

Packet for Drainage District #5

27 May 1922	Petition to organize Drainage District #5 Exhibit A – Map Showing Proposed Boundaries Exhibit B – Certified Equalized County Assessment Roll for 1921 Exhibit C – List of Non-Residents Exhibit D – Declaration of Expense Undertaking by Petitioners
26 Jun 1922	Minute Entry of Resolution – Hearing scheduled for petition consideration
27 Jun 1922	Public notices posted for hearing
30 Jun 1922	Notice mailed to landowners
30 Jun 1922	Lands within the Lewiston Drainage District (created 1 Jul 1907) approved for inclusion in Drainage District #5
28 Jul 1922	Notice published regarding organization of District #5
31 Jul 1922	Protest by Marian D. Bullen against the inclusion of her land in District #5
31 Jul 1922	Protest by W.A. Bowles, J.E. Horton, and Emma Baird against inclusion of their land in District #5
31 Jul 1922	Minute Entry – Decisions tabled until commissioners personally examine the lands within the proposed district. Hearing continued to 7 Aug.
7 Aug 1922	Proclamation of organization of Cache County Drainage District #5
14 Aug 1922	Proclamation published
5 May 1923	Supervisor's and Engineer's Reports – including description of drain numbers and locations of drain outlets
7 May 1923	Tax estimate for the year 1923
7 May 1923	Assessment of Benefits (per parcel)
8 May 1923	Notice of taxation, with verification of mailing
28 May 1923	Protests (corrections) against the Tax Estimate (Assessment of Benefits)
13 Jun 1923	Resolution to correct and equalize assessment of benefits and taxes
1922-1945	Loan log for District #5 papers borrowed from the 1 st District Court
8 Jan 1970	Memorandum of Law, #12448, Cache District Court - Cache Drainage District #5 vs. Westover, Wheeler, Iwomoto
1970	Booklet, Respondent's Brief for the court case of Cache County Drainage District #5 vs. Westover, Wheeler, Iwomoto (case #12151)

Petition
for the Organization of Cache County
Drainage District # 5

Filed June 26th 1922

W. H. Chugg
clerk,

BEFORE THE BOARD OF COUNTY COMMISSIONERS,
Cache County, State of Utah.

In the Matter of the organization of a
drainage district to be known as the
Cache County Drainage District Number
Five in Cache County, State of Utah.

P E T I T I O N

To the Honorable Board of County Commissioners in and for
the said Cache County, State of Utah.

Your petitioners respectfully submit the following:

(1) That your petitioners are the owners of title or
evidence of title of a major portion in area of the lands proposed to
be reclaimed or benefitted, or which are susceptible of drainage
within the area proposed herein to be organized as a drainage
district in the name of the Cache County Drainage District Number Five,
in Cache County, State of Utah, and that they are a majority of such
owners who represent at least one-third in area of lands proposed
to be reclaimed or benefitted, included in the organization, which
lands are susceptible of reclamation by drainage; and your petition-
ers desire to provide for the reclamation of the said lands
included within the area as hereinafter bounded and described.

That attached hereto is a map of said lands showing the
proposed boundaries of the said district which map is marked
Exhibit "A" to which reference is hereby made for further particulars
thereof.

(2) The lands which your petitioners desire to have
included within the proposed drainage district are situated in the
said County of Cache, State of Utah, and the boundaries of the proposed
district are as follows:

Beginning at the north quarter corner of Section 11, Township 14 North of Range 1 West of the Salt Lake Meridian and running thence east one mile; thence south one-half mile; thence east $1\frac{1}{2}$ miles; thence north one-half mile to the northeast corner of Section 7, Township 14 North, Range 1 East of the Salt Lake Base and Meridian; thence east 100 rods; thence north one-half mile; thence east 60 rods to the center of Section 5, last aforesaid township and range; thence north $\frac{3}{4}$ mile; thence west 40 rods; thence north 0.322 mile to the Utah-Idaho Boundary line; thence west along said boundary line $1\frac{3}{8}$ miles; thence south .323 mile to the west quarter corner of the southwest quarter of section 31, township 15 North, Range 1 East of the Salt Lake Base & Meridian; thence west one-fourth mile; thence south one-fourth mile; thence west one mile; thence south one-fourth mile; thence west one-fourth mile; thence south $\frac{3}{4}$ mile to the place of beginning.

and enclosing an area of approximately 2860 acres, and a more particular description of the lands proposed to be included within the boundaries of the proposed drainage district is as follows:

In Twp. 15 North, Range 1 East of the S. L. B. & M.

Lots one (1), two (2), three (3) and four (4) the southeast quarter and the southwest quarter of section 31, the west half of lot three (3) and Lot four (4), the west three-fourths of the southwest quarter and the east half of the southeast quarter of the southwest quarter of Section 32.

In Twp. 15 North, Range 1 West of the S.L.B.& M.

The southeast quarter of the southeast quarter of section 36.

In Twp. 14 North, Range 1 East of the S. L. B. & M.

The northwest quarter, and the west $\frac{5}{8}$ of the southwest quarter of Section 5/

All of section 6.

The north half of Section 7.

In Twp. 14 North, Range 1 West of the S.L.B. & M.

All of Section 1.

The southeast quarter, the east half and the southwest quarter of the northeast quarter of Section 2.

The northeast quarter of Section 12.

