackson, Adminis-  
trator of the Estate of G. H. Oury deceased, A. Orocco, N. Peter-  
sen, J. T. Priest, A. Pallacious, Y. Quiquers, J. E. Reden, N. H.  
Sherman, E. M. Shultz, Trustee, M. Sotello, J. Soza, J. Stinson,  
G. W. Tobin, Tempe Land and Improvement Company, Trustee, Tempe  
Land and Improvement Company, W. H. Thomas, T. M. Vernon, C. Wonake,  
E. G. Whitey, J. M. Wolf, J. H. Woods, W. S. Woods, M. Wormser, F. B.  
Wells, James Wilson, J. S. Watrous, Rachael P. Way, J. H. Campbell,  
W. R. Gosner, E. Fritsinger, R. Hare, W. E. Lewis, A. J. Price, W.  
Trivett, J. C. Missey, Composing the Tempe Irrigating Canal  
Company, a voluntary Joint Stock Association, having its of-  
fice and principal place of business in Maricopa County  
Arizona,

Plaintiffs,

-vs-

The Consolidated Canal Company, A. J. Chandler, and the Mesa  
Canal Company,

Defendants.

Now comes the Plaintiffs in the above entitled ac-  
tion and for cause of action allege:

FIRST:- That Frank B. Austin and his associates  
above named constitute the Tempe Irrigating Canal Company, a

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voluntary joint stock association, and having its Office and residence, and principal place of business in Tempe Maricopa County, Arizona Territory.

SECOND:- That the defendant, the Consolidated Canal Company, is a corporation, duly organized and existing under the laws of this Territory, and has its principal place of business in Maricopa County Arizona Territory; That the Defendant, the Mesa Canal Company, is a corporation, duly organized under the laws of this Territory and has its office and principal place of business in Maricopa County, Arizona Territory; That the Defendant, A.J. Chandler, is a resident of Maricopa County, Arizona Territory.

THIRD:- That the Salt River is a natural unnavigable stream of water, rising in the mountains of <sup>the</sup> North-eastern portion of Arizona, and flowing thence in a southwesterly direction, through a large valley of arable and irrigable land situated in said County.

FOURTH:- That heretofore, to-wit:- on or about the 6th. day of December 1870, a small number of persons then living on the desert near the Salt River, and in said Salt River Valley, the grantors and predecessors in interest of the plaintiffs, and then and there 'inhabitants of said County and Territory' and owners and possessors of arable and irrigable lands, situated in said Valley, and located on or near said river, at a point where there was then not 'population sufficient to form a public acequia' and desiring and intending to cultivate their said land and requiring for that purpose water for irrigation and domestic and other beneficial uses, formed



and associated themselves together as a joint stock association under and by name of the 'Hardy Irrigating Canal Company' which name was a short time thereafter by resolution of the Board of Directors of said Company, changed to 'The Tempe Irrigating Canal Company' and said association and the persons composing the same in and by that said name did locate, take up and appropriate and claim of the waters of said Salt River, Eleven Thousand Inches, Miners Measurement, for agricultural, domestic, mechanical and other beneficial purposes, and did thereupon proceed to construct at a great expense, to-wit: Twenty Five Thousand Dollars, a private dam, over and across said Salt River, and a private irrigating ditch, acequia, and canal, for their own use, and subject to their own regulations, and called The 'Tempe Irrigating Canal'. Commencing in the south bank of said Salt River at a point about sixteen miles East of the City of Phoenix, in Maricopa County, Arizona Territory, and running thence in a southwesterly direction and over and across land, then being a part of the public domain and belonging to the United States, and capable of carrying said Eleven Thousand Inches of water, Miners measurement, and said association and the persons composing the same, did thereafter, in and by said ditch, acequia and canal, continuously divert, and do now divert said water from said river, and use the same in the irrigation and cultivation of the land owned and possessed by them and in turning and operating a certain grist and flouring mill, belonging to members of said association, and said waters and ditch are now being used by the said plaintiffs, composing said association,

in the irrigation of the land owned, occupied and possessed by them as aforesaid, and in the operation of the said mill. That the said persons named as plaintiffs do now constitute the said Tempe Irrigating Canal Company, and have succeeded by diverse Means Conveyances to all and every the said dam, ditch and canal, and right of way therefor, and hereafter more particularly described, and have succeeded to all the right, title and interests of the said original locators and builders of said ditch, and claimants of said 11000 inches of water, miners measurement, and of all and every, the land irrigated and cultivated by said waters and of the grist mill, turned and operated thereby, and for which said waters were appropriated and to which said ditch conducted the same. That in 1888 plaintiffs reconstructed and enlarged said canal and increased the capacity thereof, so as to carry 18000 inches, miners measurement, of the waters of said river, and then and there increased their appropriations of the waters of said river to said amount, and have since continuously appropriated and used said 18000 inches of said waters for beneficial purposes as aforesaid.

That <sup>at</sup> all the times herein mentioned, the plaintiffs were the owners, and seized and possessed and entitled to possess the said waters, dam and ditch and the land occupied and connected therewith, and the same is more particularly described as follows, to-wit:

Commencing at a point on the outside of the west border of the canal, seventy feet east from the edge of the water and 285 feet west (variation 130 25' E.) from the southeast

corner of Section 4, T.1.N.R.5.E. Gila and Salt River Base and Meridian, running thence along the side of the border of the canal N. 32° 35' E. 300 feet; (variation 13° 25' E,) thence North 35° 50' E. 400 feet, thence N. 34° 45' E. 300 feet, thence N. 57° E. 220 feet, thence N 53° 30' E. 650 feet, thence N. 51° 30' E. 430 feet, thence N. 33° E. 1100 feet to the edge of the water in Salt River, thence due north across Salt River 400 feet, thence due west on the north bank of Salt River 500 feet, thence S. 10° 30' E. 400 feet to the edge of the water on the south bank of Salt River, Thence South 30° 45' W. 700 feet, thence S. 80° 25' W. 460 feet thence S. 49° 25' W. 740 feet, thence S. 31° 35' W. 185 feet, thence S. 30° W. 300 feet, thence S 35° W, 275 feet, thence S. 32° 15' W. 450 feet, thence S. 31° 15' W. 465 feet, thence S 29° 20' W. 300 feet, thence S. 31° W. 400 feet, thence S. 37° 25' W. 460 feet, thence S. 29° 25' W, 615 feet, thence S. 25° 30' W. 290 feet, thence S. 22° W. 345 feet, Thence S. 15° 35' W. 590 feet, thence S. 10° W. 185 feet, thence S 19° 20' W. 425 feet, thence 34° W. 265 feet, thence S. 73° 25' W, 555 feet, thence S. 66° 30' W. 190 feet, thence S. 61° 10' 780 feet, thence S. 53° 50' W. 320 feet, thence S. 33° W. 430 feet, to lower end of canal, thence S. 69° E. 97, 1/2 feet across lower end of the canal, thence E. 400 feet, thence N. 55° E. 290 feet, thence N. 61° 30' E. 770 feet, thence N. 65° 50' E. 175 feet, thence N. 73° 30' E. 590 feet, thence N. 33° E. 315 feet, thence N. 19° E. 420 feet, thence N. 11° 20' E. 220 feet, thence N. 15° E. 560 feet, thence N. 24° 30' E. 330 feet thence N. 35° 35' E. 270 feet, thence N. 34° 25' E. 620

feet, thence N. 31° E. 350 feet, thence N. 32° E. 610 feet, thence N. 32° 35' E. 750 feet, to the place of beginning.

FIFTH:- That heretofore, to-wit:- On or about the day of October 1892, in a suit then pending in this court, wherein the said, The Tempe Irrigating Canal Company and one G.T. Hayden, and one M. Wormser, were the plaintiffs, and the Salt River Valley Canal Company, a corporation, and the Maricopa Canal Company, a corporation, the Utah Canal Company, a joint stock association, The Grand Canal Company, a corporation, the Mesa Canal Company, a corporation, The Highland Canal Company, a corporation, the Arizona Canal Company, a corporation, the Consolidated Water and Power Company, a corporation, were defendants, and Number 708 on the docket of this court, a decree was rendered, declaring that all the waters flowing in the Salt River, during the dry and rainless season of each year, had been appropriated by said parties respectively, and defining the rights of all parties to said suits, and declaring that any rights that the Mesa Canal Company, a corporation, the grantor and predecessor in interest of the Consolidated Canal Company, (Defendant herein) had in and to the waters of said Salt River, were subject and long subsequent to the claim, and appropriation of the Tempe Irrigating Canal Company.

SIXTH:- That on the 29th, day of December 1892, and for more than five years prior thereto, the plaintiffs and their predecessors in interest, had been in actual, open notorious, quiet, peaceable, undisturbed and adverse possession of the said land, right of way, ditch, and canal, and water and water rights, enjoying and using the same, and the said right

were and had been at all the said times, and now are, and since then have been, acknowledged and recognized by the local customs, laws and decisions of the Court, that on said day, and again on the 11th, day of June 1894, and again on the 26th, day of February A.D. 1896, the defendants colluding together and acting in concert, with force and arms, and without right or title, did unlawfully, wilfully and wrongfully, and without the consent of the plaintiffs, enter into and upon said lands ditch and right of way, and did then and there clear off the ground, survey the same, and drive stakes thereon, and did dig and tear up the earth, and cut down the timber and brush thereon and did oust and eject the plaintiffs therefrom, and did then and there and without the consent of the plaintiffs, unlawfully and wrongfully place in and on said ditch and right of way, and near thereto, a large amount of lumber and ditch material, and did dig up and tear into plaintiffs said land and right of way and into the banks of plaintiffs said ditch, and did dig up the earth and cut down the banks of said ditch on the said right of way, and did in an unskillfull manner make, excavate, and construct a large ditch thereon and therein and did wall up, plaintiffs said ditch so as to prevent water from flowing therein in its accustomed and usual manner and as plaintiffs had and have a right to have it flow, to plaintiffs great and irreparable damage and injury, in the sum of Fifty Thousand Dollars.

And Defendants threaten to continue to dig and plow up the earth and cut down the banks of said ditch in said right of way and land, and to make, excavate and construct a still larger ditch thereon and therein, and threaten to abso-

skillfully wall up plaintiffs said ditch so as to prevent water from flowing therein and therethrough in its accustomed and usual manner or in any manner whatever, as plaintiffs have a right to have it flow, to plaintiffs irreparable damage and injury to the further sum of One Hundred Thousand Dollars.

That defendants wrongfully and collusively acting together in concert as aforesaid, and on the 11th, day of June 1894, aforesaid, and in violation of the vested and accrued rights of the plaintiffs, in, through and by said unskillfully constructed ditch and canal, commencing at a point in the south bank of the said Salt River above the point on the said river where plaintiffs had been accustomed to divert said waters of said river appropriated by plaintiffs as aforesaid and without the consent of said plaintiffs and against their will, did wrongfully divert and take from said river several thousand inches of said water, miners measurement, of the waters of said river, which had been appropriated, claimed and used by plaintiffs, and which of right belonged to said plaintiffs, and which plaintiffs had and have the right to have flow down the channel of said river and into plaintiffs said ditch and canal at its head, and which they now and at all times actually need, and the defendants unlawfully and wrongfully claim the right in, through and by said unskillfully constructed canal, to turn out, take and divert from the said river, all of the water flowing in the said river, at all of the seasons of the year, to the amount of 50000 inches, miners measurement, including the 18000 inches of water, miners measurement, owned and needed by plaintiffs as aforesaid, and defendants claim the right to divert and prevent said waters from

flowing down the channel of said river in its accustomed manner or in any manner whatever, to and so as to supply said plaintiffs canal and ditch with the said waters located, appropriated, claimed and owned by plaintiffs as aforesaid, and of which they have actual need.

EIGHTH:- That the defendants actions in the premises are unlawful and wrongful, and is in direct violation of plaintiffs vested and accrued rights to said ditch, right of way and use of said water, and defendants give out and threaten and will unless restrained by this Honorable Court, in, through and by said unskillfully constructed canal, turn out, take and divert, from said Salt River, all of said 12000 inches of water, miners measurement, so located, appropriated, claimed, owned and needed by plaintiffs as aforesaid, and will divert and prevent said water from flowing down the channel of said Salt River, in its accustomed manner, or in any manner whatever, to and so as to supply plaintiffs said canal and ditch with the said water, so located, appropriated, claimed and owned by plaintiffs as aforesaid, and of which they have actual need.

And the defendants threaten and will unless restrained by this court, unlawfully and wrongfully take possession of plaintiffs said property and interfere with plaintiffs said vested and accrued rights to said ditch, right of way and use of said water, and will deprive plaintiffs of the right to use and enjoy the same, to plaintiffs irreparable damage and injury.

NINTH:- That the defendants are insolvent and wholly unable to respond in damages to plaintiffs, and plain-

Plaintiffs have no plain, speedy and adequate remedy at law.

TENTH:- That unless defendants are enjoined and restrained by this Honorable Court, during the pendency of this action, they will carry said threats into execution, and will virtually destroy and ruin plaintiffs said property, and render said ditch and canal incapable of supplying plaintiffs said land with water for irrigation, and of supplying water to turn and operate said mill, and said defendants will unlawfully and wrongfully, and without the consent of the plaintiffs appropriate and take a portion of said land, ditch and right of way for their own use and benefit, and will render the balance thereof useless and without value to plaintiffs, <sup>and will deprive plaintiffs</sup> of the use of said water, to their irreparable damage and injury.

WHEREFORE, Plaintiffs pray judgment:-

1.

That during the pendency of this suit, the defendants, their officers, agents, servants, and employees, be enjoined and restrained from in any manner diverting and interfering with said water, and from digging, excavating and plowing up said earth, and from making, excavating, and constructing said ditch.

2.

That pending this action and until the final hearing and determination thereof, the defendants, their officers, agents, servants, and employees, be enjoined and restrained from in any way or by any means interfering with or obstructing the present flow of the waters in said Salt River, or the waters to flow therein, at any time hereafter, whereby the plaintiffs will be impeded or prevented from taking



diverting, and carrying from the waters of said river, in and by their ditch and canal, heretofore described in this complaint, all and every the quantities of said ~~XXXX~~ <sup>Waters</sup> to which they are entitled, as hereinbefore alleged, and show in and by this complaint.

3.

That it may be ordered and adjudged, that the defendants and each of them shall at all times, permit and suffer the waters of said river so to flow in and through their natural channel; that plaintiffs can and will at all times receive in and by their said ditch and canal, all and every the quantity of water of said river, to which they are entitled, as alleged in this complaint.

4.

That upon a final hearing hereof, said injunction be made perpetual, and that plaintiffs be declared the owners of said water, ditch and right of way therefor, and the defendants, their officers, agents, servants, employees be perpetually enjoined from diverting and interfering with said 11000 inches of water, and from constructing said contemplated ditch, and from in any manner molesting and disturbing plaintiffs said water, ditch, lands and right of way.

5.

That plaintiffs have such other, further, general and special relief as may seem meet and proper to the Court, the premises considered, including One Hundred and Fifty Thousand Dollars damages, besides all costs of this suit.

*Hibby & Williams*  
ATTORNEYS FOR PLAINTIFFS

***EXHIBIT 12***

*copy*  
*201A*

DISTRICT COURT

State of Missouri  
County of [unclear]

*The Cass & Edgell*  
*Coal Co*

Plaintiff

*The Quincy*  
*Coal Co et al*

Defendant

Dismissed.

*Filed April 10 1895*

*J. C. Mann*  
Clerk

Deputy Clerk

IN THE DISTRICT COURT OF THE THIRD JUDICIAL DISTRICT  
OF THE TERRITORY OF ARIZONA, IN THE COUNTY OF MARICOPA

The Consolidated Canal Company  
a Corporation  
Plaintiff.

vs

+ The Arizona Canal Company  
a Corporation.  
+ The Salt River Canal Company  
A Corporation.  
+ The Maricopa Canal Company  
T a Corporation.  
+ The Grand Canal Company  
a Corporation.  
The Mesa Canal Company,  
a Corporation.  
+ The Highland Canal Company,  
a Corporation,  
J. E. Price, J. T. Priest,  
and J. O. Wolf, directors of the  
+ Tempe Irrigating Canal,  
an Unincorporated Association.  
F. J. Johnson, W. A. Dagers, and  
E. E. Jones, Directors of the  
+ Utah Irrigating Ditch Company, an  
Unincorporated Association.  
A. J. Peters, C. A. Saylor, and  
F. J. Johnson, Directors of the Utah Extension and  
enlargement Company.  
an Unincorporated Association.  
+ M. Wormser,  
+ C. T. Hayden, and  
WM. N. Standage?  
Defendants?

COMPLAINT

4

The plaintiff above named, for cause of action against the defendants, alleges:

)L)

That the plaintiff is a Corporation, duly organized and existing under the laws of the Territory of Arizona, for the purpose of appropriating water and furnishing the same for irrigation and for mechanical and milling purposes, with its chief office and place of business at Phoenix, in Maricopa County Territory of Arizona.

-2-

That the Defendant, The Arizona Canal Company, is a Corporation organized and existing under the laws of the Territory of Arizona with its principal office and place of business in Phoenix Maricopa County, Arizona.

III

That the Salt River Canal Company is a Corporation, organized and existing under the laws of the Territory of Arizona, with its principal office and place of business in said City of Phoenix.

IV

That the Maricopa Canal Company is a Corporation organized and existing under the laws of the Territory of Arizona, with its principal office in the said City of Phoenix.

V

That the Grand Canal Company is a Corporation, organized and existing under the laws of the Territory of Arizona, with its principal office and place of business in said City of Phoenix.

VI

That the Mesa Canal Company is a Corporation organized and existing under the laws of the Territory of Arizona, with its office and principal place of business at Mesa, in said County of Maricopa.

VII

That the Highland Canal Company is a Corporation organized and existing under the laws of the Territory of Arizona, with its office and principal place of business at said Town of Mesa.

VIII

That the Tempe Irrigating Canal is an unincorporated association, composed of many members or shareholders, and having a board of directors in charge of the management of their affairs, which Board of Directors is composed of J. E. Price, J. T. Priest and *J. W.* Wolf, all of whom are residents of said County of Maricopa.

IX

That the Utah Irrigating Ditch Company is an unincorporated association, composed of many members or owners, whose affairs are managed by a board of directors, consisting of F. J. Johnson, W. A. Dags and E. E. Jones, all of whom are residents of the said County of Maricopa.

X

That the Utah Extension and enlargement Company is an unincorporated association, composed of a large number of owners or shareholders, whose affairs are managed by a board of directors, composed of . A. J. Peters, C. A. Saylor and E. J.

Johnson, all of whom are residents of the said County of Maricopa.

XI

That defendants M. Wormser, C. T. Hayden and WM. N. Standage are all residents of the said County of Maricopa, and the said Standage is a water commissioner, having charge of the business of the apportionment and distribution of the waters of Salt River among different parties to this action.

XII

That the Salt River is an unnavigable stream, flowing through the said County of Maricopa from East to West and on either side thereof there are large bodies of fertile lands which require and use the waters of said river for the purpose of producing crops, and the said Arizona Canal Company, the said Salt River Canal Company, the Said Maricopa Canal Company, and the said Grand Canal Company all have and own appropriations of water from said Salt River, which water is used on the lands situated to the North Side of the said River and the Said Mesa Canal Company, the Said Highland Canal Company, the said Tempe Irrigating Canal, the said Utah Irrigating Ditch Company, the said Utah Extension and Enlargement Company, the said Wormser and the said Hayden, all have appropriations of water from the said Salt River, which is used on the South side thereof.

XIII

That from and before the time of the first appropriation of the waters of said Salt River by the defendants, and each and every of them, and down to the time of the appropriation

of the waters of said river by the plaintiff, as hereinafter mentioned, there was always a large amount of the waters of said river that was not appropriated by the defendants, or either or any of them, and was not caught in the dams or taken into the ditches or canals or any or either of them, with the exception that some of the waters of said river were for a time taken in to the canal of the Arizona Canal Company at its head, and conducted down said canal for a distance of about three miles, and was then turned back into said river at a point which is known as the Arizona Waste Gate; but the said water, so taken into the head of the said Arizona Canal and discharged at its waste gate was never appropriated or used by the said Arizona Canal Company for any useful or beneficial purpose, but the said water was in fact a portion of the water which had been previously appropriated by other defendants in this action.

XIV

That the said waters of the said Salt River, which had never been appropriated, or applied to any useful or beneficial purpose by any of the defendants consisted of about four thousand inches of water, continuous flow, and the same had, prior to the appropriation thereof by the plaintiff, as hereinafter mentioned, been allowed to flow, and had always flowed down the natural course of said river, and had sunk and become lost in the bed of said river, and the same was, at the time of the said appropriation by the plaintiff, unappropriated water of the said Salt River, and was subject to appropriation for any useful or beneficial purpose.



That in the month of \_\_\_\_\_ 189 Alexander J. Chandler, who was a citizen of the United States, over the age of twenty one years, posted and filed for record, in due and legal form a notice of appropriation of fifty thousand inches continuous flow of the unappropriated waters of said Salt River, and immediately thereafter began the work of actually appropriating the said water, and continued said work with due diligence by constructing dams canals and ditches, for the purpose of conveying said water to the lands on the South Side of the said Salt River requiring water for the production of crops, and afterwards the said Alexander J. Chandler sold and conveyed to the plaintiff all his rights to said water, and to the dams canals and ditches aforesaid; and thereafter, to-wit:- on the 15<sup>th</sup> day of June, 1893 plaintiff, through said Chandler as its president and representative, duly posted and filed for record another notice of appropriation of fifty thousand inches continuous flow of the waters of the said Salt River, and plaintiff has ever since been engaged with a large force of men, and at a great expenditure of money in enlarging its canals and ditches and extending the same for the purpose of delivering water, and developing water power at different places on the South Side of said river; that the said appropriation by plaintiff and its predecessor an interest included the four thousand inches of water aforesaid, which had always before such appropriation been allowed to run into the sand, and sink and become lost in the bed of said river, and also the underflow and the flood waters of said river; and on the 11th day of June, 1894, plaintiff had actually diverted through its canal, and had appropriated

about three thousand inches, miners' measurement, of the waters of said river, which three thousand inches of water were a part of the four thousand inches, which had always, prior to the beforementioned appropriation by the said Chandler and this plaintiff, been allowed to flow down the channel of said river, and to sink and become lost in the bed thereof; and plaintiff is now engaged with a large force of men and teams, in completing the work necessary for the diversion and saving of the remaining portion of the said four thousand inches of water.

#### XVI

That since the said 11th. day of June, 1894, defendant Wm. N. Standage has been engaged in dividing the waters of the said Salt River, including the three thousand inches, or thereabouts, of water which plaintiff had diverted and appropriated as aforesaid, between the defendant The Arizona Canal Company, and other defendants in this action, and the said Standage still continues so to do, without the consent of the plaintiff, and greatly to its injury.

#### XVII

Plaintiff is advised, and alleges the fact to be, that by reason of the appropriation, diversion and application to a beneficial use of that portion of the waters of said river which had never before been appropriated, diverted or used, plaintiff has become the owner of all of said waters so appropriated and diverted and used, and has acquired the exclusive right to carry and deliver said water to the lands where the same may be used for the purposes of irrigation, and for other useful and beneficial purposes.

XVIII

And plaintiff alleges, on information and belief, that all of the defendants, except defendant Standage, claim some right or interest to or in the said waters of the Salt river, which plaintiff has appropriated, diverted and used as aforesaid, which claim is adverse to the claim of plaintiff therein.

WHEREFORE plaintiff prays,

1 That it be adjudged that plaintiff is the exclusive owner, and has the exclusive <sup>right</sup> to carry and deliver, all of the said waters of WSalt River which have been appropriated, diverted or carried by plaintiff and its predecessor in interest, as hereinbefore set forth, and that the defendants have not, and that neither of them has, any right, title, interest or claim in or to said waters or any part thereof.

2 That the title of plaintiff in and to the said water be quieted in plaintiff, and that the defendants and each and every of them be restrained and perpetually enjoined from asserting any right or title to said water or any part thereof, and from interfering with the title of plaintiff to the same.

3 That pending this action a commissioner be appointed, who shall, under the order and direction of the Court, so apportion the water of said river that all of the water, so diverted and saved by the plaintiff as aforesaid, shall be delivered to the plaintiff, and the plaintiff shall be allowed to carry and deliver the same without interruption or hindrance from the defendants or any of them, and that the defendants, and each and every of them be restrained, during the pendency of this action, from diverting or using any of the said water, or

from in any manner interfering with the possession or use thereof by plaintiff.

4th. That plaintiff have judgment for costs, and all proper relief.

..... John A. Pope .....  
..... Pierce Evans .....

Attorneys for plaintiff.

TERRITORY OF ARIZONA, COUNTY OF MARICOPA.

Alexander J. Chandler, being sworn says: I am the President of the Consolidated Canal Company, and make this affidavit on its behalf; I have read the foregoing complaint, and know the contents thereof, and the same is true of my own knowledge, except as to matters therein stated on information or belief, and as to those matters I believe it to be true.

...*Alexander J. Chandler*.....

Subscribed and sworn to before me this 16th. day of  
June, 1894.

...*J. E. Munn*.....  
Notary Public.

***EXHIBIT 13***

OFFICE OF THE SHERIFF OF THE COUNTY OF MARICOPA.

I HEREBY CERTIFY that I received the within Summons on the 25<sup>th</sup> day of June A. D. 1894, at the hour 2.40 Oclk P. M., and personally served the same on the 25<sup>th</sup> day of June A. D. 1894, on The Arizona Canal Company, The Maricopa Canal Company and The Grand Canal Company being part of the defendant named in said Summons, by delivering to J. M. Christy as Secretary of each of the above companies at Phoenix Arizona a copy of said Summons, to which was attached a true copy of the Complaint mentioned in said Summons.

Dated this Seventh day of July 1894

Fees, Service,	<u>3</u>	\$	<u>4.50</u>
Copies,	<u>3</u>	\$	<u>1.80</u>
Travel	<u>1</u> miles,	\$	<u>.30</u>
Publication,		\$	
Total,		\$	<u>6.60</u>

By J. J. Murphy Sheriff.  
W. Kidner Deputy Sheriff.

No. 2014

**DISTRICT COURT**  
 Third Judicial District, County of Maricopa,  
 Territory of Arizona.

The Canal Companies  
 vs.  
The Arizona Canal Company  
 Defendant

**SUMMONS.**

John D. O'Neil  
James Evans  
 Attorneys for Plaintiff

Filed July 9<sup>th</sup> 1894  
J. E. McArthur  
 Clerk

By J. E. McArthur  
 Deputy Clerk

Filed at Phoenix 2.40 P. M.  
2014

IN THE DISTRICT COURT OF THE THIRD JUDICIAL OF THE TERRITORY OF  
ARIZONA IN AND FOR THE COUNTY OF MARICOPA.

---

The Consolidated Canal Company, (   
a corporation, (   
Plaintiff, (   
-vs- (   
The Arizona Canal Company, a (   
Corporation, and others, (   
Defendants. (

---

Now comes M. Wormser, one of the defendants in the above  
entitled action, and by leave of the Court files this his amended  
answer to plaintiff's complaint, says:- That he demurs thereto for  
the reason that said complaint does not state facts sufficient to  
constitute any cause of action whatever against this defendant, and  
of this defendant prays judgment of the Court, that he be dismissed  
to go hence with his costs,

*Hancock & Poley* *M. A. Williams*  
Attorneys for Defendant.

And should the above demurrer be overruled and this de-  
fendant required to answer further, then defendant says:-

First:- He admits that the Salt River is a natural innav-  
igable stream of water rising in the mountains in the northeaster<sup>n</sup> ,  
portion of Arizona and flowing thence in a southwesterly direction  
through a large valley of arable and irrigable land situated in said  
County, but denies each and every other allegation in plaintiff's  
complaint contained as therein alleged, and of this the defendant  
puts himself upon the country.



And the defendant, M. Wormser, as plaintiff, complaining of the plaintiff, The Consolidated Canal Company, as defendant, by way of a cross complaint, charges and alleges:

FIRST: That the Plaintiff is a resident of Maricopa County, Arizona Territory, and the defendant is a corporation duly organized under the laws of this Territory and doing business in the County of Maricopa.

SECOND: That the Salt River is a natural unnavigable stream of water, rising in the mountains in the northeastern portion of Arizona, and flowing thence in a southwesterly direction through a large body of arable and irrigable land situated in said County.

Third: That on or about the month of December, 1870, a small number of persons living in the desert and on or near the Salt River and in said Salt River Valley, and about six to nine miles east of what is now known as the City of Phoenix, and being then and there the owners and possessors of land in the said Valley located on or near said river, at a place where there was not then 'population sufficient to form a public acequia', and desiring to cultivate their said lands and requiring for that purpose water for irrigation took up, located, appropriated and claimed of the waters of said Salt River, forty-five hundred inches, miners' measurement, and did thereupon proceed to construct at great expense, to wit, five thousand dollars, a 'private' dam over and across said Salt River, and a 'private irrigating ditch, acequia and canal for their own use, subject to their own regulations', and called and known as the San Francisco Canal, commencing in the South bank of said Salt River at a point nine miles, or thereabouts, East of the City of Phoenix, and running thence in a southwesterly direction over and across land

... being part of the public domain and capable of carrying said forty-five hundred inches of water, miners' measurement; and the said persons did thereafter, and in and by said San Francisco Canal, continuously claim, appropriate, use and employ said forty-five hundred inches of water, miners' measurement, of the waters of said Salt River, in the irrigation and cultivation of the lands so owned and possessed by them for their use and benefit; that the quantity of water so appropriated, claimed and used by the owners of said San Francisco Canal, and in and by the ~~same~~ same, was and is not excessive or unreasonable for the irrigation and cultivation of their said lands, but the whole thereof was and is needed for the purpose for which it was appropriated, and was, at all times after said appropriation, actually, continuously and in good faith claimed, appropriated and used by such persons, owners of the lands aforesaid, in the cultivation and irrigation thereof, and such appropriation of said water and the rights to the sole use thereof acquired by the owners of said San Francisco Canal, became and were vested in them, and said rights were thereafter at all times recognized and acknowledged by the local laws and customs and the decisions of the Courts; that the plaintiff herein, M. Wormser, did heretofore, and more than fifteen years before the commencement of this action, by divers mesne conveyances, succeed to acquire all and every the said dam and San Francisco Canal and all and every the right, title and interest of the said original locators and claimants of said forty-five hundred inches of the water of the waters of said Salt River, appropriated, claimed and used in and by means of said San Francisco Canal, and all and every the lands irrigated and cultivated by said waters and for which said water was originally appropriated and by the said canal carried and

conducted to the same; and the said Plaintiff, M.Wormser, is now the owner and possessor of said dam and canal, and of said water, water right and franchise, and entitled to enjoy all and every the rights, privileges and franchises of such persons, his Grantors and predecessors in interest, by said San Francisco dam and canal was excavated, dug and constructed and said forty five hundred inches of water, miner's measurement, were originally appropriated, used and employed, that all of said lands irrigated by said San Francisco Canal require irrigation, and said forty five hundred inches of water are required for such purposes, and without such irrigation said lands and the whole thereof would be unfit for cultivation and incapable of producing crops and wholly valueless and without use, and such quantity of water for such purpose is not excessive or unreasonable, that all and every of the rights, and uses of said forty five hundred inches of water, miners measurement, of the waters of said Salt River, for the purpose aforesaid have, and are now, vested in the plaintiff, M.Wormser, and he is now the owner thereof, and the said plaintiff has at all times since his acquisition thereof claimed and asserted the right to the use of the whole of said forty five hundred inches of water and to and the right to use and employ the same in the irrigation and cultivation of the lands aforesaid, and the rights aforesaid, vested in, owned and claimed by the plaintiff, M.Wormser, have been at all times and are recognized and acknowledged by the local laws and customs and the decisions of the Courts, and said Plaintiff, M.Wormser, is of right entitled, without let or hindrance, to appropriate, use and employ for the purpose aforesaid, under and by means of said San Francisco Canal, said forty five hundred inches of water, miner's measurement

of the waters of said Salt River.

Fourth:- That during the year 1876 the plaintiff M. Wormser, being the owner and possessor of a large quantity of said arable and irrigable land, situated under and tributary to said San Francisco Canal, and being the owner of said Dam and Canal and the water rights and franchises belonging thereto, did, at great expense, to-wit:- ten thousand dollars, cause said dam and canal to be reconstructed and made anew, and so located on the south side and in the bed of said Salt River as to catch, turn and divert into said San Francisco Canal all of the eleven hundred inches of the waters of said Salt River, then, and since being used by one C.F. Hayden, to turn and operate a grist and flouring mill, and by the said Hayden claimed and used for no other purpose, , and which there before had and thereafter did continuously flow back into said River at a point above plaintiff's said dam and canal.

Fifth:- That the plaintiff for more than ten years last past has been the owner and possessor of several thousand acres of said land situated under said San Francisco Canal, as aforesaid, and is now, and for more than five years last past has been, the owner and possessor of more than fifty odd hundred acres of said land which together with the water rights belonging thereto is of the reasonable value of forty dollars per acre aggregating a total value of more than two hundred thousand dollars, and which is situated under and tributary to said San Francisco Canal, and said land require water at all times for its irrigation as aforesaid, and plaintiff has leased, let and rented to a large number of farmers and their families living under said canal, namely, some forty three families, several thousand acres of land together with water sufficient to irrigate and cultivate the same, and there is no

in actual cultivation and greatly in need of water for irrigation under said canal two hundred and fifty acres of land seeded to alfalfa, and thirty one hundred acres of land seeded to grain and other crops; that the said lessees, tenants and renters aforesaid, are now at work preparing \_\_\_\_\_ acres of said land and getting it ready to be planted in other crops and are now actually in need of water to irrigate said land, so as to properly prepare it for the seed, , that unless water is obtained to irrigate the said land, all of said crops will be lost and destroyed, and said land will be relegated to its original condition of a desert to plaintiff's great and irreparable damage, loss and injury, in the sum of two hundred thousand dollars, the value of said land and water rights.

Sixth:- That heretofore, to-wit, on or about the first day of October 1892, in a suit then pending in this Court, wherein the Tempe Irrigating Canal Company, C.T.Hayden and this Plaintiff, M.Wormser, were plaintiffs, and the Salt River Valley Canal Company, ( a corporation), The Maricopa Canal Company. ( a corporation), The Utan Canal Company, ( a joint stock association), The Mesa Canal Company, ( a corporation) The Highland Canal Company ( a corporation), The Arizona Canal Company, ( a corporation), The Consolidated Canal Company, ( a corporation) and others were defendants, and Number 708 on the Docket of this Court, a decree was rendered declaring that all waters flowing in the Salt River during the dry and rainless seasons in each year had been appropriated by said parties respectfully, and defining the rights of all parties to said suit, and declaring that any rights the Mesa Canal Company, (a corporation) the Grantor and predecessor in interest of the Consolidated Canal Company, defendant to this cross complaint, had in and

to the waters of said Salt River, were long subsequent and are subject to the claim and appropriation of this plaintiff, and by said decree a water commissioner was appointed to execute said judgment of the Court, and apportion among the various parties to said suit the quantity of waters which each of said parties was and might be respectively entitled during the times of scarcity in each year; and by said decree it was further adjudged that for many years last past all the water flowing in the said Salt River during dry and rainless seasons in each year had been appropriated and applied to a beneficial use by the respective parties to said suit, and said commissioner was directed in times of scarcity to apportion and distribute the waters then flowing in said Salt River to the said respective parties to said action, and said commissioner, claiming to act under said decree, has apportioned to this plaintiff, M. Wormser, forty five hundred inches, miners measurement, of the waters of said Salt River, to be used during this season, and has apportioned to the other parties to said action respectively what he considered to be their apportion of the waters now flowing in the said River.

Seventh:- That there is now flowing in the said River above the Arizona Canal Dam (The first canal on said River taking water therefrom, and located far above any other canal taking water from said river) \_\_\_\_\_ inches, miner's measurement, of water, which has been apportioned and distributed by said commissioner in the manner and to the extent shown in Exhibit 'A' hereto attached and made a part hereof.

Eighth:- That all of the waters flowing in the Salt River and through said Valley during the dry and rainless seasons of each year have been continuously appropriated, used and employ-

ed for beneficial purposes ever since 1872, and there is no water flowing in said river in the dry and rainless seasons which the defendant, The Consolidated Canal Company, could lawfully appropriate; that the said Company is the successor in interest and the Grantee of the Mesa Canal Company, a corporation, one of the defendants in the cause Number 708, decided in this Court, as hereinbefore mentioned, and as the Grantee and successor of said The Mesa Canal Company, the said The Consolidated Canal Company is bound thereby.

Ninth:- That said defendant, The Consolidated Canal Company, threatens to, and, unless restrained by this Court, will divert, take and appropriate to its own use and benefit a large quantity of the waters flowing in said River which have already been appropriated, claimed and used by the Plaintiff as aforesaid.

Tenth:- That said The Consolidated Canal Company, defendant herein, is virtually insolvent and wholly unable to respond in damages to the plaintiff for the injuries so unlawfully and wrongfully threatened.

Eleventh:- That plaintiff has no plain, speedy and adequate remedy at law.

WHEREFORE, The Plaintiff, M.Wormser, prays that he have judgment fixing and defining his rights to the waters of Salt River as against said Defendant, The Consolidated Canal Company, and that his appropriation of the said forty five hundred inches of <sup>the</sup> waters of said River, be declared perfect and absolute as against the defendant, and that the defendant, The Consolidated Canal Company, be enjoined and restrained from in any way interfering with plaintiff's

said appropriation, and his right to the use of said waters,;that  
the plaintiff have judgment for his costs in this behalf expended,  
and for such other and further, general and special relief, both in  
law and equity, as to the Court may seem meet and proper in the  
premises. And in duty bound, plaintiff will ever pray.

*M. H. Williams*  
*Barrett & Parley*  
Attorneys for Plaintiff.

Territory of Arizona )  
                                  (ss.  
County of Maricopa     )

M. Worcester, being duly sworn, on oath deposes and says:-  
That he has read the foregoing answer and cross complaint, and  
knows the contents thereof, that the same is true of his own knowl-  
edge, except as to matters and things therein stated on information  
and belief, and as to those he believes them to be true.

Subscribed and sworn to before me this \_\_\_\_\_ day of April 1895.

\_\_\_\_\_  
Notary Public.



***EXHIBIT 14***

1891

DISTRICT COURT

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

Walter C. ...

vs. ...

... ..

... ..

Dismissed

... ..

... ..

IN THE DISTRICT COURT OF THE THIRD JUDICIAL DISTRICT OF THE  
TERRITORY OF ARIZONA, IN AND FOR THE COUNTY OF MARICOPA.

The Utah Canal Enlargement and Extension  
Company, - - - - - Plaintiff,

Vs.

The Utah Irrigating Ditch Company, Thomas  
P. Biggs, W. W. Dobson, F. Sanders and  
Thomas E. Jones, - - - - - Defendants.

---:---

Plaintiff for its complaint, alleges:

I.

That plaintiff is a joint stock company, having its principal office for the transaction of business, in Mesa, Maricopa County, Arizona, and that C. A. Saylor is President, and J. S. Watrous is the Secretary of the plaintiff company. That the defendant The Utah Irrigating Ditch Company, is a joint stock company having its principal office for the transaction of business, in Maricopa County, Arizona Territory. That Thomas P. Biggs, W. W. Dobson and F. Sanders, are Directors in said Utah Irrigating Ditch Company, and that Thomas E. Jones is the Zanjero of said ditch company last named. That said directors and Zanjero have the entire control and management of the affairs of said last named company, and the distribution of the waters flowing in its said canal as hereinafter shown. That all parties, both plaintiff and defendants, are residents of Maricopa County, Arizona Territory.

II.

That plaintiff, at the time and times hereinafter mentioned, was and is now the owner and operator of a certain system of canals in Maricopa County, known as the Utah Enlargement and Extension

1.

Deputy Clerk.

sion Company's Canal, by means of which said plaintiff diverts water from Salt River, an unnavigable stream of water flowing through said county in a general north-east and south-west direction. Said waters so diverted are used for irrigating purposes by the members of plaintiff's company.

III.

Plaintiff further states that all of its members are owners of land and users of water for irrigating purposes, conveyed to them through plaintiff's and defendants' canals. That the waters of the said canals are diverted from Salt River at a point on Sec. 29, Township Two North Range Six East, and for a distance of about three miles to a point on Section One, Township One North Range Five East, and to a waste ditch of the said Utah Canal Company. The said Utah Canal Enlargement and Extension Company's Canal is an enlargement of the said Utah Irrigation Company's Ditch.

IV.

That on the 8th day of October, 1887, certain persons composing and representing the Alma Irrigating Ditch Company entered into and executed a contract with the Utah Irrigating Ditch Company, the defendant, whereby the said Alma Irrigating Ditch Company acquired certain rights in and to the canal of the said Utah Irrigating Ditch Company, and the water then flowing and thereafter to be carried therein, a copy of which contract is hereto annexed marked Exhibit "A", and the said contract is hereby made a part of this complaint and asked to be read herewith.

V.

That by reason of the engagement of the said Utah Irrigating Ditch Company's ditch under and in pursuance of the terms of the

said contract, the Directors of the said Utah Irrigating Ditch Company on the sixth day of December 1887, made an additional appropriation of 4,000 inches of the waters of the Salt River, and filed a notice of such appropriation in the office of the County Recorder of Maricopa County, Arizona Territory. That such appropriation was made for the benefit of the Alma Irrigation Ditch.

VI.

That the plaintiff herein is the successor in interest of all the rights, interests and property acquired or owned by the Alma Irrigating Ditch Company, under and by virtue of the said contract and appropriation of water, and that under the said contract it has fully kept and performed each and every obligation, condition, and stipulation therein on its part to be kept and performed.

VII.

Plaintiff further states that plaintiff and defendants are engaged in conveying and carrying water, and distributing the same to their consumers, the cultivators and improvers of agricultural lands, for the purposes of irrigation.

VIII.

That for a long period of time, to-wit, since the first day of February 1898, the defendants have failed and refused to permit or allow the plaintiff to take, use and enjoy of the waters of the Salt River its due proportion of the amount that can be conveyed through the said Utah Canal, and still refuses so to do, and threatens so to do. That the defendants have failed and refused to deliver to the plaintiff the amount of the water to which it was and is entitled under the said contract, and have diverted

such water of the plaintiff to their own use, and have sold the said water, and have allowed large quantities of said water to go to waste, and are still continuing, and threaten to continue so as aforesaid to divert and deprive the plaintiff of the water of the Salt River which it is entitled to have flow through its canals, and to the owners of land using water therefrom.

IX.

That at this time there is a large flow of water in Salt River of some fifty thousand inches, and the river is continuing to rise, but that defendants are refusing to carry and deliver to plaintiff the water to which it is entitled, thereby injuring and threatening with total destruction the crops of the persons using plaintiff's water on the line of its canals. That plaintiff has no other way of procuring the water of the Salt River, and defendants have heretofore refused, and now refuse to deliver the water through their canal to which plaintiff is entitled, and threaten so to do in the future.

That plaintiff, in an effort to protect its consumers of water, has repeatedly offered to repair the breaches in defendants' canal and stop the waste of water therein, and to put it in condition to carry its full carrying capacity, but defendants in the exercise of their policy as herein shown, of depriving plaintiff of its water at all hazards, have refused to permit plaintiff to make the improvements that would remedy the evil, and give it the water to which it is entitled.

That unless immediate relief is granted to plaintiff by the injunctive process of this court, great and irreparable loss and distress will occur and be occasioned to all of the farming inter-

ests supplied by plaintiff on the line of its canal; and if the injunctive process is not granted, plaintiff will be involved in a multiplicity of suits to recover damages for each several loss sustained by its failure to deliver the water to its said several respective consumers.

That plaintiff has no plain, speedy, and adequate remedy at law.

WHEREFORE, plaintiff prays that an injunction may issue out of this court in this cause restraining said Utah Irrigating Ditch Company, its members, officers, agents and attorneys, and the said Thomas P. Biggs, W. W. Dobson, F. Sanders and Thomas E. Jones, their employees, agents and attorneys from permitting any waste in the flow of the waters of the Salt River at any point on the line of the said ditch of the Utah Irrigating Ditch Company.

That they be enjoined from selling any of the waters flowing through the canal of the Utah Irrigating Ditch Company.

That they be enjoined from refusing to permit and allow plaintiff to take, use and enjoy such amount of the water of the Salt River as the plaintiff may be entitled to take, use and enjoy.

That they be enjoined from interfering with or in any manner obstructing or placing any obstacle in the way of or diverting the free flow of such water to which the plaintiff is entitled in and through the said Utah Irrigating Ditch.

That they be enjoined from delivering the water of the plaintiff to any other person or persons whatsoever.

That they be enjoined from in any manner interposing any obstacle of any nature whatever in the way of the free flow and unobstructed flow of the waters of the Salt River into the said

Utah Irrigating Ditch, and its delivery to the plaintiff herein.

And that they be enjoined from in any manner interfering with the plaintiff in its procuring and obtaining through defendants' ditch the full and unobstructed flow of all the waters of the Salt River that the plaintiff may be and is entitled to under and by force of its appropriation and agreement with the defendant company.

That said injunction may be ordered and issued in the first instance, and without notice to the defendants.

That upon a final hearing of this cause, that said injunction may be made perpetual.

That plaintiff have such other and further relief as equity may require.

That plaintiff have judgment for its costs herein.

*G. W. Wey*  
-----  
*J. B. Woodward*  
-----  
*L. J. Quirk*  
-----  
Attorneys for Plaintiff.

TERRITORY OF ARIZONA, :  
  : SS.  
County of Maricopa,   :

C. A. Saylor, on oath states: That he is the President of the plaintiff Company herein, that he has read the foregoing complaint, and that the same is true in substance and in fact.

*C. A. Saylor*  
-----

Subscribed and sworn to before me this 14 day of April, 1898.

*[Signature]*  
-----  
Notary Public.  
My Commission expires July 24/98



***EXHIBIT 15***

No. 3089

IN THE

District Court,

Third Judicial District, County of Maricopa,  
Territory of Arizona.

Utah Canal

vs. *Emb. & Est. Company*  
Plaintiff

The London Co.

vs. *M. A. Dagg*  
Defendant

**PAPERS**

NOT ENCLOSED IN

Judgment Roll.

IN THE *District* COURT,

IN THE

TERRITORY OF ARIZONA

Utah Canal

vs. *Emb. & Est. Co.*

vs.

The London Co. et al.

Original Papers.

Oct. 28th 1897

by *George Johnston*  
*by Angulo & Parker*  
Attorneys

IN THE DISTRICT COURT OF THE THIRD JUDICIAL DISTRICT OF THE  
TERRITORY OF ARIZONA, IN AND FOR THE COUNTY OF MARICOPA.

The Utah Canal Enlargement and  
Extension Company, - - Plaintiff,

Vs.

The London Company, a corporation,  
and W. A. Daggs, - - - - Defendants.

-----  
Plaintiff for its complaint alleges:

1.

That plaintiff is a joint stock company, having its principal office for the transaction of business in Mesa, Maricopa County, Arizona, and that C. A. Saylor is the President, and J. S. Watrous is the Secretary of the plaintiff company. That defendant, the London Company, is a corporation organized and existing under the laws of the Territory of Arizona, and having its principal office for the transaction of business in Phoenix, Maricopa County, Arizona; that defendant W. A. Daggs is a resident of Maricopa County, Arizona Territory.

11.

That plaintiff at the time and times hereinafter mentioned was and now is the owner and operator of a certain system of canals in said County of Maricopa, known as the Utah Canal Enlargement and Extension Company's canal, by means of which the said plaintiff diverts water from the Salt River and unnavigable stream of water flowing through said County, in a general north-east and south-west direction, which said water is now being used for irrigating purposes by the said defendant London Company.

III.

That at a point on the line of plaintiff's canal, ...  
The ...  
West quarter, ...  
quarter of Northwest quarter of section ...  
Range 5 East, containing about 200 acres of land; that defendant  
W. A. Daggs is occupying and cultivating said land and exercising  
control over the same.

IV.

That by the force of an agreement between said owners of said  
plaintiff's company and by-laws adopted by it November 10th 1894,  
it was in Sections 1, 2 and 3, of Article 3 of the by-laws of same,  
conditioned as follows:

"Section 1. All gates for the delivery of water from the  
canals of this company, shall be placed at the expense of the  
parties drawing water therefrom, but shall be the property of the  
Company, and shall at all times be under the control of the Com-  
pany or its duly authorized agent.

"Section 2: Each gate shall be of such form and construction  
as may be approved by the Board of Directors and must be provided  
with means of measuring the amount of water flowing therein, and  
with a lock or other device to prevent its being raised or lowered  
by any other than the authorized agents of the company."

"Section 3. No person shall be allowed to draw water through  
gates not authorized or approved by the Board of Directors."

And, by Sections 2 and 3 of the agreement, it is also con-  
ditioned:

"The management and control of said ditch as to its mainte-  
nance, extensions and enlargements, and disposition of water con-

veyed thereby, shall at all times be directed by a majority in interest (that is by the owners of more than one half of the whole of said property,) as represented by certificates of stock hereafter provided for, under such rules and regulations as may from time to time be established by a majority in interest in said property and company."

"3. That all expenses incurred in and about the maintenance operation, enlargement or extension of said ditch, shall be borne by all the proprietors or shareholders thereof in proportion to their respective interests therein, and such portion of such expense shall be a personal charge against such proprietor or shareholder, and a lien upon his interests in said ditch and property."

That said agreement and by-laws have since said adoption been and now are in force, and operation, with plaintiff's company.

V.

That plaintiff has heretofore incurred under Section 5 of said agreement, large expenses in and about the maintenance, operation, enlargement of its said canal, which expenses so incurred, are to be borne as aforesaid. That defendant for some months past, in violation of the rights of plaintiff, have been irrigating said land with its water without paying any of the expenses incident thereto, as aforesaid, and have denied plaintiff the right to control its water-head-gate at a point on plaintiff's canal where the water is delivered on defendant's land; and said W. A. Duggs has from time to time threatened the plaintiff's employees and agents with great bodily injury while they were engaged in the performance of their duty in distributing the water of plaintiff, and thereby restrained them from performing their duty in the control of the head-gate aforesaid.

VI.

Plaintiff further says that it is the absolute owner of said canal, and the head-gates thereon, and that defendant the London Company and said Daggs, as such agent aforesaid, or otherwise, in violation of the just rights of plaintiff, continuously trespasses upon said rights of plaintiff, by raising and lowering said head-gate when plaintiff should apportion the water to defendants, and otherwise interferes with the control of the waters of plaintiff, and wrongfully and unlawfully appropriate water to themselves to the great and irreparable damage and injury of plaintiff, and threatens without right and without cause, to so continue in the use of plaintiff's property as aforesaid.

VII.

That if the said defendants are not restrained from their continuing trespasses upon said water and headgates, plaintiff will be involved in a multiplicity of suits to recover damages on each of said trespasses. That plaintiff has no plain, speedy or adequate remedy at law.

WHEREFORE, plaintiff prays that a temporary injunction may issue out of the court in this cause, restraining the said The London Company and W. A. Daggs, its members, officers, agents and attorneys, and his said W. A. Daggs, employes, agents and attorneys from interfering with said head gate or with the waters of said plaintiff's canal, <sup>The manner of plaintiff in his distribution of</sup> ~~in any manner using the same~~. That said injunction may be ordered and issued in the first instance, and without notice to the defendants. That upon a final hearing of this cause the said injunction may be made perpetual. That plaintiff have such other and further relief as equity may require. That plaintiff have judgment for his costs herein.

AT

Eds. Way  
J. B. [unclear]  
Attorneys For Plaintiff.

TERRITORY OF ARIZONA, :  
: SS.  
County of Maricopa, :

C. A. Saylor, on oath states: That he is the President of the plaintiff Company herein; that he has read the foregoing complaint; that the same is true in substance and in fact.

C. A. Saylor

Subscribed and sworn to before me this 9th day of April, 1898.

Geo. W. Troy  
Notary Public.

My Commission expires July 27<sup>th</sup> 1902

TERRITORY OF ARIZONA, :  
: SS.  
County of Maricopa, :

The Clerk of the District Court is hereby ordered and directed to issue the writ of injunction as prayed for in the within complaint, upon plaintiff's filing a bond in the sum of Five Hundred Dollars, with sureties to be approved by the Clerk.

Dated April 9th, 1898.

Shel J. Conner  
Clerk  
Maricopa County, Ariz.

***EXHIBIT 16***



No. 3021

In the District Court,  
Third Judicial District, County of Maricopa,  
Territory of Arizona.

*The Consolidated  
Lumber Company*  
Plaintiff

*The West Coast Lumber  
Manufacturing Co.*  
Defendant

JUDGMENT ROLL.

Filed March 26<sup>th</sup> 1898  
at 9 o'clock  
Edwin Gill  
Clerk.

*By C. M. Keith*  
Deputy Clerk.

IN THE DISTRICT COURT OF THE THIRD JUDICIAL DISTRICT OF THE  
TERRITORY OF ARIZONA, IN AND FOR THE COUNTY OF MARICOPA.

.....

THE CONSOLIDATED CANAL COMPANY,  
- a corporation.

Plaintiff.

-- VS --

THE UTAH CANAL ENLARGEMENT  
AND EXTENSION COMPANY.

Defendant.

..... :

Plaintiff for his complaint alleges:

I.

That the plaintiff is a corporation organized and existing under the laws of the Territory of Arizona and having its principal office for the transaction of business in Mesa, Maricopa County, Arizona and that the defendant is a joint stock company having its principal office for the transaction of business in Mesa, Maricopa County, Arizona and that C.A. Saylor is the president and J.S. Watrous is the Secretary of the defendant company.

II.

That the plaintiff, at the times hereinafter mentioned was and now is the owner and operator of a certain system of canals known as the consolidated canal company's canal system whereby it diverts water from the Salt River, an unnavigable stream of water flowing through said County in a general North East and South West direction, which said waters are used for irrigating and power purposes and that plaintiff has constructed at great cost and expense large water power works on its said canal system and is now operating the same.

III.

That the defendant is the owner and operator of a certain canal in said County known as the Utah Canal Enlargement and Extension Company's canal, by means of which the said defendant diverts water from said Salt River for irrigating purposes.

IV.

That at a certain point in the said canal of the Utah Canal Enlargement and Extension Company the line of one of the canals of the plaintiff's canal system now known as the ~~North branch of the~~ Consolidated Canal Company's Cross-cut, intersects and crosses over the canal of the Utah Canal Enlargement and Extension Company.

V.

That on the 30th. day of August, 1892, the plaintiff made and entered into a certain contract writing and indenture, with the said defendant of which the following is a copy. ▽

"This agreement, made and entered into this 30th. day of August, 1892, between the Utah Canal Enlargement and Extension Company, the party of the first part, and the Consolidated Canal Company the party of the second part, WITNESSETH:

That the said party of the first part for and in consideration of the covenants, stipulations, and agreements on the part of the said party of the second part, hereinafter contained hereby covenants, agrees and consents that the said party of the second part shall have the privilege of placing a siphon in the Utah Canal Enlargement and Extension Company's Canal at the point where said Canal is intersected by the Canal known as the "Cross-cut", belonging to said second party -- All of said Canals being situated North of the City of Mesa in Maricopa County, Arizona.

And the said party of the first part hereby authorizes the said party of the second part, subject to the stipulations hereinafter contained, to flume its said Canal, and extend the said "Cross-out" Canal beyond the same, and for that purpose grants said second party a right of way across the said Utah Canal Enlargement and Extension Company's Canal, at the point of intersection hereinbefore referred to.

And the said party of the second part, in consideration of the said covenants, on the part of the said party of the first part hereinbefore contained, agrees to and with the said party of the first part, that the siphon placed in its said Canal will be of sufficient capacity to carry all water which said first party may desire to carry through its said Canal.

PROVIDED, said Canal shall not be enlarged to carry a larger amount of water than the present capacity of the siphon. And that the same will, at all times be kept in perfect repair by said second party:

That the flume placed across said first party's Canal shall be constructed in a good and workmanlike manner, and in a manner to do the least possible injury or damage to said first party's Canal, and to be kept in perfect and constant repair by said party of the second part.

And the said party of the second part further agrees to, at once, repair and pay for any and all damages which may result on account of said siphon and flume being placed in and across said canal.

And should said party of the second part, its successors or assigns, fail or refuse to comply with any or all of the covenants and agreements herein contained, to be kept and performed by it, then this contract shall become inoperative and void, and said party of the first part, its successors or assigns, may remove said siphon and said flume, and any other obstructions or structure placed on, in, or over its ~~x~~ said Canal by the said party of the second part, its assigns or successors, at the point of intersection hereinbefore referred to.

IN TESTIMONY WHEREOF the parties hereto have hereunto set their hands, in duplicate, the day and year above written.

Consolidated Canal Co.

By, A.J. Chandler, President.

The Utah Canal Enlargement and Extension Company.

By A. Marshall. *President*

Territory of Arizona. :  
: :  
County of Maricopa. :  
: :

Before me, W.J.Kingsbury, a Notary Public in and for said County, on this day personally appeared ALEXANDER MARSHALL, known to me to be the President of the Utah Canal Enlargement and Extension Company, and A.J. Chandler, known to me to be the President of the Consolidated Canal Company, the corporation that executed the foregoing instrument, and each acknowledged to me that he, as President of, and in behalf of said Companies, executed the same for the purpose and consideration therein expressed.

Given under my hand and seal of office this 17th day of

September, A.D.1892.

W.J.Kingsbury.  
Notary Public.

VI.

That pursuant to said contract this plaintiff did at great labor, cost and expense ~~kit~~ build and construct a flume across the said canal of defendant and extend its said cross-cut canal across and beyond the said canal of defendant by means of which the water in the plaintiffs said cross-cut, then was and ever since has been and now is flown across the defendants said canal; and did at great cost and expense build, construct and place a siphon of sufficient capacity to carry all the water flowing in defendants said canal under the said flume at the said point of intersection by means of which the waters flowing through the defendants said canal ever since have and now do flow under the said flume and canal of plaintiff flowing through the same.

VII.

Plaintiff further alleges that it has faithfully performed and kept all the covenants, agreements and conditions of said contract and indenture on its part to be kept and performed.

VIII.

Plaintiff further alleges that the defendant without right and without cause, threatens ~~x~~ intends, is about to and will unless restrained by this honorable court without notice immediately remove by force and destroy the said syphon and the said flume, and that such removal and destruction will have the effect to divide and cut into two disconnected parts the said cross-cut canal of plaintiff and intercept and prevent the flowing of water through the same and

will greatly endanger, and injure the power plant of plaintiff situated on a branch of the said cross-out canal and will cause this plaintiff great and irreparable damage and injury.

IX.

That unless the injunction herein prayed for be issued and served without notice to defendant; plaintiff has reason to believe and does believe that that said defendant will destroy and remove the said syphon and flume before the said injunction can be served upon defendant.

Wherefore plaintiff prays that a temporary injunction may issue out of the court in this cause restraining the said Utah Canal Enlargement and Extension Company, its members, officers, agents and attorney from removing, destroying or interfering with the flume and the syphon thereunder, constructed by the Consolidated Canal Company and now placed, standing and existing at the point where the Consolidated Canal Company's <sup>Canal</sup> intersects and crosses over the canal of the Utah Canal Enlargement and Extension Company until the further order of this court herein.

That the said injunction may be ordered and issued in the first instance and without notice to the defendants.

That upon the final hearing of this cause the said injunction may be made perpetual.

That plaintiff may have such other and further relief as equity may require.

That plaintiff have judgment against defendant for his

costs herein.

*Wiley W. Bennett*  
-----

Atty. for Plaintiff.



Territory of Arizona. :  
: SS.  
County of Maricopa. :

A. J. Chandler, being first duly sworn on his oath says that he is the President of the Consolidated Canal Company, and makes this affidavit on behalf of said company; that he has read the foregoing complaint and knows the contents thereof; and that the same and the facts therein stated are true of his own knowledge except the matters therein stated on information and belief and that as to those matters he believes the same to be true.

*A. J. Chandler*  
-----

Subscribed and sworn to before me this 5th. day of January

A.D. 1898.

*Lavinia M. Andrews*  
-----  
Notary Public.

Commission expires. *July 27, 1899.*

Upon the filing of the within complaint together with the bond of plaintiff to the defendant herein in the sum of One Thousand Dollars with two or more good and sufficient sureties to be approved by the said Clerk conditioned as required by law, the Clerk of this Court will issue a writ of injunction in this cause in accordance with the prayer of said ~~complaint~~ complaint.

*January 5th 1898*

*Obetla Stout*  
-----  
Jlga.

***EXHIBIT 17***

In the District Court

of the Southern District of New York

vs.

THE UNITED STATES OF AMERICA

Plaintiff

Defendant

JULIUS ROSENBERG

Plaintiff

Defendant

ET AL.

vs.

THE UNITED STATES OF AMERICA

Plaintiff

Defendant

ET AL.

OF ARIZONA,

THE CONSOLIDATED CANAL CO.

a corporation,

plaintiff

vs

the Tempe Irrigating Canal Co.

a joint stock association,

Defendant.

The plaintiff, by leave of court first had, files this its amended complaint and alleges:-

I

That the plaintiff is a corporation organized and existing under the laws of the Territory of Arizona, having its principal office and place of business in the County of Maricopa, in said Territory.

II

That the defendant is a joint stock association, having a large number of shares and about one hundred shareholders, and that its business is managed and conducted by a Board of Directors, of which J. T. Priest is the President. Said association also has its office and principal place of business in the said County of Maricopa

III

That the Salt river is an unnavigable stream, flowing through said Maricopa County from East to West, and on either side thereof a large bodies of fertile lands, which require and use the water of said river for the purpose

IV

That the defendant is the owner and is in the possession of, and is now operating a canal in said county, known as the Tempe canal, having its head on the south side of said Salt River, about sixteen miles East of the City of Phoenix, in said county, and running thence in a south westerly direction, by means of which canal defendant diverts water from the said Salt River and conveys the same to lands lying adjacent to said canal on the south side of said Salt River, for the purpose of irrigating the said lands, as will more fully appear by a map and plat showing the same hereto attached, marked Exhibit A, and made a part hereof.

V

That for the purpose of operating said canal and conveying the water aforesaid, defendant has a right of way for its said canal, and the water flowing therein, upon and across a portion of the North East quarter of Sec. 9 in Township 1 North, Range 5 East, of the Gila and Salt River Base and Meridian lines in said County, where the said canal now runs upon and across said premises upon the maps and plats hereto attached marked Exhibit A, and Exhibit B. and made parts hereof.

VI

That the plaintiff at all the times hereinafter mentioned was, and now is the owner, and is in the possession of, and is operating a canal in said County, having its head on the South Side of said Salt River, about seven miles

above and north easterly from the head of said Tempe Canal, by means of which plaintiff diverts water from the said Salt River for agricultural and mechanical purposes, which said canal of plaintiff runs in a general south west direction, as shown by said maps Exhibits A. and B. aforesaid.

#### VII

That on June 11th. 1894, and long prior thereto, plaintiff had declared its intention to appropriate and had appropriated for an intermediate use for mechanical purposes, and had diverted from said Salt River into its canal at its headgate, all of the waters of the said river to which the said Tempe Irrigating Canal Company was entitled by virtue of its prior appropriation thereof, and plaintiff was, on said 11th. day of June 1894, and for long prior thereto had been, actually engaged in preparing to apply said waters and to use the same for the purpose of operating machinery for mechanical purposes, and ever since said 11th. day of June 1894, plaintiff has continued diligently to prepare to apply said water to said use, and has expended large sums of money in the creation of buildings upon its said canal, and in the purchase and setting in place therein for operation of machinery and mechanical appliances for the purpose of using said waters in pumping out of the ground, and in developing other water for use in irrigating lands which lie under and adjacent to plaintiff's said canal, which lands can thus be made fertile

and productive, but are otherwise arid and unproductive; and that the said buildings are now completed, and the said machinery is now in place therein and ready to be operated.

And plaintiff further alleges that by the use of the water and the machinery aforesaid in the manner hereinbefore set forth, plaintiff will be able to develop more than four hundred horse power of mechanical force, by the use of which plaintiff will be able to pump from the ground a very large quantity of water, which has hitherto gone to waste, and to apply said water to the purpose of irrigating and rendering fertile and productive large bodies of land lying adjacent to its said canal: that there are more than one hundred persons requiring water for the irrigation of their lands lying under plaintiff's said canal, who are now without an adequate supply of water for their said lands, and who would be greatly benefitted by the pumping of the water from the ground, and by the use of the same, as hereinbefore mentioned and set forth.

And Plaintiff further alleges that it has in contemplation the use of a portion of the mechanical power to be developed by the use of the water and of the machinery aforesaid in pumping water to supply the inhabitants of the town of Mesa, in said Maricopa County, with water for domestic use

#### VIII

Plaintiff further alleges that at the time when it declared its intention to appropriate said waters for the



purposes aforesaid, and at the time when the same were actually diverted as aforesaid, the said water of the said river were open and subject to appropriation for said purposes and that by reason of plaintiff's declared intention to appropriate said waters for said intermediate use, and of its diligence in preparing to make said intermediate use of said waters, and by its actual diversion of the same for said purpose, plaintiff has acquired a right to the continuous diversion and intermediate use of said waters for the purposes aforesaid, subject only to the obligations to return said waters, without diminution in quantity or deterioration in quality, to the said Tempe Canal above the point of use of the same by the defendant.

IX

Plaintiff further alleges that the place at which it has prepared to make, and now proposes to make such intermediate use of said waters is at the point marked upon the said maps hereto and marked Exhibits A. and B. in the South West quarter of the South East quarter of said Section 9 as "POWER HOUSE", and that after applying said waters to said intermediate use at the point last named, plaintiff desires and intends to and can return all of the said waters so to be applied to such intermediate use, undiminished in quantity and undeteriorated in quality to defendant in its said canal at the point on said canal as shown on said maps, Exhibits A. and B. marked thus "A, " which said point "A2 is above the point of use of said waters by the defendant.

and plaintiff alleges that it intends to, and can and will deliver the said waters undiminished in quantity and undeteriorated in quality into the said Tempe Canal at the said point marked "X", and that said point is the most accessible and convenient point at which plaintiff can deliver the said water to the defendant in its said canal above the point of use.

X

That in order to return said waters to the said Tempe Canal at the said point it is necessary to cut into and through the right of way and into and through the eastern bank of the said canal of the defendant, and to extend the canal of plaintiff from the point of intermediate use, marked upon the said maps "POWER HOUSE", through the right of way and the eastern bank of the said Tempe Canal at the said point "A" on said maps, for the purpose of flowing the said waters from the said point of intermediate use into the canal of the defendant at the said point "A" as shown upon the said maps.

XI

Plaintiff further alleges that the cutting through the right of way and the eastern bank of the canal of the defendant and extending the canal of plaintiff from the point on said maps marked "POWER HOUSE", through said right of way and said eastern bank of defendant's canal, is necessary to enable plaintiff to make the said intermediate use of the said waters, as hereinbefore set forth, and that such use of said waters by plaintiff is a public use.

XII

Plaintiff further alleges that the premises and land which it desires, proposes, and intends to take, and which it is necessary to take and use for the purposes aforesaid, and which plaintiff prays may be condemned for said use, is particularly described as follows, to-wit:--

Commencing at a point at the Eastern edge of the waters flowing in the said Tempe canal, twelve hundred and six and six tenths feet due west of a point on the west line of Section 10 in Township One North, Range Five east, of the Gila and Salt River Base and Meridian Line, in Maricopa county, Arizona, which last named point is thirteen hundred and twenty feet due south of the North west corner of said Section Ten: running thence along the said water's edge South thirty degrees west, one hundred feet, thence south fifty seven degrees East one hundred feet: thence North one hundred and thirty eight and nine tenths feet: thence west twenty nine and one half feet to the place of beginning--- magnetic variation thirteen degrees and thirty nine minutes East.

Wherefore plaintiff prays that the said premises last above described, and all the right titled and interest of the defendant therein, be condemned for the public use above specified: that plaintiff be let into the immediate possession and enjoyment of said premises for the use aforesaid: that upon the final hearing thereof the actual damages sustained by defendant by reason of the taking of the said premises for the public use aforesaid be ascertained by the court, and that the right of plaintiff to take and hold the said premises

on the payment of the sum so to be ascertained, be adjudged  
and decreed, and that plaintiff have all other and further  
proper relief.

Melloy & Bennett

and

John D. Bfa

Attorneys for Plaintiff

***EXHIBIT 18***

In the District Court

of the County of

of the State of

vs.

and

vs.

JUDGMENT FOR

of

of

of

of

of

of

of

of

of

of

of

of

No. 2567.

IN THE DISTRICT COURT OF THE THIRD JUDICIAL DISTRICT OF THE  
TERRITORY OF ARIZONA, IN AND FOR THE COUNTY OF MARICOPA.

-----X  
The Consolidated Canal Com- :  
pany, (a corporation), :  
Plaintiff, :  
Vs. : -: DEMURRER AND ANSWER :-  
The Tempe Irrigating :  
Canal Company, Defendant. :  
-----X

Now comes the defendant in the above entitled action, the  
Tempe Irrigating Canal Company, by its attorneys Kibbey & Williams,  
and in answer to plaintiff's complaint filed herein, says:

1.

Said defendant demurs to the said complaint on the ground  
that the same does not state facts sufficient to constitute any  
cause of action whatever against this defendant.

And of this, defendant prays judgment of the Court that the  
plaintiff take nothing by this suit, and that it be dismissed with  
its costs.

*Kibbey & Williams*  
-----  
Attorneys For Defendant.

And should the above demurrer be overruled, and this defend-  
ant required to answer further, then the defendant, the Tempe  
Irrigating Canal Company, says:

1.

It admits the allegations in Paragraph Two, Three and Four

of plaintiff's complaint, but denies each and every, all and singular, the other allegations contained in plaintiff's complaint, and demands strict proof of the same, and of this, defendant puts itself upon the country.

WHEREFORE, defendant prays judgment that the plaintiff take nothing by this suit, and that the defendant be dismissed to go hence with its costs.

*Kibby & Williams*

Attorneys For Defendant.



***EXHIBIT 19***

*Campbell vs. Co*  
No. *2117*

IN THE  
**DISTRICT COURT**  
Third Judicial District, County of Maricopa,  
Territory of Arizona.

*The Consolidated*  
*Small Co.*

*The*  
*Small Co.*

Dismissed.

*April 10 1891*  
*J. C. Stewart*

County Clerk

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DISTRICT COURT OF THE THIRD JUDICIAL DISTRICT,

TERRITORY OF ARIZONA, COUNTY OF MARICOPA.

THE CONSOLIDATED CANAL COMPANY, A Corporation,

Plaintiff,

COMPLAINT.

-vs-

THE ARIZONA CANAL COMPANY, A Corporation,

Defendant.

The plaintiff above-named for cause of action against the defendant alleges:-

-I-

That it is a corporation duly organized and existing under the laws of the Territory of Arizona, having its principal place of business in Maricopa County, and that it has power and authority as such corporation to appropriate water for mechanical and milling purposes and for irrigation.

-II-

That the defendant, The Arizona Canal Company, a corporation duly organized and existing under the laws of the Territory of Arizona with its principal place of business in said County of Maricopa.

-III-

That the Salt River is an unnavigable stream flowing through the said County of Maricopa from east to west and on either side thereof there are large bodies of fertile lands which require

1 and use the waters of said river for the purpose of irrigation, and  
2  
3 That the defendant, the Arizona Canal Company, has a canal  
4 which takes out the waters of said river on the north side thereof;  
5 that at the head-gate of said canal the said defendant has a dam  
6 by means of which it diverts into its said canal substantially  
7 all of the waters flowing in said river; but prior to the 20th day  
8 of June, 1894, the said defendant turned out at its waste-gate,  
9 which is situated about three miles below its said head gate, and  
10 thereby returned to the river all of the water which had, prior to  
11 the construction of the said Arizona Canal, been appropriated by  
12 certain other persons or companies, known as the Mesa Canal Com-  
13 pany, the Tempe Irrigating Canal, the Utah Irrigating Ditch Compa-  
14 ny and C. T. Hayden, all on the south side of said river, and a cer-  
15 tain ditch known as the "Indian Ditch", which last named ditch is  
16 on the north side of said river.

17 -V-

18 That plaintiff, for more than a year last past, has owned,  
19 and still owns, a canal for the purpose of diverting the water of  
20 said river, on the south side thereof, the head-gate of which canal  
21 is situated several miles below the head-gate of the said Arizona  
22 Canal Company and below the waste-gate of said Arizona Canal through  
23 which, prior to June 30th. 1894, the water was returned to said riv-  
24 er, as hereinbefore stated.

25 -VI-

26 That the said Mesa Canal Company, the said Tempe Irrigating  
27 Canal, the said Utah Irrigating Ditch Company, the said "Indian  
28 Ditch" and said C. T. Hayden, all have and own appropriations of wa-

1 ter from said river aggregating many thousand miner's inches, and  
2 that all of said appropriations are prior and superior to any right  
3 to the waters of said river owned or claimed by the defendant, the  
4 Arizona Canal Company, but said waters were, prior to the appropri-  
5 ation by the plaintiff hereinafter mentioned, subject to appropri-  
6 ation and use for mechanical purposes at any point above the place  
7 where they were used by said companies.

8 -VII-

9 That on the 15th day of June, 1893, plaintiff, through  
10 Alexander J. Chandler, as its president and representative, duly  
11 posted and filed for record a notice of appropriation of fifty  
12 thousand inches, continuous flow, of the waters of the said Salt  
13 River, and plaintiff has ever since been engaged with a large force  
14 of men and at a great expenditure of money in constructing and en-  
15 larging its canal and ditches and extending the same for the purpose  
16 of developing the water power at different places on the south side  
17 of said river and of delivering water upon the lands lying under  
18 plaintiff's said canal, which lands are fertile but will not pro-  
19 duce crops without irrigation.

20 -VIII-

21 That on the 11th day of June, 1894, and long prior there-  
22 to, plaintiff had appropriated for mechanical purposes and had di-  
23 verted from said river into its canal at its head gate, all of the  
24 waters of said river to which the said Mesa Canal Company, the said  
25 Tempe Irrigating Canal, the said Utah Irrigating Ditch Company, the  
26 said "Indian Ditch" and the said C. T. Hayden were entitled, by  
27 virtue of their prior appropriations aforesaid, and plaintiff was  
28 on the 11th day of June, 1894, and for a long time prior thereto,

had been actively engaged in preparing to apply said waters and to use the same for the purpose of operating machinery for mechanical and milling purposes, and plaintiff continued after the said 11th day of June, 1894, with all due diligence, to prepare to apply said waters and to use the same for the said purposes; and at the time when the plaintiff declared its intention to appropriate said waters for the purposes aforesaid, and at the time when the same were subject actually diverted as aforesaid, the said waters of said river were open and subject to appropriation for said purposes; and plaintiff alleges that by reason of its declared intention to appropriate said waters and by its diligence in constructing its canal and ditches for the purpose of diverting said waters and by its actual diversion of the same for the purposes aforesaid, plaintiff acquired and has a right to the continuous diversion and use of said waters as against the defendant the Arizona Canal Company, and subject only to the obligation to return said waters without substantial diminution <sup>in quantity</sup> or deterioration in quality, above the point in use, to the said Mesa Canal Company, to said Tempe Irrigating Canal, the said Utah Irrigating Ditch Company, the said "Indian Ditch" and the said C. T. Hayden, and to all other persons entitled to the same.

That on the 11th day of June, 1894, the said Alexander J. Chandler, as the representative of the plaintiff and on plaintiff's behalf, posted a notice of an intention to use for mechanical and milling purposes all of the waters of said Salt River, to wit, about twelve hundred thousand inches, that were on said day, and for a long time prior thereto had been, flowing out of the canal of the defendant, the Arizona Canal Company, and through its waste-gate

1 aforesaid; and afterwards, to wit, on the 16th day of June, 1894,  
2 plaintiff caused said notice to be filed for record in the office  
3 of the recorder of Maricopa County; that at the time the plaintiff  
4 caused said notice to be posted and filed for record the said waters  
5 were open and subject to diversion and use for mechanical and mil-  
6 ling purposes, and by reason of the posting and filing of said no-  
7 tice and of the intention, which plaintiff then had and still has,  
8 to apply said water and to use the same for mechanical purposes,  
9 the plaintiff became, and is entitled, to use the same for such  
10 purposes, without hinderance or obstruction on the part of the de-  
11 fendant, the Arizona Canal Company.

12 -X-  
13 That on or about the 30th day of June, 1894, the defen-  
14 dant, the Arizona Canal Company, without consent or permission of  
15 plaintiff and in disregard of the rights of plaintiff, took forcible  
16 and unlawful possession of the waters of said river which, pri-  
17 or to said date, had been returned to said river through the waste  
18 gate of the said Arizona Canal, and carried the said waters down  
19 the canal of defendant, the Arizona Canal Company, to the place be-  
20 yond and below the head gate of plaintiff, and thereby prevented  
21 plaintiff from receiving said water into its said canal, and there-  
22 by wholly deprived the plaintiff of the possession and use of said  
23 water and of the means of applying and using the same for mechani-  
24 cal and milling purposes, or for any purpose; and the said defend-  
25 ant has ever since continued, and still continues, to keep and to  
26 hold forcible and unlawful possession of the said water and to  
27 carry and to conduct the same down its canal beyond and below the  
28 headgate of plaintiff's canal; and plaintiff alleges, on informa-

tion and belief, that the defendant, the Arizona Canal Company, threatens and intends, unless restrained, to continue to deprive plaintiff of the possession and use of the said water, to the great and irreparable injury of the plaintiff.

-XI-

Plaintiff further alleges that the said water, of which the defendant the Arizona Canal Company has taken forcible and unlawful possession as aforesaid, is of great value for mechanical purposes, to wit of the value of more than ~~thirty~~ *fifty* thousand dollars-----, and that defendant will not be able to respond to plaintiff for the full amount of damages for which it will become liable to plaintiff if it is not restrained from the further interference with the rights of plaintiff as aforesaid.

Plaintiff prays judgment:

1. That it is entitled to the use of the waters aforesaid for mechanical and milling purposes, and to have said waters delivered to plaintiff at the head of its canal or some place thereon above the points at which plaintiff desires to use the same.

2. That plaintiff's right to the said waters for mechanical and milling purposes be quieted against the defendant.

3. That defendant be perpetually enjoined from taking or carrying the said water to any point on the said river where it cannot be diverted <sup>to</sup> plaintiff's canal, and that pending the action the defendant be restrained and enjoined from in any manner interfering with or preventing the use of said water <sup>by plaintiff</sup> for mechanical and milling purposes.

4. That plaintiff have judgment for costs and for all proper relief.

*John D. Pope & Pierre C. Grew*  
Attorneys for Plaintiff.



TERRITORY OF ARIZONA, }  
COUNTY OF MARICOPA. }

SS

Alexander J. Chandler, being sworn says: I am the  
president of the Consolidated Canal Company, and make this affidavit  
on its behalf; I have read the foregoing complaint, and know the  
contents thereof, and the same is true of my own knowledge, except  
as to matters therein stated on information or belief and as to  
these matters I believe it to be true.

Subscribed and sworn to before  
me this the      day of August, 1894.

*Alexander J. Chandler*  
*George A. Clark*  
*Levi Jordan*  
Clerk.

*Review of summons in above en-  
titled action waived, and appearance  
entered this 24<sup>th</sup> day October 1894*

*Atty for Defendant*

***EXHIBIT 20***

IN THE DISTRICT COURT OF THE THIRD JUDICIAL DISTRICT OF THE  
TERRITORY OF ARIZONA, IN AND FOR MARICOPA COUNTY.

-----X  
M. Wormser, Plaintiff,  
Vs.  
Charles T Hayden, Defendant.  
-----X

The plaintiff, M. Wormser, complaining of the defendant Charles T. Hayden, for his cause of action alleges.

1: That the plaintiff, M. Wormser, and the defendant, Charles T. Hayden, both reside in the County of Maricopa, in the Territory of Arizona.

2: That the Salt River is a natural innavigable stream of water rising in the mountains in the northeastern portion of Arizona Territory, and flowing thence in a southwesterly direction through a large valley of arable and irrigable land situated in said county.

3: That heretofore to-wit, on or about the 6th day of December, A.D. 1870, a small number of persons then living on the desert and near the Salt River and in said Salt River Valley, and being then and there the owners and possessors of arable and irrigable land in said valley, located on and near said river at a point where <sup>there</sup> was not then "population sufficient to form a public acquit," and desiring and intending to cultivate their said land and requiring for that purpose, water for irrigation and domestic uses, formed and associated themselves together as a joint stock association, under and by the name of the "Hardy Irrigating

Canal Company," which name was a short time thereafter by resolution of the Board of Directors of said Company, changed to the "Tempe Irrigating Canal Company," and said association and the persons composing the same in and by that name did locate, take up, appropriate and claim of the waters of said Salt River, ~~several~~ <sup>between</sup> thousand inches, miners' measurement, of the waters of said Salt River for agricultural, domestic and other beneficial uses, and did thereupon proceed to construct at great expense, to-wit: \$25,000, "a private dam over and across said Salt River, and "a private irrigating ditch, acequia and canal for their own uses," and "subject to their own regulations" and called the "Tempe Irrigating Canal," commencing in the south bank of said Salt River at a point about sixteen miles east from the City of Phoenix, in Maricopa County, Arizona, and running thence in a southwesterly direction and over and across land then being a part of the public domain and belonging to the United States, and capable of carrying said ~~several~~ <sup>between</sup> thousand inches of water miners' measurement, and said association and the persons composing the same, did thereafter in, and by said ditch, acequia and canal, continuously, and do now divert said water from said river and use the same in the irrigation and cultivation of the lands owned and possessed by them, and in turning and operating a certain grist and flouring mill belonging to the defendant C. T. Hayden, a member of said association as hereinafter more particularly stated.

4: That on or about the Month of December, 1870, a small number of persons living in the desert and on or near the Salt River and in said Salt River Valley and further down on said river, and being then and there the owners and possessors of land in said

valley, located on and near said river at a place where there was not then "population sufficient to form a public acequia," and desiring to cultivate their said lands and requiring for that purpose water for irrigation, took up, located, appropriated and claimed of the waters of said Salt River 4500 inches of water, miners' measurement, and did thereupon proceed and construct at great expense, a private dam over and across said Salt River, and a private irrigating ditch, acequia and canal for their own uses, subject to their own regulations, and called and known as the "San Francisco Canal, commencing in the south bank of said Salt River at a point nine miles or thereabouts, east of the City of Phoenix, and running thence in a southwesterly direction over and across land then being a part of the public domain, and capable of carrying said 4500 inches of water miners' measurement, and the said persons did thereafter and in and by said San Francisco Canal, continuously appropriate, use and employ said 4500 inches of water miners' measurement, of the waters of said Salt River in the irrigation and cultivation of the lands so owned and possessed by them for their use and benefit; that the quantity of water so appropriated, claimed and used by the owners of said San Francisco Canal and in and by the same, was and is not excessive or unreasonable, but the whole thereof was and is needed for the purpose for which it was appropriated, and was at all times after said appropriation and until the transfers herein-after mentioned, actually, continuously and in good faith, claimed, appropriated and used by such persons, owners of the lands aforesaid, in the cultivation and irrigation thereof, and such appropriation of said water, and the rights to the sole use thereof, acquired by the owners of said San Francisco Canal, became and were vested in them, and said rights were thereafter and at all

the courts; that the plaintiff, M. Wormser, did heretofore, and more than fifteen years before the commencement of this action, by divers mesne conveyance, succeed to and acquire all and every the said dam and San Francisco Canal, and all and every the right, title and interest of the said original locators and claimants of said 4500 inches of water of the waters of said Salt River, appropriated, claimed and used in and by means of said San Francisco

Canal, and all and every the lands irrigated and cultivated by said waters and for which said water was originally appropriated and ~~by~~

*which* the said canal carried and conducted the same; and the said plaintiff, M. Wormser, is now the owner and possessor of said dam and canal and of said water and water right and franchise, and entitled to have and enjoy all and every the rights, privileges and franchises of such persons, his grantors and predecessors in interest, by whom said San Francisco Canal and dam was excavated, dug and constructed, and said 4500 inches of water miners' measurement, were originally appropriated, used and employed; that all of the lands irrigated by means of said San Francisco Canal require irrigation, and said 4500 inches of water are required for such purpose, and without such irrigation said lands and the whole thereof would be unfit for cultivation, incapable of producing crops and wholly valueless and without use; that such quantity of water for such purpose is not excessive or unreasonable; that all and every of the rights and the uses of said 4500 inches of water miners' measurement, of the waters of said Salt River, for the purpose aforesaid, have, and are now vested in the plaintiff, M. Wormser, and he is now the owner thereof, and the said plaintiff has, at all times

since his acquisition thereof, claimed and asserted a right to the use of the whole of said 4500 inches of water, and the right to use and employ the same in the irrigation and cultivation of the land aforesaid; and the rights aforesaid vested in, owned and claimed by the plaintiff M. Wormser, have been at all times and are recognized and acknowledged by the local laws, customs and decisions of the courts; and said plaintiff M. Wormser is of right entitled without let or hindrance to appropriate, use and employ for the purpose aforesaid, under and by means of said San Francisco ditch and acequia, said 4500 inches of water, miners' measurement, of the waters of said Salt River.

5: That during the year 1874 and long after plaintiff's grantors and predecessors had made their appropriation and claim to said waters, C. T. Hayden, ~~one of~~ the defendant herein, desiring to procure a water right and obtain water from said Salt River for the sole avowed and declared purpose of turning and operating a flouring and grist mill and for no other purpose, by and with the consent of other stockholders in the Tempe Irrigating Canal Company aforesaid, became the owner of Eleven shares of the Capital Stock of the said Tempe Irrigating Canal Company and of 11/109th interest in said Tempe Irrigating Canal, and he and other stockholders in said canal, at once proceeded to dig, excavate, and construct and take out from said Tempe Canal and on the west side thereof and at a point about two miles from the head thereof, a certain lateral or branch ditch known as the "Mc Kinney and Kirkland Ditch," running in a westerly direction and between the western branch of said Tempe Canal and said Salt River for a distance of about six miles and capable of carrying about 3,000 inches of water, miners' measurement; said ditch being constructed around

on the south side and at the foot of what is known as the "Hayden Buttes" situated on the south bank of said Salt River about 9 1/2 miles east of the City of Phoenix and running back into the bed of said Salt River just above the dam and head gate of the San Francisco Canal, hereinbefore described and owned by plaintiff.

6: That thereafter and during the said year 1874, the said defendant C. T. Hayden proceeded to and did build, erect and construct a flouring mill on said Mc Minney and Kirkland ditch at a point thereon at the foot of said Hayden's Buttes and about 400 yards from the place where said ditch empties the water flowing therein back into said Salt River as aforesaid; that after the erection and construction of said mill, the said defendant, C. T. Hayden and his co-owners in said Mc Minney and Kirkland ditch, with the consent of the said Tempe Irrigating Canal Company, turned and diverted from the said Tempe Canal into the said Mc Minney and Kirkland ditch, a large quantity of the waters flowing from said Salt River through the said Tempe irrigating Canal, and proceeded to utilize all of said water for irrigating and agricultural purposes, save and except 1100 inches miners' measurement, of said waters, which were claimed by the said defendant C. T. Hayden for the sole, avowed and declared purpose of turning and operating his said mill and for no other purpose. That ever since that time, to-wit, 1874, the said defendant C. T. Hayden has continuously up to the <sup>12<sup>th</sup></sup> day of <sup>March</sup> ~~June~~, 1895, used said 1100 inches of water to turn and operate said mill and for no other purpose whatever, and said water after being so used to turn said mill has, up to said last mentioned date, continuously flowed on down the mill and tail race of said mill and through said ditch back into said Salt River above the dam and head gate of the said San Francisco Canal, owned

(6.)



and used by plaintiff as aforesaid; and the said defendant Hayden has never during all of said time claimed or asserted any right to the use of said water, save and except the right to use it for milling purposes; that up to the <sup>18<sup>th</sup> March</sup> ~~1<sup>st</sup> day of April~~, 1895 the said defendant Hayden had never used or attempted to use the said 1100 inches of water or any part thereof for any other purpose than for turning and operating said mill.

7: That during the year 1870 plaintiff, being the owner and possessor of a large quantity of arable and irrigable land situated under and tributary to said San Francisco Canal, and being the owner of said canal and the dam and water rights, and franchises belonging thereto, did at great expense, to-wit, \$10,000, cause said dam and canal to be reconstructed and made anew, and so located on the south side and in the bed of said Salt River as to catch, turn and divert into said San Francisco Canal all of the 1100 inches of said waters used by defendant Hayden to turn and operate his said mill, and by him claimed and used for no other purpose, and which theretofore had and thereafter did continuously flow back into said river as aforesaid.

8: That ever since that date, namely, 1876, the plaintiff has diverted, appropriated and used all of said 1100 inches of water, miners' measurement, for agricultural purposes, and has at all times and does now claim all of said 1100 inches of water as a part and parcel of his original appropriation of 4500 inches, miners' measurement, of the waters of said Salt River, appropriated as hereinbefore stated; and said right and claim has at all <sup>times</sup> ~~times~~ been and is now recognized and acknowledged by the local laws, customs and the decisions of the courts.

9: That plaintiff has for more than ten years last past been the owner and possessor of several thousand acres of said land, and is now and for more than five years last past has been the owner and possessor of about 5,000 acres of said land situated under ~~and~~ tributary to said San Francisco Canal, and requiring water therefrom for irrigation; and has leased, let and rented to a large number of farmers and their families living under said canal, namely, some forty-three families, several thousand acres of said land, together with water sufficient to irrigate and cultivate the same, and there is now in actual cultivation and greatly needing water for irrigation under said canal, 250 acres of said land seeded to alfalfa, and 300 acres of said land seeded to grain and other crops; that the said lessees, tenants and renters are now at work preparing \_\_\_\_\_ acres of said land and getting it ready to be planted in other crops, and are now actually in need of water to irrigate said land, so as to properly prepare it for the seed, and for the irrigation of crops now growing in said land; that unless water is obtained to water the said land, all of said crops will be lost and destroyed, and said land will be relegated to its original condition of a desert, to plaintiff's great and irreparable damage, loss and injury, in the sum of Fifty Thousand dollars (\$50,000) and more.

10: That heretofore, to-wit, on or about the first day of October, 1892, in a suit then pending in this Court, wherein the said Tempe Irrigating Canal Company, and the said C.T. Hayden, and this plaintiff, M. Wormser were plaintiffs, and the Salt River Valley Canal Company, a corporation, the Maricopa Canal Co., a corporation, the Utah Canal Company, a joint stock association, the Grand Canal Company, a corporation, the Mesa Canal Company, a

corporation, the Arizona canal Company, a corporation, the Consolidated Water and Power Company, a corporation, and the Highland Canal Company, a corporation, were defendants, and No. 708 on the docket of this Court, a decree was rendered defining the said defendant Hayden's right to the use of said 1100 inches of said water, and limiting his said use to the milling purposes, and requiring him after using said water to operate said mill, to turn said water back into said river at the place and in the manner aforesaid; and by said decree, a water Commissioner was appointed to execute the said judgment of the Court and apportion among the various parties to said suit the quantity of water to which each of said parties was and might be respectively entitled; and by said decree it was adjudged that for many years last past, all of the water flowing in said Salt River during dry and rainless seasons in each year had been appropriated and applied to a beneficial use by the respective parties to said suit; and said commissioner was directed to apportion and distribute the water flowing in the said Salt River to the said respective parties to said action, and said commissioner, claiming to act under said decree, has apportioned to this plaintiff 3000 inches of the waters of Salt River, and said apportionment is partly made up by the said 1100 inches of water flowing through said McKinney and Kirkland ditch, and through said mill back into said River, after it has been used to operate said mill as aforesaid; and said commissioner has ordered and directed that all of said 1100 inches of water be allowed to flow back into Salt River so as to reach the head and dam of the

San Francisco Canal owned by plaintiff as aforesaid, who was and is one of the parties to said suit No. 708 above mentioned

11: That on or about the 15<sup>th</sup> day of *January* A.D. 1895, the said defendant contriving and intending to injure plaintiff and to deprive plaintiff of the use of said 1100 inches of water used to operate his, defendant Hayden's, mill as aforesaid, did commence, and is now excavating and constructing a ditch, of sufficient size to take, divert and carry from said mill race, all of the water running and to run there-through, and unless restrained by this Court, will divert, carry, conduct and deliver said water to persons living on the line of said new ditch, and will thereby deprive plaintiff of the use of said water.

12: That all of defendant Hayden's action in the premises are unlawful and in violation of the vested and accrued rights of the plaintiff; that defendant's only right to the use of said 1100 inches of water is for milling purposes and he has no right to the use of said water, except, as decided in this Court in said cause No. 708 as aforesaid, and he the said C. T. Hayden is bound by the said decree of this Court, in the said cause No. 708, styles, M. Wormser et al, vs. The Salt River Canal Company et al, as aforesaid, and any diversion of said waters by defendant Hayden is unlawful, wrongful, and in violation of said decree and a direct injury to plaintiff.

13: That on or about the 12<sup>th</sup> day of *March* A.D. 1895, and long subsequent to the appropriation by plaintiff, his grantors and predecessors in interest of the said quantity of water of the waters of Salt River, and long subsequent to

the decree of this court in said cause No. 808, establishing and defining the rights and appropriations of the waters of Salt River as aforesaid, and long subsequent to the apportionment by the said commissioner of the 3000 inches, ~~minus~~ measurement, of the waters of said Salt River to this plaintiff as aforesaid, and while plaintiff was in actual, peaceable quiet and undisturbed use, possession and enjoyment of the waters ~~so~~ apportioned to him as aforesaid; the defendant, Charles T. Hayden, unlawfully and wilfully contriving and intending to injure this plaintiff as aforesaid, and deprive him of the use and enjoyment of said waters as aforesaid, , did with a large number of teams, laborers, scrapers and other tools, unlawfully and ~~wrong~~<sup>wrong</sup>fully enter into and upon the bed of said Salt River, and into and upon the lower part of the waste way of the said McKinney and Kirkland ditch, and into and upon the lower end of the mill race of said mill, and above the dam and canal of the plaintiff,, and ~~above~~<sup>below</sup> where the waters flowing from said mill and mill race flow back into said River and ~~enter~~<sup>above where said water</sup> into plaintiff's said canal, and about four hundred yards below defendant's Hayden's said mill, and ~~has~~ unlawfully and wrongfully dug, commenced to dig, build, excavate and construct a large irrigating ditch and canal about six feet wide and about four feet deep, and running southwesterly and following the same general course and direction of the said San Francisco Canal, owned by plaintiff as aforesaid, and capable of, and designed and intended to divert and carry all of the said 1100 inches of water, and all of the water flowing in, through, and out of said mill and mill race, which

now, and during times of scarcity is apportioned to said plaintiff by the commissioner of this court as aforesaid, and which is now actually needed and required by plaintiff and his said tenants for the irrigating and cultivating of the arable and lands aforesaid, and said defendant did then and there, unlawfully and wrongfully, turn out, take and divert, a portion of the said 1100 inches of water, *appropriated* and apportioned to plaintiff as aforesaid, and said defendant gave out and threaten,<sup>6</sup> and will, unless restrained by the order of this court, turn out, divert, and take all of the said 1100 inches of water, by such measurement, from said McKinney and Kirkland ditch and from said mill and mill race, and from said river, and will thereby deprive plaintiff of the use of said water and will cause plaintiff's said crops to waste, dry up, wither, decay and be absolutely destroyed for the want of said water for irrigation, to the great and irreparable loss damage and injury of plaintiff.

14:- That plaintiff has no plain, speedy and adequate remedy at law.

15:- That the defendant is virtually insolvent and wholly unable to respond to damages to the plaintiff <sup>for the injury</sup> ~~so~~ *unlawfully* and wrongfully done and threatened.

WHEREFORE, plaintiff prays, that pending this action, and until the final hearing and determination hereof the defendant, their agents, servants and employees, be enjoined and restrained from in any way, or by any means, interfering with or obstructing the present flow of the waters in the said Salt River and of the waters in the said McKinney and Kirkland Ditch, and in said mill race and of the waters that flow therein at any time hereafter whereby plaintiff will be impeded or prevented from ~~obtaining~~ obtaining, appropriating and carrying the waters of said river, in and by his said canal hereinafore described in this complaint, which he has appropriated, used and enjoyed and which has been *appropriated* or may be apportioned to him by said commissioner and to which he is entitled, as hereinafore alleged and shown in and by this com-

plaint; that it may be ordered and adjudged that the defendant shall at all times permit and suffer the waters of the said river and the said waters flowing through said McKinney and Kirkland ditch and through said mill race so to flow that the plaintiff will and can receive in and by his said canal all and every the several quantities of waters of said river to which he is entitled, and as alleged in this complaint; that the rights of the plaintiff and of the defendant, each as against the other, be finally determined by a decree of this Court; that upon the final hearing of this action, that said injunction be made perpetual, and that plaintiff's said appropriation be declared valid and lawful; that plaintiff have such other and further relief in the premises as to this Court may seem meet and proper and agreeable to equity; that plaintiff have judgement for his costs and Fifty thousand dollars (50,000) damages.

M. H. Williams  
Deane & P. P. Deane  
 Attorneys for Plaintiff.

TERRITORY OF ARIZONA, )  
 ) SS  
 COUNTY OF MARICOPA. )

M. Wormser being duly sworn, on oath deposes and says, that he is the plaintiff in the above entitled action, and has heard read the foregoing complaint and knows the contents thereof that the same is true of his own knowledge, except to matters and things stated on information and belief, and as to those matters he believes them to be true.

SUBSCRIBED AND SWORN to before me this 18<sup>th</sup> day of March, 1895.

M. P. Hutchinson  
 Notary Public.

***EXHIBIT 21***



No. 1078

In the District Court,  
Third Judicial District, County of Madison,  
Territory of Arizona.

*Frank B. Austin*  
*Blair* Plaintiff

*Wm. Chandler Blair* Defendant

JUDGMENT ~~FILED~~

Filed April 1, 1885

*Wm. J. Jordan* Clerk  
*Wm. J. Jordan* Deputy Clerk

14

1276  
Complaint 5/11/13

IN SENATE, DISTRICT COURT OF THE  
TERRITORY OF ARIZONA, IN AND  
OF MARICOPA COUNTY.

FRANK B. AUSTIN, et al  
Plaintiffs,  
-vs-  
A. J. CHAMBER, et al  
Defendants.

COMPLAINT

Orig.

9th May 1913 5-11-13

Wm. H. ...  
...

IN THE DISTRICT COURT OF THE THIRD JUDICIAL DISTRICT  
OF THE TERRITORY OF ARIZONA,  
IN AND FOR THE COUNTY OF MARICOPA.

FRANK B. AUSTIN, JOHN S. ARMSTRONG, G. H. ADAMS, L. W. BLINN,  
F. W. GATKE, Administrator of the estate of Chas. Bolzau, de-  
ceased, E. M. BLOCK, OTTO BUTZER, J. H. BOLTON, JESSE BRYANT,  
T. H. BROWN, C. A. CARPENTER, R. B. CASLEY, JAS. CARROLL, A.  
W. COSNER, T. COSNER, W. T. CUMMINGS, C. A. CORSELL, G. L.  
COMPTON, S. DITWILDER, L. ELLINGSON, E. G. FRANKENBURG, B. J.  
GEORGE, CHAS GOLDMAN, LEO. GOLDMAN, B. GOLDMAN, GONZALES BROS.,  
MANUEL GONZALES, V. GART, THOS. J. GOODWIN, C. H. GRAY, J. L.  
GREGG, GEO. N. GAGE, Agent, T. A. GULLEY, S. GRANILLO, M.  
GONZALES, H. A. T. HANSON, C. T. HAYDEN, S. D. HAYDEN, J. T.  
HAIGLER, L. L. HARMON, A. ALVY, \_\_\_\_\_ HOLMESLEY, M. M.  
ADTCHCOCK, F. A. HOUGH, STEPHEN HUGHES, E. W. HAGRTY, A. R.  
JENKINS, W. J. KINGSEBURY, D. KLOSS, W. R. LEWIS, H. LACEY,  
Administrator of the estate of Mr. LACEY, deceased, D. M.  
LEMBN, J. LEVERMAN, J. LEVERMAN & CO., C. MEYERS, THOS.  
MORROW, W. MILLER, A. MILLER, C. M. MILLER, J. H. MEYER, R.  
MILLER, Y. MOLINO, G. MENDOZO, C. W. McFARLAND, G. W. NICHOLS,  
H. V. JACKSON Administrator of the estate of G. H. Qury, de-  
ceased, A. GROSSO, N. PETERSON, J. T. PRIEST, C. PALACIOUS,  
Y. QUIQUERS, J. E. REBEN, M. H. SHERMAN, E. M. SCHULTZ,  
Trustee, M. SOFELLO, J. SOZA, J. STINSON, G. W. TOBIN, TEMPE  
LAND AND IMPROVEMENT CO., TEMPE LAND AND IMPROVEMENT CO.,  
Trustee, MRS. W. H. THOMAS, T. M. VARNON, C. WONCKE, E. G.  
WHITSEY, J. W. WOLFE, J. H. WOODS, W. S. WOODS, M. WORKSER,  
F. D. WELLS, JAMES WILSON, J. S. WATROUS, RACHAEL P. WAY, J.

H. CAMPBELL, M. B. WHITE, J. VANFUYL, E. M. SCHULTZ, G. H. CAMPBELL, H. K. CAMPBELL, W. D. CONSER, E. FRITZINGER, R. HARE, W. E. LEWIS, A. J. PRICE, W. TREVETT, J. C. MISSIE, Composing the TEMPE IRRIGATING CANAL COMPANY, a voluntary joint stock association having its office and principal place of business at Tempe, Maricopa County, Arizona Territory,

Plaintiffs.

--vs--

A. J. CHANDLER, THE CONSOLIDATED CANAL COMPANY, THE MESA CANAL COMPANY, AND W. N. STANDAGE,

Defendants.

The plaintiffs above named complain of the defendants, and for cause of action allege:-

I.

That the plaintiffs, Frank B. Austin and his associates above named, constitute the Tempe Irrigating Canal Company, a voluntary joint stock association, having its office, residence and principal place of business at Tempe, Maricopa County, Arizona Territory.

2.

That the defendants A. J. Chandler and W. N. Standage reside in said county and Territory, and the defendant the Consolidated Canal Company is a corporation duly organized under the laws of this territory and has its principal place of business in Maricopa County, and that A. J. Chandler is the President of said corporation company. That the defendant the Mesa Canal Company is a corporation duly organized under the

laws of Arizona, and has its principal place of business in said county and Territory, and W. A. Stoddard is the president of said corporation company.

3.

That the Salt River is a natural innavigable stream of water rising in the mountains of the northeastern portion of this territory and flowing thence in a southwestern direction through a large valley of a arable and irrigable lands situated in said county.

4.

That heretofore, to wit, on or about the sixth day of December, 1870, the grantors and predecessors in interest of the plaintiff Frank B. Austin and the other plaintiffs mentioned in the title of this action, as composing the Tempe Irrigating Canal Company, being then the owners and possessors of certain lands in said Salt River Valley, and intending and desiring to cultivate the same, and requiring for that purpose water for irrigation, formed and associated themselves together *The Hardy Irrigating Canal Co, which name was afterwards by resolution changed* by the name of The Tempe Irrigating Canal Company, and in and by that name did take up, locate, appropriate and claim of the water of said Salt river eleven thousand inches, miner's measurement, and did thereupon proceed and construct at great expense, to wit, twenty five thousand dollars, a dam over and across said river, and an irrigating ditch commencing in the south bank of said Salt River at a point about sixteen miles east from the city of Phoenix, and running thence in a southwesterly direction and over and across land then being a part of the public domain, and belonging to the United States, and

3.

2

capable of carrying said eleven thousand inches of water, and the said association and persons composing the same did thereafter in and by said ditch continuously appropriate, use and employ said eleven thousand inches of water of the waters of said river, in, by and through said ditch, in the irrigation and cultivation of the lands owned, possessed and cultivated by the persons composing said association, and in turning and operating a grist mill belonging to members of said association.

The Tempe Irrigating Canal Company, and for their use and benefit; and said water and ditch is now being used by the plaintiffs in the irrigation of the lands owned, occupied and possessed as aforesaid, and in the operating of said mill.

That the persons named as plaintiffs do now constitute The Tempe Irrigating Canal Company, and have succeeded by divers mesne conveyances to all and every the said dam and ditch, and the right, title and interest of the said original locators and builders of said ditch and claimants of said eleven thousand inches of water, and of all and every the lands irrigated and cultivated by said waters, and of the grist mill turned and operated thereby, and for which said water was appropriated, and to which said ditch carried and conducted the same.

And plaintiffs have been at all times since their acquisition of said dam, ditch, water and lands, and were at the time of the grievances hereinafter mentioned, actually engaged in carrying and conducting said waters in and by said ditch to the lands and mill aforesaid, and in the use of the same in the irrigation and cultivation of said lands and in the operat-

ing of said mill. That all of said water is required for such purpose, and without it said land would be unfit for cultivation, incapable of producing crops, and without said water said land and mill would be wholly valueless and without use. That all and every the right to the use of said waters, dam and ditch and the right-of-way therefor have been and are vested in the plaintiffs composing the Tempe Irrigating Canal Company, and they are now the owners thereof, and the rights aforesaid, vested in, owned and claimed by said plaintiffs have been at all times and are recognized and acknowledged by the local customs, laws and decisions of the courts.

That on the twentieth <sup>5.</sup> day of ~~July~~ <sup>August</sup>, 1892, the plaintiffs were the owners, and seized and possessed, and entitled to the possession, of said water, dam, and ditch, and of the land occupied thereby and connected therewith; and the same is more particularly described as follows, to wit:

Commencing at a point on the outside of the east border of the canal seventy feet east from the edge of the water and two hundred and eighty five feet west (variation  $15^{\circ} 25' E$ ) from the S E corner of section four, T 1 N, R 5 E, Gila and Salt River Base and Meridian, running thence along the east side of the border of the canal, N  $32^{\circ} 55' E$ , 300 feet (variation  $13^{\circ} 25' E$ )

Thence N  $33^{\circ} 50' E$ , 400 feet. Thence N  $34^{\circ} 45' E$ , 300 feet.

Thence N  $67^{\circ} E$ , 220 feet. Thence N  $53^{\circ} 30' E$ , 650 feet.

5.

Thence N  $81^{\circ} 30' E$ , 430 feet.

Thence N 33° E, 1100 feet to the edge of the water in Salt  
 River. Thence due N, across Salt River, 400 feet. Thence  
 due west on the north bank of Salt River, 500 feet. Thence  
 S. 10° 30' E, 400 feet to the edge of the water on south bank  
 of Salt River. Thence S. 30° 45' west, 760 feet. Thence  
 south, 80° 25' west, 400 feet. Thence south 49° 25' W  
 740 feet. Thence S. 31° 35' W, 185 feet. Thence S 30°  
 W., 300 feet. Thence S 35° W, 275 feet. Thence S 32°  
 15' W, 460 feet. Thence S 31° 15' W, 465 feet. Thence  
 S 29° 20' W, 300 feet. Thence S 31° W, 400 feet. Thence  
 S 32° 35' W, 480 feet. Thence S 29° 25' W, 615 feet.  
 Thence S 35° 50' W, 290 feet. Thence S 22° W, 345 feet.  
 Thence S 15° 35' W, 590 feet. Thence S 10° W, 185 feet.  
 Thence S 19° 20' W, 425 feet. Thence S 34° W, 265 feet.  
 Thence S 73° 25' W, 555 feet. Thence S 66° 30' W, 190 feet.  
 Thence S 61° 10' W, 780 feet. Thence S 53° ~~W~~ 50' W, 320  
 feet. Thence S 35° W, 430 feet, to lower end of the canal.  
 Thence S 69° E, 97 1/2 feet cross the lower end of the canal.  
 Thence N 33° E, 400 feet. Thence N 55° E, 290 feet. Thence  
 N 61° 30' E, 770 feet. Thence N 65° 50' E, 175 feet.  
 Thence N 78° 50' E, 590 feet. Thence N 33° E, 315 feet.  
 Thence N 19° E, 420 feet. Thence N 11° 20' E, 220 feet.  
 Thence N 15° E, 560 feet. Thence N 24° 50' E, 330 feet.  
 Thence N 35° 35' E, 270 feet. Thence N 34° 25' E, 620 feet.  
 Thence N 31° E, 350 feet. Thence N 32° E, 610 feet. Thence  
 N 32° 35' E, 750 feet, to the place of beginning.

6.

That while the plaintiffs were such owners and so seized.



and possessed and entitled to the possession of said dam, ditch and right-of-way therefor, and of the land occupied thereby and connected therewith and hereinbefore described, the said defendants did, on the day and year aforesaid, with force and arms, and without right or title, enter into, on and upon said land, ditch and right-of-way, and did then and there clear off the ground, survey the same, and drive stakes thereon, and did dig and tear up the earth, and cut down the timber and brush thereon, and did oust and eject the plaintiff therefrom.

7.

That for more than five years prior to the said 29<sup>th</sup> day of ~~July~~<sup>May</sup>, 1892, plaintiffs and their predecessors in interest had been in the actual, open, notorious, quiet, peaceable, undisturbed and adverse possession of said land, right-of-way and ditch, enjoying and using the same, and that on said day, the defendants, with force and arms, and without right, unlawfully, wrongfully, and without the consent of the plaintiffs, entered into and upon the said lands, right-of-way and ditch, and placed thereon and near thereto, a large amount of lumber, timber, and ditch material, and dug up and into plaintiff's said lands and right-of-way, and into the banks of plaintiff's said ditch, and threaten to continue to dig and plow up the earth and cut down the banks of said ditch on said right-of-way and land, and to make, excavate, and construct a large ditch thereon and therein, and threaten to wall up plaintiff's said ditch so as to prevent water from flowing therein and therethrough in its accustomed and usual

7.

manner, and as plaintiffs have a right to have it flow, to plaintiffs irreparable damage and injury. *in the sum of Twenty five thousand (\$25,000.00) dollars.*

8.

That the defendants are insolvent and wholly unable to respond in damages to the plaintiffs.

9.

That unless the defendants are enjoined and restrained by this Honorable Court during the pendency of this action, they will carry said threats into execution, and will virtually destroy and ruin plaintiff's said property, and render said ditch incapable of supplying plaintiff's said land with water for irrigation, and of supplying water to turn and operate said mill, and said defendants will unlawfully, wrongfully and without the consent of plaintiffs, appropriate and take a portion of said land, ditch and right-of-way for their own use and benefit, and will render the balance thereof useless and without value to the plaintiffs, to their irreparable damage and injury.

10.

That plaintiffs have no plain, speedy and adequate remedy at law.