(3) The starting points, routes and termini and general description of the proposed drainage system are as follows:

A main drain beginning at Bear River near the northwest corner of Section 2, Township 14 North, Range 1 West of the Salt Lake Base and Meridian, and running southeasterly to the

center of said section 2 and thence east about 3 miles through the center of sections two and one of the aforesaid township and range and through the center of section 6 and 5 of township 14 North, range 1 east of the Salt Lake Base and Meridian to a point near the center of said section 5.

A lateral beginning at the center of Section 6, township 14 North Range 1 East of the Salt Lake Base and Meridian and running north one mile.

A second lateral beginning at the center of said section 6 and running south one mile, together with any necessary interior drainage.

The main drain is to be open drain. Whenever necessary the laterals are to be covered clay or concrete tile drain.

(4) Your petitioners herewith submit a true copy of the equalized county assessment roll for the year 1921 being the roll next preceeding the presentation of this petition for the organization of the said drainage district, as shown by the records and assessment roll in the office of the county assessor of Cache County, State of Utah, as evidence of the ownership and title to the said described lands, which said copy of said assessment roll is attached hereto, marked Exhibit "B" and made a part of this petition.

(5) Your petitioners herewith append an affidavit giving a list of non-residents who own land within the boundaries of the proposed district together with their places of residence when known, and where not known, stating the fact and that upon diligent inquiry they could not be ascertained, which said affidavit is attached hereto, marked Exhibit "C" and made a part of this petition.

(6) Your petitioners herewith present an indemnity bond in the sum of \$2000.00 which is equivalent to 2 per cent of the estimated cost of the proposed drainage work, conditioned for the payment of any organization, preliminary and other lawful costs, in the event that this petition is denied or that, upon investigation, it is found that the cost of improvement will be in excess of the benefits to be derived, thereby necessitating the dismissal of the proceedings, which said indemnity bond is attached hereto, marked "Exhibit D" and made a part of this petition.

WHEREFORE, your petitioners respectfully pray as follows:

(1) That pursuant to the provisions of Title 26 of the Compiled Laws of Utah, 1917, and amendments thereto, the land above described and bounded be organized into a drainage district to be known as Cache County Drainage District Number Five, in the County of Cache, State of Utah; That said lands may be drained and reclaimed and protected.

(2) That your honorable body fix a time and place for a hearing on this petition, and that due and legal notice of the time and place of the hearing upon said petition and the purpose for which the petition will be heard, be given as required by law, to all parties interested.

Your petitioners further pray that the said petition be granted; that the proposed drainage district be organized as a body corporate and that three drainage supervisors be appointed as provided by statute.

Witness the hands of your petitioners at Logan, Utah,
this 27th day of May, 1922.

Name

Acres of land in the district.

Signature of Landowners.Number of acres owned in Acres.

✓ R. W. Talbot	44	SE 1/4 Sec 31
✓ G. H. W. Lison	78	Sec 54 6-14
✓ E. M. L. D. D. D.	9	
✓ E. M. L. D. D.	5	
✓ M. W. L. D. D.	30	Sec 2-14-14 (Blk for a Pauline)
✓ M. W. L. D. D.	90	"
✓ H. M. L. D. D.	50	(Blk for a Pauline)
✓ W. L. L. D. D.	44	Sec 6-14-14
✓ G. M. L. D. D.	90	
✓ D. D. L. D. D.	20	acres Sec 6.
✓ J. S. L. D. D.	125	
✓ M. L. L. D. D.	79.83	
✓ M. L. L. D. D.	80	acres
✓ E. L. L. D. D.	70	acres
✓ L. W. L. D. D.	57	acres
✓ M. L. L. D. D.	120	
✓ L. L. L. D. D.	47	acres
✓ L. L. L. D. D.	25	
✓ L. L. L. D. D.	25	
✓ L. L. L. D. D.	26	3
✓ L. L. L. D. D.	36	

Signature of Landowners.

Number of acres owned in Acres.

{ Hyman Morrison

50

{ Lin W. Jackson

30

* Alpheus L. Paulsiss

80

Lovston Phineas Edward

& Co - Corporation

2

Signature of landowners.

Number of acres owned in Acres.

Ed. Hogan Pres. Cash Co. School Board. 2

BEFORE THE BOARD OF COUNTY COMMISSIONERS

Cache County, State of Utah.

In the matter of the organization of a drainage district to be known as the Cache County Drainage District Number Five in Cache County, State of Utah.

AFFIDAVIT

STATE OF UTAH

ss

COUNTY OF CACHE

George Karren, Amasa M. Bybee and Stillman Pond each being first duly sworn, upon oath do severally, and not one for the other, depose and say: I am one of the signers to the petition to the Honorable Board of County Commissioners of Cache County, State of Utah, praying for the organization of Cache County Drainage District Number Five and praying for other things necessary to and in the organization of the said District, signed by George Karren and 37 others bearing date of May 27th, 1922, that I am acquainted with the locality of the said proposed district and with the owners of the lands within the said district; that the said petition is signed by the owners of title or evidence of title of a major portion in area of the lands proposed to be reclaimed or benefitted, or which are susceptible of drainage within the area proposed to be reclaimed or benefitted and herein proposed to be organized as a drainage district in the name of Cache County Drainage District Number Five, in Cache County, State of Utah, and is also signed by a majority of such owners who represent at least one third in area of lands proposed to be reclaimed or benefitted, included in the organization, which lands are susceptible of reclamation by drainage.