WHEREFORE PLAINTIFFS PRAY judgment,

1. That the defendants be restrained and enjoined from *in any manner diverting & interfering with said water and from* digging, excavating and plowing up said earth, and from making and constructing said ditch during the pendency of this action.

8.

2. For all cost of suit.

3. That upon a final hearing hereof plaintiffs be decreed  
the owners of said ditch, right-of-way, <sup>therefor</sup> and the defendants be  
<sup>prevented from interfering with said water & from</sup>  
perpetually enjoined from constructing said contemplated  
ditch, and from in any way interfering with plaintiff's said  
ditch, lands and right-of-way.

4. That plaintiffs have such other and further relief,  
general and special, as may seem to the Court meet and proper  
in the premises.

*M. H. Williams  
W. A. Hancock*

Attorneys for the plaintiffs.

TERRITORY OF ARIZONA, )

) S.S.

COUNTY OF MARICOPA. )

*J. R. Poist  
C. E. Stranahan*

being duly sworn, each for himself says, and not one for the other, that he is one of the plaintiffs in this action; that he has heard read the foregoing complaint and knows the contents thereof, and that the same is true of his own knowledge, ~~except as to the matters which are therein stated on information and belief, and as to those matters he believes it to be~~ true.

J. J. Poist  
E. G. Fournier

Sworn to and subscribed before me.

this 11 day of July, A. D. 1893, by \_\_\_\_\_

E. G. Fournier

By J. J. Poist

EXHIBIT "A".

NOTICE.

NOTICE.

NOTICE.

NOTICE OF LOCATION OF MILL SITE, POWER SITE, AND OF APPROPRIATION  
OF WATER, AND OF INTENDED CONSTRUCTION  
MAINTENANCE OF MILLS, FACTO-  
RIES, DAMS AND  
CANALS.

NOTICE, is hereby given to all whom these presents concern, that the undersigned J.T. Priest, and J.W. Wolf and E.G. Frankenburg, all citizens of the United States over the age of 21 years and resident inhabitants of Maricopa County, Arizona Territory, shareholders in the Tempe Irrigating Canal Company, a joint ~~stock~~ stock association hereinafter mentioned, have located, appropriated and claimed and do hereby appropriate and claim 11,000 <sup>inches</sup> miners measurement, of the natural, surplus, subterranean, surplus and flood waters, of the Salt River, a natural innavigable stream of water, rising in the northeastern portion of Arizona, and flowing thence in a southwesterly direction through Maricopa County, said Territory, said water being the same heretofore appropriated, claimed and used by the Tempe Irrigating Canal Company, a joint stock association, with its principal place of business at Tempe, said County, and applied by said association to agriculture and other purposes; it being intended that this appropriation and location shall cover the ~~same~~ water heretofore appropriated and used by said association as aforesaid; and this claim is made, and this notice given, with the intention of applying said water to a new separate and additional use, that is, for mechanical power and manufacturing purposes. And

NOTICE is hereby further given that the undersigned intend to, and hereby do, claim the right to construct and maintain dams, ditches, canals, mills, manufactories of any and all kinds, at or near the point where this notice is posted, to-wit about twelve miles above the town of Tempe, in said County and Territory, and on the South side of said Salt River, for the purpose of using said water at all times and in all seasons of the year, for mechanical power and manufacturing purposes, and for delivery to consumers for rental, milling, mechanical and other power purposes. And

NOTICE is hereby further given that it is the intention of the undersigned, and they hereby claim the right to divert and use said water for the purposes aforesaid in strict subordination to the rights of the said Tempe Irrigating Canal Company and its stockholders; it being the true intention of the undersigned to appropriate, reappropriate, use and employ all of said water for new, additional and beneficial uses, as aforesaid.

Dated on the ground this, the 15th day of August, 1894.

(Signed)

J.T. Priest,

J.W. Wolf,

E.G. Frankenberg.

Locators and Appropriators.

Witness:

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IN THE DISTRICT COURT OF THE THIRD JUDICIAL  
DISTRICT OF THE TERRITORY OF ARIZONA  
IN AND FOR THE COUNTY OF  
MARICOPA

Frank E. Austin; John S. Armstrong;  
G. B. Adams; L. W. Ellison, et al. Plaintiffs

vs

A. J. Chandler; The Consolidated Canal Company;  
The Mesa Canal Company; and W. M. Standage;  
Defendants;

The defendants, The Mesa Canal Company and W. M. Standage, answering  
the plaintiffs complaint herein;

I

Admit the facts of residence and organization as alleged in the first  
and second paragraphs of the said complaint;

II

Admit that the Salt River is a natural unnavigable stream of water  
rising and flowing as alleged in paragraph Three of said complaint;

III

These defendants further answering said complaint neither admit or  
deny the allegations contained in paragraphs Four and five of said  
complaint, but allege that these defendants have no knowledge of the facts  
therein stated, and these defendants require strict proof of the same;

IV

And further answering these defendants deny each and every allegation  
contained in the sixth, seventh, eighth, ninth, and tenth paragraph of said  
complaint.



Therefore these defendants pray to be hence dismissed, with their  
costs in this behalf expended.

*Wesley & Bennett*  
*Attorneys for*  
*The Panama Canal Co and*  
*Don W. Stansbury*

**EXHIBIT 22**

OFFICE OF THE SHERIFF OF THE COUNTY OF MARICOPA.

I HEREBY CERTIFY That I received the within Summons on the 28th day of October, A. D. 1893, at the hour 5 P. M., and personally served the same on the 28th day of October, A. D. 1893, on the Consolidated Canal Company, a Corporation.

being the defendant named in said Summons, by delivering to V. J. Chandler the President of said Consolidated Canal Company, at Tempe, in the County of Maricopa, a copy of said Summons, to which was attached a true copy of the Complaint mentioned in said Summons

Dated this 28th day of October, A. D. 1893.

Fees, service, - \$1.00  
Copies, 5 - \$1.00  
Travel, 1 mile, \$ 30  
Publication, \$  
Total, - \$2.30

Sheriff.  
By W. D. Ellows  
Deputy Sheriff  
- Bond -

No. 1763  
DISTRICT COURT,  
Third Judicial District, County of Maricopa,  
Territory of Arizona

V. J. Chandler

Plaintiff  
Cons. Canal Co.

Defendant

SUMMONS.

Issued Oct-26 1893

Filed Nov-14 1893

By W. D. Ellows  
Deputy Sheriff

W. J. Kingham, Attorney for Plaintiff  
W. J. Kingham, Attorney for Plaintiff

IN THE DISTRICT COURT OF THE THIRD JUDICIAL DISTRICT OF THE  
TERRITORY OF ARIZONA; IN AND FOR THE COUNTY OF MARICOPA.

— 010 —

A. J. Peters

2

Plaintiff

No. 1763.

— VS —

THE CONSOLIDATED CANAL  
COMPANY, a Corporation.  
Defendant.

Now comes the defendant above named and for answer  
to the complaint of the plaintiff herein avers and alleges:

I.

That defendant demures to said complaint upon the  
grounds that the same does not state facts sufficient to  
constitute a cause of action in favor of the plaintiff and  
against this defendant.

WHEREFORE, Defendant demands judgment on its demurrer  
and that said action be dismissed, and that the defendant  
do have and recover of and from plaintiff herein all costs  
and disbursements herein expended.

II.

Should said demurrer be overruled by the Court; then  
and in that event defendant further answering said complaint  
denies each and every allegation therein contained except  
paragraph One of said complaint.

WHEREFORE; Defendant demands judgment against the plain-  
tiff for its costs and disbursements herein expended.

C. F. Amisworth  
Per Amisworth,  
Atty. Gen.

IN THE DISTRICT COURT OF THE THIRD JUDICIAL DISTRICT OF THE  
TERRITORY OF ARIZONA, IN AND FOR THE COUNTY OF MARICOPA.

-----

<p>A. J. PETERS,</p> <p>vs.</p> <p>THE CONSOLIDATED CANAL COMPANY,</p>	<p>Plaintiff,</p>  <p>Defendant.</p>	<p>::</p> <p>::</p> <p>::</p> <p>::</p> <p>::</p> <p>::</p> <p>::</p> <p>::</p> <p>::</p>
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Plaintiff complains and alleges,

- I -

That Plaintiff is a resident of Maricopa County Arizona,  
and that the defendant is a corporation, organized and exist-  
ing under the laws of the Territory of Arizona, and having  
its principal office for the transaction of business at the  
City of Phoenix, in said Maricopa County.

-II -

That the plaintiff is now and at all the times herein-  
after mentioned and for a long time prior thereto, was the  
owner of and in the possession of the following described  
premises, situated in the County of Maricopa and Territory of  
Arizona, to-wit:- Section seventeen (17) in Township one  
south range five east of the Gila and Salt River Base and  
Meridian. and by virtue of such ownership and possession and  
prior to the times hereinafter mentioned, the said plaintiff  
had diverted from the waters of Salt River, an unnavigable  
stream of water in said County a sufficient quantity of the  
waters of said Salt River to properly irrigate and cultivate  
the said premises, and had actually applied the said water  
so diverted to the irrigation of said premises for the pur-

pose of raising crops of grain and for other agricultural purposes.

- III -

That the plaintiff at and prior to the times hereinafter mentioned, was, and now is the owner of certain shares of stock in the Utah Canal Enlargement and Extension Company, and the ~~xxxx~~ Eureka Canal Company joint stock associations owning and operating ~~x~~ certain canals or irrigating ditches running from the said Salt River to a point at or near the lands hereinafter ~~xxxxxxxx~~ described, by means of which said canals or irrigating ditches and by virtue of the ownership of said shares of stock therein, this plaintiff had received the water from the said Salt River, so diverted, applied and appropriated by him for the irrigation of said premises, from the time of his appropriation thereof until the times hereinafter mentioned.

That on to-wit the 30th day of September, 1892, the defendant, the Consolidated Canal Company being the owner and operator of a certain canal or canals in said county running from the said Salt River to a point at or near the lands hereinbefore described, designed and used for the purpose of carrying the water of said Salt River to the lands situated in the vicinity of the premises hereinbefore described, by A. J. Chandler its President, made and entered into a contract and agreement in writing with the said plaintiff, and others whose names are thereto affixed which said contract was and is in words and figures as follows to-wit.

"This agreement made and entered into this 30th day of September 1892, by and between the Consolidated Canal Company, by its President, A. J. Chandler, party of the first

part and A. J. Peters, H. Peterson, J. Olsen, L. Harmon, Geo. Draw, A. Marshall, W. W. Dobson, J. S. Watrous, F. T. Powers M. Walsh, J. Newman, J. L. Wesson, P. Eisenbise, N. Peterson Trustee, C. T. Springer, W. W. Dobson Trustee, C. Sigal Trustee, J. K. Anders, A. J. Houston. parties of the second part owners, shareholders or renters of the Utah Canal Enlargement and Extension Co., and the "Eureka Canal" is as follows, we, the parties of the second part rent our respective shares or the shares we have rented, to said first party for the ensuing year ----- And I, A. J. Chandler President, party of the 1st part, agrees to keep up all assessments levied against all of the shares hereto signed during the term hereof and to deliver water to the respective parties hereto at the rate of (50) fifty cents per acre for the term hereof at and on the basis rate of not less than three shares for the necessity of a quarter section, said water being in the river.

And we the parties of the second part hereby give first party our respective proxies to vote our respective shares during the term hereof on matters pertaining to assessment only.

The above shall not be so construed as to interfere with the Board of Directors and Secretary from carrying out the contract made between the Utah Irrigating Ditch Company and the Alma Irrigating <sup>Co</sup> Company and as modified by subsequent agreements or from making arrangements and fixing time for the necessary cleaning of the Utah Canal Extension and the Eureka Canal. It being understood that in case of low water said first party is to deliver that amount of water that the Utah Canal would or could deliver if they were in full control.

~~And in case said first party~~

And in case said first party fails to deliver water same being in the river then these presents to be null and void.

In witness whereof we have hereunto set our hands and seals the day and year first above written.

CONSOLIDATED CANAL CO.  
BY A. J. CHANDLER,  
Pres.

Name	Number of shares.
ALFRED J. PETERS	18
ALFRED J. PETERS	2
ALLING OLSEN PER A. J. PETERS	2
GEORGE H. DREW B. NEWMAN	5
GEORGE H. DREW H. M. McLAUGHLIN	6
GEORGE H. DREW J. S. ARMSTRONG	2
J. NEWMAN NEWMAN PER F. T. POWERS	3
	3
M. WALSH PER F. T. POWERS	
F. T. POWERS	3
H. PETERSON TRUSTEE RUFFS	8
H. PETERSON NEWMAN	3
H. PETERSON	6
C. T. SPRINGER	6
P. J. EISENBISE	3
R. W. WESTOVER	3
A. J. HOUSTON	4
GOE. BAUER (DORRIS)	2

Plaintiff further alleges that said shares of stock in the Utah Canal Enlargement and Extension Company and the Eureka Canal mentioned in the said contract and agreement were and are a majority of the shares of stock in said Company and canals, and that upon the execution of said contract, and agreement the said Consolidated Canal Company entered into the possession and control of the canal of the Utah Canal Enlargement and Extension Company and the Eureka Canal with their connections and remained in possession and control thereof until July 1st 1898; and that all the conditions of said agreement on his part to be kept and performed, have been faithfully kept and performed by the plaintiff.



And Plaintiff further alleges that the premises described in the complaint was a part of the premises upon which the said water was to be delivered by defendant according to the terms of said contract during the crop raising season of 1892-3

IV.

That thereupon the said plaintiff, trusting in and relying upon the said promises and agreements of the said defendant, at great expense of time and labor and money, plowed cultivated and bordered and otherwise prepared the said premises for the production of a crop of grain, and sowed and planted the same in the best manner known to good husbandry for the production of a crop but that the said defendant contrary to his said agreements undertakings and promises, failed, neglected and refused to deliver water to the plaintiff upon the premises described in this complaint on the basis rate of not less than three of the shares mentioned in said ~~contract~~ <sup>contract</sup> for the necessity of a quarter section of said premises during the crop raising season of 1892-3; and failed, neglected and refused to deliver to said plaintiff upon said premises sufficient water to properly irrigate the crops growing upon said premises when during the crop raising season of 1892-3 there was flowing in said Salt River at a point where the same could be diverted therefrom to said premises, water sufficient for said purpose and for which purpose the plaintiff had by said <sup>15 said defendant</sup> contract rented three of said shares of stock for each quarter section of said premises.

and failed neglected and refused to perform each and every obligation of said contract on its part to be done and performed by the terms of said contract/

And that in the periods of low water in the said river during the crop raising season of 1892-3 the said defendant failed, neglected and refused to deliver to said plaintiff upon said premises that amount of water that the Utah Canal would and could deliver if they were in full control.

V

That by reason of the failure neglect and refusal of the said defendant to deliver water for the plaintiff upon said premises according to the terms of said contract as hereinbefore alleged the crops of plaintiff planted and sowed upon said premises failed to develop, mature and ripen, and were wholly dried up, lost and destroyed, to the damage of plaintiff in the sum of Five Thousand Dollars.

WHEREFORE Plaintiff demands judgment against the defendant for the sum of Five Thousand Dollars with his costs in this behalf expended.

*W. J. Kenworthy*  
*Murray & Bennett*  
*Cool & Blair*  
*attys for P. & D.*

IN THE DISTRICT COURT OF THE THIRD JUDICIAL DISTRICT OF THE  
TERRITORY OF ARIZONA: IN AND FOR THE COUNTY OF MARICOPA:

000

A. J. PETERS,

Plaintiff.

- VS -

ANSWER TO AMENDED COMPLAINT.

THE CONSOLIDATED CANAL

COMPANY,

Defendant.

Now comes the above named defendant, The Consolidat  
ed Canal Company, and for answer to the amended complaint  
herein by way of demurrer hereby demurrs to said complaint  
and alleges as ground of demurrer:-

FIRST:-                    That there is a defect <sup>of</sup> parties plaintiff  
in this, that said Contract set out in said complaint is a  
joint contract executed by the plaintiff herein A. J. Peters  
and Geo. A. Drew; J. Newman; M. Walsh; F. T. Powers; N. Peter  
sen; C. T. Springer; P. J. Eisenhise; B. W. Westover; A. J.  
Houston; Geo Bausw and that said complaint should join all  
the above named parties to said contract as parties ~~to~~ plain-  
tiff to this action, or alleging some reason fer not making  
them parties plaintiff, and for

SECOND:-                    Ground of demurrer defendant states that  
said complaint does not allege facts sufficient to constitute  
a cause of action in favor of this plaintiff and against  
this defendant,

WHEREFORE, Defendant demands judgment on its demurrer that it be sustained, and that said action be dismissed, and that said defendant recover its costs and disbursements of this plaintiff.

And this defendant further answering the complaint of herein the plaintiff, in case its demurrer be overruled, alleges that it appears upon the record and amended complaint filed herein that there is a defect of parties plaintiff in this, that Geo. A. Drew; J. Newman; M. Walsh; F. T. Powers; N. Petersen; C. T. Springer; P. J. Eisenbise; B. W. Westever; A. J. Houston; Geo. Bauer should be joined as parties plaintiff with A. J. Peters, plaintiff herein for the reason that the contract set out in said complaint the basis of this action is a joint contract, and that all of the parties to said contract should be joined as plaintiffs for the reason alleged why they are not joined as plaintiffs, and that this defendant further answering the complaint of the plaintiff herein denies each and every other allegation in said complaint contained.

WHEREFORE, Defendant prays the judgment of this Court that this action be dismissed and that it have and recover of plaintiff its costs and disbursements incurred herein.

*C. F. Dammert & Paul  
W. H. Banno*

-----  
Attorneys for Defendant.

.....  
.....  
*A. J. Peters*  
.....  
.....  
*The Consolidated Bond Company*  
.....  
.....

Plaintiff,

Against

Defendant.

VERDICT.

We, the Jury, duly empaneled and sworn in the above entitled action, upon our oaths, do find: *for the plaintiff and assess his damages at Five Hundred Dollars*

.....  
.....  
.....  
*M. J. W. M. M. M.*

Foreman.

111

In the District Court of the Third Judicial District  
of the Territory of Arizona,  
in and for the County of Maricopa.

-----  
A. J. Peters, )  
Plaintiff, )  
-- vs -- )  
The Consolidated Canal Company )  
- a corporation - )  
Defendant, )

This cause coming on regularly for trial, the parties appearing by their respective attorneys, and a jury of twelve men being regularly impaneled and sworn to try said cause and witnesses on the part of plaintiff and defendant being sworn and examined. And after hearing the evidence the argument of counsel and instructions of the Court, the jury retired to consider of their verdict; and ~~being~~ subsequently returned into Court, and being called, severally answered to their names, return a verdict for the plaintiff for the sum of Five Hundred Dollars.

Wherefore, by virtue of the law, and by reason of the premises aforesaid, it is ordered adjudged and decreed that the said plaintiff have and recover from said defendant the said sum of Five Hundred Dollars, with interest thereon at the rate of Seven per cent per annum from this date until paid together with plaintiff's costs and disbursements incurred

In this action taxed at  $\$600^{00}$  Dollars and that the  
plaintiff have execution therefor.

Dated this 20<sup>th</sup> day of February 1894.

*A. C. Balin*  
*Judge*

***EXHIBIT 23***



OFFICE OF THE SHERIFF OF THE COUNTY OF MARICOPA.

I HEREBY CERTIFY That I received the within Summons on the 24 day of October, A. D. 1893, at the hour 10.15 A.M., and personally served the same on the 3<sup>rd</sup> day of October, A. D. 1893. The Consolidation Canal Company, a Corporation,

being the defendant named in said Summons, by delivering to A. J. Chandler President of said Consolidation Canal Company a Corporation at Arizona County of Maricopa, a copy of said Summons, to which was attached a true copy of the Complaint mentioned in said Summons

Dated this 31 day of October, A. D. 1893

Fees, service, - \$ 150  
 Copies, - \$ 60  
 Travel, miles, \$ 30  
 Publication, \$  
 Total, - \$ 240

J. R. Murphy Sheriff.  
 By J. E. Hamer Deputy Sheriff.

No. 1760

**DISTRICT COURT,**  
 Third Judicial District, County of Maricopa,  
 Territory of Arizona.

W. J. Johnston Plaintiff  
W. E. Elbert

vs

Erre Canal Co Defendant

**SUMMONS.**

Issued Oct-24 1893

Filed Oct-31 1893

By J. R. Murphy Clerk  
W. E. Elbert Deputy Clerk.

Kingman, Miller & Deane  
Attorneys for Plaintiff

Recd. Oct 24-1893  
10.15 A. M.

IN THE DISTRICT COURT OF THE THIRD JUDICIAL DISTRICT OF THE  
TERRITORY OF ARIZONA IN AND FOR THE COUNTY OF MARICOPA.

W. S. JOHNSON,  
JOHN BECK, and  
W. S. LEGGETT,  
Plaintiffs,

- vs. -

THE CONSOLIDATED CANAL COMPANY,  
a corporation,  
Defendant.

Plaintiff complains and alleges,

- I -

That the plaintiffs are residents of Maricopa County, Arizona, and that the defendant is a corporation, organized and existing under the laws of the Territory of Arizona, and having its principal office for the transaction of business at the City of Phoenix, in said Maricopa County.

- II -

That the plaintiffs on or about September 25th 1894, and at all other times herein mentioned were in the possession of, farming and cultivating the following described premises, situated in the County of Maricopa, Territory of Arizona, to-wit Sections twenty-two and twenty-seven in township one South, Range five east, of the Gila and Salt River Base and Meridian lines in Maricopa County Arizona. To farm and cultivate the same it is necessary to water said land and the crops growing thereon by means of irrigation.

That this defendant, the Consolidated Canal Company is the owner and operator of a certain canal or canals in said county, running from the Salt River an unnavigable stream in said county, at or near the lands hereinbefore described, designed and used for the purpose of carrying the waters of said Salt River to the lands capable of being irrigated by means thereof, for the purpose of irrigating the same.

That the lands hereinbefore described are so situated that they can be irrigated by means of said canal or canals; and that while the said plaintiffs were so in possession, farming and cultivating the said premises, to-wit on or about the 25th day of September 1892, the defendant entered into a contract with the plaintiffs, wherein and whereby the said defendant contracted and agreed with the said plaintiffs for and in consideration of the sum of one uollar per acre of said premises, to furnish and deliver to the said plaintiffs by and through the canal or canals aforesaid, all the water necessary for the proper irrigation, and cultivation of the premises hereinbefore described for the raising of grain crops thereon, or so much of said premises as should be sown or planted by said plaintiffs for the purpose of irrigating said lands and the crops growing thereon, which said sum of one dollar per acre was by the terms of said contract to be paid by said plaintiffs to said defendant upon the performance and completion of said contract on its part.

That thereupon the said plaintiffs trusting and relying upon the said promises, contracts, and agreements of the said defendant, at great expense of time, labor and money,

Note - The sum of \$1.00 per acre was paid to the defendant by the plaintiffs for the purpose of irrigating the lands hereinbefore described. The sum of \$1.00 per acre was paid to the defendant by the plaintiffs for the purpose of irrigating the lands hereinbefore described. The sum of \$1.00 per acre was paid to the defendant by the plaintiffs for the purpose of irrigating the lands hereinbefore described.

*A whole year's water was being used on ground for use by other owners to the extent of the amount of water from said river.*

plowed, cultivated, and bordered and otherwise prepared said premises for the production of a crop of grain, and sowed and planted the same in the best manner known to good husbandry for the production of a crop, but that the said defendant contrary to his said contracts, promises and agreements, and while there was flowing in said Salt River, at the point where the said defendant by its canal diverts water from said Salt River, ample and abundant water to supply the needs and requirements of said plaintiffs in respect to said premises and which said water was and was at all times herein mentioned known by defendant to be necessary and essential to the production of a crop of grain upon said premises; failed, neglected and refused to carry and convey said water from said Salt River to the said premises; and failed, neglected and refused to furnish them the amount of water necessary to properly irrigate said crops, or properly cultivate and irrigate said land or any part thereof or the crops growing thereon.

-- V.--

That by reason of the failure of the said defendants to carry, convey and deliver the said water <sup>to said plaintiffs</sup> ~~which the said plaintiffs were entitled as aforesaid,~~ the crops which the plaintiffs planted and sowed upon said premises, as aforesaid failed to develop, mature and ripen, and were wholly dried up lost and destroyed, to the damage of plaintiffs in the sum of

Eight Thousand (\$8000.00) Dollars.

WHEREFORE plaintiffs demand judgment against the said defendant for the sum of Eight Thousand (\$8000.00) Dollars, together with their costs in this behalf expended.

*Hullay & Russell  
Attorneys  
for Plaintiff*

IN THE DISTRICT COURT OF THE THIRD JUDICIAL DISTRICT OF THE  
STATE OF MICHIGAN:      

W. J. Schuette  
A. J. Leggett

Plaintiff.

- VS -

THE CONSOLIDATED CIGAR COMPANY

a Corporation.

Defendant.

Please take notice that the Defendant in the above  
entitled cause will move the above entitled Court that  
the Plaintiff herein be required to pay the costs  
incurred in this action.

Said motion will be made at the Court room of said  
Court on the 10th day of November A. D. 1903, at Nine  
o'clock A. M. of said day or soon thereafter as counsel  
can be heard.

C. H. Mumford  
Attorney for Defendant.

**EXHIBIT 24**

No. 1145

IN THE

**DISTRICT COURT,**

3<sup>d</sup>  
Third Judicial District, County of Maricopa,  
Territory of Arizona.

J. C. Goodwin Agent  
vs.  
County of Maricopa  
Defendant

Granville H. Perry

Defendant

**DISMISSED.**

Filed Jan 12<sup>th</sup> 1890

*[Signature]*  
Clerk

By \_\_\_\_\_  
Deputy Clerk

In the District Court of the Second Judicial District, of  
the Territory of Arizona. In and for Maricopa County.

James C. Goodwin.

Agent of the Territory of Arizona.

Plaintiff.

v-

Granvill H. Oury.

Defendant.

The above named plaintiff complains of the above named defendant, and alleges; That plaintiff is a resident of the Territory of Arizona County of Maricopa, and agent of said Territory for the purposes hereinafter mentioned. Mentioned by virtue of title 22 of the revised Statutes of said Territory, and as such agent brings this suit against the defendant for the purposes hereinafter mentioned as aforesaid.

II

That the said defendant is a resident of the County of Pinal Territory aforesaid.

III

That the defendant is the patentee and owner of section 12. Township I. South. Range 4. East Gila and Salt River Meridian in the County of Maricopa in said Territory.

IV

That the plaintiff R. G. Goodwin. R. J. Martin A. J. Chandler, James Gilliland and other persons, farmers residing in the Missouri flat neighborhood, County and Territory aforesaid, are the owners of about one thousand acres of arable and irri-



public lands in said neighborhood lying and situate west and southwest of said section twelve. Said land and the whole thereof being desert in their character, and <sup>entirely</sup> ~~entirely~~ valueless and non-productive without irrigation, and in order to make said lands productive and available for agricultural purposes it is necessary that a portion of said section twelve be taken for the purpose of constructing an irrigating ditch through which water can be drawn from the southern branch of the Tempe Canal to the lands owned by complainant and others as aforesaid.

V.

That said Tempe Canal is owned by a joint stock association and is taken out of the Salt River, a natural unmovable stream flowing through said Maricopa County, and that said plaintiff owns and ~~controls~~ <sup>owns</sup> ~~the water in said canal~~ and that said canal and branches were constructed in view to draw the water from said river for irrigating the valueless farms in that vicinity; and plaintiff desires to conduct some of said water over and through the land asked to be condemned, <sup>which</sup> is necessary for the ditch to conduct said water.

VI.

That the land hereby sought to be condemned is particularly described as follows:--to wit: Beginning at a point on the quarter section line of said section twelve 57 feet due west from the quarter section post on the east line of said section twelve; thence running north along the west side of what is known as the Sedwin Ditch 82 feet; thence due west a distance of about one mile to the west line of said section twelve; thence due south a distance

of 17 feet along said west line; thence due east a distance of about one mile to west line of said Goodwin Ditch; thence north along the west line of said Goodwin Ditch a distance of 8 1/2 feet to the place of beginning containing about 8 1/2 acres of land as appears by reference to the map hereto attached marked "Exhibit A" and made a part of this <sup>the said title by the defendant a according to the map and professional</sup> ~~complaint.~~ <sup>attested and marked as Exhibit B and made a part of this</sup> complaint. The land described being the same land upon which a ditch constructed by plaintiff and others is now located and being used for the purposes herein stated.

VII.

That the general route of said ditch is dug west and that the water is to be conducted from the said Tempe Canal through <sup>at its</sup> its western and southern branches, and through the said Goodwin Ditch and the aforesaid ditch to the lands aforesaid for the purposes of irrigating and domestic uses.

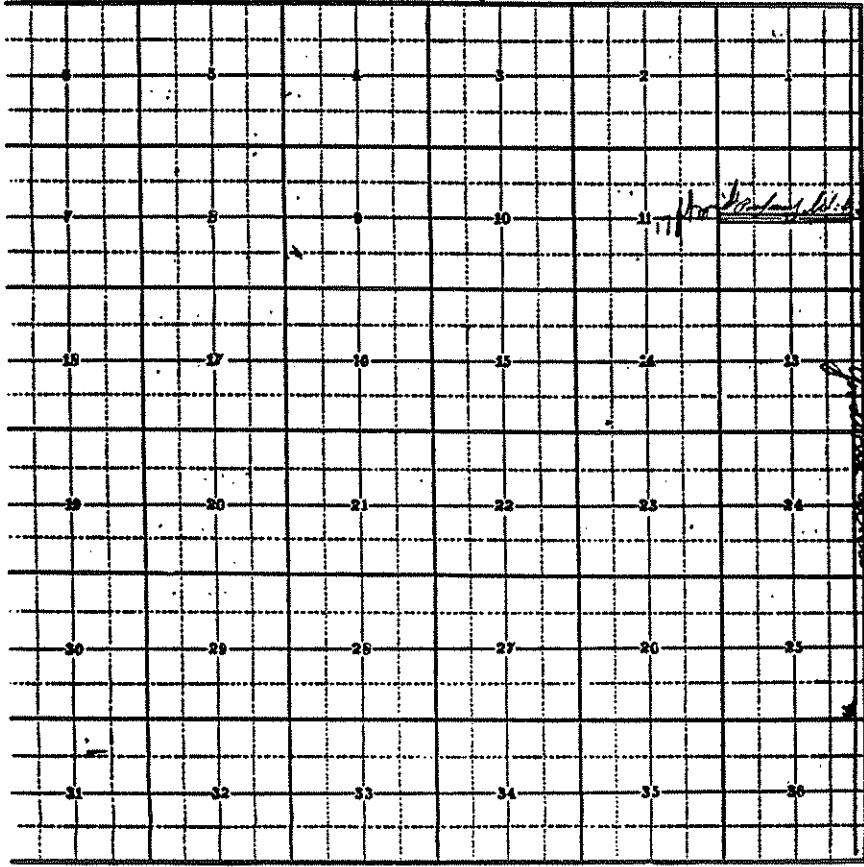
VIII.

That the land sought to be condemned is a part of a larger tract to wit: said section twelve; that <sup>the</sup> use to which said land is to be applied, is a use authorized by law that the taking is necessary to such use, and that the use to which it is to be applied is a more necessary public use than that for which it is now used.

WHEREFORE plaintiff prays judgment that the land particularly described in par. VII of this complaint be condemned for the purposes herein after mentioned, and that the defendant be divested of his right, title and interest in and to said land, and that the fee of the said land be hereafter invested in the plaintiff, and for costs of suit and for such other and further relief as the court may deem proper and just.

*L. M. H. ...  
J. B. ...  
Att. for Def.*

Township No. 1 South Range No. 4 East Mo.  
Et. 34<sup>th</sup> Cont.



GOVERNMENT PRINTING OFFICE, WASHINGTON, D. C.

South

Scale 30 Chains to an Inch

# IN THE DISTRICT COURT,

Of the Second Judicial District of the Territory of Arizona,  
in and for the County of Maricopa.

*James B. Goodwin, Agent*  
*of the Territory of Arizona*  
Plaintiff.  
vs.  
*Granville H. Oury*  
Defendant.

Action brought in the District Court of the  
Second Judicial District of the Territory of  
Arizona, in and for Maricopa County, and  
the complaint filed in said Maricopa Coun-  
ty, in the office of the Clerk of said District  
Court.

In the name of the Territory of Arizona, to:

*Granville H. Oury*

Defendants, Greeting:

~~YOU ARE HEREBY SUMMONED~~ and required to appear in an action  
brought against you by the above named Plaintiff, in the District Court of  
the Second Judicial District of the Territory of Arizona, in and for Mari-  
copa County, and answer the complaint therein filed with the Clerk of this  
said Court, at Phoenix, in said County, within ten days after the service  
upon you of this Summons, if served in this said County, or if served out of  
this said County and within this said Judicial District, then within  
twenty days thereafter, or in all other cases within thirty days thereafter,  
the times above mentioned being exclusive of the day of service, or judgment  
by default will be taken against you.

1 This action is brought by James O. Goodwin, Agent of the  
2 Territory of Arizona against Sammie H. Cury, to condemn  
3 the following described property, to-wit:— Beginning at  
4 a point on the Quarter section line of Section 12, Township  
5 1. South, Range 4, East, Gila and Salt River Meridian, in  
6 the County of Maricopa, in said Territory, Thirty seven  
7 (37) <sup>feet</sup> due west from the Quarter Section Post on the  
8 East line of said section 12, thence running north  
9 along the west side of what is known as the Good-  
10 win ditch, eight and one half (8½) feet, thence due  
11 west a distance of about one mile to the west line  
12 of said Section 12, Thence due South a distance of  
13 seventeen (17) feet along said west line, thence due  
14 east a distance of about one mile to the west line  
15 of said Goodwin ditch, thence north along the  
16 west line of said Goodwin ditch a distance of  
17 Eight and one half (8½) feet to the place of  
18 beginning, containing about 2¼ acres of land.  
19 As appears in the description of said tract of land  
20 in the Complaint in this action above named and  
21 to which reference is hereby made for <sup>further</sup> descriptions  
22 of said tract of land. This land ought to be condemned  
23 for the purpose of constructing and maintaining an irrigation  
24 ditch through which water can be drawn from the  
25 Southern branch of the Tempe Canal to the lands  
26 owned by the complainant.

25 you are hereby notified to appear before said District Court and  
26 show cause why the property described above should not be  
condemned as prayed for in the Complaint.

Given under my hand and the seal of the  
District Court of the Second Judicial  
District of the Territory of Arizona, in  
and for Maricopa County, this 17<sup>th</sup>  
day of May A. D. 1890

J. H. Street  
Clerk of said District Court

***EXHIBIT 25***

No. 1116

IN THE

**DISTRICT COURT,**

Third Judicial District, County of Maricopa,  
Territory of Arizona.

*Joseph C. Goodman*  
*Agent - Arizona Ter.*

Plaintiff

vs. *John H. Murray*

Defendant

**DISMISSED.**

Filed *April 17<sup>th</sup>* 189*8*

*J. H. Murray*  
Clerk

Deputy Clerk

No 1116

James L. Gardner  
Agent Montreal Consignees  
1878

Hanville & Co  
Agents

W. H. Gardner  
Agent

July 24<sup>th</sup> April  
1890 at 9 A.M.

W. H. Gardner  
Clerk

W. H. Gardner  
Agent

W. H. Gardner  
Agent for 1878



In the District Court of the second  
Judicial District of the Territory of Arizona  
in and for the County of Maricopa.

James L. Gordon  
Agent of the Territory of Arizona, Plaintiff }  
-vs- }  
Chas. W. H. Allen Defendant }

The above named plaintiff complains of  
the above named defendant, and alleges

I  
That plaintiff is a resident of the Territory  
of Arizona, County of Maricopa, and an Agent  
of said Territory for the purposes hereafter mentioned,  
by virtue of title XXII of the Revised Statutes of said  
Territory, and as such agent brings this suit  
against the defendant, for the purpose hereafter  
mentioned, to-wit: as a-d.

II  
That the said defendant is a resident of the  
County of Pinal, Territory aforesaid.

III  
That the defendant is the proprietor and owner  
of Section 12, Township 1. South, Range 4. East  
of the said Salt River Meridian, in the County  
of Maricopa in said Territory.

IV  
That the plaintiff, R. G. Gordon, R. J. Martin

(2) Chandler, James, Highland and other persons, farmers residing in the vicinity of the neighborhood Court of and County of said are the owners of about one thousand acres of arable and very arable lands in said neighborhood lying and situate west and south west of said Section Twelve, said lands and the whole thereof being dead in their character and extent of value and non productive without irrigation, and in order to make said lands productive and available for agricultural purposes, it is necessary that a portion of said Section Twelve be taken for the purpose of constructing an irrigating ditch through which water can be drawn from the Southern branch of the Temple Canal to the lands owned by complainant and others as aforesaid.

V

That said Temple Canal is owned by a joint stock association, and is taken out of the Salt River, a natural unnavigable stream flowing through said Maricopa County, and that said plaintiff owns and controls one water right in said Canal, and that said Canal and branches were constructed and are used to draw the water from said river for irrigating the various farms in their vicinity.

and plaintiff desires to conduct some of said water, and that the land above described is necessary for the ditch to conduct said water

VI

That the land hereby sought to be determined is particularly described as follows & is: Beginning at a point on the quarter section line of said Section 12, thirty seven feet due West from the quarter section post on the east line of said section 12, thence running north along the west side of what is known as the Goodwin ditch, eight and one half feet, thence due west a distance of about one mile to the west line of said section 12, thence due south a distance of seventeen feet along said west line, thence due east a distance of about one mile to the west line of said Goodwin ditch, thence north along the west line of said Goodwin ditch a distance of eight and one half feet to the place of beginning. Containing about two and one fourth acres of land, as appears by reference to the map hereto attached marked "Exhibit A" and made a part of this complaint. The land described being the same land upon which a ditch constructed by plaintiff and others is now located and being used

for the purposes herein stated,

VII

That the general route of said ditch is due west and that the water is to be conducted from the said source canal through its western and southern branches, and through the said Goodwin ditch, and the aforesaid ditch, to the lands aforesaid for the purposes of irrigation and domestic use.

VIII

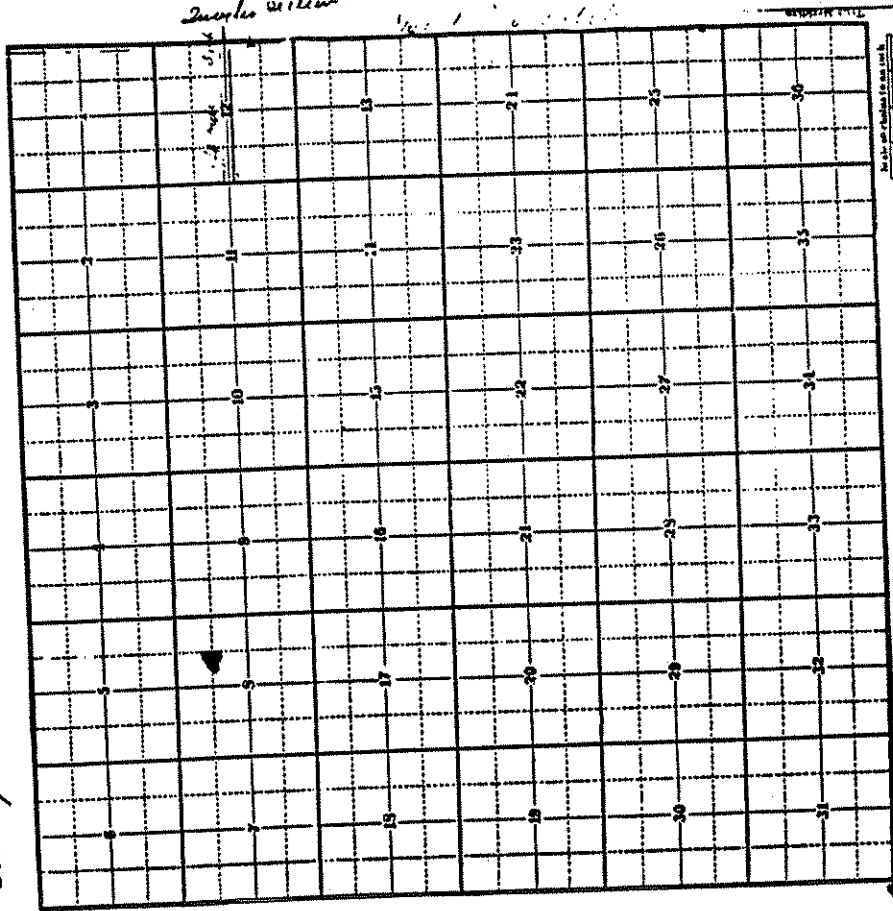
That the land sought to be condemned is a part of a larger tract to-wit: said section 12 that the use to which said land is to be applied, is a use authorized by law, that the taking is necessary to such use, and that the use to which it is to be applied is a more necessary public use than that for which it is now used.

Therefore plaintiff prays judgment that the land particularly described in the writ be condemned for the purposes herein mentioned, and that the defendants be divested of his right to the same and subject in and to said land, and that the fee of said land thereafter invested in the plaintiff, and for

costs of suit, and for each other  
and further relief as the Court may  
deem proper and just.

L. A. Hawkins  
Atty for Pff

Township No. 1 South Range No. 4 East Mer.



St "a"

100 ft

IN THE DISTRICT COURT,

Of the Second Judicial District of the Territory of Arizona,  
in and for the County of Maricopa.

*James E. Woodruff*  
Agent of the Territory of Arizona  
Plaintiff.

vs.

*Granville H. Perry*  
Defendant.

Action brought in the District Court of the  
Second Judicial District of the Territory of  
Arizona, in and for Maricopa County, and  
the complaint filed in said Maricopa Coun-  
ty, in the office of the Clerk of said District  
Court.

In the name of the Territory of Arizona, to: *Granville H.*

*Perry,*

Defendants, Greeting:

YOU ARE HEREBY SUMMONED and required to appear in an action brought against you by the above named Plaintiff, in the District Court of the Second Judicial District of the Territory of Arizona, in and for Maricopa County, and answer the complaint therein filed with the Clerk of this said Court, at Phoenix, in said County, within ten days after the service upon you of this Summons, if served in this said County, or if served out of this said County and within this said Judicial District, then within twenty days thereafter, or in all other cases within thirty days thereafter, the times above mentioned being exclusive of the day of service, or judgment by default will be taken against you.

Given under my hand and the seal of the  
District Court of the Second Judicial  
District of the Territory of Arizona, in  
and for Maricopa County, this 24<sup>th</sup>

day of *April* A. D. 1890

*J. H. Smith*  
Clerk of said District Court

***EXHIBIT 26***



1812  
1813  
In Sent. Court 3rd Dec  
Atty General Co

C A Taylor  
J. Phillips Esq  
J. de Taylor  
or  
The Cambridge Corp Co

Complaint  
Filed Nov 29<sup>th</sup> 1892  
At 3 45 retok. P.M.

Wm. H. H. H. H.  
By Wm. H. H. H.  
Witness  
Nov 29 1892

IN THE DISTRICT COURT OF THE THIRD JUDICIAL DISTRICT, OF THE  
TERRITORY OF ARIZONA, IN AND FOR THE COUNTY OF MARICOPA.

---000---

\_\_\_\_\_)  
C. A. Lajoie ..... )  
J. La Belleaux ..... )  
J. La Belleaux ..... )  
Plaintiff, )  
-- vs -- )  
THE CONSOLIDATED CANAL COMPANY, )  
a Corporation, )  
Defendant. )  
\_\_\_\_\_)

Plaintiff's complaint and alleged:

I.

That Plaintiff <sup>and</sup> is a resident of Maricopa County, Arizona,  
and that the defendant is a corporation, organized and exist-  
ing under the laws of the Territory of Arizona, and having  
its principal office for the transaction of business at the  
City of Phoenix, in said Maricopa County.

II.

That the plaintiff is now and at all the times herein-  
after mentioned and for a long time prior thereto, was the  
owner of and in possession of the following described premis-  
es, situated in the County of Maricopa and Territory of  
Arizona, to-wit:-

*The South East quarter of Section  
Seven Township One South Range  
Five East of the Elda and Salt River  
Cave and American Lines*

and by virtue of such ownership and possession and prior to the times hereinafter mentioned, the said plaintiff had diverted from the waters of Salt River, an un-navigable stream of water in said County, a sufficient quantity of the waters of said Salt River to properly irrigate and cultivate the said premises, and had actually applied the said water so diverted to the irrigation of said premises for the purpose of raising crops of grain and for other agricultural purposes

III.

That the plaintiff at and prior to the times hereinafter mentioned, was and now is the owner of certain shares of stock in the Utah Canal Enlargement and Extension Company, ~~and the Emma Canal Company~~ & joint stock association owning, and operating a certain canal or irrigating ditch running from the said Salt River to a point at or near the lands hereinafter described, by means of which said canal or irrigating ditch, and by ~~notice~~ <sup>virtue</sup> of the ownership of said shares of stock therein, the plaintiff had received the water from the said Salt River, so diverted, applied and appropriated by him for the irrigation of said premises, from the time of his appropriation thereof until the times hereinafter mentioned.

That on, to wit - the 1st day of September, 1892, the defendant, the Consolidated Canal Company, being the owner and operator of a certain canal or canals in said County run-

ning from the said Salt River to a point at or near the lands hereinbefore described, or designed and used for the purpose of carrying the water of said Salt River to the lands situated in the vicinity of the premises hereinbefore described, by A. J. Chandler, its President, made and entered into an agreement with the said plaintiff, wherein and whereby the said defendant, in consideration of the transfer and demise to it of the shares of stock held by this plaintiff in the said Utah Canal Enlargement and Extension Company for the term of one (1) year and the payment by this plaintiff of the sum of Fifty (50¢) per acre of the premises hereinbefore described to be paid to the said defendant upon the performance of the said agreement on its part, promised and agreed to carry and convey from the said Salt River and to deliver to the said plaintiff upon the lands hereinbefore described, the amount of water to which the said plaintiff was and should be entitled to receive and use upon said premises by nature of his said appropriation, for and during the space of One (1) year from the date of said agreement. That in pursuance of said agreement, the plaintiff transferred and demised to said defendant, the shares of stock held by this plaintiff in the Utah Canal Enlargement and Extension Company, for the space of One (1) year from said date as aforesaid, which said transfer and demise was accepted by said defendant, who now has and retains the said shares of stock, and that all the conditions of said agreement on his part to be kept and performed, have been faithfully kept and performed by said Plaintiff.

IV.

That thereupon the said plaintiff trusting in and rely-

ing upon the said promises and agreements of the said Defendant, at great expense of time and labor and money, plowed, cultivated, and bordered and otherwise prepared the said premises for the production of a crop of grain, and sowed and planted the same in the best manner known to good husbandry for the production of a crop, but that the said defendant, contrary to his said agreements, undertakings and promises, and while there was flowing in said Salt River at the point where the said defendant by its said canal diverts water from said Salt River, ample and abundant water to supply the needs and requirements of said plaintiff, in respect to said premises and to which said water the plaintiff was entitled by virtue of his appropriation aforesaid, and which said water was necessary and essential to the production of a crop upon said premises, failed, neglected and refused to carry and convey said water from said Salt River to said premises, and failed, neglected and refused to deliver the said water to the said plaintiff upon said premises.

V.

That by reason of the failure of the said defendant to carry, convey and deliver the said water to which the said plaintiff was entitled as aforesaid, the crops of plaintiff, planted and sowed upon said premises, failed to develop, mature and ripen and were wholly dried up, lost and destroyed to the damage of plaintiff in the sum of *Two Thousand*

*(2000.)*

Dollars.

WHEREFORE, plaintiff demands judgment against the said defendant for the sum of *Two*

*thousand*

Dollars, together with his costs in

this behalf expended.

*W. J. Kangaberg*  
*Murray & Belmont*  
*Cov. & B. atty for Pff.*

IN THE  
DISTRICT COURT

Of the Third Judicial District of the Territory of Arizona,  
in and for the County of Maricopa.

C. A. Taylor  
J. W. Miller and  
L. M. Taylor

Plaintiff

vs.  
The Consolidated Canal Company  
a corporation

Defendant

SUMMONS.

Action brought in the District Court of the Third Judicial District of the Territory of Arizona, in and for Maricopa County, and the complaint filed in said Maricopa County, in the office of the Clerk of said District Court.

In the name of the Territory of Arizona, to

The Consolidated Canal Company a corporation

Defendant . GREETING:

You are hereby summoned and required to appear in an action brought against you by the above named plaintiff, in the District Court of the Third Judicial District of the Territory of Arizona, in and for Maricopa County, and answer the complaint therein filed with the Clerk of this said Court, at Phoenix, in said County, within ten days after the service upon you of this summons, if served in this said County, or if served out of this said County and within this said Judicial District, then within twenty days thereafter, or in all other cases within thirty days thereafter, the times above mentioned being exclusive of the day of service, or judgment by default will be taken against you.

Given under my hand and seal of the District Court of the Third Judicial District of the Territory of Arizona, in and for Maricopa County,

this 27<sup>th</sup> day of November A. D. 1892

Clerk of said District Court.

By

Deputy Clerk.

***EXHIBIT 27***

190 117  
In Dist Court - Oregon  
County of Multnomah

R. J. Peter D  
G. L. Harmon

vs  
Consolidated Canal Co  
Complainant

Filed Nov 15 - 1893

W- 3 22 o'clock P.M.

W. J. Smith Clerk

Robert D. J.

E. J. ...  
Nov. 6 1893



IN THE DISTRICT COURT OF THE THIRD JUDICIAL DISTRICT, OF  
THE TERRITORY OF ARIZONA, IN AND FOR THE COUNTY OF MARICOPA.

)))))))))

*A. J. Peters*.....  
*L. L. Harrison*.....  
Plaintiff,  
--vs--  
The Consolidated Canal Company,  
a Corporation, Defendant.

Plaintiff complains and alleges:

I.

That plaintiff is a resident of Maricopa County, Arizona, and that the defendant is a corporation organized and existing under the laws of the Territory of Arizona and having its principal office for the transaction of business at the City of Phoenix, in said Maricopa County.

II.

That the plaintiff is now and at all the times herein-after mentioned and for a long time prior thereto, was the owner of and in possession of the following described premises situated in the County of Maricopa and Territory of Arizona, to wit:

*The South-West of Section Eighteen  
in Township One South Range Five  
East of the Gila and Salt River Canals  
and Meridian*

and by virtue of such ownership and possession and prior to the times hereinafter mentioned, the said plaintiff had diverted from the waters of Salt River, an unnavigable stream of water, in said county, a sufficient quantity of waters of said Salt River to properly irrigate and cultivate the said premises, and had actually applied the said water so diverted to the irrigation of said premises for the purpose of raising crops of grain and for other agricultural purposes.

### III.

That the plaintiff at and prior to the times hereinafter mentioned, was and now is the owner of certain shares of stock in the Utah Canal Enlargement and Extension Company, ~~and the Santa Canal Company~~ a joint stock association owning and operating a certain canal or irrigating ditch running from the said Salt River to a point at or near the lands hereinafter described, by means of which said canal or irrigating ditch and by ~~virtue~~ <sup>virtue</sup> of the ownership of said shares of stock therein, this plaintiff had received the water from the said Salt River, so diverted, applied and appropriated by him for the irrigation of said premises, from the time of his appropriation thereof until the times hereinafter mentioned.

That on, to wit- the 1st day of September, 1892, the defendant, the consolidated Canal Company, being the owner and operator of a certain canal or canals in said County running from the said Salt River to a point at or near the lands hereinbefore described, and designed and used for the purpose of carrying the water of said Salt River to the lands situated in the vicinity of the premises hereinbefore described, by A. J. Chandler, its president, made and entered

into an agreement with the said plaintiff, wherein and whereby the said defendant, in consideration of the transfer and demise to it of the shares of stock held by this plaintiff in the said Utah Canal Enlargement and Extension Company for the term of one (1) year and the payment by this plaintiff of the sum of Fifty (50 ¢) cents per acre of the premises hereinbefore described to be paid to the said defendant upon the performance of the said agreement on its part, promised and agreed to carry and convey from the said Salt River and to deliver to the said plaintiff upon the lands hereinbefore described, the amount of water to which the said plaintiff was and should be entitled to receive and use upon said premises by nature of his said appropriation, for and during the space of One (1) year from the date of said agreement. That in pursuance of said agreement, the plaintiff transferred and demised to said defendant, the shares of stock held by this plaintiff in the Utah Canal Enlargement and Extension Company, for the space of One (1) year from said date as aforesaid, which said transfer and demise was accepted by said defendant, who now has and retains the said shares of stock, and that all the conditions of said agreement on his part to be kept and performed, have been faithfully kept and performed by said plaintiff.

#### IV.

That thereupon the said plaintiff trusting in and relying upon the said promises and agreements of the said defendants, at great expense of time and labor and money, plowed, cultivated and bordered and otherwise prepared the said premises for the production of a crop of grain, and sowed and

planted the same in the best manner known to good husbandry for the production of a crop, but that the said defendant, contrary to his said agreements, undertakings and promises, and while there was flowing in said Salt River at the point where the said defendant by its said canal diverts water from said Salt River, ample and abundant water to supply the needs and requirements of said plaintiff, in respect to said premises and to which said water the plaintiff was entitled by virtue of his appropriation aforesaid, and which said water was necessary and essential to the production of a crop upon said premises, failed, neglected and refused to carry and convey said water from said Salt River to the said premises, and failed, neglected and refused to deliver the said water to the said plaintiff upon said premises.

V.

That by reason of the failure of the said defendant to carry, convey and deliver the said water to which the said plaintiff was entitled as aforesaid, the crops of plaintiff planted and sowed upon said premises, failed to develop, mature and ripen and were wholly dried up, lost and destroyed to the damage of plaintiff in the sum of *Three thousand*

*(3000.)*

Dollars.

WHEREFORE, plaintiff demands judgment against the said defendant, for the sum of *Three* \_\_\_\_\_

*thousand* \_\_\_\_\_

costs in this behalf expended.

Dollars, together with his

*H. J. Kingham  
Small and Osburn  
Care of Street*

Attorneys for Plaintiff .

IN THE  
DISTRICT COURT

Of the Third Judicial District of the Territory of Arizona,  
in and for the County of Maricopa.

*A. J. Peters and  
L. L. Harmon*

Plaintiff

vs.

*The Consolidated Canal Company  
& Corporation*

Defendant

*Miss*  
**SUMMONS.**

Action brought in the District Court of the Third Judicial District of the Territory of Arizona, in and for Maricopa County, and the complaint filed in said Maricopa County, in the office of the Clerk of said District Court.

In the name of the Territory of Arizona, to

*The Consolidated Canal Company & Corporation*

Defendant, GREETING:

You are hereby summoned and required to appear in an action brought against you by the above named plaintiff, in the District Court of the Third Judicial District of the Territory of Arizona, in and for Maricopa County, and answer the complaint therein filed with the Clerk of this said Court, at Phoenix, in said County, within ten days after the service upon you of this summons, if served in this said County, or if served out of this said County and within this said Judicial District, then within twenty days thereafter, or in all other cases within thirty days thereafter, the times above mentioned being exclusive of the day of service, or judgment by default will be taken against you.

Given under my hand and seal of the District Court of the Third Judicial District of the Territory of Arizona, in and for Maricopa County,

this *22* day of *December* A. D. 189 *3*

*[Signature]*  
Clerk of said District Court.

By

*[Signature]*  
Deputy Clerk.

***EXHIBIT 28***

No 1765  
The West End. Rigmo  
Company of Mechanics

L. L. Hamore  
George Street

Essex Street Canal  
Company  
Amplant

Filed Oct 25<sup>th</sup> 1893  
At 3 55 o'clock P.M.

Wm. H. Campbell Clerk  
By Wm. H. Campbell

Witnessed  
Nov 6<sup>th</sup> 1893

IN THE DISTRICT COURT OF THE THIRD JUDICIAL DISTRICT, OF THE  
TERRITORY OF ARIZONA, IN AND FOR THE COUNTY OF MARICOPA.

---000---

*U. G. Harmon and*  
*George Brew*  
Plaintiff,

-- VS --

THE CONSOLIDATED CANAL COMPANY,  
a Corporation,  
Defendant.

Plaintiff complains and alleges:

I.

That Plaintiff is a resident of Maricopa County, Arizona, and that the defendant is a corporation, organized and existing under the laws of the Territory of Arizona, and having its principal office for the transaction of business at the City of Phoenix, in said Maricopa County.

II.

That the plaintiff is now and at all the times herein after mentioned and for a long time prior thereto, was the owner of and in possession of the following described premises, situated in the County of Maricopa and Territory of Arizona, to-wit:-



The North half of Section Sixteen  
Township one South of Range Line  
East of Uta and Salt River base  
& Meridian line

and by virtue of such ownership and possession and prior to the times hereinafter mentioned, the said plaintiff had diverted from the waters of Salt River, an unnavigable stream of water in said County, a sufficient quantity of the waters of said Salt River to properly irrigate and cultivate the said premises, and had actually applied the said water so diverted to the irrigation of said premises for the purpose of raising crops of grain and for other agricultural purposes

III.

That the plaintiff at and prior to the times hereinafter mentioned, was and now is the owner of certain shares of stock in the Utah Canal Enlargement and Extension Company, a joint stock association owning and operating a certain canal or irrigating ditch running from the said Salt River to a point at or near the lands hereinafter described, by means of which said canal or irrigating ditch, and by notice of the ownership of said shares of stock therein, this plaintiff had received the water from the said Salt River, so diverted, applied and appropriated by him for the irrigation of said premises, from the time of his appropriation thereof until the times hereinafter mentioned.

That on, to wit - the 1st day of September, 1892, the defendant, the Consolidated Canal Company, being the owner and operator of a certain canal or canals in said County run-

ning from the said Salt River to a point at or near the lands hereinbefore described, or designed and used for the purpose of carrying the water of said Salt River to the lands situated in the vicinity of the premises hereinbefore described, by A. J. Chandler, its President, made and entered into an agreement with the said plaintiff, wherein and whereby the said defendant, in consideration of the transfer and demise to it of the shares of stock held by this plaintiff in the said Utah Canal Enlargement and Extension Company for the term of one (1) year and the payment by this plaintiff of the sum of Fifty (50¢) per acre of the premises hereinbefore described to be paid to the said defendant upon the performance of the said agreement on its part, promised and agreed to carry and convey from the said Salt River and to deliver to the said plaintiff upon the lands hereinbefore described, the amount of water to which the said plaintiff was and should be entitled to receive and use upon said premises by virtue of his said appropriation, for and during the space of one (1) year from the date of said agreement. That in pursuance of said agreement, the plaintiff transferred and demised to said defendant, the shares of stock held by this plaintiff in the Utah Canal Enlargement and Extension Company, for the space of one (1) year from said date as aforesaid, which said transfer and demise was accepted by said defendant, who now has and retains the said shares of stock, and that all the conditions of said agreement on his part to be kept and performed, have been faithfully kept and performed by said Plaintiff.

IV.

That thereupon the said plaintiff trusting in and rely-

ing upon the said promises and agreements of the said Defendant, at great expense of time and labor and money, plowed, cultivated, and bordered and otherwise prepared the said premises for the production of a crop of grain, and sowed and planted the same in the best manner known to good husbandry for the production of a crop, but that the said defendant, contrary to his said agreements, undertakings and promises, and while there was flowing in said Salt River at the point where the said defendant by its said canal diverts water from said Salt River, ample and abundant water to supply the needs and requirements of said plaintiff, in respect to said premises and to which said water the plaintiff was entitled by virtue of his appropriation aforesaid, and which said water was necessary and essential to the production of a crop upon said premises, failed, neglected and refused to carry and convey said water from said Salt River to said premises, and failed, neglected and refused to deliver the said water to the said plaintiff upon said premises.

V.

That by reason of the failure of the said defendant to carry, convey and deliver the said water to which the said plaintiff was entitled as aforesaid, the crops of plaintiff, planted and sowed upon said premises, failed to develop, mature and ripen and were wholly dried up, lost and destroyed to the damage of plaintiff in the sum of *five*

*Thousand* Dollars.

WHEREFORE, plaintiff demands judgment against the said defendant for the sum of *Five*

*Thousand* Dollars, together with his costs in this behalf incurred.

*W. J. Kerysburg*  
*Attorney & Counselor*  
*at Law & Solicitor for Plaintiff*

IN THE  
DISTRICT COURT

Of the Third Judicial District of the Territory of Arizona,  
in and for the County of Maricopa.

*E. L. Harmon*  
*George Drew*

Plaintiff

vs.  
*The Consolidated Canal Company*  
*a Corporation*

Defendant

**SUMMONS.**

*Action brought in the District Court of the Third Judicial District of the Territory of Arizona, in and for Maricopa County, and the complaint filed in said Maricopa County, in the office of the Clerk of said District Court.*

In the name of the Territory of Arizona, to

*The Consolidated Canal Company, a Corporation*

Defendant, GREETING:

You are hereby summoned and required to appear in an action brought against you by the above named plaintiff, in the District Court of the Third Judicial District of the Territory of Arizona, in and for Maricopa County, and answer the complaint therein filed with the Clerk of this said Court, at Phoenix, in said County, within ten days after the service upon you of this Summons, if served in this said County, or if served out of this said County and within this said Judicial District, then within twenty days thereafter, or in all other cases within thirty days thereafter, the times above mentioned being exclusive of the day of service, or judgment by default will be taken against you.

Given under my hand and seal of the District Court of the Third Judicial District of the Territory of Arizona, in and for Maricopa County,

this 26<sup>th</sup> day of Feb, A. D. 1893

*[Signature]*  
Clerk of said District Court.

By *[Signature]*

Deputy Clerk.

**EXHIBIT 29**

No. 7798

IN THE

# Superior Court

of Maricopa County  
STATE OF ARIZONA

J. C. Carmichael,

Plaintiff,

vs.

John H. Ivy, individually, and  
as administrator of the estate  
of W. J. Galbraith,

Defendant.

## Judgment Roll

Filed August 7th, 19 16

James Miller, Jr., Clerk.

By *[Signature]*  
Deputy Clerk.

RECEIVED OFFICE—JUDGMENT ROLL, THE MARICOPA COUNTY

In the Superior Court  
of Maricopa County, State of Arizona

J. C. Carmichael,  
Plaintiff.  
Against  
Bill Galbreath and John H. Ivy,  
Defendant.

I, the undersigned Clerk of the Superior Court of Maricopa County, State of Arizona, do hereby certify the foregoing to be a true copy of the Judgment entered in the above entitled action, and recorded in Judgment Book \_\_\_\_\_ "K" \_\_\_\_\_ of said Court, at page 520 & 521.  
And I further certify that the foregoing papers hereto annexed constitute the Judgment Roll in said action.

Witness my hand, and Seal of the Superior Court, this 7th  
day of August A. D. 1916.

James Miller, Jr. Clerk  
By John Johnson Deputy Clerk

IN THE SUPERIOR COURT IN AND FOR THE COUNTY OF MARICOPA  
STATE OF ARIZONA.

J. C. CARMICHAEL,  
Plaintiff,

-VS-

BILL GALBREATH and  
JOHN H. IVY, Defendants.

C O M P L A I N T .

Plaintiff complains of defendants and for cause of  
action alleges:

-I-

That plaintiff and defendants are residents of the  
County of Maricopa, State of Arizona.

-II-

That plaintiff, on the 12th day of January, A. D. 1912,  
filed, in the United States Land Office at Phoenix, Arizona, a  
homestead entry upon the Northwest quarter (NW 1/4) of the Northwest  
quarter (NW 1/4), Section Twenty-Five (25), Township One (1) North,  
Range One (1) East, Gila and Salt River Base and Meridian; and on  
the 14th day of January, A. D. 1912, moved upon the above  
described tract of land, and has ever since lived upon the said  
premises; That Bill Galbreath, one of the defendants herein,  
is the owner in fee simple of the East one-half (E 1/2) of the  
Northwest quarter (NW 1/4) of Section Twenty-Five (25), Township  
One (1) North, Range One (1) East, Gila & Salt River Base and  
Meridian; That John H. Ivey, the other defendant herein is the  
owner in fee of the West side of the Northeast quarter (NE 1/4)  
of Section Twenty-Five (25), Township One (1) North, Range One (1)  
East, Gila & Salt River Base and Meridian.



-III-

That said lands are arid, and can not be cultivated or made productive of crops of any kind without the application thereto of water from other sources than from and by the natural rainfall thereon; That said lands are otherwise fertile, and can be made to produce large and valuable crops by the application thereto of water for the irrigation thereof; That the Salt River is an unnavigable stream, flowing through the said Maricopa County, State of Arizona, and that along its course water may be, and has been, and is now diverted therefrom, and made and caused to flow upon the lands of the said defendants herein; That said water is conveyed to and upon the lands of these defendants through what has heretofore been known as the Meridian Canal, and from the said Meridian Canal through a private ditch, constructed and owned by said defendants; That said private ditch taps, or intersects, the said Meridian Canal at a point one and one-half (1-1/2) miles, more or less, East of plaintiff's land; running thence in a Southwesterly course for a distance of one-half (1/2) a mile, more or less; thence in a Northerly direction approximately three hundred (300) yards; thence in a Westerly direction to defendants' lands, and along the Northern boundary of said lands.

-IV-

That plaintiff has, for two years, more or less, preceding the commencement of this action, been paying to the owners of the said Meridian Canal, his assessments for the use of irrigation water therefrom for his said land hereinbefore described.

-V-

That plaintiff is unable to obtain water from any other source other than through the said ditch constructed and owned by these defendants; That plaintiff's use of said ditch will, in no wise, interfere with, or diminish the supply of water required by said defendants for the irrigation of their said lands.

-VI-

That during the month of September or October, A. D. 1912, these defendants agreed to sell to this plaintiff a one-third (1/3) interest in the said ditch for the sum of Seventy-Five (\$75.00) Dollars, and plaintiff agreed to pay the said defendants the sum of Seventy-Five (\$75.00) Dollars for a one-third (1/3) interest therein; That plaintiff, relying upon the promises of these defendants to sell him a right in and to the said ditch, incurred great expense in constructing ditches for the conveyance of said water to and upon his land; That plaintiff now has a portion of his land seeded to alfalfa and other grain; That said alfalfa and grain is now up and in great need of water; That unless this plaintiff obtains water at an early date for the irrigation of said alfalfa and grain, he will sustain great loss; That plaintiff has other portions of his said land prepared for cultivation; That defendants, in violation of their agreement to sell plaintiff a one-third (1/3) interest in said ditch, and to allow this plaintiff to obtain water through said ditch, have refused, and still refuse to allow plaintiff to obtain water through their said ditch, or to sell him a one-third (1/3) interest therein.

-VII-

That this plaintiff has, at all times, been willing, and is still willing to pay these defendants a reasonable sum for the right to draw water through their said ditch hereinbefore mentioned, and to do his pro rata share of keeping said ditch in repair.

-VIII-

That because of the refusal of these defendants to permit this plaintiff to draw water through their said ditch, this plaintiff's land is rendered unproductive and practically valueless.

-IX-

That plaintiff has, at this time, a ditch constructed parallel with the Northern boundary of defendants' lands and across the public highway therefrom, running from plaintiff's said land

... of the said John H. Ivey's land; That  
the Northeast corner of said defendant John H. Ivey's land is a  
convenient, proper and suitable point in defendants' said ditch  
for plaintiff to tap or intersect said ditch and draw water therefrom

-AI-

to the Northeast corner of the said John H. Ivey's land; That  
the Northeast corner of said defendant John H. Ivey's land is a  
convenient, proper and suitable point in defendants' said ditch  
for plaintiff to tap or intersect said ditch and draw water therefrom

WHEREFORE this plaintiff prays judgment against the  
defendants, that plaintiff may be permitted to tap, or intersect,  
defendant's said ditch at the Northeast corner of said defendant  
John H. Ivey's land hereinbefore described, and draw water  
therefrom sufficient to irrigate his said land at such times as  
are necessary and proper for the irrigation thereof; And that the  
said defendants be forever enjoined from interfering with this  
plaintiff in the use thereof; That this Court shall designate  
a reasonable amount to be paid by the plaintiff to the defendants  
herein for the permanent right of drawing water through said  
ditch as aforesaid, and for such other and further relief as to  
the Court seems proper in the premises.

*Cox & Phelps*  
Attorneys for Plaintiff.

STATE OF ARIZONA }  
COUNTY OF MARICOPA. } SS

J. C. CARMICHAEL, being first duly sworn, deposes and says:

That he is the Plaintiff in the above entitled cause;  
That he has examined and read the foregoing Complaint and knows  
the contents thereof; That the same is true of his own  
knowledge and belief, except as to matters therein alleged upon  
information and belief, and as to such, he believes them to be  
true.

J C <sup>his</sup> + Carmichael  
                        *mass* Plaintiff.

SUBSCRIBED and SWORN TO before me this the 4<sup>th</sup> day  
Mar of March, A. D. 1914.

H.P. Lindsey  
Notary Public.

My commission expires  
Feb 16<sup>th</sup> AD 1916.

***EXHIBIT 30***

County of Maricopa. } ss.

I HEREBY CERTIFY That I received the within Summons on the 15th day of August A. D. 1907, at the hour 2 P. M., and personally served the same on the 15th day of August A. D. 1907, upon Frank Trott being the defendant named in said Summons, by delivering to and leaving with the said Frank Trott in the City of Phoenix County of Maricopa a copy of said Summons, to which was attached a true copy of the Complaint mentioned in said Summons.

Fees, Service, - \$  
Travel, miles, \$  
Publication, - \$  
Total, - \$

Dated this 5th day of September A. D. 1907

Carl Hayden Sheriff  
By Wayne Davis Deputy S

said Bartlett-Heard Land and Cattle company, a corporation County of Maricopa, a copy of said Summons, to which was attached a true copy of the Complaint mentioned in said Summons.

Dated this 5th day of September A. D. 1907.

Fees, Service, - \$  
Copies, - - - \$  
Travel, miles, \$  
Publication, - - \$  
Total, - - \$

Carl Hayden Sheriff  
By [Signature] Deputy Sheriff

No. 5394.  
District Court  
THIRD JUDICIAL DISTRICT,  
County of Maricopa,  
TERRITORY OF ARIZONA.  
Termon Clark Plaintiff  
vs.  
W. T. Pickrell Plaintiff  
vs.  
The Bartlett-Heard Land and Cattle Co. Defendant  
SUMMONS.  
Filed Sept. 6 1907  
C. D. Druleary Clerk.  
By W. D. Duffaney Deputy Clerk.  
J. M. Garrison Attorney for Plaintiff  
The H. H. McNeil Co., Phoenix

IN THE DISTRICT COURT OF THE THIRD JUDICIAL DISTRICT, OF THE  
TERRITORY OF ARIZONA, IN AND FOR THE COUNTY OF MARICOPA.

-----

Vernon L. Clark, W. S. Pickrell and John McNaughton, Plaintiffs,	) ) )	
-vs-	)	Amended Complaint.
The Bartlett-Heard Land & Cattle Company, Frank P. Trott and Aaron Cummins, Defendants.	) ) )	

Come now the above named plaintiffs and for their amended  
complaint in the above entitled cause allege:

I

That the plaintiffs Clark and Pickrell are residents of  
said county and territory, and the plaintiff McNaughton is a resi-  
dent of the State of Wisconsin; that the defendant The Bartlett-  
Heard Land & Cattle Company is a corporation organized under the  
laws of said territory and doing business in said county of Maricopa  
and that said defendants Trott and Cummins are residents of said  
Maricopa County.

II

That the plaintiff John McNaughton is the owner in fee of  
the North half of Section 33, Township 1 North, Range 3 East, and  
the Northeast quarter of Section 25, Township 1 North, Range 2 East  
of the Gila and Salt River Base and Meridian in said County of  
Maricopa, Territory of Arizona, and that the plaintiffs Vernon L.  
Clark and W. S. Pickrell are tenants of all of said lands, privi-  
leges and appurtenances thereto under and by virtue of a lease  
thereof from said McNaughton to them executed on the first day of  
April, 1907, for the term of five years with contract provision  
therein that said Clark and Pickrell will at the termination of  
said lease become the purchasers of said land at a price therein  
stipulated, which said lease and contract is now, and has ever  
since the execution thereof, been in force and the said Clark and

Pickrell have, ever since the execution thereof, been in the possession thereof using, cultivating and occupying the same.

### III

That heretofore in about the year 1869, as these plaintiffs are informed and believe, the then owners and occupants of the lands aforesaid, they then and there being inhabitants of said Territory of Arizona and the direct predecessors in interest of these plaintiffs of the lands aforesaid, diverted and caused to be diverted from Salt River, an unnavigable stream of water flowing through said County of Maricopa and adjacent to the lands aforesaid, water sufficient and which plaintiffs aver was necessary for the proper irrigation of said lands, viz, three hundred inches, miner's measurement, continuous flow, and caused the same to flow and otherwise <sup>to be</sup> conducted to and upon said lands by means of ditches, canals and other works and thereby irrigated said lands and made them productive of valuable crops; that said owner or owners of said lands thereafter continued to so divert and cause to be diverted and conducted said amount of water from said Salt River sufficient and necessary to irrigate, and in fact did thereafter continuously irrigate said lands and thereby produced valuable crops thereon; that immediately therefrom and thereafter, and continuously and claiming by and through said original owners and their successors these plaintiffs and their mense grantors from said original owner or owners have ever since said year 1869 continuously diverted and caused to be diverted from said Salt River said amount of water sufficient and necessary to irrigate said lands, and have conducted and caused the same to be conducted to and upon said lands and have ever since said year 1869 used the same for the irrigation thereof and have continuously raised valuable crops thereon.

### IV

That the water so as aforesaid appropriated from said Salt River, and diverted to the lands aforesaid, was conveyed to said lands from said river through a ditch leading from said lands



easterly along the south side of said river to a point some distance below what is now termed the Joint Head where the water in said river was dammed and set back so that the same was conducted into the ditch aforesaid, which ditch originally was called the Prescott ditch and which ditch and diversion dam was maintained by the predecessors in interest of these plaintiffs of the lands aforesaid for many years, and until the Joint Head was placed in and across said river above the intake of the Prescott ditch, in about the year 188\_\_ and which resulted in diverting the water from said river to the north-side before it reached the head of said Prescott ditch, thereby cutting off the supply of water from said river to said lands as it had theretofore been supplied; that after the completion of said Joint Head very little water reached the head of said Prescott ditch in the ordinary stages of said river, and after it became apparent that a sufficient supply of water could not be at all times secured through the diversion below said Joint Head as aforesaid, it became necessary in order to secure the quantity of water from said river so appropriated to said lands to go higher up and above said Joint Head where a sufficient supply of water, and water to which said lands were entitled, could be had: thereupon said Prescott ditch was extended in an easterly direction along said river to the Mill ditch or tail-race of the Hayden mill and for a <sup>valuable</sup> consideration then paid to the owners of said Hayden mill, where ~~at all times~~ eleven hundred inches or more of water was at all times passing, paid by one N. M. Broadway, the direct predecessor in interest in said lands of these plaintiffs, the owners of said mill and rights, permitted said Broadway to divert through and from said Mill ditch and tail-race the water to which said lands were entitled as aforesaid, and ever since which time, about the year 189\_\_, the water to which the lands aforesaid were entitled has been received and conducted to said lands except as hereinafter alleged to be interfered with by the defendants; that said ditch so as last aforesaid extending from said lands to said tail-race,

is the private ditch of these plaintiffs and was the private property of their immediate predecessor in interest and owned by him, and in length a distance of eight miles, and the same is now in the private control of these plaintiffs, and prior to their interests in said lands was in the private control of their immediate predecessor in interest, said Broadway.

V

That all of the land so as aforesaid, owned and occupied by these plaintiffs, is at the present time under cultivation to valuable crops, and all of the water to which said lands is entitled, as aforesaid, is required for the proper cultivation thereof.

VI

That The Bartlett-Heard Land & Cattle Company, defendant, is the owner of about four thousand acres of land, situate on the south side of said Salt River above and to the east of the lands of these plaintiffs, and said defendant Cummins is the owner of forty acres of land like situated, respecting the lands of these plaintiffs, as that of The Bartlett-Heard Land & Cattle Company, as aforesaid, all of which land of said defendants is adjacent to said Salt River and irrigated by water from said Salt River through a ditch or canal, commonly known as the San Francisco Canal, extending from the lands of said defendants in an easterly direction along said Salt River to said Hayden Mill ditch or tail-race, intersecting said tail-race at a point a short distance below the intake of the diversion of water therefrom to the lands of the plaintiffs, as aforesaid; that said San Francisco Canal is now and for many years last past, has been the private property of The said Bartlett-Heard Land & Cattle Company and under its private control and management; that the lands so owned by the defendants aforesaid, or the most thereof, has been for some years last past and is now being cultivated by them to crops, the water for the irrigation thereof being diverted from said Hayden Mill or tail-race; that the water so coming down as aforesaid through said Mill ditch, or tail-race, is water which has passed through and by said mill for me-

chanical purposes and is conducted thereto by means of canals and ditches leading from the Tempe Canal, so called, and from water diverted through said Tempe Canal from said Salt River within said Maricopa County, and that at all times there is passing through and by said Hayden Mill eleven hundred inches and more of water so, as aforesaid, diverted from said Salt River, and has been so diverted and running for upwards of thirty-five years last past, and said mill is at all times, as the plaintiffs are informed and believe, entitled to eleven hundred inches of water for mechanical purposes, and unless some portion thereof is turned back into said Salt River from said tail-race the entire quantity, up to eleven hundred inches, is at all times passing through said tail-race and into said San Francisco Canal and used upon the lands of the defendants, as aforesaid, except such portion thereof as these plaintiffs and their predecessors in interest required for the proper irrigation of their lands as aforesaid, and that no other lands are irrigated from water passing into said San Francisco Canal except the lands so as aforesaid belonging to the defendants, The Bartlett-Heard Land & Cattle Company and Cummins.

#### VII

That at the time of the appropriation of water from said Salt River to the lands of the plaintiffs, as hereinbefore set out, no water whatever had been appropriated to any of the lands so as aforesaid belonging to the defendants, nor was any water appropriated to said lands of the defendants from said river until some year after the time that the same was appropriated to the lands of the plaintiffs, as aforesaid; that all of the lands of said defendants so irrigated through said San Francisco Canal have been brought into cultivation in recent years and long after the lands of the plaintiffs had been brought under cultivation.

#### VIII

That in about the month of \_\_\_\_\_, 1907, said defendant, The Bartlett-Heard Land & Cattle Company, wrongfully and willfully interfered with the flow of water from said tail-race into

the ditch of these plaintiffs as aforesaid, and knowing their superior right shut the gate leading from said tail-race to the ditch of these plaintiffs, as aforesaid, in such manner that not more than one-hundred and twenty-five inches of water would pass through the same to the lands of these plaintiffs, and the said defendant, The Bartlett-Heard Land & Cattle Company then and there wrongfully and willfully appropriated to its use and benefit the excess of water above one-hundred and twenty-five inches to which the lands of these plaintiffs were entitled, and diverted the same, <sup>and continues to divert the same,</sup> through said San Francisco Canal to its lands and have continued so to do; that said defendant, Frank P. Trott, acting or assuming to act as Court Water Commissioner of this court, also wrongfully and willfully knowing the superior right of the plaintiffs, interfered with the flow of the water from said tail-race to the lands of these plaintiffs by closing the gate in said ditch so that not more than one-hundred and twenty-five inches of water, miner's measurement, would pass through the same, and has ever since about the month of October last maintained said gate so that not more than one-hundred and twenty-five inches of water should pass through the same, and has wrongfully and willfully turned the excess of water coming through said Hayden Mill ditch or tail-race, so belonging to these plaintiffs, into the said San Francisco Ditch and to the lands of the defendants to the great and irreparable damage of these plaintiffs.

IX

That plaintiffs verily believe and therefore allege that unless restrained by an order of this court, said Frank P. Trott and the other defendants herein named, will continue to interfere with said head gate and the flow of water belonging to the plaintiffs as aforesaid, into the ditch of the plaintiffs, and that if said defendants are not restrained and required to cease they will continue to maintain said head gate so that not more than one-hundred and twenty-five inches of water can pass through the same, and will so

maintain said gate, and thereby prevent the plaintiffs from receiving the water to which they are entitled as aforesaid, and unless so restrained great and irreparable damage will follow to these plaintiffs in the loss of crops growing and to grow upon their lands aforesaid, and which damages are not susceptible of accurate pecuniary assessment.

WHEREFORE, the plaintiffs pray the judgment of this court:

(a) That the constant flow of three hundred inches of water, miners' measurement, so as aforesaid flowing in and from said tail-race into the private ditch of these plaintiffs to their lands prior to said \_\_\_ day of \_\_\_\_\_, 1907, be restored to them and to their use for the irrigation of their said lands.

(b) That when said flow of water and the right thereto is so determined and the same restored to the plaintiffs, the defendants and each of them may be perpetually enjoined by the order and decree of this court from interfering with the flow thereof and from maintaining any obstructions to its flow.

(c) That the defendants, and each of them, be perpetually restrained by the order and injunction of this court from maintaining any obstruction which shall prevent three hundred inches, miners' measurement, of water passing from said tail-race through the gate and into the ditch of the plaintiffs, so as aforesaid, leading from said tail-race to the lands of the plaintiffs, and from in any manner interfering with the free flow thereof to their said lands.

(d) That the plaintiffs recover their costs of suit herein, and that they have such other and further relief in the premises as the necessities of the case may require, and as seem to the court equitable.

  
Plaintiffs' Attorney.

Territory of Arizona,

ss:

County of Maricopa,

Vernon L. Clark, one of the plaintiffs in the above entitled cause being first duly sworn says, that he has read the foregoing amended complaint and knows the contents thereof; that the same is true, of his own knowledge, except such matters as are therein stated on information and belief, and as to those matters he believes it to be true.

Vernon L. Clark

Subscribed and sworn to before  
me this 29<sup>th</sup> day of November, 1907.

J. M. Jamison

Notary Public.

**EXHIBIT 31**

No. 5842

In the District Court,  
Third Judicial District, County of Maricopa,  
Territory of Arizona.

*W. W. Dobson*  
*et al* Plaintiff

vs.

*James Johnson*  
Defendant

JUDGMENT ROLL.

Filed *Jan 8*, 190*2*  
*Wm F. Buckley*  
Clerk

*S. Curtis*  
Deputy Clerk.



IN THE DISTRICT COURT OF THE THIRD JUDICIAL DISTRICT OF THE  
TERRITORY OF ARIZONA, IN AND FOR THE COUNTY OF MARICOPA.

W. W. DOBSON, S. C. SORENSON, and  
J. F. SANDERS,

Directors of the Utah Irrigating  
Canal Company, who sue on behalf  
of all the constituent members of  
said Company,

Plaintiffs,

vs.

JAMES JOHNSON,

Defendant.

PLAINTIFFS FOR THEIR COMPLAINT ALLEGE:

I.

That the UTAH IRRIGATING CANAL COMPANY is a voluntary association of numerous persons associated together for the purpose of providing the means for diverting water from the Salt River, in Maricopa County, Arizona, to and upon the lands occupied by the individual members of said association and others owning and occupying lands irrigable from said Salt River, for the purpose of irrigating the same; that the above named plaintiffs are the regularly elected, qualified and acting directors and governing body of said association, and bring this action for and on behalf of all the individual members of said association for the reason that said members exceed ninety-five in number and are so numerous as to make it impracticable to bring them all before this court, and the matters hereinafter stated are of a common and general interest to all of the members of said association.

II.

That the Salt River is an innavigable stream flowing

in a general Northeast to Southwest direction through Maricopa County, Arizona, and that all the members of the said Utah Irrigating Canal Company are the owners and occupants of lands irrigable from said river, and that all of said lands are naturally arid and unproductive without the application of water thereto by means of irrigation, and when so irrigated are fertile and productive.

III.

That in the year 1877 the plaintiffs and their predecessors in interest, being the owners and occupants of lands lying on the South side of said Salt River, and irrigable therefrom, constructed an irrigating canal from a point on the south side of said river and running thence in a general Southwestern direction, for the purpose of diverting water from said Salt River to and upon their said lands, and thereupon did divert water from said river by means of said canal to and upon their said lands for the irrigation thereof, and ever since the year 1877 the plaintiffs and their predecessors in interest have continued to use and operate said canal for said purpose; and that said canal is now known as the Utah Irrigating Canal.

IV.

That at the time of the making of said canal as aforesaid the Northwest quarter of Section 31, Township 2 North, Range 6, East of the Gila and Salt River base and meridian lines in Maricopa County, Arizona, was vacant and unoccupied lands of the United States, and in the year 1877 while the said Quarter Section was so vacant and unoccupied lands of the United States, the said canal was constructed over, upon and across said Quarter Section in a general Northeast to Southwest direction, entering said premises at a point about 1950 feet East of the Northwest corner of said Section, and running thence in a general

Southwestern direction and making its exit from said Quarter Section at a point on its western boundary about 2000 feet South of the said Northwest corner of said Section."

V.

That at the time of the construction of said irrigating canal as aforesaid, the bed of said canal was about 10 feet wide and had a carrying capacity of about 3000 miners inches of water, constant flow, and that in the year 1887 the plaintiffs and their predecessors in interest, desiring to increase the carrying capacity of said canal, acquired by purchase from the then owner of said Quarter Section, who was the predecessor in interest in said premises of the defendant herein, the right and privilege to widen, deepen and otherwise enlarge the said canal to its present size and capacity, to-wit, a carrying capacity of about 10,000 miners inches of water, constant flow, and the right to the use of a sufficient space upon the banks of said canal for the proper maintenance and operation of the same.

VI.

That in order to keep said canal in proper condition to carry water to the lands of these plaintiffs and to the lands of others entitled to have water for the irrigation of their lands irrigable from said canal flow through the same it is necessary to frequently clean and clear said canal from accumulated weeds, grass, brush, mud, sand and other debris which naturally accumulates in the bed of said canal and on the banks thereof, and to have and maintain a roadway along and upon the bank of said canal to enable the Zan Jero and other employees of these plaintiffs to properly maintain said canal in servicable condition, and to regulate the flow of the water in said canal and from said canal to the services, ditches or laterals carrying the water from

said canal to the lands irrigable and rightfully irrigated therefrom, and to keep said canal free and clear of cross fences and other obstructions, and that ever since the construction of said canal these plaintiffs and their predecessors in interest have used and occupied a sufficient space on each of the banks of said canal where the same passes through said quarter Section upon which to deposit the debris taken from said canal as aforesaid, to-wit, a space of about 20 feet in width from the inner edge of each of the banks of said canal, and a further space of about 16 ~~22~~ feet in width upon the Northwestern bank of said canal where the same runs through said quarter Section for a roadway to enable the Zan Jero and other employes of these plaintiffs to drive up and down said canal in performance of their duties aforesaid and in the regulation of the service gates in said canal where it passes through said quarter Section.

VII.

That the defendant, under a claim of ownership of said Quarter Section, and of right to exercise acts of ownership and exclusive possession over the whole thereof, adverse to the rights of these plaintiffs as hereinbefore set forth, on the \_\_\_\_\_ day of October, 1909, without the consent of these plaintiffs and without right, entered upon that portion of the banks of said canal so occupied and used by these plaintiffs as aforesaid, and constructed a barbed wire fence across said canal and the roadway so used and occupied by these plaintiffs as a Zan Jero roadway as aforesaid, at or near the point where the said canal enters said quarter Section, and has built and extended said fence along and upon the inner edge of the Northwestern bank of said canal a distance of about 1328 feet in a Southwestern direction, and thence again across the banks of said canal and the roadway so heretofore occupied and used by the plaintiffs and their predecessors in

interest as aforesaid, and that said fence is so built and maintained as to obstruct the free flow of water in said canal and so as to obstruct and it does obstruct the proper work and operation of these plaintiffs in the cleaning and repairing of said canal, and so as to obstruct, and it does obstruct and prevent the use of any portion of the banks of said canal by these plaintiffs and their employes for a driveway for the purposes aforesaid, and that said fence is so constructed and maintained as to prevent the plaintiffs and their employes as aforesaid from having any means of driving up, upon and along the banks of said canal for the purposes aforesaid, and that the maintenance and use of said driveway is necessary to the proper operation and maintenance of said canal.

VIII.

Plaintiffs further allege that the said canal is now in need of cleaning and the removal of accumulated debris therefrom, and that these plaintiffs are now engaged in cleaning said canal and the banks thereof as aforesaid, and have a crew of men engaged for that purpose, and waiting to enter upon the portion of said canal above described for that purpose, but that the defendant refuses to permit these plaintiffs or their employes to enter upon that portion of said canal above described for said purpose, and threatens personal violence to anyone who attempts to enter upon said portion of said canal for the purpose of cleaning the same or to open or remove the fences and obstructions placed thereon by said defendant as aforesaid.

IX.

Plaintiff further alleges that the defendant threatens to, intends to and will, unless restrained by this honorable court, continue to obstruct the operations of these plaintiffs in the cleaning and operation of said portion of said canal and will

continue to obstruct the right of way of these plaintiffs for a drive-way for their employes on the Northwestern bank of said canal as aforesaid, and will continue to maintain the said fence upon and across the same. That the defendant threatens to, intends to and will, unless restrained by this court, build and maintain other fences and place other obstructions across said canal where it passes through said quarter Section, and upon and across the banks thereof, and upon and across the driveway heretofore used by the plaintiffs and their employes for their proper purposes as aforesaid.

WHEREFORE plaintiffs pray -

First - That a temporary injunction issue herein restraining the defendant, his servants, attorneys and employes from constructing or maintaining any fences or other obstructions upon or across said canal or the banks thereof, or the driveway heretofore used by this plaintiffs as a Zan Jero driveway upon the Northwestern bank of said canal where the same passes through said quarter Section and from in any way obstructing or interfering with these plaintiffs or their employes in cleaning and repairing said portion of said canal and from depositing the debris therefrom upon the banks thereof, and that upon the final hearing of this cause that said injunction be made perpetual.

Second - That the easement and right of these plaintiffs to have and maintain the irrigating canal, known as the Utah Canal, upon, over and across the Northwest Quarter of said Section at its present width and carrying capacity, together with a sufficient width of ground upon either side thereof ~~for~~ for the convenient deposit of the debris taken therefrom in the process of cleaning and maintaining the same in proper condition for the flowing of water through the same, to-wit, of the width of 20 feet, and for the maintaining of a driveway of the width of sixteen feet upon

the Northwestern bank of said canal for the use of these plaintiffs and their employes in the operation and maintenance of said canal, free from obstruction, molestation and interference by the defendant and ~~xxx~~ those claiming by, through, or under him, be established and quieted.

Third - That these plaintiffs have judgment against the defendant for their costs and disbursements herein.

Fourth - That these plaintiffs may have such other and further relief as equity may require.

Kiddley, Russell & Russell

Attorneys for Plaintiffs.

TERRITORY OF ARIZONA, )  
County of Maricopa. ) SS.

W. W. Dobson being first duly sworn, on his oath says, that he is one of the plaintiffs in the above entitled action and makes this affidavit for and on behalf of his co-plaintiffs herein; that he has read the above and foregoing complaint and knows the contents thereof, and that the matters and things therein stated are true of his own knowledge, except such matters as are therein stated upon information and belief, and as to those matters he believes them to be true.

W. W. Dobson

Subscribed and sworn to before me this 27th day  
of October, 1909.

Ethel Pittlow  
Notary Public.

My commission expires February 6, 1913.



IN THE DISTRICT COURT OF THE THIRD JUDICIAL DISTRICT OF THE  
TERRITORY OF ARIZONA, IN AND FOR THE COUNTY OF MARICOPA.

W. W. DOBSON, S. C. SOREKSON, and  
J. F. SANDERS,

Directors of the Utah Irrigating  
Canal Company, who sue on behalf  
of all the constituent members of  
said Company,

Plaintiffs,

vs.

JAMES JOHNSON,

Defendant.

This cause coming on for trial before the court,  
sitting without a Jury, this 7th day of December, 1909 - KIBREY,  
BENNETT & BENNETT appearing for plaintiffs and G. W. Silverthorn  
appearing for defendant. Witnesses on behalf of plaintiffs and  
defendant were sworn and examined, and from said testimony, and  
from the admissions contained in the defendant's answer, the  
court finds the following facts:

FINDINGS OF FACT.

I.

That the UTAH IRRIGATING CANAL COMPANY is a voluntary  
association of numerous persons associated together for the  
purpose of providing the means for diverting water from the  
Salt River, in Maricopa County, Arizona, to and upon the lands  
occupied by the individual members of said association and others  
owning and occupying lands irrigable from said Salt River, ag-  
gregating about 10,000 acres of land, for the purpose of irrigating  
the same; that the above named plaintiffs are the regularly  
elected, qualified and acting directors and governing body of said

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association, and bring this action for and on behalf of all the individual members of said association for the reason that said members exceed ninety-five in number and are so numerous as to make it impracticable to bring them all before this court, and the matters hereinafter stated are of a common and general interest to all of the members of said association.

II.

That the Salt River is an innavigable stream flowing in a general Northeast to Southwest direction through Maricopa County, Arizona, and that all the members of the said Utah Irrigating Canal Company are the owners and occupants of lands irrigable from said river, and that all of said lands are naturally arid and unproductive without the application of water thereto by means of irrigation, and when so irrigated are fertile and productive.

III.

That in the year 1877 the plaintiffs and their predecessors in interest, being the owners and occupants of lands lying on the South side of said Salt River, and irrigable therefrom, constructed an irrigating canal from a point on the south side of said river and running thence in a general Southwestern direction, for the purpose of diverting water from said Salt River to and upon their said lands, and thereupon did divert water from said river by means of said canal to and upon their said lands for the irrigation thereof, and ever since the year 1877 the plaintiffs and their predecessors in interest have continued to use and operate said canal for said purpose; and that said canal is now known as the Utah Irrigating Canal.

IV.

That at the time of the making of said canal as aforesaid the Northwest quarter of Section 31, Township 2 North,

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Range 6, East of the Gila and Salt River base and meridian lines in Maricopa County, Arizona, was vacant and unoccupied lands of the United States, and in the year 1877 while the said Quarter Section was so vacant and unoccupied lands of the United States, the said canal was constructed over, upon and across said Quarter Section in a general Northeast to Southwest direction, entering said premises at a point about 1950 feet East of the Northwest corner of said Section, and running thence in a general Southwestern direction and making its exit from said Quarter Section at a point on its western boundary about 2000 feet South of the said Northwest corner of said Section.

V.

That at the time of the construction of said irrigating canal as aforesaid, the bed of said canal was about 10 feet wide, and that in the year 1997 the plaintiffs and their predecessors in interest, desiring to increase the carrying capacity of said canal, acquired by purchase from the then owner of said Quarter Section, who was the predecessor in interest in said premises of the defendant herein, an additional eight feet of ground along the left bank of the canal.

VI.

That in order to keep said canal in proper condition to carry water to the lands of these plaintiffs and to the lands of others entitled to have water for the irrigation of their lands irrigable from said canal flow through the same it is desirable and convenient to clean and clear said canal from accumulated weeds, grass, brush, mud, sand and other debris which naturally accumulate in the bed of said canal and on the banks thereof, and to have and maintain a roadway along and upon one of the banks of said canal to enable the San Jero and other employees of these plaintiffs to properly maintain said canal in serviceable condition, and to regulate the flow of the water in

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said canal and from said canal to the service ditches or laterals carrying the water from said canal to the lands irrigated and rightfully irrigated therefrom, to-wit: a space of twenty feet in width from the inner edge of the Northwest bank of said canal.

VII.

That in the month of October, 1909 and before the commencement of this action, and without the consent of the plaintiffs, the defendant, James Johnson, did construct a barbed wire fence upon and along the Northwest bank of said canal where the same passes through said Quarter Section and across said canal where the same enters said Quarter Section, and that the said fence is so built and maintained that it does obstruct and prevent the use, by the plaintiff and its employees, of a driveway along and upon the Northwest bank of said canal and in the operation of cleaning said canal, and does obstruct and prevent the plaintiffs and their employees from driving up and along the banks of said canal where it passes through that portion of said Quarter Section so fenced, for any purpose whatsoever. And that it is the purpose and intention of the defendant to maintain said fence as an obstruction to said driveway and to build other and further fences which will further obstruct the use of said driveway by the plaintiff Company, its officers and employees in the operation and maintenance of its said canal.

VIII.

That the defendant is now the owner of said quarter Section of land acquired by him subsequent to the year 1887.

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CONCLUSIONS OF LAW.

I.

The defendant must forthwith remove any and all fences constructed and maintained by him along the Northwest bank of the canal within 20 feet of the inner edge of said canal, and must not erect or maintain any fence or fences along or across said strip of land or across said canal, except along the section lines of defendant's land; and where such fences, if any, cross the said strip of land along the Northwest bank of said canal the defendant must establish and maintain gates sufficient to permit of egress and ingress to the Canal Company and its teams.

II.

That the Utah Irrigating Canal Company is entitled to a right-of-way twenty feet wide from the inner edge of its canal on the Northwest bank where it passes through the defendant's land, and also the right to enter into and upon said right-of-way at the place where the same enters and leaves the land of the defendant, provided the plaintiff Canal Company shall close the gates thereto after use by it.

*Edward Keefe*  
*Judge*

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IN THE DISTRICT COURT  
OF THE THIRD JUDICIAL DISTRICT OF THE TERRITORY OF  
ARIZONA, IN AND FOR THE COUNTY OF MARICOPA.

W.W. Dohsen, S.C. Sorenson and  
J.F. Sanders,

directors of the Utah Irrigating  
Canal Company who sue on behalf  
of all constituent members of  
said Company

Plaintiffs

VS

James Johnson,

Defendant.

JUDGMENT.

This cause coming on regularly for trial on the  
7th. day of December 1909 before Honorable Edward Kent,  
Judge of said Court, a jury having been duly waived Hibbey,  
Dorrett and Bennett appearing as Council for the plaintiffs  
and C.W. Silverthorn, appearing as Council for the Defendant;  
the cause having been regularly set aside and witnesses having  
been duly sworn and examined on part of the plaintiffs and  
Defendants and the cause having been submitted to the Court  
on the evidence and law adduced; and the Court having upon  
such hearing ordered that judgment be entered. That the  
Utah Irrigating Canal Company have a right of way for the  
operating of the Utah Canal Twenty (20) feet wide along  
the Northwest bank of said Utah Canal where the same runs  
through the Northwest Quarter of Section Thirty-one (31)  
in Township Two (2) North of Range Six (6) East of the  
Gila and Salt River Base and Meridian in Maricopa County  
Arizona, measured from the high water mark of said Canal  
as it now exists and also the right to enter into and upon  
said bank through gateways to be maintained by the defendant

on the Northwest bank of said Canal at the places where the same enters and leaves said Quarter Section provided the plaintiff, Canal Company shall close said gates after use by it,

NOW THEREFORE IT IS ORDERED, ADJUDGED AND DECREED by the Court that the plaintiffs, the Utah Irrigating Canal Company have judgement and right of way for the operation of the Utah Canal Twenty feet (20) wide along the Northwest boundry of said Canal where same runs through the Northwest Quarter of Section Thirty one (31) in Township Two (2) North Range Six (6) East of the Gila and Salt River Base and Meridian in Maricopa County, Arizona measured from the high water mark of said Canal as it now exists.

It is further adjudged and decreed that the plaintiffs shall have access to said Northwest bank through gates to be maintained by the defendant on the North bank of said Canal in the points where said Northwest bank enters and leaves said Quarter section provided, however, that the plaintiffs Canal Company shall close said gates after use by it.

By the Court:

A handwritten signature in dark ink, appearing to read "Edward H. ...", written over a horizontal line.

Judge.

***EXHIBIT 32***



F.  
H.E.

1894 - 91106

(copy)

J.V.W.  
W.A.  
W.M.

DEPARTMENT OF THE INTERIOR,

GENERAL LAND OFFICE.

WASHINGTON, D. C., October 5, 1894.

The Honorable

The Secretary of the Interior.

Sir:

I have the honor to acknowledge the receipt for consideration and report, by reference from the Department, of a letter of Sam'l. J. Wallace, of Washington, D. C., dated July 4, 1894, addressed to the Honorable, the Secretary of War, and by him, on August 21, 1894, referred to the Department.

Mr. Wallace asks permission to form dams on the Salt River and its tributaries in Arizona for the purpose of protecting irrigation dams from the flood waters, and also for storing and diverting water for irrigation purposes, at places where suitable overhanging bluffs exist from which rock may be blasted down into the bed of the stream.

In his endorsement on the letter, Lieut. Col. W. D. Benyard, Corps of Engineers, states that the streams proposed to be dammed are not navigable, and that the storage of water therein as proposed would not interfere with the navigability of the Colorado River to which they are tributary.

It appears probable also that the water is to be stored upon or taken through Camp McDowell, an abandoned military

*copy*

U.S.A.  
WASHINGTON  
CHIEF OF ENGINEERS  
SALT RIVER

Salt River.

April 18, 1895.

Chief of Engineers

Replying to your request of July 4, 1894, for authority to construct dams in the Salt River and its tributaries in Maricopa County, Arizona, for the purpose of protection against flood waters and for storing and diverting water for irrigation purposes, I have to state that from a report now before me of the Engineer Officer in charge of examination of Colorado River above Yuma, Arizona, it appears that Salt River is a branch of the Gila which empties into the Colorado near Yuma; that the Gila, Salt and their tributaries are in no sense navigable streams, and that the work proposed will not interfere with the navigation of the Colorado River.

In view of these facts, and upon the recommendation of the Chief of Engineers, I beg to inform you that as the streams proposed to dam are not navigable waters of the United States, and no question of navigation is involved, the War Department has no jurisdiction in the premises.

Very respectfully,

Secretary of War.

Esq., Wallace, Esq.,  
#12- 15th Street, N. W.,  
Washington, D. C.

DOUBLE

RG 17 Records of the Office of the  
Chief of Engineers  
General Correspondence 1886-1942  
- Correspondence 1894-1923  
- Document File 1894-1923  
- Flat File  
Nos. 6806-6823  
NA-19  
Entry 103 Box 15

[Folder] no. 6901

END BACK

APR 20 1895

Chief Clerk, War Dep't.

7<sup>th</sup> indorsement.

OFFICE CHIEF OF ENGINEERS,

U. S. ARMY,

April 8, 1895

Respectfully returned to the  
Secretary of War.

It appears from Mr. Wallace's  
letter of Mr. Wallace  
addressed to the Com-  
missioner of the General  
Land Office that he im-  
plies a decision from  
the War Department re-  
garding his right to erect  
dams across the Salt River  
and its tributaries for  
irrigation purposes.

Lieut. Colonel Benjard  
states in third indorse-  
ment hereon that "Salt  
River is a branch of the  
Gila which empties into  
the Colorado near Chama  
the Gila, Salt and their  
tributaries have their  
extremes of high water  
in the winter - then there  
are mountain torrents, in  
the summer time their  
beds are dry. Then we

in no sense navigable streams. The abstraction of water for irrigation purposes would not interfere with the navigation of the Colorado. I recommend that these facts be communicated to Mr. Wallace and that he be informed that, as the streams he proposes to dam are not navigable waters of the United States and no question of navigation is involved, the War Department has no jurisdiction in the premises.

*W. H. H.*  
Brig. Gen., Chief of Engineers.

3807.  
Encls. 1-3 accompany.

Chief Clerk, War Dept.  
Judge Advocate Genl.

**DOUBLE**

APR 18 1895

April 18, 1895.

Respectfully returned to the Secretary of War.

This is a request by Samuel J. Wallace of Washington, D. C., for permission to construct dams in the Salt River and its tributaries in Arizona, for the purpose of protection against flood waters and for storing and diverting water for irrigation purposes.

Lieutenant Colonel W. H. H. Benyaurd, Corps of Engineers, reports in third endorsement hereon that the Salt River is a branch of the Gila which empties into the Colorado near Yuma; that the Gila, Salt and their tributaries are in no sense navigable streams; and that the work proposed will not interfere with the navigation of the Colorado River.

As the streams which Mr. Wallace proposes to dam are in no sense navigable, the Secretary of War has no jurisdiction over them; and there is no law of the United States which would prohibit the work proposed.

Judge-Advocate General.

RECORDED AT THE INTERIOR DEPARTMENT

Hon. Comr. of Gen. Land Office,  
Dear Sir:

I am in receipt of yours of Jan. 14, 1895, (1894-130,923), relating to my application of July 4, 1894, to the Sec. of War, in reference to constructing dams on the Salt River in Arizona, referred to your Dept. for answer; and I beg to state that such reference to you was erroneous, as I wished the decision of the War Dept. on the question raised, as to damming the river as a tributary of a navigable stream. I well know that your Dept. has control of the use of public land for irrigation purposes, but not of a river as related to navigation, which is under the War Dept. as I also understand; which is the basis of my said application. Therefore I respectfully request you to kindly refer my said application back to the War Dept. with this request, for consideration.

Yours Respectfully,

Saml. J. Wallace,  
424 Fifth St. Wash. D.C.

DOUBLE

WMA

274

8904-'94  
2896-'95.  
L. & R. S. Div.

DEPARTMENT OF THE INTERIOR.

WASHINGTON. April 4, 1895.

The Honorable

The Secretary of War.

Sir:

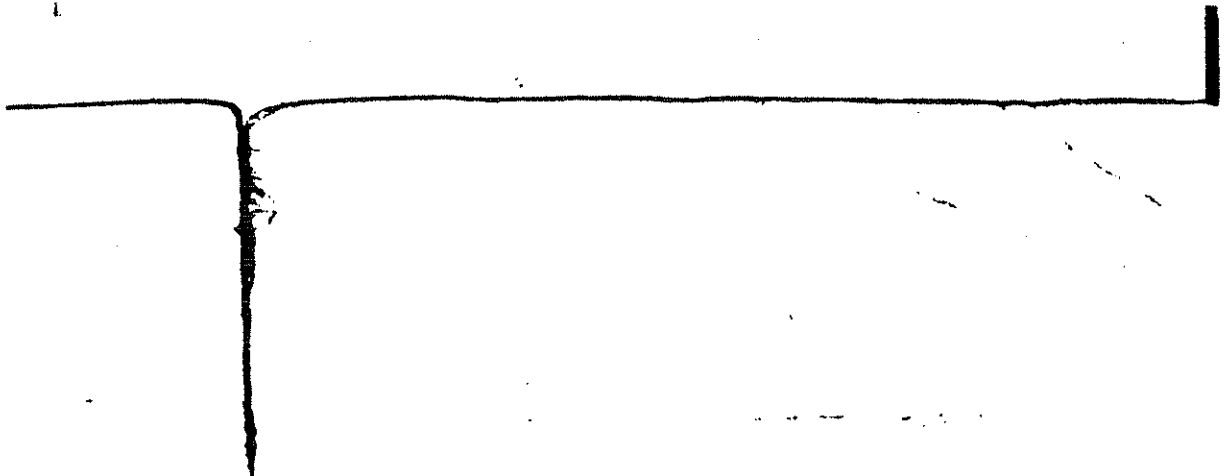
I have the honor to acknowledge the receipt by reference of the Acting Secretary of War, of a letter from Samuel J. Wallace, who requests authority to construct dams across Salt River and its tributaries in Maricopa County, Arizona, for irrigation purposes and for storage of water.

A request for views on the matter, is coupled with the reference, and in response thereto I enclose a copy of the report in the premises by the Commissioner of the General Land Office dated October 5, 1894.

The 4th endorsement on the letter of Mr. Wallace indicates that the reference to this Department was because of the fact that the intention of the applicant is to take water through the abandoned military reservation of Camp McDowell, now under control of the Secretary of the Interior.

On this point I have to advise you that so far as right of way under sections 15 -- 21 of the act of March 3, 1891, is concerned, abandoned military reservations are considered

11/20/95



reservation which was relinquished Feb. 14, 1891, but is still unsurveyed.

By sections 18 to 21, Act of March 3, 1891, (26 Stat., 1095) right of way is granted for canals and reservoirs upon the public land, but the right to the control of water is expressly reserved to the States and Territories. Upon showing the right to appropriate a natural source of water supply under the local laws, as required in paragraph 1, circular of Feb. 20, 1894, copy enclosed, an application in the prescribed form for right of way will receive due consideration. If the reservoir lies upon unsurveyed land the application may be received and placed on file in this office for information, see paragraphs 4 and 17; if upon surveyed land it will be subject to the approval of the Secretary of the Interior.

Mr. Wallace should, therefore, file his application in the form prescribed by the regulations in the proper local land office, which will thereupon transmit the same to this office for action in due course of business.

Mr. Wallace's letter is herewith returned.

Very respectfully,

S W Lancreux

2 enclosures.

Commissioner

DOUBLE

public lands of the United States, and come within the scope of the regulations under the act, a copy of which is enclosed. x

So far then as the non-navigable streams are involved the circular referred to is a guide.

The Colorado River, to which these non-navigable streams are tributary, is a navigable stream under your jurisdiction, hence no questions relating thereto can be passed on by this Department.

The letter of Mr. Wallace is returned herewith, and his recent undated letter, to the Commissioner of the General Land Office, is also enclosed for your information.

Very respectfully,

*E. M. P., mls*

Acting Secretary.

*E.M.*

DOUBLE



REC'D. WAR DEPT. APR 3 1895

2300 / 1907

OFFICE OF CHIEF OF ENGINEERS.

6801

Washington  
WAR DEPARTMENT. Apr. 4, 1895

Interior Dept.

Geo W Reynolds, chief Deeg.

The matter of application of  
J. D. Wallace for perm. to dam  
at Raring and Lake water  
near abandoned military train  
Camp McDowell, enclose copy  
report of Commissioner of the Land  
Office and also concerning  
it of way. Chief abandoned  
land memo. are considered public  
lands + come under regulations  
under act of Mar 3, 1891  
2 Incls.

6801-1000 P.F.

RECEIVED BY ENGINEERS. APR 19

Chief of Engineers.

Hon. Secretary of War,  
Dear Sir:

I respectfully ask permission and authority from the Hon. Secretary of War to form dams on the Salt River and its tributaries in and above Maricopa County, Arizona, the same being tributary to the Colorado, a navigable river, for the purpose of checking storm floods and rendering the flow more uniform, to avoid disaster and injury to persons and property, and to irrigation dams and works below, and for storing and diverting water for irrigation purposes therefrom.

It is desired to have authority to build and add to or repair these in such way as may be found best from time to time,

6507

2.

In addition to such other dams as may be built for storing and for diverting water, it is desired to form a number of check-dams below or near the junctions of the Verde, the Cottonwood, the Tonto, the Cherry, the Box Canyon, and other streams, with the Salt River, and at places up those streams, where suitable canons exist with overhanging bluffs that may be blasted down to fill the narrow canon to a great height and distance along the stream, so no flood could move it or rise so as to flow over top of the loose stone mass, or percolate so rapidly as to endanger dams or bring disaster below them. It is proposed to raise such dams by filling from above sufficiently for the purpose, and to fill any parts that may be too open with stone so as to adapt the work to its purpose.