George Karren
Amasa Bybee
Stillman Pond

Subscribed and sworn to before me this 27th day of May, 1922.

J. M. Altus
Notary Public
Residing at Logan, Utah

15

BOUND.

LEWISTON



EXHIBIT "B"

CERTIFIED EQUALIZED COUNTY ASSESSMENT ROLL
of
PROPOSED CACHE COUNTY DRAINAGE DISTRICT NO. 5.
Cache County, State of Utah,
for the year 1921.

<u>Name of Owner</u>	<u>Description of Parcel</u>	<u>Acreage</u>	<u>Assessed Valuation</u>
	<u>All in Twp. 14 N.R. 1 E.S.L.M.</u>		
	<u>Section 5.</u>		
Thomas S. Karren	The north 48 acres of the northwest quarter of said section, containing.....	48	9653
Henry T. Talbot Jr.	The south 32 acres of the north half of the northwest quarter of said section, containing.....	32	4230
Stillman Pond	The south half of the northwest quarter of said section, containing.....	80	12160
George H. Wiser	The west 52 3/4 rods of the southwest quarter of said section, containing.....	52.75	8531
Samuel F. Wiser	Beginning at a point 52.5 rods west from the southwest corner of the southwest quarter of said section; thence east 31.25 rods; thence north 18 rods; thence east 16 rods; thence north 142 rods; thence west 47.25 rods; thence south 160 rods to the place of beginning, containing..	45.45	6590
George H. Wiser	Beginning at a point 60 rods west from the southeast corner of the southwest quarter of said section; thence north 18 rods; thence west 16 rods; thence south 18 rods; thence east 16 rods to beginning, containing.....	1.80	369

<u>Name of Owner</u>	<u>Description of Parcel</u>	<u>Acreage</u>	<u>Assessed Valuation</u>
	<u>Section 6</u>		
✓ William Waddoups	Beginning at the northeast corner of said section; thence west 100 rods; thence south 80 rods; thence east 100 rods; thence north 80 rods to beginning, less tract to Marvin A. Rawlins, containing.....	48	6949.50
✓ George H. Wiser	The west 60 rods of the north half of the northeast quarter of said section, containing...	30	2283
✓ Marvin A. Rawlins	Beginning 47 rods south and 3 rods west of the northeast corner of said section; thence west 20 rods; thence south 16 rods; thence east 20 rods; thence north 16 rods to beginning, containing.....	2.	446
<i>Alex L. Pond</i> ✓ Martin Pond	The south half of the northeast quarter of said section, containing.....	80.	9900
✓ George F. Mills	The north half of lots 3 and 4, less tract to Amalgamated Sugar Company, containing....	39.32	5000
✓ Samuel G. Wiser, c/o Glen Wiser	The south half of lots 3 and 4, less strip 250 feet by 66 feet to Amalgamated Sugar Company, containing.....	39.62	5429
✓ Howell Real Estate and Investment Co. c/o John T. Haslam	The south half of the northwest quarter of said section, containing.....	79.95	8954
✓ Amalgamated Sugar Company	Beginning at a point 347 feet south of the northwest corner of said section; thence east 99 feet; thence south 115 feet; thence east 186.15 feet; thence south 234 feet; thence west 285.12 feet; thence north 350 feet to beginning, Also Beginning at a point 701 feet south and 33 feet east of the northwest corner of said section thence south 250 feet; thence east 66 feet; thence north 250 feet; thence west 66 feet to beginning, containing.....	1.86	275
George Karren	Beginning at a point 245 feet west of the northeast corner of the southeast quarter of said section; thence south 174 feet; thence east 245 feet; thence south 33 rods; thence west 42.5 rods; thence north 43.5 rods; thence west to the place of beginning, containing.....	9.27	2453

<u>Name of Owner</u>	<u>Description of Parcel</u> <u>Section 6</u>	<u>Acreage</u>	<u>Assessed Valuation</u>
Alex L. Pond	Beginning at the northeast corner of the southeast quarter of said section; thence west 245 feet; thence south 174 feet; thence east 245 feet; thence north 174 to beginning, containing....	1.79	400
Hyrum Karren	Beginning at the southeast corner of said section; thence north $116\frac{1}{2}$ rods; thence west $42\frac{1}{2}$ rods; thence south $116\frac{1}{2}$ rods; thence east $42\frac{1}{2}$ rods to beginning, also Beginning at a point 82 rods west of the southeast corner of said section, thence north 80 rods; thence west $38\frac{1}{2}$ rods; thence south 80 rods; thence east $38\frac{1}{2}$ rods to beginning, containing.....	50.25	6238
George Karren	Beginning $42\frac{1}{2}$ rods west of the southeast corner of the southeast quarter of said section; thence north 160 rods; thence west $39\frac{1}{2}$ rods; thence south 160 rods; thence east $39\frac{1}{2}$ rods to the place of beginning, containing..... Also, beginning at a point 82 rods west of the northeast corner of the southeast quarter of said section; thence west 78 rods; thence south 80 rods; thence east 78 rods; thence north 80 rods to beginning, containing..	39.5 39	6039 2932
J Joseph Haslam	Beginning at the southwest corner of the southeast quarter of said section; thence north 80 rods; thence east 40 rods; thence south 80 rods; thence west 40 rods to beginning, containing.....	20	2970
Howell Real Estate and Investment Company.	Beginning at the center of said section; thence south $53\frac{1}{2}$ rods; thence west 30 rods; thence north $53\frac{1}{2}$ rods; thence east 30 rods to beginning, containing...	10	
Daniel D. Buttars	Beginning at the southeast Corner of the southwest quarter of said section; thence west 30 rods; thence north $106\frac{2}{3}$ rods; thence east 30 rods; thence south $106\frac{2}{3}$ rods to beginning, containing.....	20	3861
Thomas S. Karren	Beginning at a point 30 rods west of the southeast corner of the southwest quarter of said section; thence north 160 rods; thence west 39 rods; thence south 160 rods; thence east 39 rods to beginning, containing.....	40	7172