It is believed such works will be of use in protecting more expensive dams, if such are found necessary; and that by feeding grass and other matter to the streams above the rock work will be caused to choke and fill up with silt and pebbles to a considerable extent, which may be promoted by covering the inner toe of the dam with smaller stones, clay and earth well placed and tramped or rolled, at times when the water is low, so as gradually to raise the outflow level and form storage reservoirs, while permitting water to escape by gradual flow for use below. And if the choking up of the rock work should become too great for the proper outflow it is proposed eventually to cut outflow tunnels through the walls of the canyons,

U.S. Army Office  
Washington, D.C.  
July 19 1894

DEPARTMENT OF THE INTERIOR  
BUREAU OF RECLAMATION  
WASHINGTON, D.C.  
AUG 13 1894

Represents authority to  
construct dams across  
at River into tributaries  
Maricopa County, Arizona  
navigation purposes  
storage of water.

CHIEF OF ENGINEERS  
AUG 14 1894  
OFFICE CHIEF OF ENGINEERS  
AUG 6 1894  
OFFICE CHIEF OF ENGINEERS  
AUG 13 1894

OFFICE CHIEF OF ENGINEERS  
JUL 5 1894  
24 51106

Indorsement.  
OFFICE CHIEF OF ENGINEERS  
U. S. ARMY.

July 11, 1894  
Respectfully referred to  
Lieut. Col. W.H. Dwyer  
Engineer, Corps of  
Engineers, for remark  
to be returned.

W.H. Dwyer  
Brig. Gen., Chief of Engineers

J.W. Indorsement

H. D. Fryman  
San Francisco Cal  
Aug 6 1894

Respectfully returns to the  
Chief of Engineers Lt. Dwyer  
that there is a hazard  
to navigation between and  
the Colorado River

The Colorado River  
between Salt and  
New Mexico has  
water in the winter when they  
are mountain torrents in the  
summer time then beds are  
dry. They are in some  
navigable streams. The abutment  
for a dam for irrigation purposes  
was made at this place  
with the navigation of the  
Colorado. I have  
from the location of the  
dams into that it is intended  
to take water through Old Camp  
McNell. I am not certain but  
believe this to be a navigation  
into the River Department  
and if so might be a subject  
of inquiry for the Department.

Respectfully returned to  
Secretary of War  
application in mar-  
ter mission to Colorado  
dams across Salt River  
and its tributaries in  
Maricopa County, Ariz-  
ona for irrigation purposes.  
Lieut. Col. W. H. Dwyer  
Corps of Engineers, re-  
sponds in indorsement that  
the Salt River and  
tributaries are in no  
navigable streams, so  
that the work proposed  
would not interfere with  
the navigation of the  
Colorado River.  
Colonel Dwyer and  
that he judges that  
intended to take on  
through old camp  
McNell and  
suggests that this  
might be

W.H. Dwyer  
Brig. Gen., Chief of Engineers  
U. S. Army

Indorsement.  
OFFICE CHIEF OF ENGINEERS  
U. S. ARMY.

Aug 13, 1894  
Respectfully returned to  
Secretary of War  
application in mar-  
ter mission to Colorado  
dams across Salt River  
and its tributaries in  
Maricopa County, Ariz-  
ona for irrigation purposes.  
Lieut. Col. W. H. Dwyer  
Corps of Engineers, re-  
sponds in indorsement that  
the Salt River and  
tributaries are in no  
navigable streams, so  
that the work proposed  
would not interfere with  
the navigation of the  
Colorado River.  
Colonel Dwyer and  
that he judges that  
intended to take on  
through old camp  
McNell and  
suggests that this  
might be

DOUBT

The damming of these streams to prevent destructive floods against which ordinary dams are unable to stand, and to store and distribute water for use in irrigation, is very much desired by the people of that region, where the conservation and supply of water for irrigation is a matter of vital importance, the one thing on which all other interests depend, and it is believed that such authorization is one eminently proper to be made, there being no other line of interests to be interfered with.

Very Respectfully,

Saml. J. Wallace,

508 Fifth St. Wash. D. C.,

July 4, 1894.

inquiry by the  
Interior Department.

M. A. Adams

Chief of Engineers

Col.

5 JUL 18 1894

Department of the Interior

August 21, 1894.

Respectfully referred  
in Honolulu, etc. etc.  
of the Interior with  
for his views upon  
made within printed

Joseph B. Dorr

Attorney General of Hawaii

RECORDED - 1st. APR 6 1895

Interior Department

May 24, 1894.

referred to the  
of the Interior  
and office  
- correspondence

of the  
U.S. DEPT. OF THE INTERIOR  
Washington, D.C.

***EXHIBIT 33***

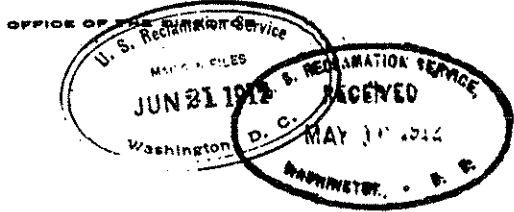
Transfer Case 559

(2)

DEPARTMENT OF THE INTERIOR  
UNITED STATES GEOLOGICAL SURVEY  
WASHINGTON

FILE

May 14, 1912.



NEWELL


The Director,  
United States Reclamation Service.

Sir:

In response to your letter of May 10, 1912:

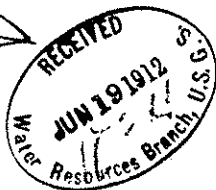
The report by Mr. Sheldon K. Baker on the underground waters of Salt River Valley is forwarded herewith, in order that a copy may be made in your office and transmitted to Howard S. Reed, Engineer, U. S. R. S., Phoenix, Arizona.

Very respectfully,

*[Signature]*  
Director.

4449383

Enclosure:  
Report by S.K. Baker on  
Underground Waters of  
Salt River Valley.



RG 115 - Records of the BOK  
General Administrative & Project  
Records 1907-1919  
Entry 3 Box 20-870  
File 559 - SAR. [unclear]  
[unclear] - [unclear]



***EXHIBIT 34***

2

GROUND WATERS OF SALT RIVER VALLEY

-----

Emerging from the deep canyon which forms the greater part of its course above Verde River, Salt River enters a broad fertile valley, extending from Mt. McDowell on the east to below the confluence of the Salt with the Gila River on the west, a distance of about 30 miles, and known as Salt River Valley. With the exception of a broad opening to the south, which extends to Gila River and the Sacaton Mountains, this valley is surrounded by low hills. About a mile below the confluence of Salt and Verde Rivers and the same distance east of Mt. McDowell, a large part, and in dry seasons all, of the water of the river is diverted into the Arizona Canal. A portion of this water is returned to the river channel, to be taken out a short distance below by the Consolidated, Utah and Tempe Canals. From the head of the Tempe Canal the river channel is dry the greater portion of the time for a distance of about five miles, when it emerges, flowing for a short distance and sinking, to emerge again a little to the east of Tempe. After flowing about two miles the water is diverted into the joint head of the Salt River Valley and the Maricopa Canals. Below this point the channel is dry except during flood seasons, to a point about three miles southwest from Phoenix, where the river again emerges, to flow to its confluence with the Gila. Between the Salt River Dam Site and the mouth of the Verde River, a distance of 60 miles,

6

*H G 115 - Records of the BCR  
General Administration Project  
Records 1902-1919  
Entry 3 Box 20-511  
+ 12 559-51P - administration  
of Lands Salt River*

considerable decrease in the discharge of Salt River occurs, the difference for the year 1904 being about 8500 acre feet. Only a fraction of this loss can be due to evaporation, the remainder being seepage into the sands and gravels over which the river flows. When we take into consideration the amount of water which reaches the river between these points, on account of runoff and occasional springs, the loss is increased largely. Seepage to the same or a greater degree no doubt occurs below the Verde River whenever any water is flowing, the amount lost when the river is in flood being considerable. It is therefore evident that this river supplies to the valley a large amount of ground water, this supply being augmented to a certain extent by small underflow streams from the surrounding hills. Investigations have been made to determine the quantity, depth and quality of this underground water supply in Salt River by Mr. Willis T. Lee in 1903 and 1904, and by the writer in 1904 and 1905.

During the months of June and July, 1904, the writer made determinations of the chlorine content of the water from 395 wells, as well as alkalinity determinations on a large number of the same wells, with a few observations of the height of the water table. After heavy rains of three months duration in the winter of 1904-1905, these investigations were repeated in part

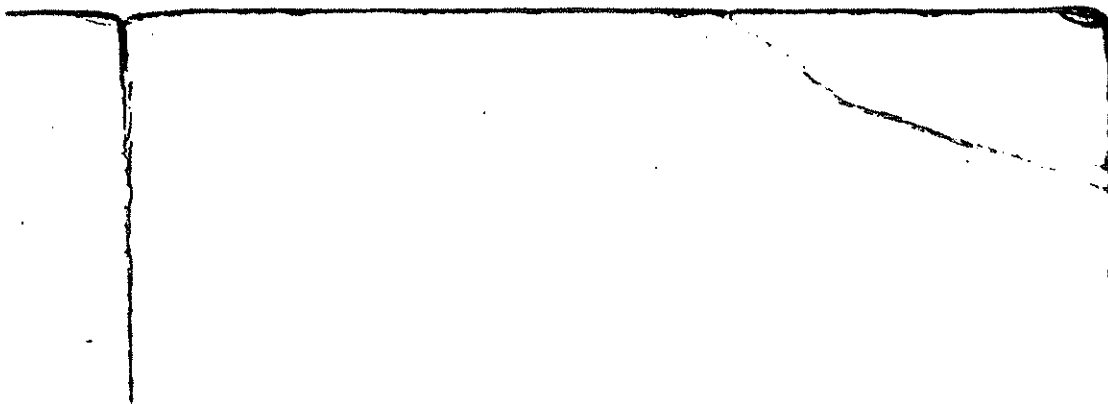
April and May, 1905, determinations of chlorine, alkalinity and sulphates and calcium being made of 81 wells analyzed during the former investigation, and 21 wells not previously investi-

gated. Measurements were taken at these points wherever possible to determine the elevation of the water table, and information obtained as to the amount of rise taking place since January, 1905.

Excepting a large part of the unreclaimed desert east of Mesa, and a narrow strip along the foot of the Phoenix Mountains, water is found throughout the valley at depth varying from 10 to 100 ft. Although there is considerable variation in the contour of the water tables with the amount of rainfall, it slopes, generally speaking, in the same direction as the ground surface, although some exceptions to this rule occur.

The valley is naturally divided into two parts by a line of buttes crossing it from the eastern end of the Salt River Mountains on the south to Camel Back Mountain on the north, the buttes being connected with each other and with the mountains by ridges of rock forming a subterranean dam or obstruction to ground water flow. The conditions governing the ground water supply on the east side of this line differ from those on the west side. In the upper or eastern half of the valley the water supply is much greater, while the water bearing material is deeper and generally coarser than in the lower or western half, thus allowing more rapid flow.

Under the conditions existing in the summer of 1904, after a drought of several years duration, the slope of the water table indicates that the principal underflow leaves the river channel between the mouth of the Salt River canyon and the heads of the



south side canals, moving in a southwesterly direction, and finally uniting with the Gila underflow south of the Salt River Mountains. A considerable amount also flows parallel to the river to and over the above mentioned underground obstruction into the lower half of the valley. It is in passing over this obstruction that the water emerges in the river channel above Tempe to flow for several miles. The direction of flow in this section of the valley is in general either away from or parallel to the river.

Under the same conditions a cross section of the valley below the buttes shows a considerable depression in the water table under or near the river channel, the slope being in the same direction as that of the ground surface, toward the river. It is evident that the greater amount of ground water enters this portion of the valley from the surrounding hills and the channels at the extreme north and south of the line of buttes. The underflow of Cave Creek, entering the valley on the north and that of Agua Fria River, forming the western boundary of the territory under consideration, have a marked influence on the ground water supply, the influence on the quality of the water, to be discussed later, being most evident.

The foregoing conditions exist during dry seasons of considerable duration. After heavy rainfall and consequent floods, such as occurred during the first four months of 1905, the increased discharge of the river, covering, as it does, a greater surface of the river channel, offers correspondingly greater

opportunities for loss by seepage. This seepage water from the river, entering the water bearing gravels, and increased by seepage from the surface of the ground, both locally and in the surrounding hills, raises the level of the ground water and changes the contour of the water table to a considerable extent. On account of the r of the winter of 1905 the height of the ground water near to the north of Lehi, had risen, up to June 2, 1905, when t, the increase in elevation gradually growing less away . the river, being about eight feet at Mesa and three feet at the ch of the Consolidated Canal Co., seven miles south. Near where the river has constantly a discharge of a few second feet the water rose in the wells but two or three feet, this amount of rise being general throughout the territory to the south of this point, except in the vicinity of Kyrene where a rise of nearly eight feet took place. The average depth of water in the district between Tempe and Kyrene was, in April, 1905, about 12 ft., a further rise of one to three feet having taken place up to June 2, while near the river at Tempe a subsidence had occurred.

In the western half of the valley the water in the wells near the river rose fifteen to thirty feet, while at a distance of five miles the rise, in April, had only reached one foot. Cross sections of the valley, based on the data cc is time, show that the depression before existing was rapidly filled up, the water flowing both ways from the river, the water

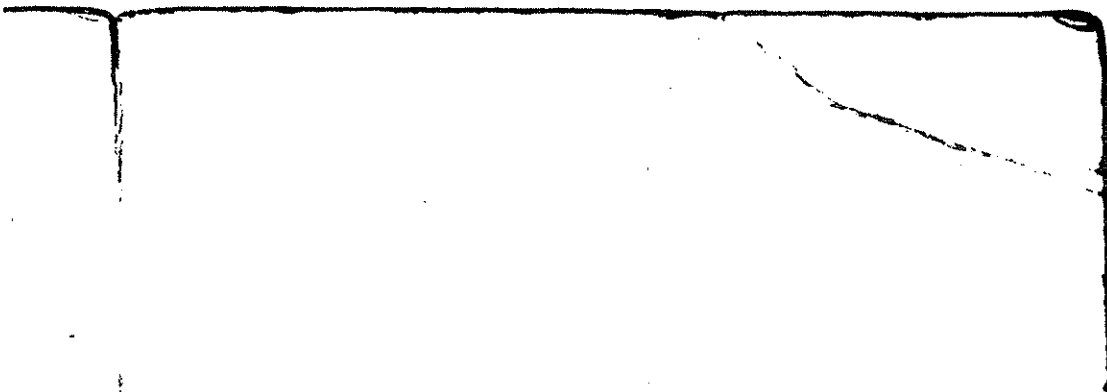
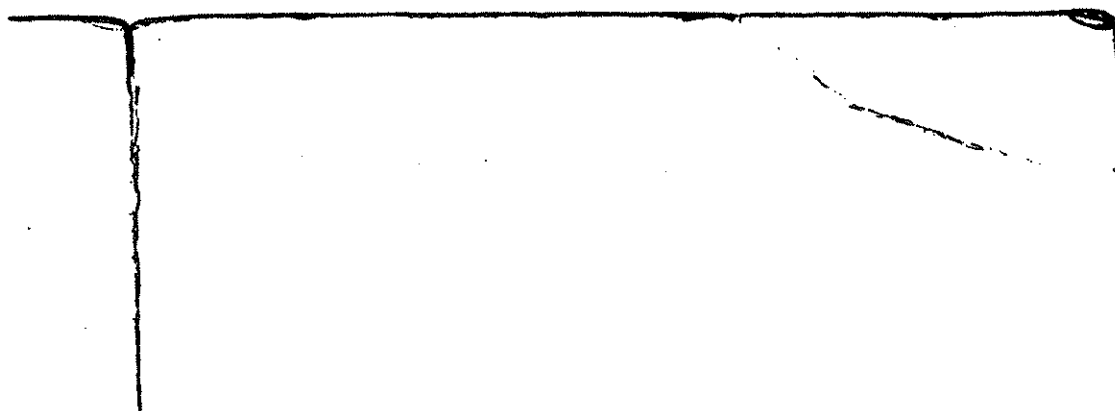


table sloping gradually from this point until met by the slope of the water from the hills.

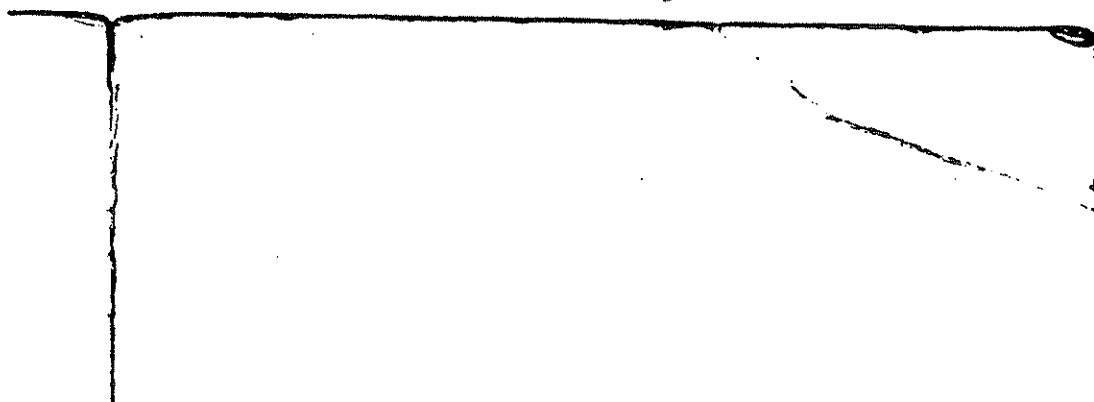
Measurements taken during May and the first part of June indicate a further rise at a distance of two to three miles from the river, while a well north of Phoenix, five miles from the river, showed on June 5th a rise of nine feet since March 22nd, indicating not only an increase in the effect of the river water, but the inflow of water from the hills to the north. Measurements of June 2nd and 3rd also indicate a fall in the water table of about 1 foot from the maximum within a mile of the river, and generally through the middle of the township immediately west of Phoenix. (T.1.N., R.2 E.)

As regards the available supply of water in the valley, the ground waters, especially in the eastern portion, are divided into two classes, the shallow or surface underflow and those obtained from the deeper gravels. The shallow water occurs in strata of gravel and boulders which are generally more or less cemented together by caliche, formed by the deposition, from the waters, of calcium carbonate. This shallow underflow is separated from the deep waters by more or less impermeable strata of caliche and clay. The gravels below these impenetrable strata are, generally speaking, loose and unconsolidated, allowing much more space for water and more rapid flow than can occur in the surface gravels.

The supply of ground water over a portion of the eastern



half of the valley is considerable. Several pumping plants for irrigation have been established in this district, pumping economically from depths varying from 20 to 35 feet. Of these the largest is that of the Tempe Pumping Co., situated three miles west of Mesa, supplying from ten wells, 170 ft. deep, about 1,000 Arizona inches or 25 cubic feet per second. The normal water level at this plant is about 35 feet below the ground surface, the water being lowered in the wells about 18 feet in pumping the amount of water given. Other plants of importance are that of A. C. McQueen, southeast of Mesa about  $1\frac{1}{2}$  miles, that of E. Olsen, 4 miles wouthwest of Mesa, that of H. J. Hansen, 8 miles south of Tempe, and four pumps at the ranch of the Consolidated Canal Co., 7 miles south of Mesa. These plants supply water in amounts of from 200 to 500 Arizona inches each. About two miles south of Tempe wells were sunk by the Bartlett Heard Land and Cattle Co. to supply water for irrigation. In a pumping test the amount of water supplied by the wells was so small that they were abandoned. The same company drove a well in April and May, 1905, one-half mile north-east of the Bell Buttes, apparently directly over the ridge connecting these with the buttes to the north, as bed rock was encountered at about 70 ft. Only about 35 ft. of good water bearing material was encountered, and the supply of water available was shown by test to be inadequate. The results obtained during the first thirty minutes of operation are as follows:



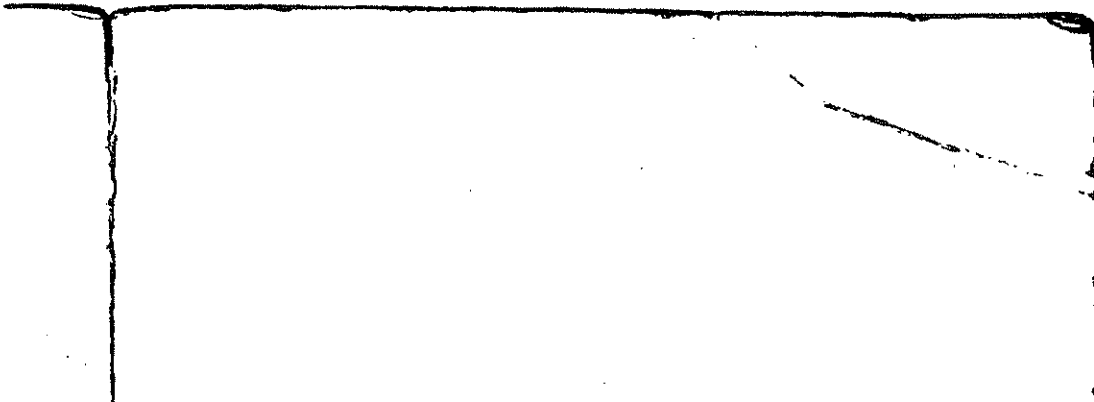


The pump after starting was run at a low speed for about three minutes, discharging about 40 Arizona inches. During this period the water in the well dropped 25 feet. The speed was then increased slightly, and the discharge increased somewhat. The water was lowered 7.8 feet in 7 minutes from the starting of the pump, 8.9 feet in 10 minutes and 11.1 feet in 15 minutes.

The speed was again increased, the discharge reaching about 70 inches. The water fell to 14.2 feet at the end of 20 minutes, the discharge having decreased slightly also. The pump was stopped at the end of 30 minutes, the water rising in about two minutes to 8.5 feet. In 15 minutes it had risen to within about 3 feet of its original height. A shallow well, 9.2 feet deep, at a distance of 50 feet was lowered .4 feet in 10 minutes and 1.4 feet in 30 minutes. After pumping intermittently for 18 hours it was observed that this shallow well was completely dry. At the same time a delivery of 68.18 inches lowered the water in the deep well 20 feet.

Not  
clear.

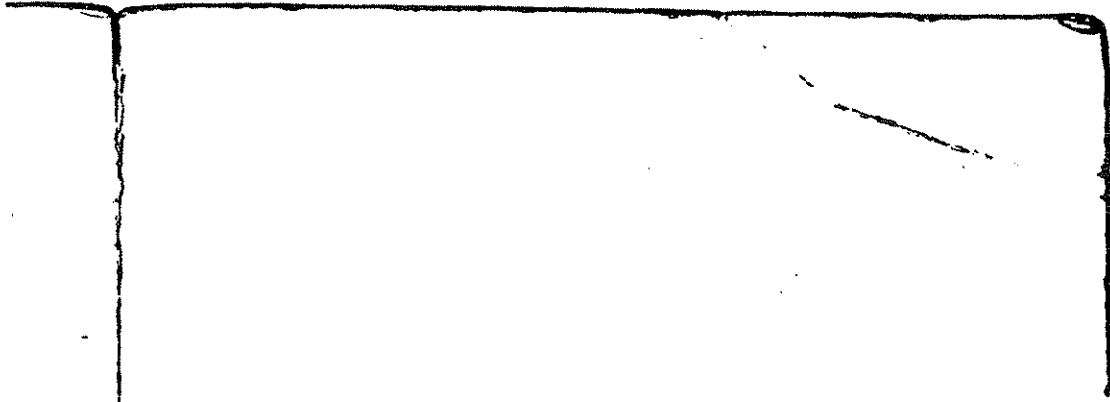
The area within which the water supply is sufficient and not too deep (less than 50 feet) for economical use for irrigation is restricted to a strip about 6 miles in width lying between Tempe and Mesa, and extending southward from the river 10 miles or more. Not much is known regarding the available quantity of water north of the river in this region. No pumping plants have been installed, since the Salt River Indian Reservation occupies nearly the entire area in which the depth to



water is under 40 feet.

In the lower half of the valley the ground water supply is more limited. On the north side of the river are several pumping plants, the chief ones being that of the Phoenix Water Co., that of the Phoenix Light & Fuel Co., and that at the Collin's Ranch. Although the first two wells are of considerable depth, piercing the deeper strata and pass through good water bearing material, neither plant supplies more than 200 inches of water. The Collin's well is a dug well, 40 by 60 ft. and 35 ft. deep. The water level is lowered six feet with a delivery of about 200 inches. Several smaller pumps have been built in this section, but these are of slight importance in considering the underground supply.

On the south side of the river below the Buttes two plants are in operation. One, in section 23, of T. 1 N., R. 2 E., is of but small capacity. The other, that of the Bartlett-Heard Land & Cattle Co., at the southeast corner of section 30, T. 1 N., R. 4 E., is one of the best equipped plants in the valley. A test well, sunk at this point, yielded in testing a very promising supply of water, and 6 16" wells were accordingly put down, and the pumping plant installed. The wells were located on a straight line, at intervals of 30 ft., the pump being located at the middle of this line. The pumps were started July 15, 1904. The delivery of the pump at that time varied from 250 to 280 Arizona inches. The results of measurements made by the writer in the



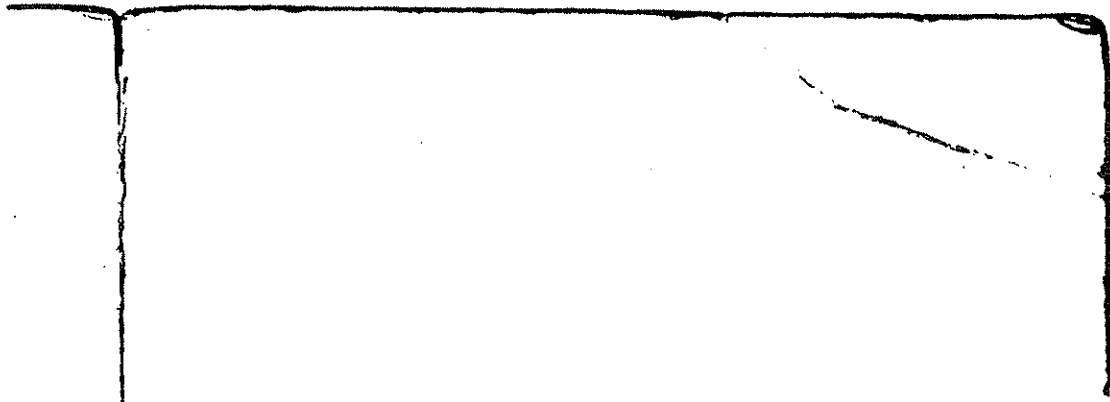
well next to that at the south end, to determine the effect of the pump on the well, were as follows:

<u>Time</u>	<u>Depth of water below datum</u>	<u>Discharge in inches</u>
8.45	3' 10 $\frac{1}{2}$ "	0
9.10	17' 5"	280
10.30	20' 0"	
11.30	21' 0"	250
12.40	21' 5"	280
After 5 days (intermittent)	20' 6"	240

Measurements made on the day of the first run to determine quickness of recovery of wells gave the following results in the well at the south end of the line:

<u>Time from shutting down</u>	<u>Depth of water below datum</u>
Before	18' 10"
22 sec.	11' 6"
30 "	10' 6"
35 "	9' 6"
90 "	9' 4"
5 min.	8' 9"
10 "	8' 4"
30 "	7' 3"
2 hrs.	6' 3"
4 $\frac{1}{2}$ "	5' 0"

This pump supplies at the present time from 225 to 240 inches, lowering the water table in each of the wells about



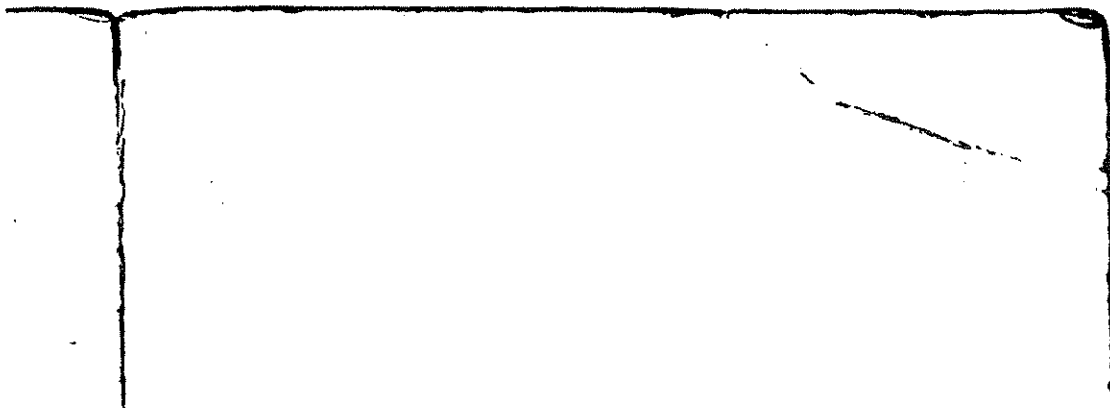
18 feet.

The underflow of the Agua Fria River, the western boundary of the district here under consideration, seems to be capable of furnishing a good supply of water. But little data on this point is available, however, only one pumping plant of small capacity having been installed, that of L. C. Haynes, Sec. 1, T. 1 N., R. 1 W.

With the possible exception of the last mentioned source of supply there is, in no part of the western half of the valley, according to indications so far as present known, a point where a supply of water of over 300 inches can be economically pumped while at a distance of three miles from the river the depth of the water plane is so great, and the supply so limited that but a small amount of water can be pumped with economy.

With the exception of that found in areas of limited extent on the northern and western sides of the valley the ground waters contain large amounts of dissolved salts of the alkali and alkaline earth metals. Of these the chlorides predominate, generally forming about 50% of the total solids. Bicarbonates and sulphates are also large in amount, occurring in varying proportions, while normal carbonates are found in some cases. The predominant metals are sodium and calcium, which also present considerable variation.

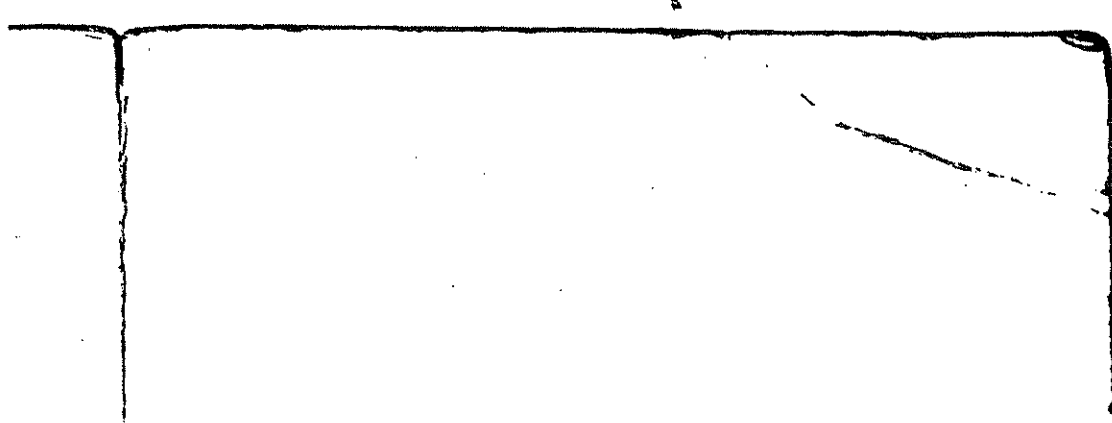
Marked differences often occur between the water of the surface stratum and that obtained from the deeper water bearing gravels. In the shallow wells, which draw only from the surface underflow, the proportions of acids to bases are such as indicate



the presence of sodium bicarbonate, while the red reaction with phenol-phthalein is often obtained, indicating also the presence of sodium carbonate. The deeper waters, on the contrary, are shown by analysis to be in nearly all cases very hard, and to contain no sodium carbonate or bicarbonate. These deeper waters also show a considerable difference both in chlorine and total solids, from the shallow water at the same points.

It has, until recently, been believed that the presence in a water of sufficient sodium and potassium to combine with all sulphate, nitrate and halide radicals, leaving only a portion of the carbonates and bicarbonates for calcium and magnesium, precludes the presence or formation of calcium or magnesium sulphate or chloride. In the same way, the presence of insufficient sodium or potassium to combine with the sulphates and halides present, was believed to prevent the presence or formation of either sodium bicarbonate or the normal carbonate. Experiment has proved, however, that not only can sodium bicarbonate exist in the presence of calcium sulphate in solutions saturated with carbon dioxide, but a reaction actually takes place between calcium bicarbonate and sodium sulphate in the presence of carbon dioxide, sodium bicarbonate and calcium sulphate being formed. The same is true of sodium chloride and calcium bicarbonate. It is, therefore, difficult to ascertain by ordinary methods of analysis, the actual occurrence of sodium bicarbonate in the case of many alkaline well waters, and in cases

This chemical discussion is out of place.



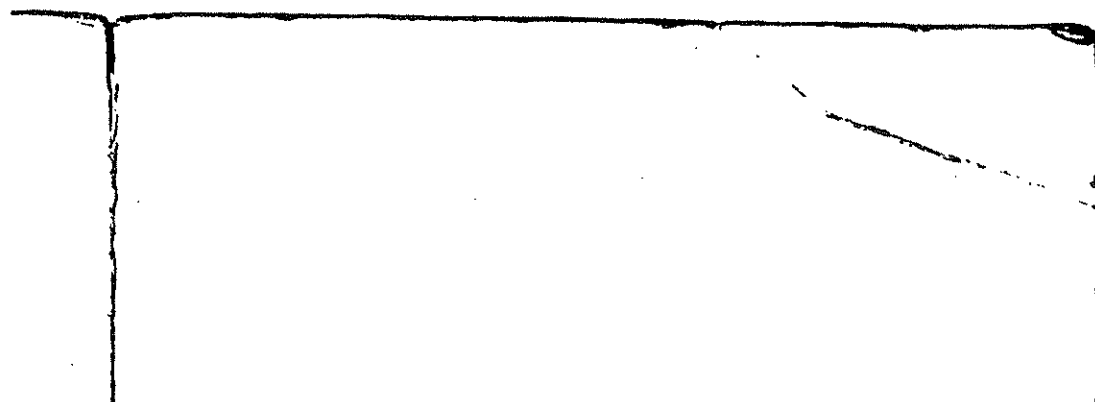
where its presence is evident from the paucity of calcium, it is difficult to ascertain the proportion in which it occurs. Inasmuch as sodium bicarbonate may, under certain conditions, be converted to the normal carbonate, known throughout the arid west as "black alkali", which in the ground or in water used for irrigation produces decidedly harmful effects on vegetation, this is a disadvantage. However, in cases where the carbonates contained in a water are low, while a large amount of calcium is present, as is the case in most of the deeper wells, it is reasonable to assume that but little sodium carbonate can be present.

In the investigations made by the writer the analyses were performed in the field, the portable apparatus and the methods used being those devised for field assay of water for the Division of Hydro-Economics, U. S. Geological Survey. No determinations were made other than those directly bearing on the which could be readily performed in the field, namely, calcium sulphate alkali and alkali-earth salts, alkalinity, carbonates and bicarbonates and chlorine. Although it is customary, in comparing alkaline waters, to use the content of total solids as a standard inasmuch as this determination is difficult and inaccurate for field work, in this investigation the chlorine content has been used as a substitute, this being determined with an error of not more than 2% while the operation is simple and rapid. It consists in the addition and trituration of standard tablets of silver nitrate in a known amount of the sample, to which a few drops of

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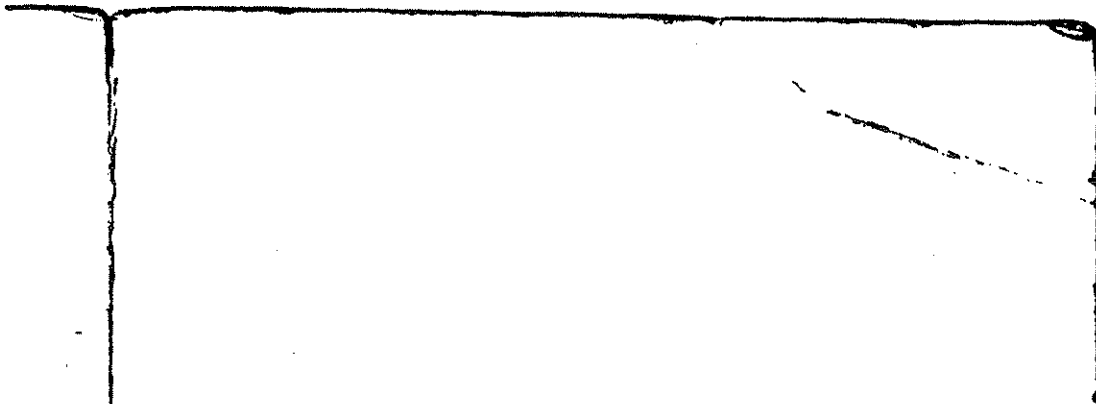
potassium chromate have been added. The chlorine present in the form of chlorides react with the silver nitrate, forming silver chloride, until the reaction is complete, when red silver chromate is formed by the reaction of silver nitrate and potassium chromate. The determination of sulphates is made by acidulating the sample and adding crystals of barium chloride, and determining the degree of turbidity resulting from the precipitated barium sulphate. The same principle is involved in the determination of calcium, the precipitation being caused by the addition of ammonium oxalate crystals to the sample rendered slightly ammoniacal. Carbonates and bicarbonates are determined by the trituration in a known amount of the sample to which ten drops of a solution of phenol phthalein have been added, of standard tablets of sodium acid sulphate, until the pink color, caused by the reaction of normal carbonates on phenol phthalein, disappears; then the addition of a few drops of methyl orange and further trituration of tablets until the pink acid reaction of methyl orange is obtained. The number of tablets necessary to destroy the color of the phenol phthalein is a measure of the amount of normal carbonates in the sample. The total number of tablets used is a measure of total carbonates and bicarbonates.

In the first part of this investigation, determinations were made of only the chlorine and the alkalinity (total carbonates and bicarbonates). Inasmuch as the presence of the carbonates of sodium is important in consideration of water used for irriga-



tion, it is desirable to ascertain, if possible, in these cases, whether these undesirable compounds are or are not present. This has been done according to the following reasoning. Since, in the case of very hard waters, of which many were analyzed in the above manner, the alkalinity in terms of calcium carbonate was found to be in the neighborhood of 300 parts per million, seldom exceeding this value, it has been assumed that this represents the maximum amount of calcium bicarbonate which will remain in solution under the conditions of temperature and pressure prevailing in the wells in the valley. An amount of alkalinity much in excess of this point is considered to be an indication of the presence of sodium carbonate or bicarbonate.

The distribution of the alkaline salts and the proportions in which they occur are very irregular. These are affected by the differences in character of the currents entering the valley from various sources, by seepage from irrigation, and by deposits formed in the gravels by some former lowering of the water plane or similar causes. They are probably also influenced by chemical reactions among the various salts in solution, the most important of these being the conversion, in the presence of carbon dioxide, of sodium sulphate or sodium chloride and calcium bicarbonate into calcium sulphate or calcium chloride and sodium bicarbonate, and the conversion, under differing conditions, of calcium chloride or sulphate and sodium carbonate into calcium carbonate and sodium chloride or sul-

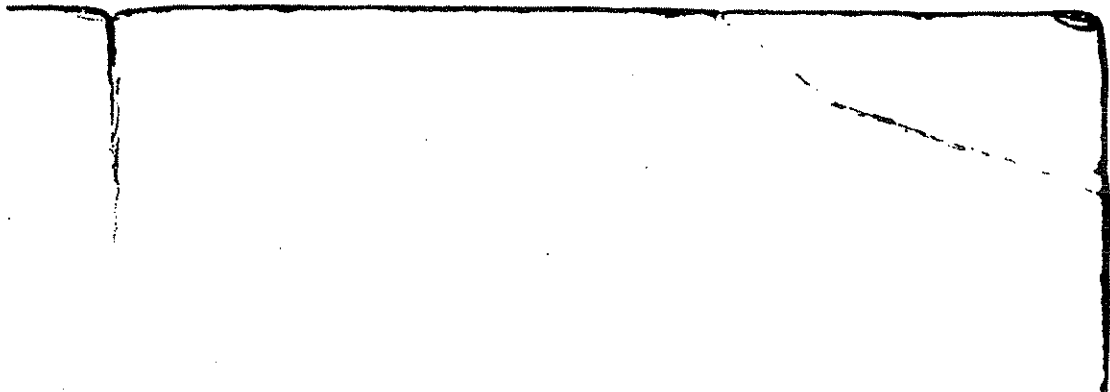




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phate. The variation with depth is also irregular, although, as above stated, the deeper waters rarely contain an excess of black alkali over the alkaline with sulphates and chlorides. In some wells the deeper water is found to contain more soluble salts than the shallow water, while in others the reverse is true. Cases have also been noted where wells have apparently pierced three strata of water, of which the middle contained either more or less salts in solution than either the one above or that below.

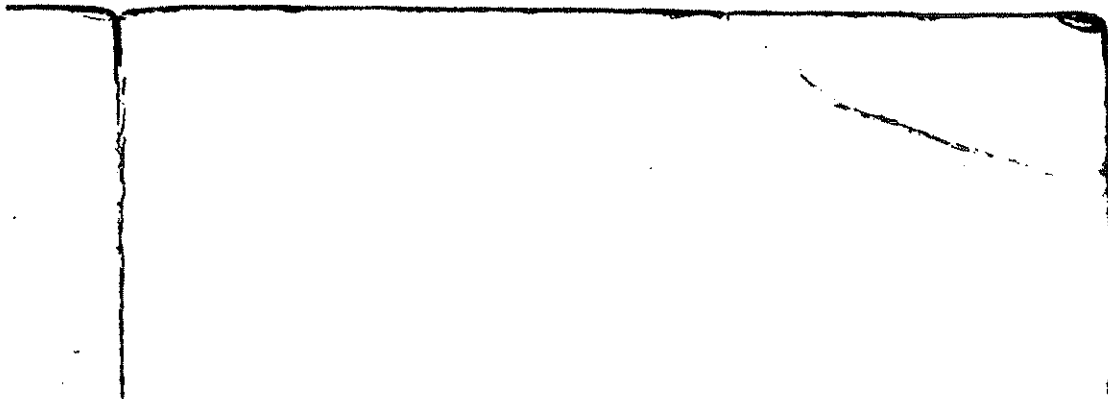
The distribution of chlorides, adopted as a basis of comparison in this investigation, is shown in the accompanying map No. 5. The water practically throughout the valley contains chlorine, chiefly in the form of sodium chloride or common salt in amounts exceeding 500 parts per million. Exceptions to this rule occur in the case of the underflow from several small watersheds on the north, notably that from Paradise Valley, that from Cave Creek, and that underlying the Agua Fria River, and in the case of the ground water underlying the desert east and southeast of Mesa. The effect of these fresh water currents is very marked, the water being of excellent quality. The main currents through the valley can also be traced for considerable distances by the chlorine content. Practically all of these currents become lost, however, in areas showing high chlorine content. Of these several are important. One, southwest of Mesa, two, south of Tempe, and one to the west of Phoenix, where the Cave Creek underflow



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disappears, show undoubted effects of seepage. In each of these areas water is found with a chlorine content exceeding 1000 parts per million, while in a well south of Tempe about 8 miles, 2600 parts are found, and in another, 7 miles west of Phoenix, are found 3500 parts. A long strip to the north of Phoenix, with a maximum of 1760 parts per million of chlorine, is peculiar in that it is very narrow, the decrease in chlorine on either side being abrupt, it follows very closely the ground contour and almost coincides with the Grand Canal. It would, at first thought, seem reasonable to suppose that the canal is in some way responsible for this high salinity. This is improbable, however, in view of the fact that the same effect can be traced to none of the other canals, several of which are older than the Grand. It is more probable that either this is the location of the bank of an old river bed, since filled up by detritus, and that the ground water is now dissolving the alkalies with which this bank was saturated, or the motion of the water is here retarded, giving a greater opportunity for concentration. This, and the theory of deposits in the gravels, seem to be the most plausible explanation of the existence of several isolated areas in which the chlorine is found to be excessive.

In addition to the two extremes above mentioned are the areas of large extent in the valley, in which the chlorine content is found to be between 500 and 1000 parts per million. These areas include, in the eastern part of the valley, the ter-



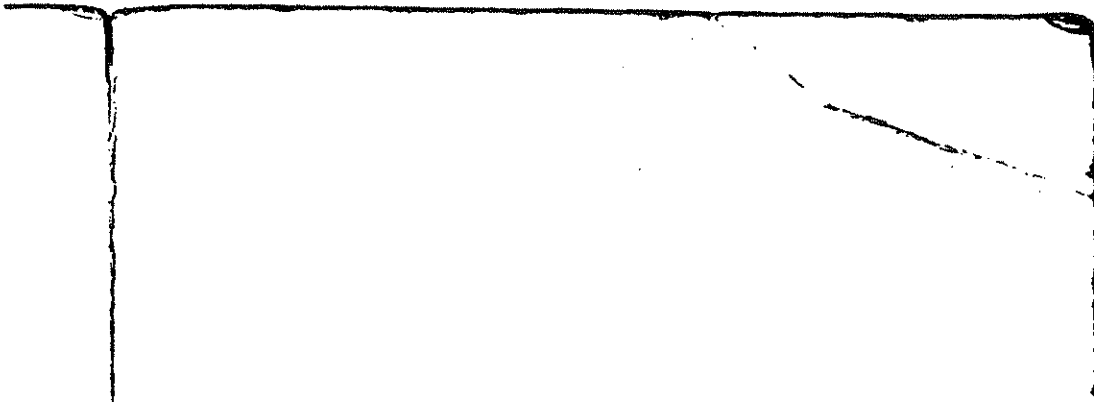
ritory surrounding Mesa, and extending to Tempe on the west and the ranch of the Consolidated Canal Co. on the south; in the western half of the valley extending from three miles north of Phoenix to the Salt River Mountains, and from the line of Buttes to about four miles west of Phoenix.

Deep wells, piercing the lower gravel strata, are frequently found to contain less chlorine than surface wells near by. This is not generally the case in districts where the surface wells run very high in chlorine, as in the districts lying between Mesa and Kyrene, in which are located the deep wells of R. Olsen and E. J. Hansen, which contain large amounts of soluble salts. The cases most worthy of note, where this difference does occur, are the wells of Phoenix Electric Light & Fuel Co., that of the Tempe water supply and that of A. C. McQueen. In the case of the McQueen well, 1305 ft. in depth, water is obtained with a chlorine content of less than 300 parts per million, while the water of the surface wells in the vicinity have a chlorine content of about 600 parts. The Tempe Water Company's well, 200 ft. deep, supplies water containing 400 parts per million of chlorine, while that of neighboring surface wells contains between 600 and 800 parts. The well of the Phoenix Light and Fuel Co. 160 ft. deep, in a region where the surface wells show chlorine to the extent of about 700 parts per million, gives a water supply which contains but 460 parts.

Black alkali, or the carbonates of sodium, occurs in the

shallow waters to some extent in different parts of the valley, notably in an area immediately south of Tempe and another four miles west of Phoenix. These areas are more or less restricted, and coincide quite closely with areas where the chlorine is comparatively high. Little is found near or to the south of Mesa, or between Phoenix and the Buttes at Tempe. The origin of these salts is probably in the chemical reactions taking place in the ground, since it is rarely found on the edges of the valley, and does not occur in the river water to any marked degree.

It is an opinion frequently advanced that in wells from which water is drawn in large amounts, an improvement in the quality will occur. The theory seems a plausible one and is substantiated by fact in some cases. Seepage water from irrigation, concentrated by solution of alkali salts at the surface of the ground and by evaporation, would also tend to cause a change in the quality of ground waters, but an increase of salts rather than a decrease. It was with a view to obtaining information on these points that the second portion of the investigation was undertaken. The large amount of rainfall just preceding, and the consequent rise in the water table previously discussed, had a considerable effect on the ground waters, but it seems hardly probable that the marked change on some of the deeper wells could be entirely due to that cause. The effect of other agencies can seemingly be traced. The extremely diverse results are set forth in table 2. The changes

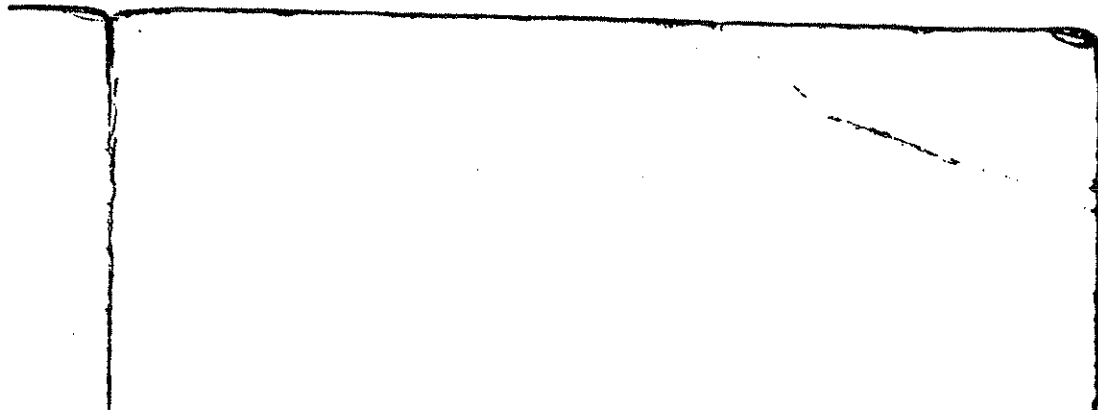


in deep wells are favorable in most instances. At the pumping plant of E. Olsen a decrease in chlorine from 1400 to 1060 parts per million was found; at the Hansen plant the chlorine content had decreased from 1860 to 1400, and the wells of the Tempe Pumping Co. showed a decrease from 680 to ? parts per million of chlorine. The wells of the Bartlett-Heard Land & Cattle Co. were observed for three months during the summer of 1904, the chlorine content remaining nearly constant at 830. In May, 1905, a decrease from 830 to 770 had occurred. A slight increase took place in two of the wells of the Consolidated Canal Co., but these returned nearly to their original condition after a few days' pumping.

In the shallow wells the changes are varied. In some cases a large increase in salinity was found; in others a considerable decrease occurred. The action of wells in the district west of Phoenix is worthy of note. The following table shows the variation in chlorine content with the accompanying variation in depth of four of these wells:

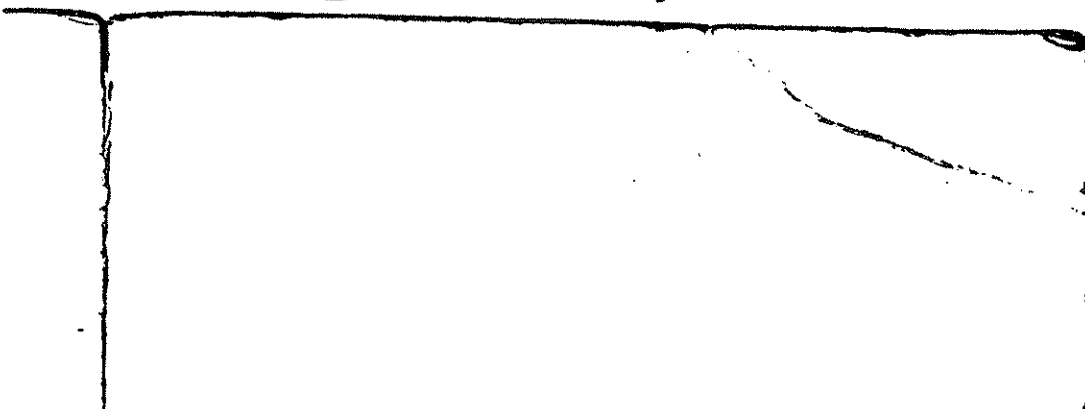
Anal. No.	Location T.1 N., R.2 E.	June, 1904		Mar. 23, 1905		May 2, 1905		May 18, 1905	
		Depth	to Chlo- Water rine.	Depth	of Chlo- Water rine	Depth	of Chlo- water rine	Depth	of Chlo- water rine
432	E. line Sec. 13	31	780	11	1760		1160	12	1080
453	W. line Sec. 16	18	700	12	1200	12	1380	12	1160
467	NE Cor. Sec. 18	30	1160	27	2220	25	3340	26	3580
455	W. line Sec. 19	26	1180	19	1160	18	1320	18.5	3040

It will be noted that as the water in these wells rose remark-



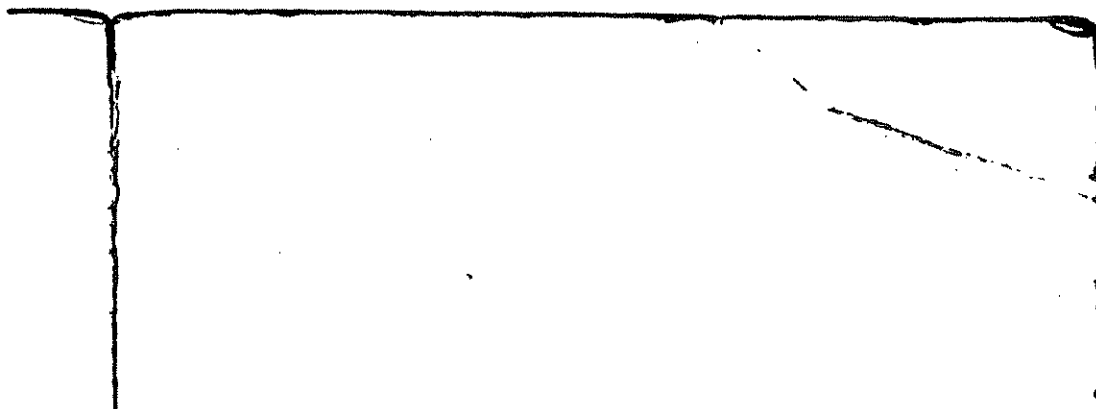
able salinity took place, continuing in some cases for a considerable length of time. In the case of No. 432 a decrease took place soon after the maximum was reached, No. 453 also showing a decrease almost immediately after the chlorine content was at its highest. On June 2, wells Nos. 455 and 457 were visited and, although no analyses were made, the taste of the water indicated a considerable decrease in the salinity at well No. 455, while No. 457 remained nearly the same as at the last analysis. This increase and alternate decrease was due probably to the washing out of deposits of soluble alkalies in the gravels, these deposits having been formed by seepage from irrigation above, and capillary action from the ground water below. The same effect is evident on several wells in different parts of the valley, notably No. 150 (S. line Sec. 35, T. 1 N., R. 4 E.), Nos. 393 and 394 (N. line Sec. 25, T. 1 N., R. 3 E.), No. 176 (E. line Sec. 16, T. 1 N., R. 4 E.), No. 68 (E. line Sec. 3, T. 1 N., R. 5 E.), and No. 167 (E. line Sec. 27, T. 2 N., R. 4 E.). No opportunity has been found to study the effects of seepage alone in increasing the amount of alkali in solution in wells in the valley. However, since a gradual increase in salinity occurs along the lines of underground flow, the localities in which high chlorine content is most extensive being those where the ground water leaves the valley, it would seem that this element is of considerable importance, since irrigation wells may be affected thereby.