<u>Name of Owner</u>	<u>Description of Parcel</u>	<u>Acreage</u>	<u>Assessed Valuation</u>
<u>Section 6 (continued)</u>			
Thomas S. Karren and wife, Georgiana I. Karren	Beginning at a point 25 rods north of the southwest corner of said section; thence north 117 2/9 rods; thence east 91 rods; thence south 142 2/9 rods; thence west 77 rods; thence north 25 rods; thence west 14 rods to the place of beginning, containing....	79.83	14234
Loron W. Marler	Beginning at the northwest corner of the southwest quarter of said section; thence east 90 rods; thence south 17 7/9 rods; thence west 90 rods; thence north 17 7/9 rods to beginning, containing.....	10	1727
Cache County School Board	Beginning at a point 14 rods north of the southwest corner of the southwest quarter of said section; thence north 11 rods; thence east 14 rods; thence south 11 rods; thence west 14 rods to beginning, containing.....	.9	
The Members of the Church of Jesus Christ of Latter Day Saints	Beginning at the southwest corner of the southwest quarter of said section; thence east 14 rods; thence north 14 rods; thence west 14 rods; thence south 14 rods to beginning, containing.....	1.22	
<u>Section 7</u>			
Martin Harris Pond	The North half of the northeast quarter of said section, containing.	80	8720
Martin Pond	Beginning at the northeast corner of the south half of said section; thence south 1270 feet; thence west 90 feet; thence north 215.89 feet; thence west 592.3 feet; thence south 207.89 feet; thence west 350 feet; thence south 8 feet; thence west 1607 feet to the north and south center line of said section; thence north 1270 feet; thence east one-half mile to beginning, containing.....	73.97	8061
Amalgamated Sugar Company	Beginning at a point 50 feet north and 90 feet west of the east quarter corner of said section; thence north 215.89 feet; thence west 592.3 feet; thence south 207.89 feet; thence west 350 feet; thence south 8 feet; thence east 943 feet to beginning, containing.....	3	540
U.I.C.R.R.Co.	Beginning at the east quarter corner of said section; thence north 50 ft.; thence west 2640 feet; thence south 50 ft.; thence east 2640 feet to beginning, containing.....	3.03	545

<u>Name of Owner</u>	<u>Description of Parcel</u>	<u>Acreage</u>	<u>Assessed Valuation</u>
	<u>Section 7 (continued)</u>		
✓ Roy S. Kent	The northeast quarter of the northwest quarter of said section, containing..	40	5594
✓ James Ray Kent	The northwest quarter of the northwest quarter of said section, less county road , containing.....	40 58	6116
✓ Roy S. Kent	Beginning at the center of the northwest quarter of said section; thence south 408.03 feet; thence east 1327 feet to the quarter section line; thence north 408.03 feet; thence west 1327 feet to the place of beginning, containing.....	12.43	2591
✓ James Ray Kent	Beginning at the northwest corner of the southwest quarter of the northwest quarter of said sec.; thence south 172.5 feet; thence east 321 feet; thence south 310.68 feet; thence east 1006 feet; thence north 483.18 feet; thence west 1327 feet to beginning, containing..	12.43	2591
✓ Joseph B. Kent	Beginning at a point 172.5 feet south of the northwest corner of the southwest quarter of the northwest quarter of said section; thence south 643.553 feet thence east 2654 feet to quarter section line; thence north 408.03 feet; thence west 1327 feet; thence south 75.154 feet; thence west 1006 feet; thence north 310.68 feet; thence west 321 feet to beginning, containing...24.86	24.86	2416
✓ Roy S. Kent	Beginning at a point 816.053 feet south of the northwest corner of the southwest quarter of the northwest quarter of said section; thence south 204.013 feet; thence east 2654 feet to the quarter section line; thence north 204.013 feet; thence west 2654 feet to the place of beginning, containing.....	12.43	2508
✓ Melvin E. Kent	Beginning at a point 50 feet north of the center of said section; thence west 1154 feet; thence north 17 feet; thence west 700 feet; thence north 35 feet; thence west 385.8 feet; thence north 179 feet; thence east 2239.8 feet; thence south 250.43 feet to beginning, containing.....	12.38	1373