The standard of quality of water for irrigation purposes



necessarily varies much with the kind of crops which are irrigated. As remarked in the foregoing discussion of the water of Salt River, alfalfa and grains are much more resistant to alkalies than are most fruits and vegetables, or garden truck. Prof. H. H. Forbes, Director of the Univ. of Arizona Agricultural Experiment Station, gives, as the maximum amount of total solids, permissible in water for general irrigation purposes, 1000 parts per 1000000 equivalent, in the waters of Salt River Valley, to about 400 parts per million of chlorine. So far as the observation of the writer has gone, a water of this character may be used for the irrigation of crops of any character, without danger. Plants of ordinary resistant powers and water containing greater amounts of soluble salts can be used if some precaution is taken. Water containing over 500 parts per million of chlorine is hardly to be recommended unless periodic flooding, subdrainage or some such precautionary measure is resorted to. Cantaloupes irrigated by the water containing 1860 parts of chlorine per million (No. 159) from the Hansen Pumping Plant in 1904, although fairly productive, gave results much inferior to those obtained at the ranch of A. C. McQueen, where pumped water containing but 550 parts (No. 90) was used. Good results have been obtained with alfalfa and grains irrigated with water containing 800 to 1400 parts per million of chlorine. Waters of this character can hardly be used, in all probability, for any considerable length of time without resorting to flooding with fresh water to dissolve the accumulated salts. The use of water containing such large amounts of salts will, in addition,

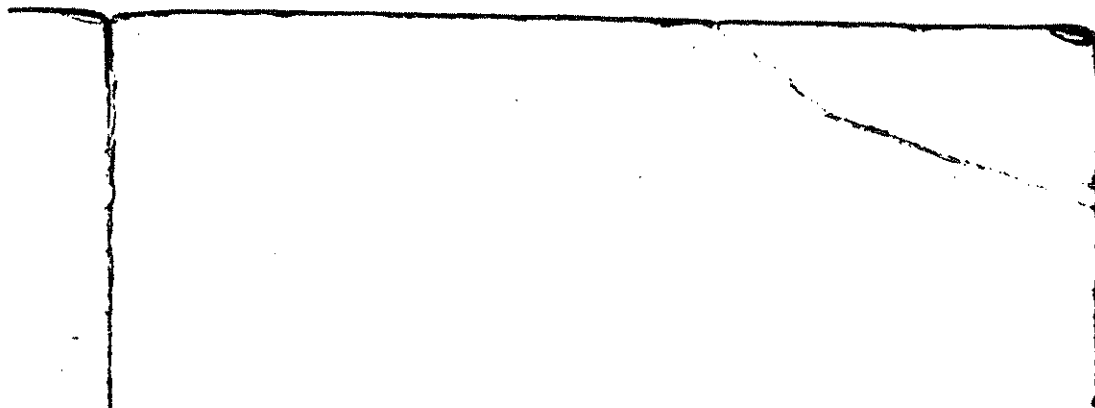
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probably increase the salinity, through seepage, of the ground water below the areas where such waters are used. If wells for irrigation be so located as to get this seepage, it will probably be merely a question of time before such wells will become highly impregnated with alkali salts, and perhaps unfit for use. Such increase would necessarily be slow, several years probably being required to produce any serious change in the ground water. It would seem desirable, however, to so locate pumping plants that this effect will be a minimum, that is to say, at points not in the direct line of underflow from areas irrigated with waters of high salinity.

The quality of the water found in the main underflow, in the deeper water bearing gravels from Mesa and Tempe southward, is good, being better in the vicinity of Mesa and to the south than on the western side south from Tempe. Water obtained from the region extending from the Olsen pump (No. 118, N.F.cor.Sec.18, T.1 S., R.5 E.) in a southwesterly direction, including the Harsen plant, (No. 159, Sec. 35, T. 1 S., R. 4 E.) is not to be recommended for use with any but resistant forms of vegetation. The supply available from this underflow is, as previously mentioned, abundant, and its depth is not excessive. Water of fair quality may be obtained in small quantities (100 to 200 inches) in the upper or eastern end of that portion of the valley to the west of the line of Buttes, but it is inadvisable to install plants of large capacity in this section. The underflow of the Agua Fria River is of excellent

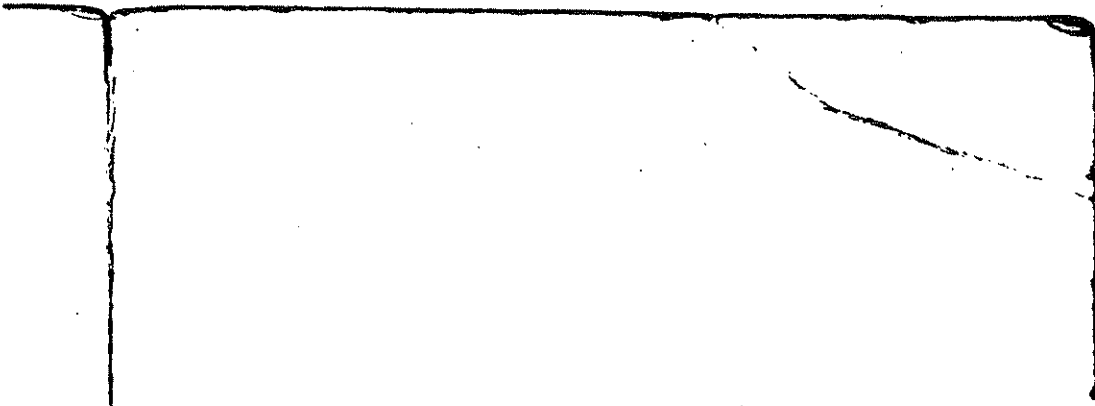
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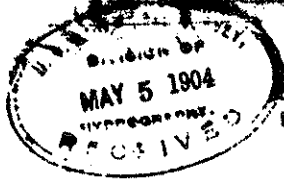
quality, and near the river bed is at no great depth. The quantity available is probably sufficient to supply a considerable amount of water for irrigation. In other portions of the valley the supply is too limited, the depth too great or the quality too poor, to allow profitable pumping of water for irrigation.

APR 1926



***EXHIBIT 35***

559  
*Lynton*



DEPARTMENT OF THE INTERIOR  
UNITED STATES GEOLOGICAL SURVEY  
RECLAMATION SERVICE

*Indexed*

Livingstone, Arizona,

April 28th, 1904.

Mr. A. P. Lavis May 9 1904.  
Please read and return promptly to Chief Engineer  
noting comments on margin.  
U. S. Geological Survey, F. H. Newell  
Washington, D. C. *Read and returned with comments.*

Dear Sir:-

I have the honor to present herewith a report on the preliminary work in connection with the determination of the quality of water for irrigation in Salt River above Tonto Dam, together with proposed plans for the further investigation of sodium chloride in the water below the Dam, and the probable effect of the same upon irrigated crops.

The investigation of salinity in the water of Salt River above Tonto Dam completed April 26th, was designed solely to show the relative variation of the amount of salt at chosen points along the river, and thereby indicate whether the influx of salt is general or whether it is derived from one or more isolated points. This information was believed to be important by reason of the fact, that, if it were found that the source or sources of salt were isolated or local in character, steps might be taken to eliminate them from the river by well known means, determined according to conditions in each case.

The time proved to be extremely advantageous for making this investigation, for Salt River is low and contains foreign ingredients in as large a proportion as ~~is~~<sup>is</sup> likely to be found at

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File 559-SAP - Classification  
of Lands - Soil Surveys

almost any time in the future, therefore the results which are arrived at are typical of the most unfavorable conditions and deductions made therefrom will probably err upon the side of safety by a wide margin.

The determinations were made at frequent intervals along Salt River from Tonto Dam to the mouth of Cibicu Creek, a distance of about 53 miles. In some cases the distances between sampling points was considerable owing to the fact that the river along certain reaches is inaccessible, unless extraordinary means are taken to scale the box canyons.

The chlorine determinations in these investigations are only relative in accuracy. It was found that the amount of chlorine in Salt River water is so high and the reagent tablets with which we were provided were so low in equivalent that a single determination would require an exceedingly large number of tablets.

An order was immediately sent to the Kremers-Urban Co., of Milwaukee, for tablets of higher equivalent, but while waiting for them it was considered wise to proceed with the preliminary investigation. Therefore instead of using 100 C. C. of water as originally planned, and which provides for the greatest degree of accuracy in the determinations, only 5 C. C. could be used. In this way the number of tablets which it was necessary to apply to the water was lessened by 80%, and the time required to dissolve the tablets proportionately shortened. In making determinations under these conditions it is necessary to multiply the amount found according to the scale, by 200, in order to express the amount of chlorine in terms of parts to the million.

This procedure multiplies the small error which is found to persist in the use of the tablet method. This in some cases involves a fairly wide departure from the absolute content of chlorine; nevertheless, as this error is constant and in the same direction, the results of the investigation, that is, the determination of relative variations of salt in the river, are as valuable as though all amounts were absolutely correct.

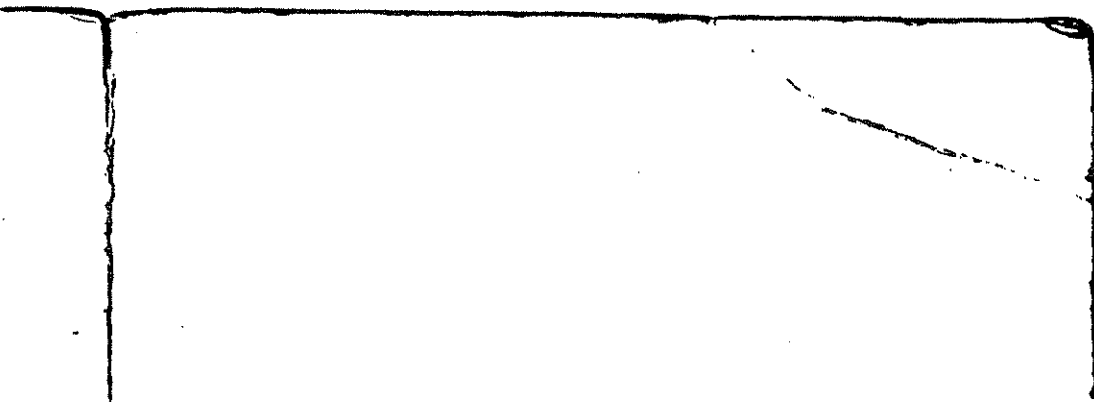
Samples of water were taken at 20 points along the 53 miles of main stream, and in each of the tributaries crossed during the progress of the journey. The results of the determinations of the water from the main stream are as follows:-

Chlorine in Salt River Water.

Sampling Point	miles above dam	Parts per Million	#
Above Tonto Dam Site	0	1360	#
Opposite Camp at Livingstone	11	1830	
Below Pinal Creek	16	1850	
Above Pinal Creek	16 1/4	1600	
Canyon Below Gleason's Flats	30	1712	
Lower End of Gleason's Flats	31	1712	
Upper End of Gleason's Flats	33	1750	
Upper End of Gleason's Flats	34	1730	
Upper End of Gleason's Flats	35	1670	
Below Mouth of Ash Creek	40	1670	
Above Box Canyon Creek	43	1600	
Mouth of Canyon below Salt Beds	47	1800	
1/2 Mile above Salt Beds	47 1/2	1600	
1 Mile above Salt Beds	48	1800	
Immediately above Salt Springs	49	1600	
1 Mile above Salt Springs	50	1750	
3 Miles above Salt Springs	51	1750	
3 Miles above Salt Springs	52	1730	
Below Mouth of Cibicu Creek	53	1710	

The results are expressed diagrammatically in accompanying exhibit.

# Probably anomalous.



The results above set forth, clearly indicate that the salt in Salt River water is not derived from any definite source or sources, but is carried in by the general under-flow throughout the region. There was reason to believe, at the outset, that the greater part of the salt comes from what are known as the salt beds and salt springs, which are located along the river some distance below the mouth of Cibicu Creek. There are at this point extremely saline springs and an extensive outcrop of sodium chloride and calcium carbonate. This outcrop is well shown in the accompanying photographs, which were taken upon the spot. It was found, however, that these salt beds have little or no effect upon the salinity of the water, and it leads me to believe that the entire country is underlaid by a deposit, of which the salt beds is an example, the only difference being that at the salt beds, the saline stratum outcrops upon the bank of the river. The amount of salt found in the water along the entire reaches of the river from Tonto Dam to Cibicu Creek varies surprisingly little. The influx of fresh water from the various creeks does not effect the amount of salt in the river in any logical degree, although tests show that the tributary creeks contain little or no salt. This is illustrated by the following tests.

Creeks	Parts per Million.
Raccoon	10
Cherry	43
Canyon	60

It should be stated in this connection that the effect upon the stream would be more apparent if the creeks themselves contributed any considerable amount of water to the main stream.

At the present time they are very low. After a review of the results above set forth, I am of the opinion that the salt in the water of Salt River is derived from no local source, and that it would be impossible to change in any degree the relative amount of salt in the stream. It is apparent then that whatever may be done in connection with the improvement of the water of Salt River for irrigation purposes, it is necessary to accept the water in its original saline condition.

There are, however, many possibilities, which may prove to be effectual in reducing the amount of salt in the water used for irrigation. Among these the most important is the effect of the storage of flood waters back of Tonto Dam. To determine this with any degree of accuracy it is necessary to make periodical salt determinations in the river water at the Dam, especially during flood periods, so that we may determine accurately the amount of salt carried at these periods. Second; the evaporation in the region of Tonto Dam must be determined, in order that we may ascertain what may be expected in the way of concentration during periods of low water, or when the flow from the reservoir is equal to, or greater than that contributed by the drainage area. From rough preliminary calculations it seems probable that with the reservoir full of flood water, containing a small proportion only of salt, it would require many months of concentration by evaporation, and further contributions of strongly saline water, from the contributing basin, to produce in the waters of the reservoir a salinity equivalent to that now present in the stream. Third; Tonto Creek and Verde River are comparatively sweet water streams

and the degree of dilution which will be present will have an important bearing upon the water as it is distributed to the irrigated lands in the Salt River Valley. Data with reference to the flow of Tonto Creek and Verde River are being collected, and will be used in the calculations computed in the final report. These three features constitute the most important factors in determining the effect of the salt in Salt River upon irrigated crops.

Arrangements have been made for determining periodically the amount of salt in the water at Tonto Dam, and requisition has been sent to Washington for approved apparatus for measuring evaporation. From the data above outlined we may draw up a series of curves, showing evaporation, flow of stream, amounts of salt &c., which will give comprehensive material for our purposes, and deductions can be derived from this, long before the Tonto Reservoir is ready for operation.

For future investigations I have directed Mr. S. K. Baker, Hydrographic Aid, as follows:- First; to proceed up Tonto Creek, making water assays, to a point at which pass can be made across the divide to Verde River, and from thence down the Verde to it's confluence with Salt River. The stream between Tonto Dam and the mouth of the Verde can then be investigated and thence southward to the junction of Salt River with the Gila. The investigation south of the confluence of the Verde and Salt Rivers will be mostly for the purpose of determining the concentration of salt in water used for irrigation, and for determining the salinity of the under ground flow in general. This investigation promises to be quite extensive, but it seems justified in view of



the facts above presented. If we have a certain salinity in Salt River above the point at which it is first diverted for irrigation, we can then determine the variation of the harmful constituents throughout the whole area which it is proposed to irrigate. It will afford requisite information in regard to the method of irrigation, which it is necessary to adopt, and will show the deterioration or improvement, as the case may be, as the water is used upon the land and seeps back into the main stream.

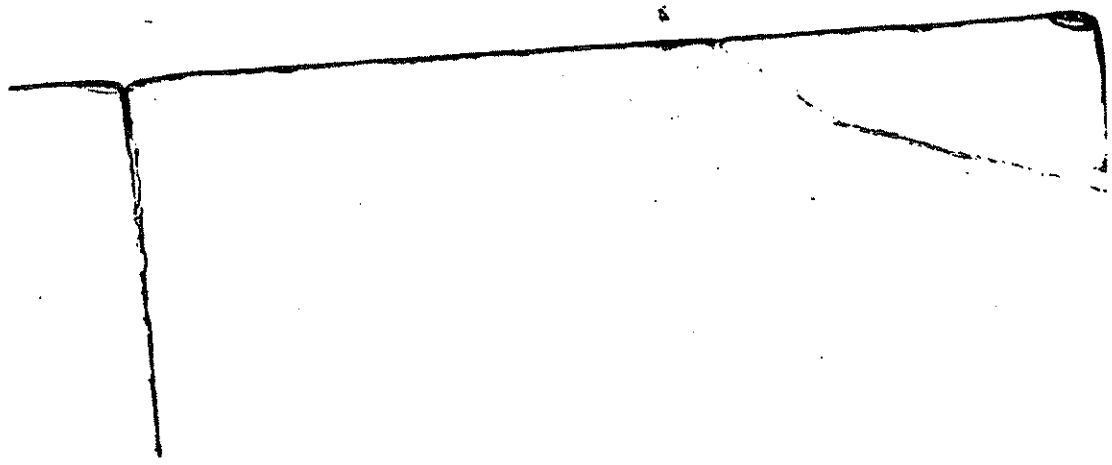
Summary:

The source of salt in Salt River water, above Tonto Dam is general and cannot be isolated. It is necessary to accept the water in the condition in which it comes down to the reservoir. The storage of flood waters will alleviate unfavorable conditions in a large measure. Dilution by fresh water streams will undoubtedly complete this improvement, to a safe degree. Periodical analysis are to be made at Tonto Dam, and evaporation measurements established. The variation in mineral content of the water along the entire length of Salt River Valley is to be determined.

Very respectfully,

*W. H. Righton*  
 Chief, Division of Hydro Economic

*No reason is assigned why the investigation was not continued to some point above the salinity. There is little or none at Camp - A. P. Davis*



***EXHIBIT 36***

SUBJECT:

Inspection Report - Salt River Project.

DEPARTMENT OF THE INTERIOR

UNITED STATES GEOLOGICAL SURVEY

RECLAMATION SERVICE



Denver, Colorado, May 19th, 1906.

Mr. F. H. Newell,  
Chief Engineer, U.S.R.S.,  
Washington, D. C.

314

Sir:

I have the honor to submit the following report regarding my inspection of the Salt River Project, Arizona:

I arrived at Roosevelt on May 10th, leaving on May 15th. In addition to this inspection I visited all of the structures and works in the vicinity, including the power plant, cement mill, camp of the contractor of the Roosevelt Dam, power canal, including pressure pipe at Cottonwood Creek, at Pinto Creek and the head works and temporary dam. I saw all of the persons connected with this Project in the office and in the field.

GENERAL INSPECTION.

1. I was unable to obtain a diagram showing form of organization, but one is to be prepared and will be forwarded directly to you.
2. Enclosed find list of all the men employed on this Project, which defines duties and relations to each other.
3. The character of the work includes surveying, construction and administration.

B151100

R 6 115 - Bureau of Reclamation  
General Administrative & Project Records, 1902-1919  
Entry 2 - Box 168  
Folder 314 - General - Inspection Reports - Salt River - 7/19/17



F.H.N.-2-

4. It is estimated that 57 per cent. of the work as a whole has been completed.

5. The equipment in hand consists of one office building, seven cottages, one corral and stable, one cement mill, one hospital, two power houses, one ice plant, one commissary store house, one machine shop; also plows, scrapers, forges, harness, wagons, horses, mules, tents, etc.

6. The general condition of this equipment is first-class; the office and other buildings were clean and the grounds in good condition. All tools, implements and surveying instruments were kept in the proper place, stable was clean and wagons in good repair; the work shops and other plants orderly and an excellent impression was given the observer at all portions of the work.

7. Was unable to obtain relative cost of administration to total expenditures.

#### OFFICE METHODS.

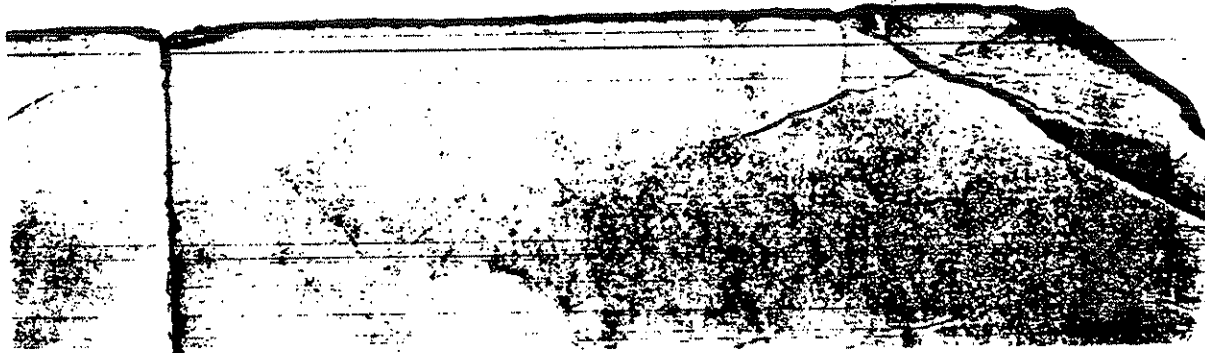
8. The office building is convenient and well adapted to the purpose.

9. Office records are protected from fire in concrete vault easily accessible from the main office.

10. Office equipment is sufficient for the purpose, but not in excess of needs.

11. Maps are kept rolled or folded in map cases, and indexed by card catalogue.

B151101



F.H.N.-3-

12. Note books are kept in a file and are properly dated and signed by the man who made the notes.

13. Record books are clearly explained at the beginning of the book or on the card catalogue.

14. Duplicate or carbon copies of records of results are retained in the files. Copies are also sent to the Washington office.

15. Correspondence is kept in vertical files and can be readily referred to.

16. The Supervising Engineer keeps a daily record or log of all the principal events from day to day.

17. A visitors book is kept giving the names and addresses of all persons who visit the work.

#### FISCAL DETAILS.

18. Bookkeeping is kept in voucher register, bound, cost ledger, loose-leaf, material ledger, loose-leaf, and equipment ledger, loose-leaf.

19. The number of clerks employed on accounting is six.

20. The clerical force has recently been reduced in number, and is now probably as low as can be to carry on the work effectively.

21. Checks on the accuracy of the clerical work is carried on throughout, including cost keeping, property returns, etc.

22. Office hours are from 8 to 12 and 1 to 5.

23. Owing to the system of checking there should be very little opportunity for mistakes to occur.

**E151102**



F.H.N.-4-

24. Purchasing is for machinery, commissary, forage, and all classes of material needed in the work being carried on.

25. Purchases are made generally by advertisement on the form of blanks furnished from Washington.

26. A check is made on all material issued, the same being charged against the particular portion of the work where it is used.

27. The Store Room. The supply carried is general in character, including all classes of material and commissary supplies. It is a frame building and is located some distance from headquarters, and is protected from fire by fire plugs and hose, and also chemical hand-grenades.

28. This question is not understood. Financial responsibility at all projects rest with the Special Disbursing Agent, no other officer being bonded.

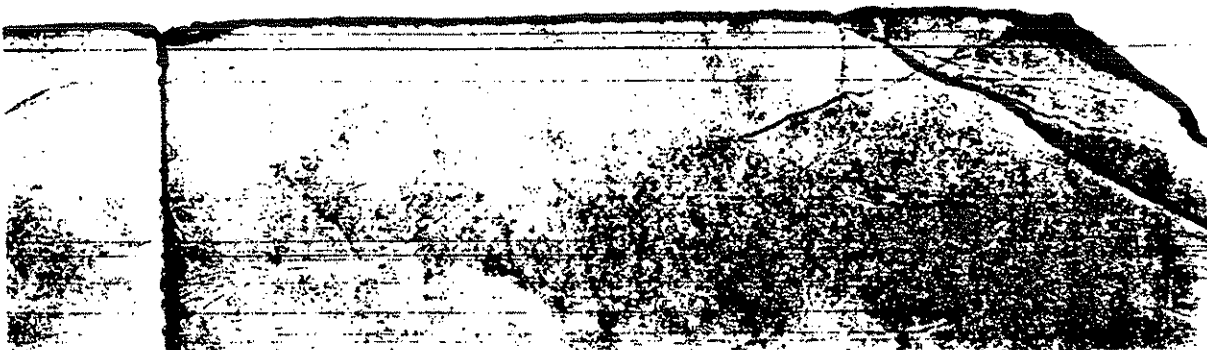
29. The method of issuing from the store room is by requisition in triplicate.

30. Bookkeeping is by means of a general ledger, voucher register, cost ledger, material ledger and equipment ledger.

31. The cost keeping for force account work for various structures is kept by ledger account, a special blank (copy herewith) is used for the contractor's account.

32. The names and duties of men in connection with cost keeping is shown on attached list.

33. The comparative estimate of cost keeping and bookkeeping with other administrative expenses cannot be given.

**B151103**

F.H.N.-5-

34. Much interest was shown by all of the men in connection with this work, and all are interested in producing valuable results. By shifting the men about from one class of work to another, most of these men at present are quite proficient in all branches of the fiscal work.

PROPERTY.

35. The engineering equipment is generally in good condition and is well taken care of.

36. There are three transits, three levels and ten rods, all in use.

37. The property in general is, as enumerated above, very general in character, including large and small machinery and other equipment. Its value was not obtained.

38. Property returns are kept in ledger account.

39. Bin cards are used at the commissary and store house.

40. The machinery in general is protected from the weather.

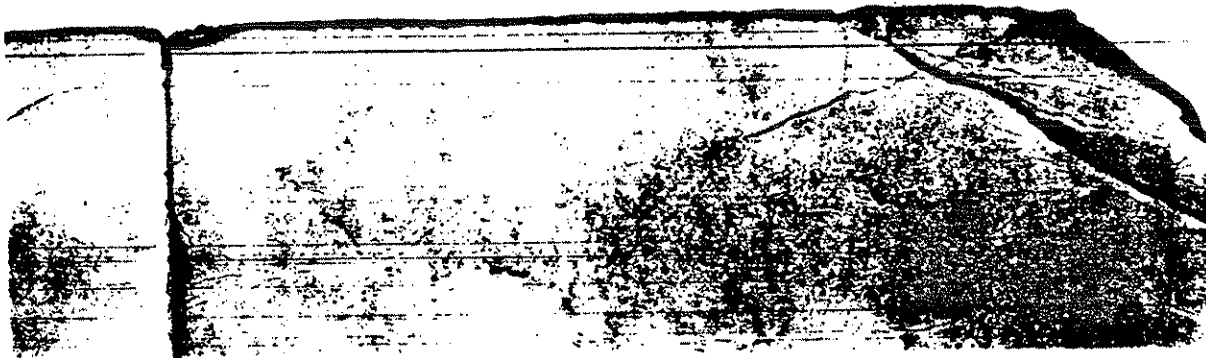
41. The finished structures are properly protected.

42. There are 44 wagons of various classes in use, all in good repair and painted. Protection is given them from the weather.

43. The general condition of scrapers, plows and other implements was good.

44. The shops, mills, and machinery generally were in good condition and the arrangements seemed to be effective. The cement mill particularly was working at full capacity, producing over 300 barrels per day.

B151104



45. Police and Fire Protection. A night watchman is employed about the grounds and buildings and fire plugs with hose are distributed at various points where needed

46. The use of liquor is not allowed on this project or near it.

47. Sanitary Conditions. There is a water works system with septic tank. Screens are used at all windows and doors throughout the offices, tents and mess building.

48. The water supply is from a spring of excellent water.

49. The general health at the time of my visit was good.

50. The floor space of tents or bunk-houses, varies from time to time.

51. The sanitary condition of all sleeping apartments was good.

52. Subsistence. Subsistence is furnished generally to all office employes and to laborers, except Indians. The actual cost of subsistence is 53 cents per day, but with freight and services of cook, etc., the total cost is 83 cents per day.

53. The horses and mules are owned by the Government. Their condition was generally good. They are protected from the weather by stables, when necessary.

54. The cost of feeding horses and mules per day amounts to 57 cents for forage only; the total cost is 66 cents with labor and other supplies included. The corral boss is checked on all forage furnished.

55. Transportation is by means of wagons from Mesa, a distance of 62 miles, or Globe, 41 miles. Freight is transported by way of Mesa at present.

**B151105**





F.H.N.-7-

56. The cost of freighting per ton mile, except heavy machinery, is 22 cents.

I had an opportunity of inspecting the camp of Contractor, O'Rourke, which is well arranged for convenience and comfort of the men employed. I also inspected the books of the contractor and was surprised to learn that no general cost keeping is kept. The cost keeping covers only the commissary supplies and laborers' wages.

I enclose a number of blanks, most of which have been furnished the Washington office heretofore.

Very respectfully,



Executive Officer.

B151106



***EXHIBIT 37***

Bureau of Reclamation  
Washington Office Engineering Files

VOL. I

ARIZONA-SALT RIVER PROJECT

PRELIMINARY HISTORY.

RG 115 Records of BOR - Project Histories, Feature  
Histories & Reports, 1902-1930  
Salt River  
Entry 10 Box no. 797

ICE

WASHINGTON OFFICE ENGINEERING FILES

*under*

HISTORY OF SALT RIVER PROJECT

*Done by Ed. H. H. ...  
A. H. ...  
J. H. R.*

*By Staniand*

*Staniand*

Location and Physical Description

The Salt River Valley is located in the south-central part of Arizona, between 33° 15' and 33° 40' north latitude and 111° 42' and 112° 30' west longitude. It consists of a broad level plain, somewhat irregular in outline, bounded in part by detached mountain masses rising 1500 to 2000 feet above the level of the plain, the elevation of which lies between 950 and 1300 feet above sea level. The floor of the valley is very level and has a gentle slope to the west or south-west of from ten to twenty feet per mile. Salt River, flowing slightly south of west, divides the valley into two unequal portions. About three-fifths of the total area lies on the north side of the river and two-fifths on the south side.

Climate

The climate of the Salt River Valley is semi-tropical. The summers are long and hot, and the winters mild. Temperatures in summer range from 100° F. to 117° F. during the warmest part of the day. The capacity of the atmosphere for moisture at these temperatures is so great that the cooling effect of the rapid evaporation upon animal life, if an ample quantity of water is provided, to replace that lost, is so marked that the discomfort produced by the high temperatures is less than that produced in much lower temperatures where the humidity is greater. As a matter of fact, sunstroke in this country is almost unknown. The range of temperature between day and night is large, the dry atmosphere permitting a greater radiation of heat from the earth after the

*LC 4982 4/28/10*

thousand was affected by saving the lumber near the project, which amounts to a total saving of about \$55,500.

Mesa-Roosevelt Road.

At the time of beginning the preliminary work at Roosevelt, Globe, about forty miles distant from the dam, was the nearest point at which freight could be delivered, and the early freighting was all from that point. Machinery for the cement mill, for the temporary steam power plant, the saw mill, oil for the earlier operation of the cement mill, lumber, feed and supplies of various kinds all came in by way of Globe, which was the terminus of a branch line of a road with high grades. The town of Mesa was located sixty miles from the dam site, twenty-two miles of which distance was across a desert, comparatively level, over which a good road could be constructed at little expense. Mesa had the advantage of having two competing lines of railroad with correspondingly low rates. When the work at Roosevelt was started, the difference in freight delivered at the dam site by way of each of these two points was about \$15.00 a ton in favor of Mesa. Consequent upon this condition it was decided to build a first class freight road between Mesa and Roosevelt.

The reconnaissance surveys for this road were commenced in May, 1903, and in October work was started near Goldfield, which was located on that part of the mountain road nearest the valley. In December, work was started at Roosevelt on the upper end of the road in the

canyon below the dam.

The route over which this road is located is a most difficult one. To avoid the spillway located on the south side of the river, the road was located on the mountain high above the dam. Immediately below the dam a rocky canyon with nearly vertical sides enters from the south. The road begins the descent to the river around the walls of this side canyon. This was one of the most difficult parts of the road. Following down the river for about seven miles the road is all the way in the canyon. Some parts of it in this section were built along vertical cliffs, rising sheer from the water's edge/twenty to sixty feet. In many instances, life lines were necessary to protect the workmen. Fish Creek Hill was another difficult piece of construction. The road climbs the hill going towards Mesa, on a ten percent grade, for the most part along the foot of a vertical cliff several hundred feet high, the cliff being so steep as to necessitate rock fills seventy-five feet in height in order to get the required width of roadway. In other places, rock cuts sixty to seventy feet in depth were necessary. Some short sections of this road were very expensive to construct, the cost probably reaching \$25,000 or more per mile.

After the completion of about three miles of the road near Goldfield, the work was temporarily discontinued and the force engaged on the upper end of the road was reduced.

pending the results of a plan to permit the people of Phoenix, Mesa and Tempe to contribute towards its cost. A bill was passed by Congress which enabled the cities above mentioned to bond themselves to aid in its construction. Phoenix subscribed \$17,500, Mesa \$3,500, and Tempe \$4,000. Mesa passed the bonds unanimously; about 94% of the voters of Phoenix were in favor of the bond issue, and in Tempe the bonds barely carried. In Phoenix one hundred and fifty citizens bound themselves as sureties to the extent of \$300 each to expedite the securing of the money for construction. The banks agreed under these conditions, to advance the money. Phoenix and Mesa sold their bonds, and their subscriptions soon became available. Tempe has not yet taken the trouble to sell her bonds, and at this date the chances are not very favorable that the project will realize anything from their subscriptions.

Immediately upon the agreement of the banks with the citizens of Phoenix to render part of the fund voted, available, the force at work on the Mesa-Roosevelt Road was at once increased, and by the middle of June, a force of nearly 400 men were engaged in construction, and from this time on to its completion, the work was pushed as rapidly as possible.

During the early part of 1905, the first year of its use, the road was subjected, at numerous times, to heavy damage by the floods that caused such serious damage and delay to other parts of the work connected with the Salt

River Project. Especially was this true of that part of the road built along the canyon immediately below Roosevelt. Flood followed flood, each succeeding one greater than those before it, with hardly enough time intervening to permit repairs to be made, before the work was again swept away. Floods in January stopped travel over the road, and in February travel was practically suspended for the entire month, with water over portions of the road to a depth of six to eight feet, and having velocities sufficient to tear out and sweep away everything but the largest rocks. The maximum flood discharge was estimated at 43,000 second-feet. In March, twice in one week, the estimated flood discharge was between 50,000 and 60,000 second-feet. In April occurred a flood of still greater proportions. After April the Salt River was not again in flood until November 27, 1905, when there occurred a flood second only to the great flood of February, 1891, which was estimated at 150,000 second-feet. The flood of November 27 was estimated at 130,000 to 150,000 second-feet. This flood rose in the canyon thirty-five to forty feet above the mean low water, and had a maximum surface velocity as it entered the canyon of twenty feet per second. In the contracted portion of the canyon it must have been much greater. THE FORCE OF THE WATER WAS SUFFICIENT TO MOVE ROCKS AS LARGE AS FOUR FEET IN DIAMETER. In recent years the damage to the road from floods has been much less.



The first cost of construction of the Mess-Roosevelt Road amounted to about \$206,000. Since the completion of the road about \$147,000 has been expended in repairs and betterments, making the total cost to date about \$353,000.

353,000

63

= 5600

So eager were the people for this road, that it was used to quite an extent before its completion, a daily stage line between Mess and Roosevelt being inaugurated as soon as travel over the road was permissible. The initial trip of the stage from Mess to Roosevelt was made December 5th, 1904. It is estimated that not less than 400,000 pounds of freight were hauled over the road while it was under construction. In order to obtain an estimate of the amount of freight hauled ~~over the road~~, careful observations were made during the month of September, 1905, with the following result:

There passed during this time, 889 wagons, drawn by 3,410 head of stock, and hauling 1,517,750 pounds of freight. The time required for a round trip between Mess and Roosevelt was about eight days. Of this freight, it was stated that a relatively small portion was for the Government; the larger part being for O'Rourke & Co., the contractors on the dam; the stores at Roosevelt, and for the ranchers living in the mountains above Roosevelt.

About five months after the completion of the road, hauling was commenced under two contracts with the Government, Wolf Sachs, and G. R. Eger & Co. The former

had the contract for hauling miscellaneous freight, and the latter for the delivery of fuel oil for the burning of cement. Prior to the delivery of freight and oil under these contracts, about 1,000,000 pounds or 500 tons per month were hauled over the road. The freight charges from Mesa to Roosevelt were about \$14 per ton, which would make about \$35,000 for this period. During time of full oil delivery this ran up to over 3,000,000 pounds per month. The Government alone, during the time of the construction of the Roosevelt Dam, has paid for the hauling of freight over this road, about \$437,000. In addition to the figures given, if we consider the freight for the contractor on the dam; for the stores at Roosevelt; for the people who live above Roosevelt; the fast freight and express handled by the stage line; the passenger service handled by stage and automobiles during the five and one-half years the road has been in operation, we will have a sum paid for transportation that will easily amount to double the cost of the road, or about \$700,000. Again, if we consider the total tonnage delivered at Mesa by the railroads to be hauled to Roosevelt over this road for the Government, which amounts to nearly 30,000 tons, and apply the difference in freight rates between the terminal points, Globe and Mesa, of \$25 per ton, which has already been noted, we get \$450,000, which is about 28% more than the entire cost of construction and maintenance of the Mesa-Roosevelt Road to date.

***EXHIBIT 38***

DIRECTORS  
L. LA CHANCE  
EZNA W. THAYER  
CHAS. KORRICK  
C. H. PRATT  
LOUIS MELCZER  
C. W. MCKEE  
C. H. AKERS  
O. S. STAPLEY, MESA  
R. L. GIBBONS, MESA  
J. B. COOK, TEMPE

## Maricopa County Commercial Club

ROOMS 2 & 3 LEWIS BUILDING  
CORNER ADAMS AND CENTER STREETS  
PHOENIX, ARIZONA

OFFICERS  
C. H. AKERS,  
PRESIDENT  
L. LA CHANCE,  
VICE-PRESIDENT  
F. E. LEEPER,  
SECRETARY  
LOUIS MELCZER,  
TREASURER  
F. A. JONES,  
TRAPP, MGR.

March  
21st,  
1908.

Mr. J. L. B. Alexander,  
U. S. Attorney,  
Phoenix.

Dear Sir:-

Copies of letters to Mr. Scott, Superintendent of the Phoenix & Eastern road enclosed herewith are in part self explanatory. There seems to be but one opinion among the Merchants and shippers who have or desire any business on this line.

Our Directors, you will note, are among the largest shippers and represent the grocery, hardware, mining supplies, dry-goods, vehicles, liquors and produce lines. They were unanimous in their belief that but one freight train a week from this market to the consuming localities along the Phoenix & Eastern is inadequate and unjust to the interests of Phoenix.

For reasons best known to the rail management our communications have been entirely ignored. Our Club has every desire, as has been amply demonstrated, that its negotiations and relations with the railroads be on fair, business like and amicable lines and we have no desire in this case to insist upon more than we believe to be fair.

Our shippers know their needs and their disabilities. Avenues are open to the correction of the inadequate service without serious injury to any person or property.

RG 49-Records of the BLM

GLD

LR by CS BH, at PHX, AZ, 1906-1908

Entry 1255 Box 1

DIRECTORS  
L. LA CHANCE  
EZRA W. THAYER  
CHAS. KORRICK  
C. H. PRATT  
LOUIS MELCZER  
C. W. MCKEE  
C. H. AKERS  
O. S. STAPLEY, MESA  
R. L. GIBBONS, MESA  
J. S. COOK, TEMPE

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F. E. LEWIS  
SECRETARY  
LOUIS MELCZER,  
Treasurer  
F. A. JONES,  
TRAMP, MESA

J.L.B.A.#2

We are not disposed to make this letter a formal complaint, but rather a means of transmitting to you the situation and trusting that you may find some way of relieving the shippers of the conditions being imposed. We believe it to be the duty of common carriers under the law to provide and furnish reasonable transportation facilities. We contend that one freight train a week, where continuously during the past daily freight service has been given, is inadequate and unreasonable service.

We will appreciate your efforts in intervening in any manner you believe to be proper.

Yours truly,

MARICOPA COUNTY COMMERCIAL CLUB.

BY Janus

*CM*

Mrs. O. E. Scott  
Super. P. & N. E.  
Phoenix, Arizona

I would like to see you at  
meeting tomorrow your reply, if any, at  
8th, relative to freight service on the  
Board meets tomorrow at 2:30 P.M. and I hope  
with a reply at that hour.

Thanking you,

Yours very truly,

W. E. Scott

Phoenix

Our directors request that you kindly consider  
the more frequent freight service to Phoenix  
on the line.

They are aware that the volume of traffic  
is as great as in some periods in the past but daily  
service will stimulate business and grow from expansion.  
One freight train a week does not properly serve the  
the shipping public.

With present service the shipment of perishable goods  
is prohibited. Your train leaving only on Saturdays  
with your requirement that freight must be delivered  
before 10 o'clock. We do not, however, believe it necessary to  
point out the disadvantages that a weekly service  
would offer to those who ship.

Daily service was furnished by the Denver & Salt Lake  
line from the date of opening and during civil periods and we believe  
you will concede that we are asking nothing but what a service  
should provide. Please advise if we may expect further.

Yours very truly,

Approved

Traffic Manager

President

being responsible for the... in...

rate on the... that a... advice is...

involved for they must be as apparent to you as to...

... service was provided by...

line from the... of...

... of...

... of...

Approved



***EXHIBIT 39***

Bureau for withdrawal of lands

Bureau files.

DRAFTING DIV. FILES.

E1/2/103]

The Honorable,  
The Secretary of the Interior,  
Washington, D. C.

As a result of a preliminary examination in the field, I am in receipt of a report to the effect that the entire canyon of the Salt River, Ariz., from the mouth of Tonto Creek to the mouth of Verde River, will probably be needed for various irrigation works in connection with the lands already withdrawn to be reclaimed under the provisions of the Act of June 17, 1902 ( 32 Stat. 388 ). This canyon will be needed for the purpose of dams, power canals, transmission lines, and other irrigation works. The land has not been surveyed and can not be described by legal subdivisions.

It is recommended that the channel of the Salt River from the mouth of Tonto Creek to the mouth of Verde River, and all land lying within one mile thereof, be withdrawn from public entry for irrigation works, under the first form of withdrawal authorized by Section 3 of said Act.

Very respectfully,

Director.

Copy.

RG 49. Records of the B.L.M.  
- GLO - Division "F" (RR, ROW and Reclamation)  
- Records concerning withdrawals of public land for reclamation purposes, & subsequent restorations, 1901-48  
- 12 easements, copies of C & D maps. Nbr 03002  
031196, 031197, 589  
Box No 1. Folder - withdrawal - SR survey #2

**EXHIBIT 40**

DEPARTMENT OF THE INTERIOR  
OFFICE OF THE SECRETARY

FILE NO. 1 2  
1 2

RECLAMATION SERVICE.

-o-

SALT RIVER PROJECT.

---

WATER RIGHTS.

-o-

Aug. 2, 1912.  
to  
Oct. 13, 1912.

RG 48 - Dpt of Interior - Office of the Secretary  
Central Classified File, Act-  
9-3-50 H. R. 1936  
Box 1647



Los Angeles, Cal., August 19, 1912.

Hon. Samuel Adams,  
First Asst. Secy.  
Department of Interior  
Washington, D. C.

*8-3  
Salt River  
Water Rights*

Sir:

Ans'd OCT 5 - 1912

I have your letter of July 15th and should have written you before, but have been collecting data from an official source regarding the Marmonier Canal and the practicability of irrigating the land under it from water passing by the joint head dam, and from the pumping plant on the San Francisco Canal.

You say the conditions in the Salt River Valley require the exercise of all reasonable means of preventing undue loss of water, and that you are not willing to incur such loss unless substantial benefits to the valley as a whole can be clearly shown.

In order to show where you are in error regarding the physical condition of the Salt River and the Marmonier Canal I herewith hand you report of the water commissioner showing the condition of the river channel, and the possible loss of water during three of four months dry season, also the grade and general condition of the Marmonier Canal, as compared to that of the San Francisco which the Government has purchased and will

~~1110 112 20070~~

take over in the near future so I am told.

I want you to read the report of the water commissioner carefully, and compare his statement to any other you may have received regarding the Marmonier Canal and the Salt River.

I doubt if you are as well posted in the true facts and conditions regarding the Marmonier Canal and the Salt River, between the joint head and the Marmonier Dam as you should be.

In the first place the loss of water going down the channel of the river would be very small as shown by the Commissioners report, and that for 209 days of the past year Joint Head Dam was out, and the water as I told you before passed on down the river ( Why was this undue loss of water allowed to occur when you are so particular about the little loss of water that would take place if turned past the Joint Head Dam for the benefit of the lands under the Marmonier Canal for a period of two or three months during the dry season.

If as you say you want to protect the Salt River Valley from undue loss of water, don't you also want to protect the valley from all unnecessary expense in connection with this project? I think they are of equal importance, and should have your careful attention.

As to the Marmonier Canal having a flat grade it is shown by the water Commissioners report to be about equal to that of the south branch of the San Francisco Canal, and as to the

deposit of sediment and growth in the canal all of the canals in this valley have the same trouble and must be cleaned each year. The work of cleaning all canals and ditches in this valley <sup>is</sup> done by scraper teams and a mule skinner, also a Mexican with a shovel and a hoe. That is the machinery used by the people in charge of the canal system at the present time.

Now as to the expense of constructing and mainting the Diversion Dam at the head of the Marmonier Canal I doubt if Mr. Landey has spent over \$100.00 per year on the dam for the past 20 years.

Now while we are on the subject of expense suppose you find out what the total expense has been in building and maintaining the Joint Head Dam each year, the past ten or twenty years, and compare that with the expense of the Marmonier Diversion Dam.

I will give you a few facts about the building of the proposed western Canal and its connection with the Marmonier Canal as to how they can and will work together for the benefit of all lands under both canals.

In the first place by reason of taking over the Marmonier Canal the proposed western Canal could be built much smaller, as the Marmonier Canal would irrigate about 4,000 acres of land, and most of the water for irrigation would come from the river as it has in the past. Also it could take water

from the pumping plant built by the Government, and now supplying the San Francisco Canal in part, and should be furnishing the Marmonier Canal with irrigation water right now.

Again the Marmonier Canal could pick up enough waste water from the irrigated lands under the Western Canal to irrigate a good many hundred acres. The same thing is being done now by the Grand, Maricopa, and Salt <sup>W</sup> Canals, on the north side of the river by picking up waste water from the irrigated lands under the Arizona Canal.

And again you will find many times during the year the Western Canal to be washed out along the base of the mountain, and cut off its irrigation water for weeks at a time until repaired. The same thing occurs to the Arizona Canal on the north side of the river very often. It was only a few weeks ago the Arizona Canal was put out of business by reason of a washout, as was also the Joint Head Dam.

You asked me to have the interested land owners under the Marmonier Canal sign a statement that they were willing to have irrigation water released to them at the Joint Head Dam, and that they can and will use the Marmonier Canal and heading for diverting said water, and pay their pro rata of water right charges on the project less a reasonable cost for diverting the water.

I do not quite understand your proposition, you



certainly do not mean for our land to take water turned past the Joint Head, and do all of the cleaning, enlarging and repairing of the Marmonier Canal, build and maintain the Diversion Dam, and distribute the irrigation water to the various ranches under the canal at our own expense for all time to come. Do you? and pay our assessments on the project besides.

Certainly all lands under this project should be treated alike, and we have asked nothing of you in our petition but what is fair and right, and if you will take this matter up with the water commission who is a disinterested party and get the true facts and conditions from him I think you could then see your way clear to help us very much if you care to do so.

The Marmonier Canal could be purchased from Mr. Landey and other small owners at what it is worth to the land owners under it, and to the project the same as the San Francisco Chandler, Mesa and all other canals that have been bought in the past, and if it was a wise thing to purchase the old canal enlarge and rebuild them in many cases, it is certainly a wise thing to take over the Marmonier Canal at this time, enlarge and use it for the benefit of the lands it will irrigate, and let the ranches pay for it and receive credit against their assessments on water right charges if the Government has no more money for this project. I cannot understand why this was not done five years ago when I first asked it.

Mr. Adams, I want to thank you for your kindly interest, and hope you will keep this matter before you until we get the relief we are entitled to, that is water through the Marmonier and Western Canals, together as one system.

Thanking you again, I am

Respectfully,

*L. E. Stevens*



Report on condition of water channel of Salt River from Joint Head Dam to Harmonier Canal Dam, a distance of 4 miles, 3230 feet, and probable loss of water in same.

The bed of the river is composed of sand, rock and gravel, with running water from seepage 2 miles, 3240 feet of length; 2400 feet is wet sand with water standing in pools; the balance of distance, 1 mile, 4860 feet is dry. The width of channel, when carrying 3500 miners' inches of water, averages 80 feet, varying from 20 feet to 200 feet.

In the past year from July 1st, 1911 to July 1st, 1912, flood and other waters ran past the Joint Head Dam, 209 days, leaving 157 days river was dry below this point.

The only data I have about loss of water in this valley in river channel is the delivery of water to Tempe Canal, across Salt River, from Evergreen Crosscut on Arizona Canal, a distance of 2 miles in river bed. This delivery of water was from May 7, 1912 to June 2, 1912, inclusive:

Maximum amount turned at Evergreen.....	7,000	mi. in.
Minimum " " " " .....	1,700	" "
Average " " " " .....	3,829	" "

3 271  
3 57 " 409837

Maximum amount received at Tempe Canal Head.....8,600 Ki. ins.  
 Minimum " " " " " " .....1,300 " "  
 Average " " " " " " .....3,272 " "  
 Average loss, 387 miners' inches or about 10% of total  
 water turned at Evergreen. .0447

If the average loss of water is 10% for 3 miles in May, 1912, at Tempe Canal Head, the loss for 4 1/2 miles during time it would be necessary to turn water past Joint Head Dam would probably not exceed 25%.

The Harmonier Canal, at present is in fair condition and will carry 750 miners' inches of water, that would necessitate 1,000 miners' inches be turned past Joint Head Dam to give Harmonier Canal 750 miners' inches.

If flood and other waters are allowed to pass Joint Head Dam in the future the same as in the past, U.C.P.S. could only have to turn past Joint Head Dam 1,000 miners' inches for 156 days to enable Harmonier Canal to run a full head of water the entire year; allowing 5 more ft. per acre would enable farmers under the canal to plant crops with a surty of water for 2,700 acres. In past year only 800 acres were cultivated with varying success.

Date of water running past Joint Head Dam.

July 2, 1911	to	Sept. 13, 1911	73 days.
Oct. 2, 1911	"	Oct. 20, 1911	18 "
Oct. 29, 1911	"	Dec. 5, 1911	38 "
Mar. 11, 1912	"	May 30, 1912	80 "
			209 "



**Water Commissioner**

**Maricopa County**

**Phoenix, Arizona**

JULY 24th, 1912.

Mr. L. E. Hewins,

Phoenix, Arizona.

Dear Sir:

The conditions of the South branch of the San Francisco canal, recently contracted for by the Government, are very similar to the Harmonier canal. The Harmonier canal from the center of Section 21, Township 1 North, Range 3 East, to the Southeast corner of the NE $\frac{1}{4}$  of Section 35, Township 1 North, Range 3 East, a distance of 23,000 ft., has a grade of .042 per hundred ft. The South branch of the San Francisco canal from the center of Section 19, Township 1 North, Range 4 East, to the East line of Section 29, Township 1 North, Range 3 East, a distance of 20,000 ft., the grade is .043 per hundred ft.

Very truly yours,

H. I. WINTON,  
Water Commissioner.

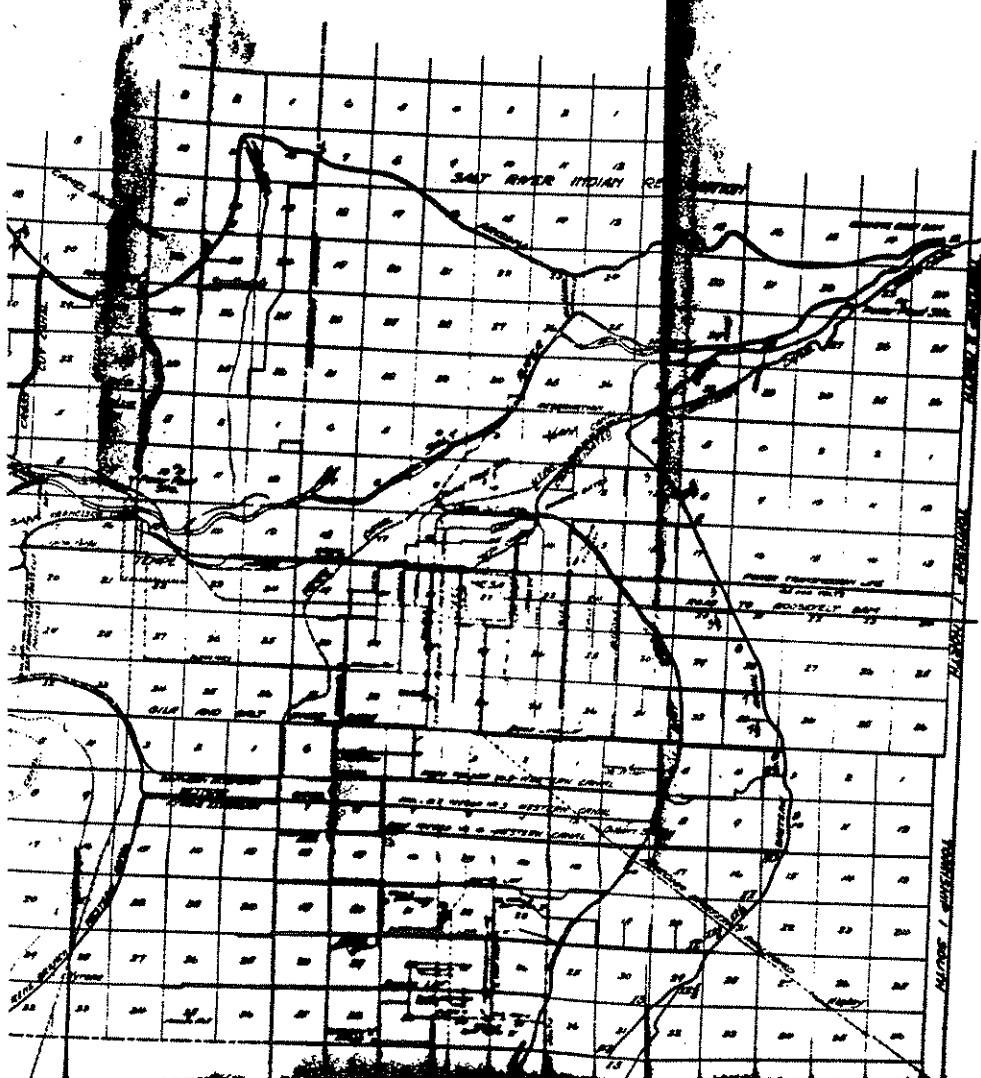
HLH-AC

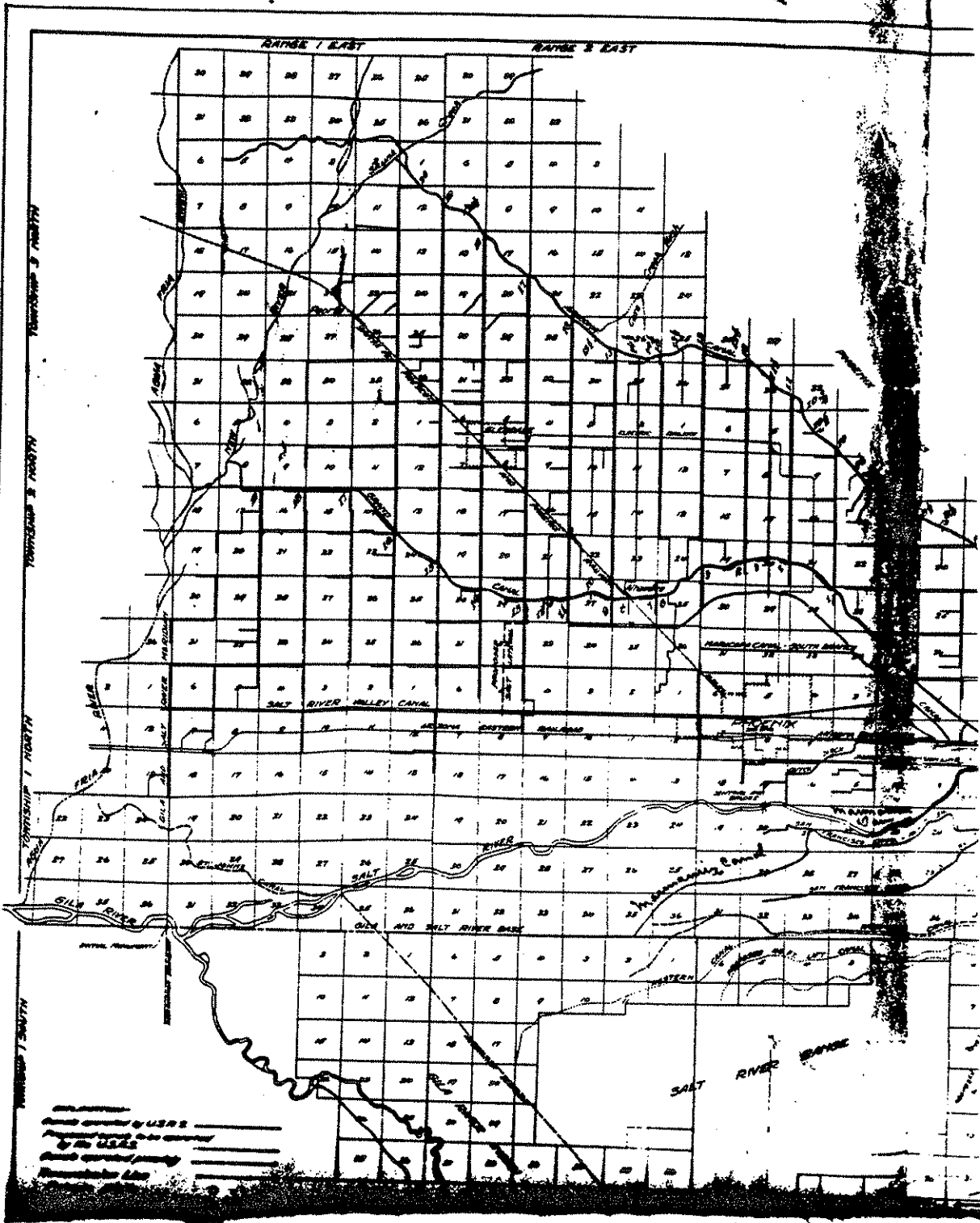
# SALT RIVER PROJECT

IRRIGABLE AREA ----- 1,000,000 ACRES  
COST TO DATE ----- \$9,665,000

**ROOSEVELT RESERVOIR**  
AREA ----- 16,320 ACRES  
CAPACITY ----- 1,284,000 ACRE-FEET  
LENGTH OF SPILLWAY ----- 400 FEET  
ELEVATION OF SPILLWAY ----- 220 FEET  
(ABOVE STREAM BED)

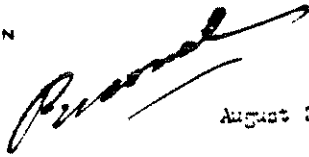
**STORAGE DAM**  
TYPE, RUBBER MASONRY, ARCH, GRAVITY  
MAXIMUM HEIGHT ----- 280 FEET  
LENGTH OF DAM ----- 1,170 FEET  
VOLUME ----- 342,000 CUBIC YARDS







THE WHITE HOUSE  
WASHINGTON



August 25, 1912.