<u>Name of Owner</u>	<u>Description of Parcel</u>	<u>Acreage</u>	<u>Assessed Valuation</u>
	<u>Section 7 (continued)</u>		
U. I.C.R.R.Co.	Beginning at the center of said section; thence north 50 feet; thence west 1154 feet; thence north 17 feet; thence west 700 feet; thence north 35 feet; thence west 800 feet; thence south 102 feet; thence east 2654 feet to beginning, containing.....	4.26	767
	Also, beginning at a point 102 feet north of the west quarter corner of said section; thence north 179 feet; thence east 81.9 feet; thence to the right on a 12° 42' curve 249.6 feet; thence west 250.7 feet to beginning, containing.....	.619	110
Amalgamated Sugar Company	Beginning at a point 102 feet north and 250.7 feet east of the west quarter corner of said section; thence east 163.5 feet; thence north 179 feet; thence west 330.8 feet; thence southeasterly on a 12° 42' curve 249.6 feet; to the point of beginning, containing.....	1.08	195

<u>Name of Owner</u>	<u>Description of Parcel</u>	<u>Acreeage</u>	<u>Assessed Valuation</u>
	<u>Twp. 15 N.R.1 E. S.L.M.</u>		
	<u>Section 31</u>		
✓ Henry J. Talbot	Lot 1 and the north 67 rods of the northeast quarter of the southeast quarter of said section, containing....	45.02	2338
✓ Robert W. Talbot	The south 93 rods of the east half of the southeast quarter of said section, containing....	46.5	5033
✓ Samuel F. Wiser	The southwest quarter of the southeast quarter of said section, containing.....	40.00	3801
✓ M. H. Stocks	Lot 2 and the northwest quarter of the southeast quarter of said section, containing.....	51.5	5968
✓ Joseph ^{IV} Bowden	Lots 3 and 4 of said section, containing.....	23	1689
✓ Elias B. Layne	Beginning at the northwest Cor. SW ¹ / ₄ quarter of said section; thence east 160 rods; thence south 80 rods; thence west 50 rods; thence north 20 rods; thence west 100 rods; thence south 43 rods; thence west 12 rods; thence north 103 rods to the place of beginning, containing..	69.45	7361
✓ Robert Lester Layne, c/o Eliz. Layne	Beginning at the southwest corner of said section; thence north 57 rods; thence east 12 rods; thence north 43 rods; thence east 47.3 rods; thence south 60 rods; thence west 19.3 rods; thence south 40 rods; thence west 40 rods to beginning, containing.....	29.01	3504
✓ David I. Layne	Beginning at the southeast corner of the southwest quarter of said section; thence north 80 rods; thence west 50 rods; thence north 20 rods; thence west 50.7 rods; thence south 60 rods; thence west 19.3 rods; thence south 40 rods; thence east 70 rods; thence north 40 rods; thence east 20 rods; thence south 40 rods; thence east 30 rods to beginning, containing..	56.51	6347
✓ Arnell Layne	Beginning at a point 30 rods west of the south quarter corner of said section; thence north 40 rods; thence west 20 rods; thence south 40 rods; thence east 20 rods to beginning, containing..	5	743

<u>Name of Owner</u>	<u>Description of Parcel</u>	<u>Acreage</u>	<u>Assessed Valuation</u>
	<u>Section 32</u>		
Robert W. Talbot	The west half of lot 3 and lot 4 containing....	17.25	1578
Richard A. Talbot	The west 120 rods of the north 60 rods of the southwest quarter, containing.....	45.00	4410
Daniel S. Talbot	Beginning at a point 60 rods south of the northwest corner of the southwest quarter of said section; thence south 60 rods; thence east 120 rods; thence north 60 rods; thence west 120 rods to beginning..... containing.....	45.00	3825 ✓
Olive L.T. Stephenson	Beginning at a point 2 rods north and 2 rods east of the southwest corner of said section; thence north 38 rods; thence east 29 rods, 7 feet, 9 inches; thence south 38 rods; thence west 29 rods 7 feet 9 inches to beginning, containing.....	7	842
Mary E.T. Wheeler	Beginning at a point 2 rods north and 31 rods 7 feet 9 inches east of the southwest corner of said section; thence north 38 rods; thence east 29 rods, 7 feet, 9 inches; thence south 38 rods; thence west 29 rods 7 feet and 9 inches to beginning, containing.....	7	1089
E.W.T. Drury	Beginning at a point 2 rods north and 60 rods 15 feet 6 inches east of the southwest corner of said section; thence north 38 rods; thence east 19 rods 1 foot; thence south 38 rods; thence west 19 rods 1 foot to the place of beginning, Also, beginning at a point 2 rods north and 58 rods 15 feet 6 inches west of the southeast corner of the southwest quarter of said section, thence north 38 rods; thence wxxx west 10 rods 6 feet 9 inches; thence south 38 rods; thence east 10 rods 6 feet 9 inches to beginning, containing....	7	842
Ruth S. White	Beginning at a point 29 rods 7 feet 9 inches west and 2 rods north of the southeast corner of the southwest quarter of said section; thence west 10 rods 8 feet 9 inches; thence north 38 rods; thence east 10 rods 8 feet 9 inches; thence south 38 rods to beginning, containing.....	2.01	199

<u>Name of Owner</u>	<u>Description of Parcel</u>	<u>Acreage</u>	<u>Assessed Valuation</u>
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Section 32 (Continued)

Henry J. Talbot	Beginning at a point 20.00 chains east of a point 0.5 chains north of the southwest corner of the southwest quarter of said section; thence east 9 rods; thence north 38 rods; thence west 9 rods; thence south 38 rods to beginning, containing.....	2.15	213
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Cache County	The south 2 rods of the east 120 rods of the southwest quarter and the west 2 rods of the south 40 rods of the southwest quarter of said section, containing.....	2.00	
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ALL IN TWP. 14 N. R. 1 W. S. L. M.