My dear Mr. Adams:

What, if anything, is there in this business? Will  
you not take some investigation and let me know? I can  
not credit it. *Best Advice.*

Sincerely yours,



Wm. Charles Adams,  
Acting Secretary of the Interior.

Enclosure.

Facts were relative you, I have caught one in step in advising you  
of it.

With highest personal regards, I am,  
Very truly your friend,

Lewis L. Carpenter,  
Assistant Attorney-General.

COPY.

Office of G. P. Bullard  
Attorney-General of Arizona.

Phoenix, August 16, 1911

Hon. E. C. O'Brien,  
Department of Justice,  
Public Land Division,  
Washington, D. C.

Dear Sir:

There has recently arisen here quite a serious controversy ~~xxxx~~ between the water users and the Reclamation Service over a contract which the Reclamation Service propose to put into effect for next year, beginning October 1st, 1912, covering the payment for water. The effect of the contract is to raise the price per acre from about \$1.65 to about \$2.65, although this proposition does not appear specifically in face of the contract. It has created quite a good deal of resentment on the part of the water users against the Reclamation Service.

I am writing you for the purpose of advising you that the Roosevelt crowd here are saying to the water users that this raise is a policy of the Taft administration and that if Roosevelt is elected the rate will be restored. I think it is proper to write this to you in view of the fact that the members of the Reclamation Service who are anxious to make the raise are themselves in favor of Col. Roosevelt and they are making the raise and at the same time charging the Taft administration with it with a good deal of political effect. Of course, my interest is in behalf of the water users. As between Col. Roosevelt and Mr. Taft I could not take sides, as I do not belong to either party, but in view of your interest in the matter it seems to me that I would do well to advise President Taft of this condition, as he is entitled to whatever strength would be legitimately for him and should not have his support stolen from him by misrepresentation; and in view of the fact that he is before existing conditions have been satisfactorily from the standpoint of the Reclamation Service, it seems to me that it would be just for President Taft to interfere to the extent of preventing the Interior Department from making this increased charge against the water users. I can say that the same thing is being done in ~~xxxx~~ other projects and is possibly being used for the same political purposes.

I hope that you can see your way clear to have a talk with the President and with the Secretary of the Interior and prevent the execution of this contract making the raise in water rates as a rank injustice to the water users of the valley, and trusting that you would not be willing to stand for it if the same thing is being done in other projects and is possibly being used for the same political purposes.

Before you, I have taken the liberty of advising you

Best personal regards, I am,  
Very truly your friend,

Lewis W. Carpenter,  
Assistant Attorney-General.

cox.

Department of the Interior  
United States Reclamation Service

Phoenix, Arizona, August 20, 1912.

Supervising Engineer to Director, Washington, D.C.

Subject: Salt River project - Water Rental Contract.

1. Mr. Fitch has written you today in regard to the action taken by the Board of Governors of the Salt River Valley Water Users Association on the water rental contract approved by Assistant Secretary Adams on the 2nd inst., which is to go into effect September 30.

2. There are three forms of this contract:

- (1) To be used by those not signed in the Water Users Association and who receive only their share of the natural flow as decreed them in the Hurley vs. Abbott suit.
- (2) Those who have their lands signed in the Water Users Association, but have excess holdings and hence are not entitled to reservoir water.
- (3) The vast majority. Those signed in the Water Users Association, holding their lands in 160 acre tracts or less, and furnished, when in good standing, with water from the reservoir.

3. The principal objection to the new contract is the fear on the part of many that they will have to pay more than under the present form, and the belief that it requires much more than 3 acre feet of water applied to the land to actually irrigate their lands in the Salt River Valley. Practically none of them know anything whatever about how much water they have used.

4. Paragraphs 4 and 5, in regard to right-of-way and the control of facilities for the distribution of water, are regula-

tions for the distribution of reservoir water and appear in those contracts only. We believe that these rules are both reasonable and necessary.

5. You will note the difference between the form where water from the reservoir is served, as well as natural flow, and the form used where natural flow only is delivered. In purchasing the canals in the valley, we were obligated to furnish, for a reasonable charge, such water as these lands were entitled to under the Hurley vs. Abbott decree, whether they were signed up in the project or not.

6. In regard to the right-of-way for one service ditch and one drain ditch, I took this up personally with Mr. Adams and told him that there would probably be a very considerable amount of criticism and objection raised to this regulation, but that it seemed necessary, especially in view of the present constitutional requirements in regard to condemnation of land for ditch or other purposes. He informed me that he had been attorney for a number of bonding companies who dealt in irrigation securities, and in that capacity had examined the contracts made between the irrigation companies and the settlers and that in all these contracts practically the same idea was embodied.

7. The acre-foot basis of charge needs no defense from us. You of course are perfectly familiar with its desirability. On the South Side the water plane is steadily rising, and we have found that this is also true on the North Side, although as yet practically no damage has been done owing to the present depth

REVENUE AND NECESSARY.  
THESE CONSIDERATIONS OUGHT TO BE KEPT IN MIND WHEN THE PROPOSAL IS MADE FOR THE RECONSTRUCTION OF GRANITE REEF DAM AND A NEW CANAL TO BE

of ground water. The maximum amount to be served without extra charge is 3-acre feet per acre, and after that the charge per acre-foot increases. Each increase is supposed to cover an amount sufficient for one irrigation when measured at the land; a quarter of an acre-foot having been found, according to the records here, to be about the average amount used per irrigation.

8. Starting with the amount of water diverted at Granite Reef and allowing, as the Court does, about 36% for the loss from Granite Reef Dam to the farms, the average use of water on each farm is about 3.4 acre-feet. In 1910, it was somewhat larger, being about 3.7 acre-feet. This includes all water wasted at the ends of any of the ditches or for any other purpose along the line of the canals. No attempt has been made as a rule to practice special economy by the farmers, and a 10% saving would bring their use down to about 3-acre feet per acre. The lands here are so uniform in their slope and the fall is so nearly ideal that irrigation conditions are better than almost any other place in the Reclamation Service.

9. It is the intention, of course, to be liberal in the measurements the first year, so that no criticism can be offered as to the amount of water served for an acre-foot.

10. One of the propositions suggested by some was the postponing for one year of the application of this method of payment, so that the farmers might get used to it. There is nothing that I can see to be gained by the postponing of the time when payment by the acre-foot should commence, and there is considerable to be lost,



and also hereby...  
was as much as...  
proceed to... of... to...

Department of the Interior  
United States Reclamation Service

Phoenix, Arizona, August 20, 1912.

Project Engineer to Director, Washington, D.C.

Subject: Salt River Project - Water Rental Contract.

1. Under date of the 2nd inst., the First Assistant Secretary approved the proposed form for water rental contracts, of which due notice was received by this office. After comparison with the form as prepared and submitted by this office, copies were given the various newspapers in Phoenix and were published by them, in order to make public the proposed change in the method of payment.

2. The proposed form caused considerable interest and much antagonism on the part of the water users; so much so that a meeting was called by the Land Owners' Protective Association for the afternoon of the 17th inst. It so happened that Mr. Hill arrived on the morning of that day and was invited to be present during the discussion, and many questions were put to him regarding the proposed form of water rental applications. There was a very general discussion which went into every sort of thing aside from the subject, as well as the matter in hand. Mr. Hill answered the questions, and the meeting passed resolutions, copy of which is included in the newspaper clippings herewith.

3. Yesterday, the 19th inst., the Board of Governors of the Water Users Association held a meeting, at which there was present

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WATER RENTAL REGISTRATION RELATION  
DEPARTMENT OF THE INTERIOR

one member from each water district, and again Mr. Hill appeared before the meeting. The attorney for the Water Users Association asked many questions of Mr. Hill which were answered, but apparently not to the satisfaction of the Board of Governors, who passed the enclosed resolution.

4. It is understood that the attorney for the Water Users Association is to leave tonight for Washington, where he will present the matter to you and to the Secretary of the Interior, asking that the whole matter be deferred a year.

5. It is believed that the water rental contract as approved should go into effect as proposed, with the possible exception of making two payments instead of one, if that will be more convenient to the water users. In that case, \$1 should be paid October 1st, and 50c. April 1st.

6. Mr. Hill will write you his views on the subject, and it is hoped that whatever action is taken will be taken at an early date, in order that, if the approved form of water right application is to go into effect September 30 as planned, the same can be printed.

C.H. Petch

3 encls.

Copy to S E



COPY.

RESOLVED, That the Salt River Valley Water Users' Association is unalterably opposed to the new proposed form of contract for water service, published by the U.S. Reclamation Service, to take effect October 1st, 1912, upon the grounds that the same is arbitrary, unjust, and confiscatory and greatly increases the water charges to farmers under the Salt River Project;

BE IT FURTHER RESOLVED, That the Secretary of the Interior be requested to indefinitely postpone the carrying into effect of the provisions of said proposed contract, and that he be further requested to cause the present system of water service and charges to be continued until such time as the Reclamation Service and the Water Users under said Salt River project shall mutually agree to a modification thereof;

BE IT FURTHER RESOLVED, that Arizona's U. S. Senators and Representatives in Congress be requested to use their influence to secure favorable action upon this resolution by the Secretary of the Interior;

BE IT FURTHER RESOLVED, that copies of this resolution be forthwith forwarded to the Secretary of the Interior, Honorable Mark A. Smith, Honorable Henry F. Ashurst and Honorable Carl Hayden.

.....

Rec Aug 26 '12 86210

RECORDED' LINE ONE BUTS BRACK ATTICK RECAL RECAL, WASHINGTON

COBET

Department of the Interior

United States Reclamation Service

Phoenix, Arizona, August 20, 1912.

Supervising Engineer to Director, Washington, D.C.

Subject: Salt River project - Water Rental Contract.

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- (3) The vast majority. Those signed in the Water Users Association, holding their lands in 160 acre tracts or less, and furnished, when in good standing, with water from the reservoir.

3. The principal objection to the new contract is the fear on the part of many that they will have to pay more than under the present form, and the belief that it requires much more than 3 acre feet of water applied to the land to actually irrigate their lands in the Salt River Valley. Practically none of them know anything whatever about how much water they have used.

4. Paragraphs 4 and 5, in regard to right-of-way and the control of facilities for the distribution of water, are regula-

tions for the distribution of reservoir water and appearing in these contracts only. We believe that these rules are both reasonable and necessary.

5. You will note the difference between the form where water from the reservoir is served, as well as natural flow, and the form used where natural flow only is delivered. In purchasing the canals in the valley, we were obligated to furnish, for a reasonable charge, such water as these lands were entitled to under the Hurley vs. Abbott decrees, whether they were signed up in the project or not. In 1912, the water was sold at a charge.

6. In regard to the right-of-way for one service ditch and one drain ditch, I took this up personally with Mr. Adams and told him that there would probably be a very considerable amount of criticism and objection raised to this regulation, but that it seemed necessary, especially in view of the present constitutional requirements in regard to condemnation of land for ditch or other purposes. He informed me that he had been attorney for a number of bonding companies who dealt in irrigation securities, and in that capacity had examined the contracts made between the irrigation companies and the settlers and that in all these contracts practically the same idea was embodied.

7. The acre-foot basis of charge needs no defense from us. You of course are perfectly familiar with its desirability. On the South Side the water plane is steadily rising, and we have found that this is also true on the North Side, although as yet practically no damage has been done owing to the present depth

of ground water. The maximum amount to be served without extra charge is 3-acre feet per acre, and after that the charge per acre-foot increases. Each increase is supposed to cover an amount sufficient for one irrigation when measured at the land; a quarter of an acre-foot having been found, according to the records here, to be about the average amount used per irrigation.

8. Starting with the amount of water diverted at Granite Reef and allowing, as the Court does, about 36% for the loss from Granite Reef Dam to the farms, the average use of water on each farm is about 3.4 acre-feet. In 1910, it was somewhat larger, being about 3.7 acre-feet. This includes all water wasted at the ends of any of the ditches or for any other purpose along the line of the canals. No attempt has been made as a rule to practice special economy by the farmers, and a 10% saving would bring their use down to about 3-acre feet per acre. The lands here are so uniform in their slope and the fall is so nearly ideal that irrigation conditions are better than almost any other place in the Reclamation Service.

9. It is the intention, of course, to be liberal in the measurements the first year, so that no criticism can be offered as to the amount of water served for an acre-foot.

10. One of the propositions suggested by some was the postponing for one year of the application of this method of payment, so that the farmers might get used to it. There is nothing that I can see to be gained by the postponing of the time when payment by the acre-foot should commence, and there is considerable to be lost,

Because it would be to the advantage of every farmer to use as much water as he could so as to show that the minimum was too small.

11. In the Hurley vs. Abbott suit, the court decreed that 45 inches to the quarter section would be the amount of water to which each quarter section would be entitled when the water was taken from the natural flow of the river, it being well understood that the natural flow of Salt River did not furnish continuous service and that it would require more water to adequately irrigate land when the supply was uncertain, as it is here in the valley when only the natural flow of the river can be relied upon.

12. I have talked with some of the men and find that they would much prefer to pay the assessment in two payments; one September 30 and one say six months later, as quite a number are borrowing money from the bank. A careful inquiry in the valley confirms me in the belief that this has been the best year that the Salt River Valley ever had. There is no objection to making this change, but I recommend most strongly that the system of paying by the acre-foot be commenced on September 30.

Lewis C. Hill

Copy to P.E.

***EXHIBIT 41***

## DEPARTMENT OF THE INTERIOR;

UNITED STATES INDIAN SERVICE.

Klamath Agency, Oregon.

Aug. 25, 1904.

To the Honorable,  
 The Secretary of the Interior,  
 Washington, D. C.

Sir:-

On Aug. 23rd I received a telephone message from Klamath Falls transmitting to me a Department telegram as follows:

"Washington, D.C. Aug. 20, '04.

Code, Inspector,  
 Klamath Falls, Oregon.

Do not go to Shoshone, Hill will go instead. Acknowledge.  
 Signed. Thos. Ryan. Act. Sec'y."

In response to the above I wired as follows:

"Klamath Agency, Oregon. Aug. 23, '04.

To the Secretary of the Interior,  
 Washington, D. C.

Telegram of 20th instant just received. Will complete work here in a few days. Desire then to proceed Yakima reservation to inspect new canal system and assist in planning seasons work. Advise.

Code, Inspector."

Expecting an early answer to the above and feeling uncertain as to the character of service to be expected from officials who would delay a telegram three days before delivering same, I called up the office in Klamath Falls several times by phone from the Agency, asking if there was any reply to the above message. Until this morning I have met with negative answers but on calling them up a short time ago, they forwarded me the following Department telegram, with excuses for the delay owing to an alleged change of girl operators, etc.

RG 48 - Dept. of Interior - Office of the Secretary  
 Indian Division  
 Inspection Reports, 1901-07  
 Entry no 682  
 Box 12  
 - Pima, Maricopa & Papago

SECRETARY OF THE INTERIOR  
Code, Indian Inspector,  
Klamath Falls, Oregon.

How soon will it be possible for you to go to Pima to report on inspection June 29th mailed you at Hollywood, Calif. Advise.  
Thos. Ryan. Asst. Sec'y."

Washington. Aug. 1, '04.

In response to the above I wired as follows:

Klamath Agency, Oregon. Aug. 25, '04.

Secretary of Interior,  
Washington, D.C.

Telegram of Aug. 1st not delivered from Klamath Falls until this morning. Think plan recommended in report of June 30th superior to one referred to in Department letter June 29th relative to purchasing run down Florence canal system. Regard lawsuits at this late date impracticable. Can leave for Pima at once if complete report is desired.

Code, Inspector. "

I regret exceedingly that this inexcusable delay in the delivery of your telegram of Aug. 1st should have occurred. I reached Klamath Falls on Aug. 4th and was met there by Captain Applegate whom I accompanied to the Agency. Knowing that there was telephonic communication between the Falls and Agency I did not anticipate any trouble or delay in sending or receiving messages, and since Klamath Falls is the point of telegraphic address for Agency business, it never occurred to me that it would be necessary to personally visit the telegraph office and inform them that telegrams to an Indian Inspector should go to the Indian Agency.

The brief report with reference to inspection of June 29th which was made in the above telegram, states in substance what I now think would be my conclusions, were several weeks to be spent on the ground in the preparation of an elaborate <sup>report</sup>, dealing with the history and present status of the illfated Florence canal and the rapid settlement of the valleys of the upper Gila, which took <sup>place</sup> to a large extent subsequent to the construction of the Florence canal system and to which fact is attributed the present shortage of water, not only on the Pima



Reservation but under the said system as well. The latter heading some 25 miles or more further up the Gila river than the Pima canals, had the advantage of location and undoubtedly did at one time, appropriate a large amount of water legally belonging to the Pima Indians, by virtue of the law of priority. This system has in turn been gradually robbed of its water supply during the past 15 or 20 years, due to the many settlements which, subsequent to its construction took place along the upper Gila river many miles above the head works, hence it is today but little better off than the reservation canals, as regards a permanent water supply.

The Florence canal project has been one of the most conspicuous failures in Arizona, going into a state of bankruptcy years ago. As the water supply in the Gila diminished each year, it became an elephant on the hands of the promoters and subsequent operators, hence has been allowed to run down until it would practically have to be rebuilt anew. The settlers under it have for the greater part been starved out, and before I left Arizona in 1902, even the shade trees in the town of Florence were said to be dying for want of water. If white settlers and canal owners, with their superior thrift and intelligence, cannot make a success of such a system, I cannot see what benefit it would be for the Pima Indians, hence advise against purchasing such undesirable property.

With reference to the diversion of water from the upper Gila river by the settlers and the consequent injustice done the Pima Indians by this interference with their prior appropriations, I desire to submit a case parallel in degree, which will illustrate somewhat the difficulties the Department might expect to encounter, in endeavoring, some 20 or 25 years too late, to have the rights of the Pima Indians

RECORDED AT THE IRRAWADDI SOCIETY  
adjudicated.

The Salt River Valley, Arizona contains about 120,000 acres of alleged cultivated lands although a considerable portion of this area has been non-productive during the past several years of comparative drought. The valley lands are irrigated by means of canals diverting waters from the Salt River. The principal tributary of the Salt River is the Verde, whose point of confluence is at the upper end of the Valley.

During the past 15 years settlers have been steadily taking up land along the upper Verde river, and have constructed many ditches, now diverting water therefrom in such quantities as their owners may choose, even in times of scarcity and regardless of the earlier rights of the older and <sup>more</sup> powerful settlement in the Salt River Valley with its assessed valuation of over \$9,000,000.00. The people of the latter were not at all blind to the fact of this gradual absorption of their low water supply and have in years past sent investigating committees to ascertain the extent to which the summer flow was being appropriated. As I recall the facts with reference to one investigation made during a summer of exceptional scant supply, the committee found by actual measurement some 6,000 inches of water being taken from the Verde river for the irrigation of 6,000 acres of land, or at the rate of one inch steady flow per acre. At the same time the amount of water available for the Salt River Valley lands was about one inch for each 20 acres.

Notwithstanding the full appreciation of these facts by keen lawyers and canal owners of Phoenix and the surrounding valley generally no effort was made to stop this interference with water rights on the part of settlers located from 50 to 150 miles above the Salt River

Valley proper. It was recognized by some of its citizens that in view of the fact that no well defined territorial water laws existed in Arizona, an attempt on their part to engage in legal battle with citizens of another county for the purpose of determining the rights of the said citizens to divert waters from a stream flowing through the . . . county, would be fraught with great difficulties. The people of the respective counties would stand together and fight as one man, and testimony on which an equitable adjudication of the various rights could be effected would be most difficult to obtain.

It was argued by some, that the Salt River Valley had slept on its rights too long, thus allowing the Verde settlers to obtain certain possessory rights which the courts would sustain. It was also appreciated that even in event of a favorable decree, a large force of men would be required to guard the river channel to see that it was enforced and many other difficulties presented themselves so that although clever and experienced canal operators and their attorneys gave the matter earnest and careful consideration, nothing was accomplished.

The spectacle was thus presented of a white community of intelligent and well to do people hesitating for years to embark in expensive and expensive lawsuits, owing to their uncertainty as to the outcome. Instead of engaging in legal battle with the citizens of another county for the division of the low water supply, meager and a small bone to quarrel over, at best, the residents of the Salt River Valley bent their energies to the consideration of projects for the creation of an additional and indisputable supply, with the result that many pumping plants are now furnishing underground waters hitherto undeveloped and unappropriated, and the famous Tonto dam is being constructed for impounding flood waters heretofore unavailable.

Would it not be wise for the Department on behalf of the Pima

Indians to adopt a similar course of procedure and create by means of pumping plants an additional water supply to supplement the streams at times available and diverted by the Pimas from the Gila river.

The general decrease in the water supply of both the Salt and Gila river valleys which has taken place during the past 15 years, must not be solely attributed to the diversion of waters by settlers located on upper portions of the respective streams. Two other factors have largely contributed to bring about the present status, to wit: The comparative drought of the past 8 or 9 years with which the Territory has been afflicted, and <sup>the</sup> destruction—largely brought about by the over grazing of sheep and cattle—of the upper ranges which form the watersheds of the valleys mentioned. Rains descending on these barren soils find no vegetation to obstruct their passage to the arroyos or channels leading to the rivers, hence are precipitated down the steep slopes as though shed from a great roof, causing heavy floods of short duration followed by long periods of scant supply, during which the irrigator suffers, a fitting sequel to "The tragedy of the range."

It is my opinion that the most practical solution for the relief of the Pimas is embodied in the report of June 30, '04. If by the surrender of a portion of their lands they can secure a complete hydro-electric plant with steam auxiliary for pumping a supplemental supply of irrigation water from the ground, it promises the speediest solution of a difficult problem. The only alternative proposition which presents itself to me would be the entire removal of the tribe to a location where water is more abundant.

I return herewith all papers forwarded me by the Department bearing on the subject.

Very respectfully,

*A. J. Code*  
*Chf. Insp. Irrigation*

Klamath Agency, Oregon, Aug. 26, '04.

Am just in receipt of Department telegram as follows:

\*Washington, D.C. Aug. 26, '04.

Code, Klamath Agency, via Klamath Falls.  
Telegram twentyfifth received. Disregard Department telegram of  
first instant.

Thos. Ryan, Asst. Sec'y."

In view of the fact that no reference was made to my telegram  
of the 23rd instant, I assume it to be your desire for me to await  
further instructions at this point, and will do so.

Respectfully,

W.H.C.

***EXHIBIT 42***

National Archives  
Pacific Southwest Region

Record Group (Title & No.)

RG 75

Agency or Division

BIA

Series

Dima Indian Agency

Folder Title

Letters Sent by Agent 7/9/89 to  
6/18/90

Box No.

A013061      ✓ 114680

*EXHIBIT 43*



Pima  
Sacaton Ariz July 13<sup>th</sup> 9

Hon Commissioner of Indian Affairs  
Washington D.C.

Sir.

I have the honor to report that on July 1<sup>st</sup> a Pima Indian named Ha-hi-fee was twice shot through the body and killed, on the public road between Phoenix and Tempe. It is evidently a case of murder.

I have consulted the United States District Attorney and Marshal at Tucson and solicited their services in the discovery and prosecution of the murderer. They both hold the opinion that under the recent decision of the Supreme Court, all such cases come under the exclusive jurisdiction of the Territorial Courts and officers. I proceeded therefore, from Tucson to Phoenix and after a full talk with the under sheriff of Maricopa County and Indians who were congregated there to throw any light on the case they could, I find the case shrouded in

mystery and but little effort has been made to discover the guilty parties. The friends and relatives of the murdered Indian are very much excited over it. He was a sober industrious Indian who had no enemies among his own people. He had been taking his crop of wheat to the Phoenix market and no doubt had accumulated a few dollars which seems to have been the incentive for his murder. I consider it important to make an earnest effort to bring the guilty party to justice and for that purpose I recommend that authority be granted to offer a reward for the detection and conviction of the murderers. I consider it a matter of great importance, (in addition, to the end that justice may be done) to let the Indians know that the Government will protect their lives, and to let the murderers know that the murder of an Indian will not be considered a matter, to be soon forgotten, which will be the case unless some action is taken by the Department. These Indians are inclined to retaliation when they are injured and it would be well

to let them know redress can be had through the regular course of law, in this case if possible.

A small amount of money is sufficient inducement for some of the Mexicans in this vicinity to commit murder and especially where the person killed is an Indian. Feeling that the murder of white men is becoming hazardous, such men, would be apt to take advantage of any want of activity on the part of the proper authorities in the prosecution of such cases.

I also ask that through the Department of Justice the services of the US District Attorney and Marshal be elicited in the prosecution of this case.

Very respectfully,  
Your obedient servant  
Claude H. Johnson  
US Indian Agent

***EXHIBIT 44***

Flora  
Sacaton, April 15 90. Ariz.

The Commissioner of Indian Affairs,  
Washington, D.C.

Sir:

In conforming to Sec. 208 of Regulations I submit my monthly report on the condition of affairs of this Agency. Peace and Harmony prevails throughout the reservations, yet there exists an uneasiness on account of the insufficiency of water necessary to irrigate the Indian fields of wheat and barley. These Indians come to me as a child goes to its parent for bread, and ask in the same faith, for protection against the greedy Whites who seek to rob them of their productions and natural rights. Within the ensuing month the Flora Canal Co. will have finished a large storage reservoir <sup>dam</sup> about 10 miles north east of Casa Grande in the valley of the Santa Cruz river and it is proposed to fill this reservoir as soon as the dam has been completed. This

Company has been taking water from the  
 Lila river, at a point about 8 miles above (East)  
 the town of Florence, and from there the water  
 is conveyed by means of a large canal to the  
 reservoir and Santa Cruz valley, and already  
 there is perhaps a thousand acres in the vicini-  
 ty of Casa Grande being irrigated by means  
 of this canal which takes the water from the  
 Lila river, to the detriment of these ~~hundreds of~~  
 self-supporting Indians. These Indians say that  
 a great deal of their wheat is perishing, because  
 they cannot get water high enough to reach it as  
 they have done heretofore. This alarms them and  
 they are uneasy of the future of themselves and  
 their posterity - Hence, I give due and timely  
 notice, respectfully, that something must be done  
 to allay this alarm. This Government must de-  
 cide to support themselves, or give them a  
 means of supporting themselves, and the latter  
 is not only far the cheaper, but it is that which  
 will enable them to become civilized, educated,  
 trained as good, thoughtful, citizens. Please  
 send

a judicious Special Agent to investigate this subject in the Gila valley.

(Well, while I was writing my progress was advanced, for J. H. Quast appeared as a Special Agent for this purpose. Together we went up the Gila valley twenty four miles to Florence yesterday, and the whole field of irrigation possibilities was before us. We viewed the Florence canal of which I have already spoken, and we found it a swiftly flowing <sup>channel</sup> about 15 ft. wide and 2 ft. deep. Mr. Quast seems to be a man of good judgment, and what he says on irrigation merits consideration, he went today to Mesa and Tempe to observe the successful irrigation on Salt River. There are places on Salt River near the Pima and Maricopa reservation where as far as we can see in every direction we behold dark green fields of wheat and barley, dotted with houses which are surrounded by beautiful groups of cottonwood and fruit trees. These Indians can't find with some have this valley appearing the same if fertile.

317

teaching and material means be given.

Our school buildings as far as first speci-  
fication are almost completed, and these receive  
the commendation by every one who sees them.

At present I have my carpenter who is also  
a professional plasterer teaching two Indians  
how to do this kind of work, and the results  
are very gratifying. By the time this job of  
plastering is finished, these two Indians will be  
able to do excellent work, and their services will  
be in demand at good wages. We have planted  
and are growing about three acres of the prem-  
ier in shade trees. Our garden had some seed  
satisfy too late to do much good this year. Had  
for this Agency should reach here early in January.

Our school by the instruction of Mr. Hugh  
Patten, a Pima Indian, is doing well, as Dept.  
Horchester will judge, these school girls learn  
to cook, sew, knit, wash, iron and keep houses;  
in fact they learn everything more rapidly  
than the English language. The Pima  
of the Salt River valley are under circumstances



5.

through the southern part of this territory and the northern part of Mexico; they are trying to make Mormon disciples of the Papago Indians, and some of these Indians have come to me and asked whether they shall believe them or not.

During the quarter the regular employees have been faithful in attending their duties, but a few of the irregular employees have endeavored to "fold" the work, so much so that I dismissed them, and they may lie and whine about it to you. During the 3rd. quarter 1890 I have been annoyed a great deal by the Whites in the vicinity of Mesa and Tempe Ariz. who claim that Indian stock is trespassing <sup>on their lands</sup> and damaging their wheat, barley and vineyards.

Respectfully Yours,

(C. W. Couse)

U.S. Indian Agent

***EXHIBIT 45***

National Archives  
Pacific Southwest Region

Record Group (Title & No.)

75

Agency or Division

Bureau of Indian Affairs

Series

Pima Agency Records

Folder Title

Letters sent by Agent, June 18, 1890  
to March 25, 1891

Box No.

01326 X-114703

***EXHIBIT 46***

2.

to go to any school for the reservation  
I have complied with your request and submit  
the following estimate of the

Executive, June 20, 1906  
Hon. Commissioner of Indian Affairs,  
Washington, D.C.

169.  
10.

Sir:

Replying to your letter of June 10/96,  
marked "Executive" I will say that your idea of  
systematizing the educational work among the Indian  
South West is fitting, and I am unable to suggest  
a better time for transferring the Indian children  
from the reservation to the non-reservation schools  
than during the summer vacation, and I suggest,  
respectfully, that the transfer be made in August,  
just before school begins, but as our transfer is  
now almost complete, only a very small number  
will remain to be transferred to any school. I have  
now more than 200 children attending the Albu-  
querque and Tucson Indian schools. I think it  
would be able to accommodate many more  
than the attendance of 200 children in  
any of the schools of many of the

to go to any school 3 far from the reservations.  
 In the following estimate which I submit  
 the following estimate which will be required for the  
 school (and other) at Fort McDowell for any year  
 but those who are drawn from these reserva-  
 tions must come to the homes of this district and  
 not on this tedious missionary work.

Sacaton, Arizona - - - - - 150.

Transportation will be provided for all children  
 except those who attend school on the reservation at  
 the Agency (Sacaton), and the only suitable place for  
 concentrating the pupils for transportation is at Casa  
 Grande, Ariz., and the Railroad Crossing of the M. & P. R.R.  
 Those who attend at Fort McDowell will be  
 compelled to go by means of carriages.  
 Therefore, the place of concentration has been  
 at the Agency, where, with the agency carriage and  
 Indian teams the children are transported to  
 Casa Grande, on P.R. station, and then to the  
 school by rail. When I had the assistance of  
 Indian teams, the Indian were paid with goods  
 from the agency store. As per request, I submit

3

keep an open record for candidates who desire to  
attend a training school. <sup>Parents, relatives, & go.</sup>  
with respect to securing children for any good  
school, but those who desire children from their renow-  
ered must come to the homes of this people and  
assist in this laborious missionary work.

Dear Madam: Very respectfully  
I will say that I had the honor to receive  
your letter of the 10th  
and spoke about you to Mr. [Name] and  
Mr. [Name] with us. We  
just concluded the allotment of the [Name]  
line which is south of [Name] and the Indian  
to be well satisfied. Mr. [Name] is here  
in order, and, it is probable that he will also  
and Maricopa reservations on Salt river, and  
an Inspector was here to investigate the water  
ditches and water etc. but on account of  
and disinclination he did not investigate.

Very respectfully yours,  
J. C. [Name]

***EXHIBIT 47***





No. 2

rounded our hay rick and spoiled about three tons of it, I had it moved to higher ground as soon as possible and only about five inches of that part nearest the bottom of the rick was spoiled; the stallion's stable was washed down, and the open sheds which served us as stables, were made so dangerous that I was compelled to have them taken down; this, however, should not be considered as a damage for these sheds were already almost useless; the chief damage to us was the ruining of about three tons hay.

Yours Very Respectfully,



U.S. Indian Agent.



***EXHIBIT 48***

National Archives  
Pacific Southwest Region

Record Group (Title & No.)

75

Agency or Division

BIA

Series

Pima Agency Records

Folder Title

Letters Sent by Agent,

March 16, 1892  
to Jan 3, 1893

Box No.

013126 X 114703

Break

*EXHIBIT 49*

Pima

Sacaton, Ariz., June 13, 1892.

Hon. Chas. T. Hayden,  
Tempe,  
Arizona,

Kind Sir:-

The Department is calling for information which I am unable to give unless I make a personal investigation. Information is wanted concerning an island in Salt River which, it seems, is near the head-gate of the Tempe canal. I think you can give me the information wanted, and I will ask some questions here leaving space for brief answers:

I. Brief location?

II. Character of the soil?

III. What timber, if any?

IV. Is it of any use to the Indians?

V. Is it worth anything to the White man?

VI. Does it really belong to the reservation?

VII. Which branch of the river is the line?

VIII. What is the estimated size of the island?

*C. M. Crouse*

***EXHIBIT 50***



Report from the holding of the  
National Review, Pacific Southwest Region

# UNITED STATES INDIAN SERVICE

Pima  
Pima

Agency

Sacaton Sacaton, Ariz., July 8, 1892.

The Honorable  
Commissioner of Indian Affairs,  
Washington, D. C.,

Sir:

Sir:

I am now able to give you the information called for in  
In making my annual estimate of supplies for this Agency  
letter Nov. 11, '91, Land 36991-1891, more fully:  
and School for this year I included an organ. The organ is  
I.- The Indians are not occupying the island; neither have they  
have for the schools here is almost worthless, and, I ask, respect-  
ever occupied it.  
fully, that a good Mason & Hamlin organ be sent me.  
II.- The soil is very sandy throughout the entire island.  
pleased to obtain an organ similar to the one sent to the  
III.- There is no timber of any kind except a few cotton-woods.  
Indian Industrial School.  
V.- It is not inhabited by any person.

Yours very respectfully,

VI.- In my judgment it is not advisable that the needs and re-  
quirements of the Indians demand that the island or any part of  
it be claimed for them. At present, the island in question is  
of no benefit to any one. When land becomes scarce and more va-  
uable in the vicinity, the island may be made valuable. To make  
it of any value for agricultural purposes it will be necessary to  
make a diverting dam in Salt river; and, in my opinion, this will  
cost all the land would be worth. Those Indians who live near  
have all the land they can ever use and a great deal more.

Very respectfully yours,

*C. W. Crouse*  
U. S. Indian Agent

***EXHIBIT 51***

UNITED STATES INDIAN SERVICE

and paid each \$1.00 per day for the service and no other  
Pima Agency,

that it was a profitable investment.

(5) To those who have left Sacaton, Ariz., August 1, 1892.

The Commissioner of Indian Affairs,  
Washington, D.C.

to such splendid examples as Carl Semetz, John Hand, or  
Sir:

boys who received their training

I have the honor to submit you this my third annual report

of the affairs of this Agency. I have been at my post of

duty during the entire year; in fact the Service has had all my time

for three years. As some of the products of our labor I respectfully

fully cite the following to manifest what seems progress:

(1) These Indians have more faith in good American teaching

and training; this truth is evident from the fact that we have more

than four hundred children in the schools.

(2) These Indians are clearing land and making their fields

larger wherever there is a possibility of getting water for irri-

gating purposes.

(3) A great number of them have a garden this year and it is

the first they have ever had.

(4) The labor of quite a large number of our Indians has been

sought and obtained by White people who live near the reservation;

thus proving that Indian labor is becoming profitable. Last week

averages perhaps two miles in length and this is the highest

General Wilson employed about half dozen young men (school

boys) to bale hay for him, they did the work without assistance, but

of course, they had training previously. General Wilson boarded

at the reservation on the Pima River, occupied by the Pima

Papago Indians although it was set off to the Pimas and Maricopas, only. No Maricopas are living on the reservation at present.

The Salt River Reservation

This is generally known as the Pima and Maricopa reservation. Because only these tribes live there, the reservation is on the north side of the Salt River near the flourishing towns of Phoenix, Tempe, and Mesa, and it is becoming valuable because of its nearness to these places, as well as the additional fact that the largest canal in the territory passes entirely across it. By personal investigation I find that about seven thousand acres of good land here can be irrigated with water taken from the Arizona canal, which is on Indian land for 15 miles of its length. This part of the reservation is in size about 8 by 12 miles. On the south side of the river on sections 25 and 26 1/2 S. 1 E. and 26 1/2 S. 2 E., there is about 3000 such a small number of Indians, these Indians get water from the "Utah Ditch" which, I am told, they helped to make. It is thought that on that part of the reservation on the north side that there is twice as much good land as those Indians will ever need, and I think that any except to whom he found there. The Indians themselves very well under the direction and assistance of Farmer Barrett, of this land, and expend the funds thus realized in the purchase, or in addition to his help in farming, also does a great deal of repair water rights in the Arizona Canal for those Indian farmers, as well as for them, he furnishes his own blacksmith and carpenter tools, and they will never do anything with it, and they are too poor and ignorant to make irrigating dams, in this they must have help if they are to get the benefits the land is, as you know, entire have garden in which they produce vegetables for themselves, and by this means without water, they are unable to grow anything, and on the same they are unable to grow anything.

As I view it, it is a pity that the Government would buy, say one-half of the reservation on the north side that there is twice as much good land as those Indians will ever need, and I think that any except to whom he found there. The Indians themselves very well under the direction and assistance of Farmer Barrett, of this land, and expend the funds thus realized in the purchase, or in addition to his help in farming, also does a great deal of repair water rights in the Arizona Canal for those Indian farmers, as well as for them, he furnishes his own blacksmith and carpenter tools, and they will never do anything with it, and they are too poor and ignorant to make irrigating dams, in this they must have help if they are to get the benefits the land is, as you know, entire have garden in which they produce vegetables for themselves, and by this means without water, they are unable to grow anything, and on the same they are unable to grow anything.

***EXHIBIT 52***

National Archives  
Pacific Southwest Region

Record Group (Title & No.)

RG 75

Agency or Division

Bureau of Indian Affairs

Series

Letters sent to the Office of the

Folder Title

VOLUME 5 (pp. 189-191)

Box No.

2

Commissioner of Indian Affairs  
1896-1905

One of the few letters dealing with the  
Salt River Res.

*EXHIBIT 53*

Pima Agency, Sacaton, Arizona.

March 8, 1901.

Hon. Commissioner of Indian Affairs,  
Washington, D. C.

Sir:-

I have the honor to report on the condition of the Indians on the Salt River reservation, and also the Maricopa Indians on the Gila River reservation, having just returned from a visit to them.

I spent two days on the Salt River reservation and was pleased to note the prosperous appearance of their surroundings. In the past two years these Indians have made a marked improvement in the cultivation of the land, greatly improved the roads, and their crops look well, being mostly early sowing. The Indians manifest a spirit of enterprise and desire to do what they can to help themselves, and I believe they are very close to the point where they might safely be made independent citizens.

One matter that I consider important and to which I wish to invite your attention and advice is the Indian custom of land inheritance, existing on that reservation. Some of the leading Indians claim for themselves and their descendants large bodies of land lying near the main ditch, which land is the best on the reservation and is held by them unused and unoccupied, necessitating some of the younger Indians wanting land to cultivate, who are not favored with ancestry of this class, to go far from the ditch to get land to cultivate, thereby making it necessary to make long ditches to carry the water



to their land, these ditches sometimes running through three or four miles of uncultivated land. The absorption in such cases is large and a great amount of water wasted thereby, when if all the irrigated land was, in one body much more could be irrigated.

The question involved is has any Indian the right to claim more land than he can cultivate? Can he fence up large tracts of land for his own use, for grazing and wood, to the exclusion of other Indians?

If Indians have no claim on lands other than those that they cultivate, then any Indian wishing to cultivate land could take it adjacent to the irrigated land, and thereby save the water wasted by evaporation and absorption in the long ditches. There is a large amount of good first class agricultural land on Salt River reservation uncultivated, hence I make these inquiries.

From Salt River I went to Phoenix to get a surveyor to survey the lands of the Maricopa, where I was water bound for six days. As soon as possible I went down to the Maricopa Indians and spent a day and a half on the reservation looking up boundaries, etc.

These Indians are also in a prosperous state and their crops are looking exceedingly well. I had a conference with them relative to the care the Government was taking to protect their lands and water, and all expressed much gratitude for such help. There are several educated Indians located there who have a good influence over the others.

Upon my arrival there, at 10 o'clock, A.M., the church bell was rung and within an hour over one hundred Indians, men, women and children, all well dressed and looking clean, met me. It was a pleasing

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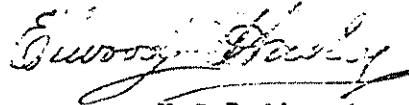
sight and impressed me very strongly. The need of a Day School for them is very great. There are many children from 5 to 7 years old, and also many older ones, that should be in school. A school with a capacity of 40 scholars would undoubtedly be crowded to its fullest capacity and be of much benefit to the Indians.

In council with them there was a full expression on the matter of establishing a school there, and every hand in the house was raised when I asked how many wanted a school. They also said that they would see that the children attended school. I feel fully warranted in recommending that a school house be built, about such a one as at Gila Crossing, to cost about \$1,000, with a capacity of 40 scholars.

As the Department knows the value of the day school, I deem it useless to say more than that the Maricopa want one, and the children are there to fill the school. I think there could be nothing better done for these Indians than to give them a school.

High water prevented the completing of the survey authorized in Office letter "Land, Auth. 69174," dated Feb. 9. 1901, but it will be done in a short time.

Very respectfully,



U.S. Indian Agent.

***EXHIBIT 54***

National Archives  
Pacific Southwest Region

Record Group (Title & No.)

75

Agency or Division

BIA

Series

Pima Indian Agency

Folder Title

Letters Sent by Agents

Jan. 1, 1906  
to May 31, 1906

Box No.

A-013061 X 114680

***EXHIBIT 55***

PIMA TRAINING SCHOOL,

Sacaton, Arizona, September 30, 1904.

Commissioner of Indian Affairs,  
Washington, D. C.

It is the honor to forward herewith for approval three vouchers  
for expenses incurred by Mr. Brown, one of the farmers, and Mr. Rey-  
mond Mr. Code engaged for the well work here.

On the fifth of July they drove to Mesa to see Dr. Chandler's  
derrick machine, which Mr. Code thought could be rented for use here.  
Mr. Code found, however, that it would take many days to put this  
machine in shape for work, and thought that both time and money would  
be saved if a machine in better order could be had. He and Brown re-  
turned to Sacaton on the 6th, and I sent him the same day to Phoenix  
to find a suitable rig. He found a good one on the Murphy ranch,  
near Tempe, and hired it. I had instructed him to get it in  
working order, and inform me when it should be ready, when I would  
send Mr. Brown with Indian teams and wagons to haul the rig here. Sev-  
eral teams were needed to haul the heavy tools used in well work, and  
several teams to haul the derrick, with its boiler and en-  
gine. Reynolds, on reaching Tempe, hired a team and went to the  
ranch. He found that the rig was ready to be moved, but that some  
tools were in use near Phoenix on another rig. He returned

--8--

f Phoenix, examined those tools, and sent two "jars" which re-  
w threads, to Los Angeles, (see charge of 75¢ for express  
haul same 3 miles to Phoenix), and wired me to send Mr. Brown  
teams. This telegram sent the 7th miscarried, which caused  
ay, so that Brown did not reach Tempe till the evening of the  
Next morning he and Reynolda drove to Phoenix to get the tools  
ere. They returned on the morning of the 14th, and that day  
e drilling machine and tools to Tempe, where they staid over  
oving on to Mesa on the 15th. One of the wagons brought by  
ans broke down in the river bed at Tempe, and they were obliged  
a wagon to continue. This hired wagon broke down at Mesa, so  
ay are forced to hire another there to finish the trip.  
wn took a guide from here to show him the best road to bring  
y machinery to Sacaton, which explains the expense of food  
ging of guide.

Very respectfully,

*J. R. ...*  
Superintendent.

***EXHIBIT 56***



Land,  
4741-1806.

PIMA TRAINING SCHOOL,

Sacaton, Arizona, February 25, 1905.

The Honorable,  
The Commissioner of Indian Affairs,  
Washington, D. C.

Sir:

In reply to Office letter of February 18, 1905, relating to a communication from Edward B. Goodwin dated January 13, 1905, (which you state was sent with said letter but was not enclosed therein) who writes at the request of the Chief of the Pima Indians living on the Salt River Indian Reservation and claims that inquiries were made of the Superintendent concerning certain things, viz:-

- (1) If it is the duty of the man who claims to be sent out from Washington to divide up their lands; if he can remove an Indian from where he has been residing for years to another piece of land, and require him to clear it and put it in cultivation, forcing him to abandon the piece of land he has cultivated for years?
- (2) If an Indian has any right to a piece of land he has cleared and placed in cultivation.
- (3) If the man, who claims to have been sent to teach them how to farm, has the power to do away with their chief, and to annul the laws they have had among themselves regarding farming and irrigation.
- (4) If there has been a ruling as to the allotment of the lands of the Indians living on the Salt River Reservation? If so, how much land is an Indian allowed. Is he cut down to five acres, as they have been in some cases?

Whereupon the honor is reply as follows:-

a cultivated area of 3070 acres, and irrigating water amounting to 500 Miner's inches, when the flow of Salt River is normal. This stream of water is often 550 inches as the Salt River has been very low for the past ten years, consequently great care has to be used in the distribution of same.

In answer to question No. 1, it is the duty of the farmer to move an Indian from one location to another if water can be saved thereby; and it is also his duty to locate him on a tract of land near the main canal, provided the land is not cultivated by another Indian. The case that brings forth query No. 1, is as follows: An Indian was farming a piece of land northwest from the main village and to furnish him water it was necessary to run the water a distance of four miles from the main canal, which required a great amount of water as his ditch would absorb more water than was needed to irrigate his land. There were 160 acres (more or less) adjoining the main Indian canal which had been fenced and claimed by one Juan Pizano, a Pima, and had been partially cleared. I ordered Mr. Burmister to move the family from their farm four miles northwest to a 80 acre tract on the aforesaid 160 acres. The said Juan Pizano had 40 acres under cultivation exclusive of the 80 acre tract, and I ruled that he had no right to any of the 160 acres; that the forty acres that he had under cultivation was as much as he could expect when allotment was made, and an Indian could not run one or two miles around a tract of land and claim it as his, as there were other Indians to be provided for. The aforesaid man might attempt to dispute the ruling, but I believe that he will not do so.

satisfied with the ruling and promised not to interfere with the farmer again.

(2) An Indian has a right to a piece of land he is cultivating but has no right to hold land to exclusion of others when he has neglected to work on same for years past, and has other land in cultivation on which he is making a living.

(3) The man who claims to have been sent to teach them how to farm has (no) power to do away with their chief, and to annul the laws they have had among themselves regarding farming and irrigation; but when the agent, after thorough investigation, discovers that the water has been so divided as to favor a few friends of the

chief, who, according to their laws, appoints the watermaster and orders the distribution of the water for irrigation, he has the right to order his subordinates to assume full charge of water and canals, to appoint watermasters and divide the water fairly. This I have done on the Salt River Reservation, after allowing the Indians two years to prove that they were incapable of managing their own business successfully.

I have assumed charge of the canal and water interests at Santan on the Gila River Reservation, as well as those on the Salt River Reservation, and the results as compared with the results under Indian control, are very gratifying.

(4) There has been no ruling as to the allotment of lands of the Pima, but a precedent has been established on the Yuma Reservation where five acres will be allotted to each individual, or from 20 to 30 acres per family, which is a larger number of acres per family than the Indians of the Gila and Salt River Reservations.

now farming.

I desire to state that I have advised the Salt River Indians, from time to time, during the past two and one-half years as to the best methods of farming, division of water, etc., etc., and after the last meeting with them at Salt River, I told them that I would take charge of the water and divide the same; that when an Indian's turn came to receive water from the canal he must be there to use it and irrigate his farm properly, or the water would be given to the next man and he would lose that chance for an irrigation. I have instructed Mr. Burnister, the additional farmer on the Salt River Reservation to prepare a schedule of the water days and to apportion the water justly and to move all Indians to farms close to the main canal so as to avoid all waste of water from seepage, and to treat the chief the same as any other Indian, which has been done, and the appearance of the reservation has been improved and the harvest will show a yield of wheat fully 100 per cent greater than in former years.

I have taken the water from the Indian's control without consulting them, but only after being convinced that they were not capable of dividing same fairly. I have not talked with nor received advice from the old Indians and chiefs, but have consulted the returned students who recognize that the control of the old Indians is not fair to all and the progressive Indians are discriminated against.

The result of my policy toward the reservation is in far better condition than formerly.

***EXHIBIT 57***

PIMA TRAINING SCHOOL,

Sacaton, Arizona, March 18, 1905.

The Honorable,  
The Commissioner of Indian Affairs,  
Washington, D. C.

Sir:

I have the honor to recommend that a survey be made of the Salt River Indian Reservation, and the Lehi Reservation; that land be allotted to the Pima, Papago and Maricopa living on said reservations; that five acres be given each Indian, and that I be authorized to file an application for water for said land with the "Water Users' Association of Salt River Valley who control (or will control) the Tonto Reservoir.

Inspector W.H. Cole and myself have looked over the land specified and have decided that nine hundred acres on the Lehi Reservation in Sections 35 and 36, T.2N. R.5E. and two thousand six hundred acres on the Salt River Reservation and on Section 12, T. 1N. R.4E, adjoining, (See letter "Land 24613, April 28, 1903), three thousand three hundred (3300) acres in all, should be allotted and furnished with irrigating water from the said reservoir.

The cost for water for the above will be (estimated) \$20.00 per acre, payable at the rate of one dollar per acre per year, and a fee of ten cents per acre for filing application. The Government of Indians would be liable in the Association, and

ject to assessments for improvements and repairs. The payments which will be due each year can be paid from "Irrigation of Indian Reservations" or "Support of the Plans" funds, or from a special appropriation.

Mr. Coda will be in your Office and will explain the details of securing irrigating water from the Tohito Reservoir, and the necessity for prompt action.

Very respectfully,

Superintendent.

***EXHIBIT 58***



PIMA TRAINING SCHOOL,

Sacaton, Arizona, April 10, 1905.

The Honorable,  
The Commissioner of Indian Affairs,  
Washington, D. C.

Sir:

I have the honor to request authority to pay Indians at the rate of 20 cents per 100 pounds for hauling the building materials, delivered under contract in Phoenix to the sites of the former's cottages to be built at Salt River and Gila Crossing. The lumber, etc., for Salt River has already been hauled to the place selected, and the Gila Crossing materials will be hauled as soon as the river goes down. The distance from Phoenix to either site is not quite so great as from Casa Grande to Sacaton, but the road to Salt River was very heavy, making the work slow, and hard on the horses and I expect the hauling to Gila Crossing will be done under similar conditions. Consequently I feel that the freighters should receive as much as for hauling from Casa Grande or Sacaton Switch to the agency.

I have asked, in an estimate of funds forwarded to-day for \$500.00 to pay for this freighting, and am anxious to secure this money, as well as that asked for wheat, (see letter of this date), before the end of the fiscal year, so that I may pay the Indians at

-2-

once, and avoid the delay incident to the issuing of certified vouchers.

Very respectfully,

Superintendent.

***EXHIBIT 59***

National Archives  
Pacific Southwest Region

Record Group (Title & No.)

• 75

Agency or Division

BIA

Series

Pima Indian Agency

Folder Title

Letters Sent by Agent 8/13/07-9/9/08

Box No.

A013061 XF 114680

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***EXHIBIT 60***

Pima Agency, Tucson, Arizona.

September 11th, 1907.