Section 1

Albert L. Marler	Beginning at a point 34 rods east and 38 rods north of the southwest corner of lot 2 of said section; thence north 42 rods; thence east 126 rods; thence south 42 rods; thence west 126 rods to the place of beginning, containing.....	33.07	3856
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Loron W. Marler	Beginning at the southwest corner of lot 2 said section; thence north 80 rods; thence east 34 rods; thence south 42 rods; thence east 126 rods; thence south 38 rods; thence west 160 rods to beginning, containing.....	46.92	6392
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W. A. Bowles	Beginning at the southeast corner of the northeast quarter of said section; thence north 80 rods; thence west 160 rods; thence south 80 rods; thence east 98 rods 11½ feet; thence north 27 rods; thence west 1 rod; thence south 27 rods; thence east 60 rods 5 feet to beginning, containing.....	79.82	11088
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E. A. Bowles	Beginning 60 rods and 5 feet west of the southeast corner of the northeast quarter of said section; thence north 27 rods;		
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<u>Name of Owner</u>	<u>Description of Parcel</u>	<u>Acreage</u>	<u>Assessed Valuation</u>
<u>Section 1 (continued)</u>			
E. A. Bowles (continued)	thence west 1 rod; thence south 27 rods; thence east 1 rods to the place of beginning, containing.....	0.18	
Joseph E. Hortin	The east half of the north- west quarter of said section containing.....	80	6774
P.J.Jamison	Beginning at the northeast corner of the west half of the northwest quarter of said section; thence west 32 rods; thence south 66.65 rods; thence east 32 rods; thence north 66.65 rods to beginning, containing.....	13.33	1320
Nancy L.Jamison	Beginning at the northwest corner of the northwest quarter of said section; thence south 160 rods; thence east 80 rods; thence north 93.35 rods; thence west 32 rods; thence north 66.65 rods; thence west 48 rods to beginning, containing..... Also, the north 100 rods of the east half of the southeast quarter of said section, containing.....	66.66 50	4455 6611
W. H. Jackson	Beginning at a point 60 rods north of the southeast corner of said section; thence west 13 1/3 rods; thence south 6 rods; thence west 13 1/3 rods; thence north 6 rods; thence west 53 rods; thence north 9 11/21 rods; thence east 80 rods; thence south 9 11/21 rods to beginning, containing.....	5.23	654
Perry J. Jamison	Beginning at a point 60 rods north of the southeast corner of the southeast quarter of said section; thence west 13 1/3 rods; thence south 6 rods; thence east 13 1/3 rods; thence north 6 rods to the place of beginning, containing.....	.5	110
George H.Blair	Beginning at a point 54 rods north of the southeast corner of said section; thence south 12 rods; thence west 27 rods; thence north 12 rods; thence east 27 rods to beginning, containing.....	2	446
Rose A. Young	Beginning at a point 15 2/5 rods north of the southeast corner of said section; thence north 435 feet; thence west 445.5 feet; thence south 435 feet; thence east 445.5 feet to beginning, containing..	1.93 2.47	435 550

<u>Name of Owner</u>	<u>Description of Parcel</u>	<u>Acreage</u>	<u>Assessed Valuation</u>
	<u>Section 1 (continued)</u>		
W. E. Whitt	Beginning at the southeast corner of said section; thence north 15 $\frac{2}{5}$ rods; thence west 27 rods; thence south 15 $\frac{2}{5}$ rods; thence east 27 rods to beginning, containing....	2.6	2572
Eugene Bair	Beginning at a point 2 rods north and 27 rods west of the southeast corner of the southeast quarter of said section; thence north 12 rods 12 $\frac{3}{4}$ feet; thence west 25 rods; thence south 12 rods 12 $\frac{3}{4}$ feet; thence east 25 rods to the place of beginning, containing.....	1.9	446
West Cache Sugar Company	Beginning at a point 52 rods west and 2 rods north of the southeast corner of said section; thence west 14 rods; thence north 11 $\frac{3}{7}$ rods; thence east 14 rods; thence south 11 $\frac{3}{7}$ rods to beginning, containing.....	1	226
John Kemp	Beginning 52 rods west of the southeast corner of said section; thence west 28 rods; thence north 60 rods; thence east 53 rods; thence south 45 rods 3- $\frac{3}{4}$ feet; thence west 39 rods; thence south 18 $\frac{3}{7}$ rods; thence east 14 rods; thence south 2 rod to beginning, containing.....	16.77	2041
Libbie Stephensen	The east 1.818 chains of the west half of the southeast quarter of the said section, less county road, containing....	7.182	1177
Orpha Bodily	Beginning at a point 0.5 chains north of a point 21.818 chains west of the southeast corner of said section; thence north 39.5 chains; thence west 1.818 chains; thence south 39.5 chains; thence east 1.818 chains to the place of beginning, containing.....	7.182	1177
Vira Elwood	Beginning at a point 0.5 chains north of a point 23.636 chains west of the southeast corner of said section; thence north 39.5 chains; thence west 1.818 chains; thence south 39.5 chains; thence east 1.818 chains to beginning, containing.....	7.182	1177
H.E. Elwood	Beginning at a point .5 chains north of a point 25.454 chains west of the southeast corner of said section; thence north 39.5 chains; thence west 1.818 chains; thence south 39.5 chains; thence east 1.818 chains to the place of beginning, containing.....	7.182	1177