Mr. Louis C. Hill,  
Supervising Engineer, U.S.R.S.,  
Phoenix, Arizona.

Sir:-

Wood can be purchased from the McDowell reservation who are hauling good mesquite to Phoenix and Tempe for \$4.50 and \$5.00 per cord.

There is no wood on the Salt River Reservation.

Very respectfully,

*Alexander*  
Superintendent.

*EXHIBIT 61*

National Archives  
Pacific Southwest Region

Record Group (Title & No.)

75

Agency or Division

BIA

Series

Pima Indian Agency

Folder Title

Letters Sent by Agent, 6/1/06 to 9/15/08

Box No.

A03001 #114680



***EXHIBIT 62***

Education  
Circular 170.

Reports Locations  
of Pima Agency, Day  
Schools, etc.

Pima Training School,  
Sacaton, Arizona,

January 14, 1908,

The Honorable

The Commissioner of Indian Affairs,

Washington, D. C.

Sir:

I have the honor to report on locations of Pima agency and the schools connected therewith, as follows:

- (1) Pima Agency, in N. E. 1/4 of Sec. 16, T. 4 S. R. 6 E, of the Gila and Salt River base line and meridian, on twenty acres belonging to the Pima Training school, located on south bank of the Gila river, sixteen miles directly north of Casa Grande, Arizona.

The Gila River reservation was set aside by an act of Congress, approved February 28, 1859. The first agent came to Sacaton, about January 1, 1869, and constructed office, storehouse and school building on the north part of the present school grounds. There is no record of land being set apart for school or agency.

- (2) Gila Crossing sub-agency (home of additional farmers) in the N. E. 1/4 of Sec. 9, T. 2 S. R. 2 E., about two miles west of the Gila Crossing day school and Catholic Mission school, about north from Phoenix, Arizona.

7-255

Set aside February 1st, 1904, by purchase of improvements on  
land from an Indian, by J. B. Alexander, Supt.

(5) Maricopa subagency, in the S. W. 1/4 of Sec. 25, T. 1 N. R. 12  
W. 1st range, near the Maricopa day school, 12 miles southwest  
from Phoenix, Arizona, and 45 miles northwest from agency.  
Set aside January 15, 1906, from unimproved land, by J. B. Alex-  
ander, Supt.

(4) Salt River subagency, in the S. W. 1/4 of Sec. 32, T. 2 N. R.  
5 E., on portion of school ground, near the Salt River day school  
12 miles north-east from Phoenix, Arizona, and 35 miles north  
from agency.

Set aside January 1, 1899, by purchase of land and improvements  
from Indians by Elwood Hadley, Agent.

(5) Pima Training School in the N. E. 1/4 of Sec. 16, T. 4 S. R. 6  
E., twenty acres and 260 acres in the S. 1/2 of Sec. 9, T. 4 S.  
R. 6 E., located at agency, 16 miles north of Casa Grande, Ari-  
zona.

No record of original twenty acres can be found. The school  
and agency was founded in 1859 and the limits of the school  
grounds were extended as was necessary. Forty acres of school  
farm were purchased from Antonio Paul, an Indian, on January 2,  
1903, by J. B. Alexander, Supt., and 220 acres were acquired by  
cultivation of unimproved land since.

(4) Sinaloa day school in the S. W. 1/4 of Sec. 21, T. 4 S. R. 8  
W., about five acres, ten miles west from agency and 15 miles

north-east of Casa Grande, Arizona:

Set aside January 2, 1902, by purchase of land and improvements from an Indian, by Elwood Hadley, Agent,

- (7) Casa Blanca day school in the N. W. 1/4 of Sec. 59, T. 3 S. R. 6 E., about five acres, ten miles west from agency and ten miles north of Maricopa, Arizona.

Set aside January 2, 1902, by purchase of land and improvements from an Indian by Elwood Hadley, Agent,

- (8) Gila Crossing day school, in the N. W. 1/4 of Sec., 9, T. 2 S. R. 2 E., about five acres, 35 miles north-west from agency and 16 miles south of Phoenix, Arizona.

Set aside January 1, 1899, by improving unoccupied land, by Elwood Hadley, Agent.

- (9) Maricopa day school in the S. E. 1/4 of Sec. 34, T. 1 N. R. 1 E., five acres, 45 miles north-west from agency and 12 miles south-west of Phoenix, Arizona.

Set aside January 1, 1900, by purchase of land and improvements from an Indian, by Elwood Hadley, Agent.

- (10) Salt River day school, in the S. E. 1/4 of Sec. 23, T. 4 N. R. 5 E., five acres, 35 miles north from agency and 12 miles north-east from Phoenix, Arizona.

Set aside January 1, 1899, by purchase of land and improvements from an Indian, by Elwood Hadley, Agent.

Lehi day school, in the S. W. 1/4 of Sec. 36, T. 2 N. R. 5 E.,  
four acres, 30 miles north from agency and five miles north of  
Mesa, Arizona.

Set aside January 1, 1902, by purchase of land and improve-  
ments from an Indian, by Elwood Hadley, Agent.

(12) St. John's Mission boarding and day school, 5 acres- the S. 1/2  
of S. E. 1/4 of S. W. 1/4 of S. E. 1/4 of Sec. 32, T. 1 S. R. 4  
E., and 5 acres- N. 1/2 of N. E. 1/4 of N. W. 1/4 of S. E. 1/4  
of Sec. 5, T. 2 S. R. 2 E., 35 miles northwest of Phoenix, Arizona  
and  
16 miles south from Phoenix, Arizona.

Set aside as follows: 1 acre by Elwood Hadley, Supt.,  
3, 1899, 2 acres by J. B. Alexander, Supt., Nov. 1, 1902, and  
7 acres by J. B. Alexander, Supt., Feb. 17, 1905.

Very respectfully,

*J. B. Alexander*

Superintendent.

***EXHIBIT 63***

Subject:  
Assistance of  
Indians in build-  
ing bridge across  
Salt River at  
Phoenix, Arizona.

Pima Training School,  
Sacaton, Arizona,

Land-41301-1908.

July 10, 1908.

The Honorable

The Commissioner of Indian Affairs,

Washington, D. C.

Sir:

I have the honor to acknowledge receipt of Office letter of  
June 27, 1908, enclosing letter, plans, etc., from Dwight B. Heard,  
President of the Phoenix & South Bridge Co., Phoenix, Arizona, which  
letter, plans, etc., are returned herewith, with following report:

The bridge, if constructed at the point indicated, will be of  
material advantage to the Pima and Maricopa Indians. The proposed  
location of bridge is one-fourth mile east of the present crossing.  
During six months of the year the river cannot be crossed on account  
of high water. The other six months the crossing is on sand. The  
Indians are paid better prices for their wheat and wood and can buy  
merchandise cheaper in Phoenix than at the stores south of the river.

There are 1400 Indians to be benefitted by use of the pro-  
posed bridge, and as the cost of constructing the bridge and ap-  
proaches will be not less than \$75,000, it was thought that the In-  
dians should donate about \$15,000 towards the construction, which  
is about right.

As I understand the matter, the owners of the lands south of Salt River will contribute \$30,000, towards the cost of construction; the merchants of Phoenix will be asked to give about \$10,000, the Indians \$15,000, and the County of Maricopa will levy a tax to raise \$30,000, for the bridge, and after construction the County of Maricopa will take over same and keep the roads, approaches and bridge in order. However there is a doubt as to the action of the Board of Supervisors, in levying said <sup>tax</sup> being legal, and if the levy cannot be made, Mr. Heard, of the bridge company, proposes to construct a toll bridge, and will make the Indians stock-holders according to the amount of work performed. So there is no plan determined upon, as yet.

Mr. Heard came to me and spoke about constructing the bridge and said that Mr. Leupp was very favorably impressed with the good it would do the Indians, and that he (Mr. Leupp) suggested that the Government might the project by an appropriation at the next term of Congress. I proposed that the Indians could perform work to the amount of several thousand dollars and that \$5,000 of the appropriation: "Support of the Pima, 1909" could be used to feed the Indians, while at work on the bridge.

When the plan for constructing the bridge is settled, the action of the Indians in donating work should be approved. The Indians have signed for the work conditionally upon provisions and forage being furnished for themselves, their families and their horses while engaged in the work, and if the funds cannot be used to pay



chase the rations, action should be with held until further arrangements are made.

I recommend that a contract be executed securing to the Indians free use of the bridge and otherwise protecting them after the work is completed, before allowing the Indians to commence work. My reason for not reporting on this matter before now, is that no definite plan for reconstructing the bridge had been decided upon by the company.

Very respectfully,

Superintendent.

***EXHIBIT 64***

National Archives  
Pacific Southwest Region

Record Group (Title & No.)

RG 75

Agency or Division

BIA

Series

Pima Indian Agency

Folder Title

Misc. Correspondance

Box No.

9

subject files of  
- the superintendent,  
James B. Alexander,  
1908-1910

***EXHIBIT 65***

MISC  
1908

Mr. A. M. Alexander,  
Salt River Res.

Pima Training School  
Sacaton, Arizona,  
Dec. 14, 1908

Mr. P. B. Hughes,  
Yuma Crossing, Arizona.

Dear Sir:

Owing to the prevalence of diphtheria, scarlet and other contagious diseases in Phoenix, Tempe, Mesa, and possibly other places, I have decided to quarantine the reservation for until December 31<sup>st</sup>, 1908, and after that time if the suspected Yagui Indians, near Tempe, prove to have small-pox.

Under this quarantine all persons, white and Indian, will not be permitted to enter the reservation except on a permit signed by some officer of the Government, or physician, and the permit should state that the bearer had not been exposed to infection. Permits to leave or enter the reservation may be issued by you, and, of course, more or less of the Indians will have to go to one of the above named towns for provisions, but the general epochs of Saturdays and holidays must be excepted, until we are sure that there is no danger to the Indians.

I enclose a copy of rules prescribed by the Department government in such emergencies, which will be of some value to you.

MISC  
1908  
NO. 464

(2)

and you may send the Indian or white to the agency with a written statement of the facts, and recommend such punishment as you deem correct.

~~Stations will~~

Men will be stationed as follows:

- 2 guards at Blackwater, for Flomac & Casa Grande roads,
- 2 guards at Blackwater, for Flomac & Webster roads,
- 3 guards at Sanitaro, for Mesa roads,
- 3 guards at Stuart Store, for Mesa & Tempe roads,
- 2 guards at Basiseis, for Tempe road & rail road,
- 2 guards near Alicia, for Tempe road & rail road,
- 2 guards near Tempe, for Tempe and G. B. roads,
- 3 guards at Williamson's, for Phoenix roads,
- 2 guards at Maricopa, for Phoenix roads,
- 2 guards south of river, for road to Maricopa Wells,
- 3 guards near Maricopa R.R. Station, for G. B. Road & rail road,
- 3 guards at Divide, for Casa Grande road
- 3 guards at Salt River and Lela.

When marked x you will appoint the guards who will be paid \$30.00 per month. When marked this means that the guard is to be paid \$30.00 per month.

MISO  
1908  
NO. 464

(3)

~~Under the direction of the physician, or without the~~  
You will visit all Indian houses under your jurisdic-  
tion and compel the owners thereof to place ~~the~~  
house and grounds in a sanitary condition. If not  
altogether sanitary the place may be made clean  
which will help. Also look into the conditions of  
the wells, outhouses, chickee houses, etc., etc., and  
where a place cannot be cleaned handily, secure  
the owner's permission to burn the shack. ~~Consequently~~  
Where consumptives reside, it may be well to have  
them burn their houses and help them to construct  
a new home, which would not cost much, and  
where the Indian is needy, ~~upon your recommendation~~  
I will allow him time for labor used in the building  
of a new house, not to exceed \$10. ~~upon your recommendation~~  
Ashes, lime and other cheap disinfectants may  
be used in and around the houses. The Valley  
Lumber Company, in Phoenix, will honor your order for such  
quantities of these as you need in this work. Where  
formaldehyde can be used to advantage it  
will be furnished. In winter months the  
houses should be kept well ventilated.

the day school teachers at your agency.

It will take some time to induce the Indians to do this willingly and it would be better and easier to explain to the more progressive Indians the "whys and wherefores" and have them clean their places and the others will follow their lead. There will be some Indians who will refuse to do anything towards cleaning, and after such cases should be reported to me and you will be instructed how to proceed.

In the meantime maintain a strict quarantine, especially against Mxicans, Yaqui and Papago Indians until Dec. 31, 1908, when you will be notified to continue or ~~stop~~ end the quarantine.

Very respectfully,

J. B. Alexander  
Superintendent  
M. & A.



***EXHIBIT 66***

MISC.

1909

NO. 529.

DEPARTMENT OF THE INTERIOR,

UNITED STATES INDIAN SERVICE,

Salt-River Pima Agency

Dec 21<sup>st</sup> 1905

J. B. Alexander

Supt. Indian Schools

Flagstaff, A. T.

Dear Sir

Your letter of the 14<sup>th</sup> inst  
instructing me to place this Reservation  
under guarantee, as well as Leki, I have  
received, and have carried out your  
instructions. While I have no fear for any  
contagious diseases here, however it is  
well to take all precautions to avoid it  
and should be prepared in case of emergency  
this Reservation is perfectly clear of any  
contagious diseases, or diseases, however  
I can not say so much for Leki, for that  
is a hole of filth, and good place for contagious  
diseases to take root. I am going this morning  
to Leki and place it under guarantee. I am taking  
the doctor along, but will have to go by Tempe  
as I can not cross the River yours  
J. B. Alexander

***EXHIBIT 67***

MISC

1909

no. 530

## DEPARTMENT OF THE INTERIOR,

UNITED STATES INDIAN SERVICE,

Salt River Pima Agency  
Dec 21<sup>st</sup> 1908

Dear Boney

I am inclosing you quarter Reports, and Voucher D. I did not sign my name to Voucher D. as I did not know whether you wished for me to sign it or not. Now even if you want me to sign it - you can bring it - back with you Friday and I will sign it - in Phoenix. Goods Issued at Leki. I have not received the Voucher from Palmer, but I will get it - today while I am in Leki, and mail same to you

all well

Sincerely

H. M. Alexander

***EXHIBIT 68***

MISC

1909

NO. 524

DEPARTMENT OF THE INTERIOR,

UNITED STATES INDIAN SERVICE,

Salt-River Pima Agency

Dec 22 1908

Dear Barney

I inclose you Voucher D  
for goods Issued at-Lehi also Quarter  
Report-for Palmer, you will note that  
Mr Palmer signed his name to the voucher  
I should this not-be correct. you can make  
the changes. No doubt. I was over to Lehi  
yesterday. and got things in fairly good shape  
in the way of cleaning up. also appointed a  
guard. to watch the Reservoir. ordered a  
Sack of Lime. and one qt. of Formaline  
for Disinfectant. Which is much needed at  
Lehi I think that I will be able to cross  
the River by Next-Sunday. No doubt-you  
have received notice from the Utah Canal  
Co. and I would like to see you in good  
to the Indian Ditch. before you should  
take any action in rebuilding same.

DEPARTMENT OF THE INTERIOR,  
UNITED STATES INDIAN SERVICE,

I will see you Saturday Morning  
in Phoenix. Would you come to these  
Xmas for Dinner, at Mory.

ALL WELL

Wm Alexander

***EXHIBIT 69***



1/15-09 506

The project for building a substantial bridge across Salt River at the foot of Central Avenue, connecting the North and South Sides of the valley, has now reached such definite shape that it seems desirable that as soon as possible action should be taken by the Board of Supervisors for prompt construction of this bridge.

The owners of nearly 19,000 acres of land on the South Side, the United States Indian Service, and the merchants of Phoenix, have through their co-operative plans, raised a fund equal to one-half of the cost of the proposed bridge. By this action they have shown that they appreciate that the bridge will be largely to their personal advantage, and they merely ask the county to advise them in what shape the county wishes this bonus paid, so that the bridge may be early constructed as a free bridge for the use of the entire people of this county, one-half of this cost being met by those who are immediately interested, the balance being paid by all tax payers.

The Phoenix and South Side Bridge Company, has worked up this bridge project and is composed of some of the most responsible and energetic citizens of the valley. Among these actively interested in this bridge are; Mr. Ed Wells of Prescott, a large land owner on the South Side, the Bartlett-Heard Land and Cattle Company, one of the largest tax payers in the valley, Mr. E. E. Prowell, H. P. McCallum, Goldberg Bros., Vernon L. Clark, W. S. Pickrell, F. M. Avila, L. E. Hewins, Wolf-Sachs, R. H. Wolf, Price H. Brown, Lauritz Lassen, Byron Carr, Dr. J. C. Norton, A. Weiler, Henry G. Yeager, Jas. J. Riggs, Roy-Goodrich, Jos. Lambeye, and many other responsible and well known citizens.

The work they have done has been practical, thorough and as the result of their many months of work definite plans are now outlined for a first class, substantial bridge on which they have received definite bids from responsible bridge builders.

The first step of those interested in getting this bridge proposition into practical shape was to have prepared a thorough and careful survey of the river crossing at the proposed bridge site, including a survey east and west of the site to ascertain the velocity of the water in the river at that point.

After this survey had been obtained a thorough inspection of the site was made by Mr. J.C. McClure, constructing engineer for the Southern Pacific Railway who had personal charge of the successful construction of the Southern Pacific railway bridges across the Gila and the Salt.

In order to obtain reliable information as to the amount of water in flood times for which it would be necessary to arrange for passage under the bridge between the abutments, Mr. McClure consulted with the U.S. Reclamation Service and obtained from them accurate and definite measurements as to the maximum amount of water which would pass down the Salt River after the completion of the Roosevelt reservoir.

After this personal inspection and with the survey prepared and figures obtained from the Reclamation Service, Mr. McClure prepared a complete set of plans for a bridge at the Central Avenue site. These plans as presented, provided for nine steel spans, each having a length of 105 feet to be constructed in conformity with the specifications of the American Bridge Company.

The piers supporting these spans to be two 5 foot steel cylinders 20' 8" long, each enclosing five 30 foot piles driven in the firm boulder foundations existing at this point, all the balance of the interior of the cylinder, to be filled with concrete and the cylinders bound together by solid steel web. This form of construction for the piers being absolutely identical with the piers built in the Gila river where the foundation conditions are not nearly so favorable as at the Central Avenue crossing, and which have proven to be absolutely substantial and permanent.

Beside the steel bridge spans Mr. McClure's plan provided, as an additional opening for flood water, 760 feet of trestle work, trestle bents being 20 feet apart and each consisting of four piles 30 feet long and capped by 12" by 12" timbers.

The approach to the bridge, as per the original plan, would consist of an embankment 1200 feet in length rip-rapped with stone, which would connect with the high land on the south side of the river, absolutely beyond danger of inundation and making the entire crossing, including the approaches to the bridge structure, but 3200 feet, this including 100 feet of rip-rap and concrete abutments on the north side.

The committee of citizens in charge of this work, after very careful consideration of the definite plans prepared by Mr. McClure, presented them to other competent engineers including Mr. Robinson, chief engineer of bridges of the Santa Fe, who heartily approved the plans.

Mr. McClure, with plans, presented an estimate of cost which was based on the actual cost of similar work recently done by the Southern Pacific Railway at the crossings of the Gila and the Salt Rivers.

The committee in charge, wishing to have a definite bid to present to the Board of Supervisors, obtained from one of the contractors building bridges in the West, for the American Bridge Company, a man of unquestioned ability and absolute responsibility, such a bid on this proposed bridge across the Salt River at Central Avenue of \$52,000.

In order to be on the safe side and to arrange for the passage of practically unlimited water in times of flood, the committee in charge has increased the number of steel spans to eleven each span 105 feet in length, making the total width covered by the steel structure 1155 feet. They also increased the length of the trestle work to 940 feet, making the clear opening allowing for the passage of the water, 2095 feet, instead of 1717 feet as

first proposed.

since then, in order to allow for an unusual flood and to have no possibility of any drift wood catching in the lower portions of the bridge, they have secured figures on raising the bridge two feet higher than originally contemplated, although many engineers do not feel it will be necessary to increase the height of the bridge as the careful engineering measurements which were taken during the recent flood by the Phoenix and South Side Bridge Company, shows that the lowest portion of the bridge as outlined by Mr. Mc Clure would have been more than four and one-quarter feet above the crest of the high water.

It will be seen by the above statement that those in charge of this work have used every possible care to arrange for a bridge substantial, permanent and with ample opening to allow the flood waters to pass through.

The cost of this bridge with the additional space allowed for water and the extra rip-rap work provided for to keep the river permanently in its present course, will be between fifty-eight and sixty thousand dollars, and the committee in charge, through their activity in raising the bonus, are now prepared, as soon as the county officials close a contract to build this bridge, to turn over to the county in cash one-half of the cost, and in addition as tax payers to pay their portion of the other half.

This certainly seems a proposition which should appeal favorably to all tax payers of this community.

A careful study of the map of the Salt River Valley shows that the proposed bridge at Central Avenue would offer easier inter-communication between the citizens of the Salt River Valley than a bridge at any other location.

The bridge as proposed is of sufficient strength to carry a forty ton electric car, will be 20 feet in width and offer to new comers and visitors an exceptionally desirable opportunity of inspecting the whole Salt River Valley under most favorable

conditions.

With the proposed bridge the drive from Phoenix to Mesa would be but sixteen miles having but one turn in the road and the entire distance, except the 3000 feet crossing the river, would be through highly improved farms, avoiding entirely the waste desert land, which one has now to cross between Phoenix and Tempe, and making a more attractive entrance into the city of Tempe than now exists.

This new approach into Tempe would save the Tempe people the four and a half miles of shadeless drive which they now have across the desert on the road to Phoenix, and a practical feature of this Central Avenue bridge would be that it would connect with roads which are shaded almost the entire distance to Mesa and already in excellent condition, and there is no doubt that the various road districts through which this road passes would make it a point to bring it into sand papered condition making of it a perfect driveway.

This direct connection with the Central Avenue boulevard on which work will probably be commenced early this spring, would be another additional advantage and the owners of land south of Phoenix have offered to continue Central Avenue as a boulevard to the mountains south of town so that a delightful drive would be made thirteen miles in length from the Arizona Canal, at the base of the mountains north of Phoenix, through Phoenix to the southern extension of the Tempe Canal, along the base of the mountains south of Phoenix.

For some time the Board of Supervisors were not sure whether under the existing laws they had the right to build a bridge across the river, to close a contract for the same and to make a levy in the general road fund for this purpose, but the District Attorney has recently rendered a very able and complete

opinion showing that the Board unquestionably has such a right.

The present tax levy for road purposes is but 20¢ on the \$100. and the Board has the right, under the present law to make a levy of 50¢ on the \$100. To construct the proposed Central Avenue bridge it would only be necessary for the Board of Supervisors to increase the levy for road purposes from 20¢ to 30¢ and the additional 18¢ raised on the \$100. would provide a fund for this purpose sufficient to pay one-half the cost of the bridge; the other half having already been raised, the bridge could be built and completed with but one year's levy and the county saved the necessity of a bond issue with its continual interest.

The committee who have worked up the bonus and secured the plans for the bridge at Central Avenue, have no conflict with those favoring a bridge at any other site but they feel that it is just to them and to the tax payers of Maricopa County that as an engineering investigation this site has been found exceptionally desirable, and as a liberal bonus has been raised, and they are ready for immediate work, that as soon as possible the county should take action to secure this favorable opportunity of a free bridge for the people of the county at half its cost.

Another feature not to be overlooked is that this bridge would prove a good investment for the county. When completed it would encourage the rapid development of the South side and as the lands there were subdivided and settled up there would be a large increase in the taxable value which would make a good return on the money invested in the bridge.

This plan is a practical one, its engineering features have been well thought out, it is financially well within the ability of the county, and if prompt action is taken the contractors who have bid, can complete the bridge by next fall.

It is evident that the time has come for the Supervisors to act and act favorably.

***EXHIBIT 70***

First Hotel

STRICTLY FIRST-CLASS  
WILLIAMS & HAFNER  
PROPRIETORS

MISC

1909

No. 548

CORNER WASHINGTON STREET  
AND SECOND AVENUE

Phoenix, Arizona,

1. 23 1909

Mr. J. B. Alexander.

Sacaton, Ariz.

Dear Sir: We made the trip to Temple  
in good shape where Juan left me  
at the Casadema, promising to  
return last night. No Juan  
appeared however and none this  
morning. As the river was very  
low and that could not be  
the difficulty, I took the 1.39.  
Mr. Tom over here and located  
the team at the Sabine Porral.  
where he was to have appeared last  
night they said in time to drive  
to ~~Temple~~ Temple. Next I tried  
the sheriff's office and they  
found my man in the city  
center. Charge drunk & disorderly



First Hotel

STRICTLY FIRST CLASS

WILLIAM W. HARTNER

PROPRIETORS

MISC.

1908

NO. 578

2.

CORNER WASHINGTON STREET  
AND SECOND AVENUE

Phoenix, Arizona.

190

taken out at "five points" with  
two game on. I called on your  
brother the U.S. Dist. Atty. and  
he has gone into the matter  
from named by Indian who  
bought him the whiskey and  
described the place where it  
was bought so they are out  
after the whole outfit.

Mr. J. Alexander also identi-  
fied me with the survey people  
and the Dublin Corral men.

The plan now is that I take  
the team and drive to Salt River <sup>Res.</sup>  
Monday morning, thence to  
terrace and return from terrace  
to Sacaton Tuesday, rivers for-  
getting of course:

First Hotel

STRICTLY FIRST CLASS  
WILLIAMS & HOFFNER  
PROPRIETORS

NO 576

CORNER WASHINGTON STREET  
AND SECOND AVENUE

De

Phoenix, Arizona.

190

I am so very much humbled  
over the matter and good  
for about "10 days" I judge.  
unless some body gets up  
for his fine.

If they round up the bunch  
I shall not begrudge one  
day time.

Very truly yours  
S. C. Mason

Frank Hotel

OFFICIAL FIRE EVIDENCE  
CIVIL AND CRIMINAL  
PHOENIX, ARIZONA

MISC

1909

NO. 545

4.

CORNER WASHINGTON STREET  
AND SECOND AVENUE

Phoenix, Arizona.

190

Chapter II 3:00 P.M.

Juan has just come in.  
He dug up a box from somewhere  
for his gun and was the rig  
out and started for Tempe to  
be on the right side of the river  
He is to put up at Finches and  
I will go over on the early train  
Monday morning. Out to Salt  
River and return if the river  
allows, otherwise we will  
start for Sacaton.

S. G. W.

***EXHIBIT 71***

MISC

1909

NO. 752,  
748.

DEPARTMENT OF THE INTERIOR,

UNITED STATES INDIAN SERVICE,

Mr J. B. Alexander

Secretary A. I.

Salt-River Pima Agency

Apr 9<sup>th</sup> 1909

Dear Bonny

Nelson Kisto is the Papago Indian  
that was arrested in Mesa last Dec. for being drunk  
and selling liquor to other Indians on the way  
to Phoenix he jumped off the train at Tempe  
and got away from the office then he went  
to Suntan and got a horse from Carlo F. Mendos.  
in order to pay for the horse he transferred the  
annual claim to him for labor done for the  
U.S.R.S. at Granite Reef to Carlos for  
collection, Carlos came to me about getting  
the money for him. I wrote to the Clerk at  
Granite Reef and explained the situation to  
him. you have his reply. I think you can  
get Nelson Kisto. Check in Phoenix

Yours

J. B. Alexander

***EXHIBIT 72***

**National Archives  
Pacific Southwest Region**

**Record Group (Title & No.)**

*RG 75*

**Agency or Division**

*BIA*

**Series**

*Pima Indian Agency*

**Folder Title**

*Education*

**Box No.**

*8*

*- Subject Files of  
The Superintendent,  
James B. Alexander,  
1908-1910 -  
Accounts -  
Misc.  
Corresp.*

***EXHIBIT 73***



Subject:  
Appointment of  
physician at \$1200  
1 encl.

Pima Training School,

Sacaton, Arizona,

June 30, 1909.

The Honorable

The Commissioner of Indian Affairs,

Washington, D. C.

Sir:

In the matter of the appointment of a physician for this agency at \$1200 per annum after July 1, 1909, and to do away with the expense of constructing a residence for said physician at Gila Crossing, I have the honor to propose plan as follows:

Requires the physician to visit the Salt River and Lehi reservations on Mondays and Tuesdays of each week. Wednesdays to be devoted to office practice in Phoenix, for the benefit of all Indians working out in Phoenix, and he should examine every Indian on said outing at least once each month. Thursdays and Fridays to be spent at Gila Crossing and Maricopa reservations. Saturday afternoons for office practice for benefit of all Indians who come to Phoenix every Saturday for trading and other purposes.

One position of contract physician at \$600 per annum to be abolished, and the amount paid to the regular physician in lieu of office rent, transportation, subsistence, forage for team, and all expenses, except for necessary medical supplies.

Construction of cheap buildings at Salt River reservation and similar buildings at a point midway between Gila Crossing and Maricopa villages, nine miles apart, or at either village, which may be used as hospitals, and the employment of nurses, one at Salt River and one at Gila Crossing.

In this manner, all cases of trachoma at the four villages, of which there must be, at least, five hundred, may be treated at the hospitals by the agency physician and nurses, after the operations have been performed at the hospital at the Phoenix school.

Camps for the treatment and cure of tuberculosis may be located near the hospitals under the nurses' supervision.

The construction of a bridge across the Salt River, south of Phoenix, will make it possible for one to drive to Gila Crossing or Maricopa in two hours, 18 miles distant. And Salt River reservation is only 12 miles distant from Phoenix.

I enclose a letter from Dr. W. W. Watkins wherein he suggests the establishment of hospitals at three villages, and other improvements, but two hospitals will answer every purpose.

Dr. Watkins is an efficient physician, and has taken special work in diseases of the eyes. My objection to him was that one visit per week, and that being less than three hours at the reservations, was not sufficient to care properly for the number of Indians. Should he devote his entire time to the work there would be no objection.

A windmill and tank and well at each of these stations will

be the principal item of cost. The construction of buildings of  
adobe and brush sheds, will require expenditure of money for Indian  
labor.

Very respectfully,

Superintendent.

***EXHIBIT 74***

National Archives  
Pacific Southwest Region

Record Group (Title & No.)

75

Agency or Division

BIA

Series

Pima Indian Agency

subject files of the  
superintendent

Folder Title

Pima Agency - 1909-1910; Accounts,

James B. Alexander,  
1908-1910

Box No.

10

Authorities for purchase of "Indian  
School  
Support"

***EXHIBIT 75***

Department of the Interior  
U. S. INDIAN SERVICE  
Form approved by Comptroller of the  
Treasury October 30, 1907.

VOUCHER OR CLAIM FOR Trav. Expenses  
(EXTRA SHEET)

The United States,

November 3, 1909

To H. M. Alexander, Dr.(Give post-office address) Sacaton, Arizona.

DATE. 190 9	ITEMS.	AMOUNT.
	To expenses of trip to Phoenix to cause the arrest of two Indians implicated in a cutting affray:	
Aug. 6	Supper at Phoenix	50
" 6	Lodging " " (Geo. H. N. Luhrs)	1 1 00
" 7	Breakfast 50 cts., Dinner 50 cts. - (Phoenix)	1 00
" 7	Feed & care of gov't team - 8/6/7/09 - (Van Doren)	2 1 50
	To expense of trip to Lehi by way of Tempe & Mesa, the Salt River being too high to ford, to start the Indians at assessment work on Utah Canal:	
Sept. 8	R.R. Fare - Tempe to Mesa & return	50
" 8	Hire of team to Lehi, five miles & back (Hibbert & Metz)	3 3 00
" 8	Dinner 50 cts., Supper 50 cts. Mesa	1 00
" 8	Feed of gov't team (north of Salt near Tempe)	50
Oct. 6	To expense of repairing government buggy used by Ad'l Farmer, mending four rims, (new felloes) neckyokes, etc. } Van Doren	4 4 00
AMOUNT FORWARDED		\$13 00

***EXHIBIT 76***



VOUCHER OR CLAIM FOR REIMBURSEMENT OF EXPENSES  
 (EXTRA SHEET)

The United States,

December 31, 1909

To W. E. Heston, Dr.

(Give post-office address) Sacaton, Arizona.

DATE 1909	ITEMS.	AMOUNT.	
	To expenses of trip to Maricopa and Gila Crossing, by way of Phoenix, to examine Indians for Trachema, etc., and look into conditions on that part of the reservation:-		
Dec. 10	Lunch \$1 (Self & driver), Supper \$.50 (Driver) at Mesa	1	50
" 10	Breakfast of driver- 12/11/09		50
" 10	Feed & care of gov't team-12/10/11/09 Hibbert & Mets	1	1 50
" 10	Shoeing one horse " "	1	1 50
" 10	R. R. Fare- Mesa to Phoenix		75
" 10	Supper at Phoenix		50
" 10	Lodging at Adams Hotel- P.D. Lovell	2	2 00
" 11	Brkfst \$.60, Dinner \$.50, Supper \$.40 at Phoenix (Went to Indian School Hospital to see equipment with view to estimating for hospital here.)	1	50
Dec. 11	Lodging at Adams Hotel P.D. Lovell	2	2 00
" 12	Brkfst \$.50, Dinner \$.60 at Phoenix	1	10
" 15	Supper, 12/12, 3 meals, 12/13, 3 meals, 12/14, Brkfst. & dinner, 12/15, in all 9 meals at \$.25 ea. - Maricopa	2	25
" 22	Supper, 12/15, 3 meals each day, 12/16, 12/17, 12/18, 12/19, 12/20 and 12/21, Brkfst 12/22, in all, 20 meals at \$.25 each. ( Gila Crossing)	5	00
	Other hotels full		
	AMOUNT FORWARDED	20	10

***EXHIBIT 77***

National Archives  
Pacific Southwest Region

Record Group (Title & No.)

75

Agency or Division

BIA

Series

Pima Indian Agency

Subject Files of the  
Superintendent  
James B. Alexander,  
1908-1910

Folder Title

Pima - Letters to & From the Superintendent,

Box No.

10

***EXHIBIT 78***

(3 inclosure.)

1  
ADDRESS ONLY THE  
COMMISSIONER OF INDIAN AFFAIRS.

REFER IN REPLY TO THE FOLLOWING:

5-4601

Education— DEPARTMENT OF THE INTERIOR,  
Appointments.

OFFICE OF INDIAN AFFAIRS,

Cert 7837

E H H

WASHINGTON.

AUG -4 1910

James B. Alexander, Esq.,  
Superintendent Pima Indian School,  
Sacaton, Arizona.

Sir:

There is inclosed herewith for your information a copy of  
the probational appointment of Miss Louella Mahaney.

There are also inclosed a personal record blank and a decla-  
ration of appointee blank, both of which should be filled out  
in the appointee's own handwriting upon reporting for duty. The  
former should then be forwarded at once to this office and the  
latter to the Civil Service Commission, Washington, D. C.

The office should be informed of the failure of the appointee  
to report for duty within ten days after the receipt of this  
letter, unless you have been advised of the reasons for delay,  
and believe the appointee will report within a reasonable time.

You will not need to report favorably on the probationary  
service of the appointee in order that permanent appointment  
issue, as the appointment will be made permanent automatically  
in the absence of any recommendation. If the services given  
are not satisfactory, however, you will so report prior to the  
expiration of the probationary service.

Very respectfully,

Acting COMMISSIONER OF INDIAN AFFAIRS.

8-HS-3

4161b5m4-09

11834

I-2

***EXHIBIT 79***

(1 inclosure.)

ADDRESS ONLY THE  
COMMISSIONER OF INDIAN AFFAIRS.

REFER IN REPLY TO THE FOLLOWING:

8-450 k.

Education— DEPARTMENT OF THE INTERIOR,  
Appointments.Cert 7837  
E H HOFFICE OF INDIAN AFFAIRS,  
WASHINGTON.

AUG -4 1910

Miss Louella Mahaney,  
Windsor, Missouri.

Madam:

You are hereby probationally appointed to the position of

Nurse

at the ~~Pima (Arizona) Indian~~ ~~School,~~  
Agency,  
at a compensation of \$ ~~720~~ a year.

Your salary will begin when you take the oath of office and enter on duty. A blank form of oath is inclosed herewith, and you are requested to take the oath before the nearest notary public and forward the form immediately to this office.

You are expected to report for duty immediately to the superintendent or other officer in charge. Should any unforeseen incident prevent your doing so, you should telegraph that fact to the "Commissioner of Indian Affairs, Washington, D. C."

If your services are satisfactory, you will receive a permanent appointment at the expiration of six months from the date of your entrance on duty.

The route to your field of duty is as follows:

Casa Grande, Arizona, on Southern Pacific Railway; thence by stage daily, except Sunday, 16 miles. Or from Phoenix by Maricopa and Phoenix Railway to Mesa, Arizona; thence automobile to Sacaton, 20 miles.

Very respectfully,

(Signed) C. F. Hauke,  
Acting Commissioner.

4160b10m4-09

1-2

8-HS-3  
11834

***EXHIBIT 80***



INDIAN SERVICE.

I-201.

Education.  
Appointments  
E H H

REQUEST FOR CERTIFICATION—Original Appointment.

DEPARTMENT OF THE INTERIOR,

OFFICE OF INDIAN AFFAIRS,

Washington,

JUL -2 1910

The Civil Service Commission.

Gentlemen:

You are requested to certify eligibles for appointment to the position... named below:

Number to be employed.	SEX.	AGENCY OR SCHOOL.	POSITION.	SALARY.	QUALIFICATIONS DESIRED.
1	Female	Pima Agency, T.M.	Nurse	\$720 a year.	

Very respectfully,

(Signed) C. F. Hauke.

~~Chief Clerk.~~  
Second Asst. Commissioner

Indian Service Request No. 409.

2428b1m12-08

Carbon to Pima.

6-GC-30

11164

***EXHIBIT 81***

Enc. Cir. 386,

REPORT OF MEDICAL CONDITIONS.

*Salt River* .....  
School or agency ..... State

*Mar 10* ..... 1910. ..

Population of Indians under Superintendent.....

Area of land allotted.....Unallotted.....Total Area.....

Distribution of Indians over reservation.....

.....

.....

Accessibility to physician.....

Condition of roads, and difficulties of travel, if any.....

*Salt River at times not*.....

Method of transportation of physician (Private) team or ~~automobile~~.....  
(*Govt.*)  
(*No*)

.....

Number of horses.....Frequency of use.....

Other used of team except by physician.....

Size of territory under jurisdiction of physician.....

.....

Estimated extent of territory actually visited.....

Longest distance traveled in making a call (one way).....

Estimated number of Indians actually under supervision of physician..

CONTRACT PHYSICIANS.

Number of visits called for by contract.....

Average number of actual visits per week.....

Average number of hours spent per week in treating Indians.....

.....

FIELD MATRONS.

Method of transportation.....

Longest distance traveled in performing duties (one way).....

.....

***EXHIBIT 82***

National Archives  
Pacific Southwest Region

Record Group (Title & No.)

75

Agency or Division

BIA

Series

Phoenix Indian School

Folder Title

1915-1916

Box No.

6

superintendent  
- outgoing  
correspondence  
to the Commission  
1915-1920

***EXHIBIT 83***

EA-Schools  
V R R

February 10, 1916.

Commissioner of Indian Affairs,  
Washington, D. C.

Sir:

Replying to Office letter of January 19 concerning the enrollment of young and low grade pupils at the Phoenix School, I would report that such pupils as are below the age of 14 have been received on the special request of the superintendents of the Mogui, Salt River and Gila Reservations on account of such pupils having no school facilities of any other kind. On the Salt River and Gila Reservations not even day school facilities were available for those sent to us, the day schools being overcrowded. The teachers backed by their superintendents have rather urged upon us the taking of these pupils. It is worthy of note that not less than 100 to 150 pupils of proper non-reservation school age have been taken from these two latter reservations to distant non-reservation schools although all live within a day's wagon drive of Phoenix. I have in other communications objected to the poor economy of the regulation which makes this possible.

With reference to pupils above the age of 14 but below the fourth grade in attainment, I beg to submit the proposition that the Phoenix School offers the only hope such pupils may have to secure an English and industrial education. Such pupils will not ordinarily enter a day school, or if they do enter they will remain therein but a very short time. They find no classes suitable to their primary training and the same condition exists in reservation boarding schools. Pupils over 14 years of age who enter such schools are so few in number as to have but one to three in a class ordinarily requiring a special teacher, which the reservation schools do not have. The Phoenix School maintains a class room devoted entirely to such adult primary pupils, as is done at Chilocco. This phase of the subject was discussed by me in correspondence when Supervisor in charge of the Five Tribes schools in connection with report of Superintendent Allen, of Chilocco School. In this case both Superintendent Allen and myself took the position independently and without consultation that no more valued service could be rendered by any school to the Indian race than by training in English and industries the boys and girls approaching maturity, but who had for various reasons, good or bad, received no previous school training.

I shall make every effort to fill this school next year and in succeeding years without enrolling under age pupils, but request the privilege of receiving without question pupils of whatever grade when they have reached the age of 14, and are in suitable and physical moral health.



Commissioner,

I would again suggest the advisability of so districting the Indian country that a pupil should not be taken from the immediate vicinity of one non-reservation school to another at a great distance when the educational facilities of the two institutions are approximately equal. As elsewhere reported during my superintendency of this school, we last year received about 60 pupils from California and an equal number from Oklahoma, and there was sent from the Gila and Papago Reservations approximately 200 pupils to Riverside, California, Chillico, Oklahoma, and elsewhere for academic work below the eighth grade. Eight pupils were taken during the fall of 1915 from the Gila River Reservation to Chillico, and a party of about 12 pupils were brought to Phoenix from Kiowa Agency, Oklahoma. I believe neither of these transfers should be permitted by the school regulations, but so long as pupils in the immediate vicinity of Phoenix are carried to distant schools, it will be necessary in order to fill the Phoenix School that we adopt similar methods.

Very respectfully,

Superintendent.

JBB-JS

***EXHIBIT 84***

RG48

Box #3

in 1.4.6.10

BASIS OF SETTLEMENT OF LITIGATION  
BETWEEN  
BUCKEYE IRRIGATION COMPANY AND SALT RIVER VALLEY WATER USERS' ASSOCIATION

The undersigned, representing the respective parties in the proceedings before Clifford H. Stone as mediator in the action, Buckeye Irrigation Company v. Salt River Valley Water Users' Association, et al, with approval of the mediator, recommend the following basis of settlement to said parties:

BASIS OF SETTLEMENT

1. The Association shall deliver henceforth in each calendar year to Buckeye Irrigation Company for beneficial use in the irrigation of lands served by it an amount of water equal to one and one-tenth percent (1.1%) of all diversions at Granite Reef for Association Irrigation Use in the same year, as defined below, in lieu of any amounts of water which the Association may be obligated to make available to Buckeye Irrigation Company from Salt River or from Verde River, subject to the conditions hereinafter set forth.
2. Buckeye Irrigation Company agrees to accept said one and one-tenth percent (1.1%) of all subsequent diversions at Granite Reef for Association Irrigation Use in satisfaction of all of its claims in the pending action and in lieu of any amounts of water which it may hereafter be entitled to have made available to it by the Association, subject to the conditions hereinafter set forth.
3. The Association shall credit Buckeye Irrigation Company each day, commencing January first of each year without carry-over from the preceeding year, with an amount of water equal to 1.1% of the total quantity diverted at Granite Reef for Association Irrigation Use on that day, herein defined as all water diverted for the irrigation of lands in Salt River Project and of lands in Salt River Indian Reservation on the south side of Salt River, and excluding all water diverted for delivery to lands in Salt River Indian Reservation on the north side of Salt River and to other non-project lands.

4. The Association shall deliver water on demand of Buckeye Irrigation Company at any rate not exceeding eighty acre feet per day so long as the total of such deliveries does not exceed the aggregate of said credits accrued during the year, and the Association shall at all times use reasonable efforts to deliver water of good quality and to limit fluctuations in the rate of delivery, to the end that service hereunder shall be equivalent to that given landowners in that portion of Salt River Project served from the westerly laterals under the Grand Canal; and said deliveries, subject to change by mutual agreement, shall be made through the existing canal known as the Buckeye Feeder and be measured at a point about 2 3/4 miles west and one mile north of the Initial Monument, G. & S. R. B. & M.

5. The Association shall commence the delivery of water within 36 hours of the receipt of notice from Buckeye Irrigation Company specifying the quantity in acre feet per day and the number of days of delivery, and the Association in like manner shall change the rate of delivery or cease the delivery of water within 36 hours of receipt of notice thereof, and Buckeye Irrigation Company shall be charged with the total amount of water delivered for which demand was made.

6. It is specifically agreed that Buckeye Irrigation Company does not hereby waive any future claims for water or damages which may result from an increase in the area of Salt River Project, or from the delivery of water by the Association to non-project lands which are not now entitled by contract or decree to receive such service, or from the impounding of flood waters of Verde River in excess of the amounts thereof which could be impounded in reservoirs having a total effective capacity of 300,000 acre feet, it being understood that Buckeye Irrigation Company may seek to participate in future construction of storage on Verde River in excess of said total capacity.

7. This agreement shall become operative as of January 1, 1944 subject to a stipulation as to a judgment being entered in the pending action with the approval of the Court embodying the provisions of this basis of settlement.

Phoenix, Arizona.

December 8, 1943

Approval Recommended

S. T. Harding  
S. T. Harding, representing  
Buckeye Irrigation Company

Raymond S. Hill  
Raymond S. Hill, representing  
Salt River Valley Water Users' Ass'n.

Clifford H. Stone  
Clifford H. Stone, Mediator

Reproduced from the holdings of the National Archives - Pacific Southwest Region

STATEMENT OF MEDIATOR

Buckeye Irrigation Company, et al  
vs.  
Salt River Valley Water Users' Association, et al

-----

This is a tentative statement of the Mediator submitted for the comments of the parties in the above entitled action who are directly interested in the phase of the controversy considered herein. These parties are the plaintiff, Buckeye Irrigation Company and two of the defendants, the Salt River Water Users' Association and the Roosevelt Irrigation District. (These parties will be referred to as "Buckeye", "S. R. W. U. A." or "Salt River Project" and "R. I. D.", respectively, for brevity).

The function of the Mediator is to act between the parties in an effort to effect an agreement or reconciliation of the matters in controversy. In such capacity, conclusions of law and fact for the consideration of the Court are not contemplated. However, after a series of conferences with engineer representatives of the parties, it appears that a statement of the Mediator from time to time covering different phases of the questions involved, with ample opportunity for interested parties to comment, will serve the ends of the mediation.

The Mediator conferred with counsel for the parties when mediation commenced. Since then conferences have been confined to engineer representatives. The plan has been followed of appraising the physical factors and conditions and attempting to reach an agreement as to them. Engineering studies, graphs, maps and other materials of this type were exchanged, explained, criticized and discussed. By this process it was hoped that a joint study developed in conference would result. This has been partially successful.

An agreement has been reached on the amount of rising or effluent water from all sources which arrived at the Buckeye heading for diversion prior to 1910. This was estimated and fixed at 124 cubic second feet average during the season May to October, inclusive, each year, distributed by months as follows:

May	-	141.36 c.f.s.
June	-	124. c.f.s.
July	-	110.36 c.f.s.
August	-	106.64 c.f.s.
September	-	120.28 c.f.s.
October	-	141.36 c.f.s.

Upon arriving at this figure of effluent water, a study was undertaken by the engineers of the physical factors which should be determinative of the responsibility for making this amount available at the Buckeye heading and of the distribution of such amount among those found to be responsible. The efforts to make this determination, however, have not been fruitful of a conclusion acceptable to any of the parties. In the opinion of the Mediator further progress is largely dependent upon a determination, if possible, of the effect of the pumping operations of the R. I. D. and the S. R. W. U. A., on the effluent water at the Buckeye heading. This entails legal and engineering considerations; and this statement will be confined to that subject. Other subjects such as flood flows and the quality of water, to which the Buckeye may be entitled, are reserved for later consideration.

There are many issues in this controversy. Such questions as relative priorities, the pleas of estoppel, adverse user and possession, non-user for a statutory period, laches and limitation have been studied by the Mediator but need not necessarily be discussed at this stage of the proceeding. Further, it should be understood that no effort is made in this state-

ment to discuss and analyze all of the factual matters and physical features surrounding the general controversy. It will be assumed that the parties will take notice of these matters without a recital of them here.

As stated, it has been agreed by the engineer representatives that the amount of effluent water at the Buckeye heading prior to 1910 was 124 c.f.s., average during the season May to October, inclusive, distributed as above set out. Prior to 1910 this effluent water available to the Buckeye had its origin from the following sources:

1. The effluent water which developed in the Salt River below the Joint Head diversion dam.
2. Effluent water which originated in the Gila River below the last diversions by the Indians or which was in excess of the capacity of the Indian canals.
3. Effluent water at the mouth of the Agua Fria.

As already indicated, for the present purpose, it is necessary to consider only the contributions of the Salt River to this effluent water. The parties are in agreement as to the sub-surface or sub-channel characteristics of the Salt River and of the sub-surface conditions immediately outside of and along its bed. The amended answer of the S. R. W. U. A. alleges in this respect as follows:

"Further answering plaintiffs' complaint defendant alleges that the said Salt and Verde rivers unite and form one stream near and a short distance above what is known as Granite Reef Diversion Dam, and from thence on the combined streams under the name of the Salt river flow in a westerly direction for many miles alongside and through this defendant's project to its junction with the Gila River; and from whence the combined streams continue on as the Gila River. That the Verde River in addition to the surface flow thereof has a definite and well defined undercurrent or sub-flow; that the Salt River from its dams to the Granite Reef Diversion Dam is used as a channel

"for the delivery of appropriated waters for irrigation, and that the Salt River in addition to the surface flow has a definite and well defined undercurrent or sub-flow. That the beds of said streams are composed for the most part of boulders and gravels of various sizes readily permeable by water; that they are bedded upon an impervious formation with a covering of loose sand, silt and sandy loam; that the said sub-flow of said streams comprises not only the immediate beds thereof but channels on either side of the banks thereof, beyond and outside the immediate bed or surface channel; that the channels adjacent to the surface channel are likewise composed of sand, gravel, silt and loam which are readily permeable by water, and that water flows through same as a part of the sub-flow and undercurrent of said streams.

"That a substantial and large part of the waters of the Salt and Verde Rivers is comprised in and becomes a part of the undersurface current or sub-flow of said streams, occasionally coming to the surface thereof, but constantly flowing along and as a part of the general flow thereof; that at times of flood and high water in either of the Salt or Verde Rivers much of the water is absorbed in the beds and the subsurface channels of sand and gravel of said rivers."

No storage of water for irrigation of the Salt River Valley lands was provided prior to 1910. These lands were irrigated by means of various diversion dams and canals diverting and distributing water from the Salt River. The S. R. W. U. A. was incorporated in 1903. The Association issued stock only to owners of land or occupants of public lands within the territorial boundary of the project. By the Articles of Incorporation, the Association was charged with the duty of diverting from the Salt and Verde rivers and carrying to the lands of its shareholders all water appropriated from these rivers. Each share of stock in the Association carries with it the right to have delivered to the owner thereof water for the irrigation of lands to which such share is appurtenant. The amount of water delivered to each owner is the proportionate part of the water diverted, stored and developed, the storage and development of which may be effected by the Association through the works under its control and management. By the year



1887, when lands in the Buckeye district were first irrigated, 83,603 acres of Salt River Project lands were irrigated. This acreage, together with an additional 73,480 making a total of 151,083 acres, had established an existing appropriation of water under the Kent decree which was entered on March 1, 1910. There are now approximately 242,000 acres of land under cultivation in the Salt River Project.

Storage in the Roosevelt reservoir was commenced in 1910. The Granite Reef diversion dam previously had been completed. Between 1923 and 1930 three additional dams were constructed between the Roosevelt dam and the Granite Reef dam. These were the Mormon Flat dam, Horse Mesa dam and Stewart Mountain dam. In 1939 the Bartlett dam on the Verde was completed. All of these works were constructed for, and are operated as a part of the irrigation system of, the Salt River Project. The Granite Reef is located below the junction of the Salt and Verde. It rests on bedrock and intercepts the water of these two rivers at that point for diversion into the canals and distributing system of the Salt River Project. No stream of any consequence enters the Salt between the Granite Reef and the junction of the Salt and Gila about four miles above the Buckeye heading; and no water passes the Granite Reef except in case of floods or spills from the reservoirs above it beyond the capacity of the canals, the water for which is diverted by this structure. The interception of water at Granite Reef materially reduced the quantity arriving at the older downstream diversion points of the Salt River Project. This is particularly true of Joint Head which is located approximately sixteen miles below Granite Reef. The higher canals originating at Granite Reef and the installation of a pump operation at Joint Head served to take care of the lands of the S. R. W. U. A. under the older canals and

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the greatly expanded acreage subjected to irrigation after storage. Geological conditions in the form of a barrier or reef at Joint Head and again in the vicinity of the Buckeye heading, approximately twenty six miles downstream, serve to intercept the subflows of the river channel and those immediately on either side of its banks, and thereby cause rising or effluent water.

The Buckeye Water Conservation District with approximately 20,000 total acreage, is operated by the Buckeye Irrigation Company, incorporated under the laws of Arizona. The district is located in Western Maricopa County on the north side of the Gila river immediately West of the Salt River Project and adjacent to the R. I. D. which lies to the north. The Buckeye canal which serves these lands with irrigation water diverts from the north bank of the Gila river about four miles west of its junction with the Salt and immediately below the mouth of the Agua Fria. Irrigation of lands in this district commenced in 1887 when water was beneficially applied to about 920 acres. Approximately 4,700 acres were subjected to irrigation in 1888 and increased irrigated acreage was added until 1900 when the present acreage of 16,000 acres was reached. The Benson-Allison adjudication decree, entered November 14, 1917, established a water right for 19,837 acres of Buckeye lands.

In furtherance of this mediation, the effluent water arriving at the Buckeye heading prior to 1910 for May to October, inclusive, has been determined, as above stated. This effluent water, of course, was augmented by flood flows and their increment of "after-flow". It is recognized by all of the parties that subsequent to 1910 when storage above Roosevelt Dam and expanded irrigation on the Salt River Project commenced, the supply of

water at the Buckeye canal heading was increased and the effluent water was greatly stabilized. There is no dispute that these water supply conditions at Buckeye head generally prevailed until 1928.

The increased application of water on the Salt River Project subsequent to 1910 caused the ground water to rise under the project lands. By 1921 about 15,000 acres of farm land in the southwest portion of the project area were threatened with ruin and about 40,000 acres were adversely affected. To relieve this water-logged area which was located adjacent to and north of the Salt River and a short distance West of Phoenix, the S. R. W. U. A. installed twenty-six pumps. These wells were from 18" to 24" in diameter and from 150 to 250 feet in depth and were equipped with perforated casing. The wells were so located that the water therefrom could not be extensively re-applied for irrigation of project lands. In addition the farmers in the area where the pumped water could be utilized did not use it for fear of the deleterious effect on their crops. As a result the S. R. W. U. A. returned this drainage water into the Salt River, except for a short period when disposition of it was made to parties outside of the project. This aided in maintaining the water supply at the Buckeye heading. It appears to the mediator from the engineering studies that by 1927 the reclamation of these water-logged lands was well under way.

The R. I. D. was organized during the year 1923 under the irrigation district laws of Arizona. There are 39,300 acres of land embraced within the exterior boundaries of the district. The district lies between the Agua Fria and Hassayampa rivers. Its southern boundary is immediately adjacent to, and alongside, the Buckeye district, and is from one to three miles north of the Gila River. Beginning with and since the year 1928 not