<u>Name of Owner</u>	<u>Description of Parcel</u>	<u>Acreage</u>	<u>Assessed Valuation</u>
	<u>Section 1 (continued)</u>		

✓ Joseph McKnight	Beginning at a point 0.5 chains north of a point 27.272 chains west of the southeast corner of said section; thence north 39.5 chains; thence west 6.364 chains; thence south 39.5 chains; thence east 6.364 chains to beginning, containing.....	25.14	4846
✓ Eugene Bair	Beginning at a point .5 chain north of a point 33.636 chains west of the southeast corner of said section; thence north 39.5 chains; thence west 6.364 chains; thence south 39.5 chains; thence east 6.364 chains to beginning, containing...	25.136	4846
Cache County <i>see also records</i>	The south 2 rods of the $\frac{W}{2}$ of the southeast quarter of said section, containing.....	2	
✓ William Blair	The east 40 rods of the southwest quarter of said section, containing..	40	5720
✓ Ephriam I. Blair	The east half of the west half of the east half of the southwest quarter of said section, containing.	20	3564
✓ George H. Blair	The west half of the west half of the east half of the southwest quarter of said section, containing...	20	3564
✓ Nancy L. Jamison	The west half of the southwest quarter of said section, containing.....	80	11022

Section 2

✓ Amasa M. Bybee	The northeast quarter of the northeast quarter and the south half of the northeast quarter of said section, containing	120	11880
✓ Alphens L. Rawlins, c/o Hyrum Morrison	The north half of the southeast quarter of said section, containing.....	80	10742
✓ Lewiston Sugar Company	The south half of the southeast quarter of said section, containing	80	7260

Section 12

✓ Marion D. Bullen	Beginning at a point 13.913 rods south of the northeast corner of said section; thence south 142.087 rods; thence west 577.5 feet; thence south 66 feet; thence west 2062.5 feet; to the quarter section line; thence north 160 rods; thence east 134 rods; thence south 13.913 rods; thence east 26 rods to beginning, containing.....	157.13	21967
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<u>Name of Owner</u>	<u>Description of Parcel</u>	<u>Acreage</u>	<u>Assessed Valuation</u>
	<u>Section 12 (continued)</u>		

T. S. Karren, Bishop	Beginning at the northeast corner of said section; thence west 26 rods; thence south 13.913 rods; thence east 26 rods; thence north 13.913 rods; to beginning, containing.....	2	360
U.I.C.R.R.Co. c	Beginning at the east quarter corner of said Section; thence west 577.5 feet; thence north 66 feet; thence east 577.5 feet; thence south 66 feet to beginning, containing.....	0.87	

All in Twp. 15 N.R.1W.S.L.B. & M.

Wallace A.Allred	Beginning at the east quarter corner of the southeast quarter of section 36; thence south 38-2/3 rods; thence west 80; thence north 38 2/3 rods; thence east 80 rods to beginning, containing.....	19.33	4976
George R. Allred	The south 41.33 rods of the southeast quarter of said section containing.....	20.9	3590

C E R T I F I C A T E

State of Utah

ss

County of Cache

I, R. W. James, Assessor in and for the County of Cache, State of Utah, hereby certifies that the foregoing is a true and correct list of names of owners, descriptions of lands, acreage and assessed valuation of the owners of land within the boundaries of the proposed Cache County Drainage District Number Five, as appears from the official equalized assessment roll for the year 1921, as shown by the records of my office, and that the same is a correct transcript of such assessment roll.

In witness whereof I have hereunto set my hand and seal at Logan, Cache County, Utah, this 27th day of May, 1922.

R. W. James

County Assessor of Cache County, Utah.

BEFORE THE BOARD OF COUNTY COMMISSIONERS,
Cache County, State of Utah.

In the matter of the organization of a
drainage district to be known as the
Cache County Drainage District Number
Five in Cache County, State of Utah.

EXHIBIT "C"

LIST OF NON-RESIDENTS

Following is a list of non-residents who own land in the
area proposed to be organized as a drainage district to be known
as Cache County Drainage District Number Five, in Cache County, State
of Utah, together with their places of residence, where known,
and in the event that the places of residence of any non-residents
are not known, an affidavit setting forth that upon diligent in-
quiry, the places of residence could not be ascertained.

Names of Non-Residents

Addresses

Amalgamated Sugar Company	Ogden, Utah
Wallace A. Allred	Preston, Idaho
Ed. A. Bowles	Fairview, Idaho
William Blair	Logan, Utah
Marion D. Bullen	Richmond, Utah
Cache County Board of Education	Logan, Utah
Howell Real Estate & Investment Company	Logan, Utah
John Kemp	Salt Lake City, Utah
Marvin Rawlins	Fairview, Idaho
Alphens Rawlins	Firth, Idaho, Route #1
Ruth S. White	Farmington, Utah
Utah-Idaho Central Railroad Co.	Ogden, Utah
Rose A. Young	Provo, Utah
W. E. Whitt	Salt Lake City, Utah

STATE OF UTAH
ss
COUNTY OF CACHE

I, George Karren, being first duly sworn, depose and say: that the hereunto attached list of non-residents, marked Exhibit "C" is a true and correct copy of the names and places of residence of the non-residents in the proposed Cache County Drainage District Number Five, where known; that affiant has made diligent inquiry as to all of the places of residence of land owners within the said district; and that in case the residence as given is not correct such places of residence, upon diligent inquiry can not be ascertained.

George Karren

Subscribed and sworn to before me this 27th day of May, 1922.

J. M. Mott
Notary Public

Residing at: Logan Utah

My Commission expires July 1, 1925.

EXHIBIT "D"

BEFORE THE BOARD OF COUNTY COMMISSIONERS

Cache County, State of Utah.

In the matter of the organization of a drainage district to be known as the Cache County Drainage District Number Five in Cache County, State of Utah.

U N D E R T A K I N G

WHEREAS, George Karren and 37 others have filed with the Board of County Commissioners of Cache County, State of Utah, their petition praying for the organization of a drainage district in Cache County, State of Utah; and,

WHEREAS, the estimated cost of the proposed improvements in said proposed drainage district is \$30.00 per acre for approximately 3181 acres of land, and 2 per cent of this total estimated cost is about \$2000.00.

NOW THEREFORE, we, the undersigned residents of Cache County, State of Utah, in consideration of the premises, jointly and severally undertake in the sum of \$2000.00 and promise and undertake that the condition of this Undertaking shall be to the effect that if the said Board of County Commissioners upon or after the hearing of said petition, shall find no merit in the petition or shall find that the cost of the proposed improvement, or improvements, shall be in excess of the benefit, or benefits, to be derived therefrom, that the petitioners will pay all costs of preliminary surveys and for the publication of notice, and such other lawful expenses as may have been incurred by the Board of County Commissioners, to which amount we acknowledge ourselves jointly and severally bound to said Board of County Commissioners.

George Karren
Amasa M. Bybee
Stillman Pond

STATE OF UTAH

ss

COUNTY OF CACHE

George Karren, Amasa M. Bybee and Stillman Pond, sureties, whose names are subscribed to the above Undertaking, being severally sworn, each for himself says that he is a resident and householder

Minute Entry of Resolution
In the matter of the Organization
of Cache County Drainage District #5

Filed June 26th 1922
W. H. Chugg
clerk.

Recorded Bk J. 428.

FORM OF MINUTE ENTRY

A committee composed of George Karren, Amasa M. Bybee and Stillman Pond presented a written petition on behalf of George Karren and 37 others, which petition purports to contain the signatures of a majority of the owners of title or evidence of title to the land within the said proposed district, who own or control not less than one-third in area of the lands to be reclaimed or benefitted and also purports to contain the signatures of the owners of title or evidence of title of a major portion in area of the lands proposed to be reclaimed or benefitted in a Drainage District to be known as Cache County Drainage District Number Five.

On motion of Commissioner Hyer seconded by Commissioner Murray, it was ordered that the petition as presented by the committee be accepted and filed by the clerk.

Whereupon Commissioner Murray moved the adoption of the following resolution:

RESOLUTION

In the Matter of the organization
of the Cache County Drainage District
Number Five.

WHEREAS, George Karren and 37 others, presented a written petition, which petition purports to contain the signatures of a majority of the owners of title or evidence of title to the lands within the said proposed district, who own or control not less than one-third in area of the lands to be reclaimed or benefitted and also purports to contain the signatures of the owners of title or evidence of title of a major portion in area of the lands proposed to be reclaimed or benefitted in a drainage district to be known as Cache County Drainage District Number Five, which petition contains a general description of the work proposed and a particular description of the proposed boundaries of such district together with a list of the land owners and the amount of land owned by each, as shown by the equalized assessment roll of Cache County, Utah, next preceeding the presentation of the petition, together with an undertaking in the sum of \$2000.00, being 2 per cent of the estimated costs of the proposed improvement in the said district and the said petition being in all matters in manner and form required by law and praying for the creation of the said district.

NOW THEREFORE, in consideration of the premises be it resolved by the Board of County Commissioners of Cache County, Utah, that Monday the 31st day of July, 1922, at 10 o'clock A. M. at the Commissioners Room in the County Court House in Logan City, Cache County, Utah, at a special meeting of the Board of County Commissioners be and the same is hereby fixed as the time and place for the hearing of the said petition or for any contest thereto on the part of any land owner within the proposed district and that the clerk of Cache County, Utah, shall give notice of the time and place of the hearing of the said petition by publication in the Logan Republican, a tri-weekly newspaper printed and published in Logan City, Cache County

Utah, for at least three weeks the last date of which publication shall be at least one week before the said date of hearing and by posting a copy of the said notice at the front door of the Court House of Cache County, State of Utah, and shall cause a copy of the said notice to be posted in at least three public places in the proposed district; that the said notice shall be substantially in the following form;

N O T I C E

BEFORE THE BOARD OF COUNTY COMMISSIONERS

Cache County, State of Utah.

In the matter of the organization of a drainage district to be known as the Cache County Drainage District Number Five, in Cache County, State of Utah.

TO ALL PERSONS INTERESTED:

Notice is hereby given that the petition of George Karren and 37 others, praying for the organization of a drainage district, to be known and named as Cache County Drainage District Number Five, in Cache County, State of Utah, was presented to the Board of County Commissioners of Cache County, State of Utah, on the 26th day of June, A. D. 1922, and was filed with the County Clerk of said Cache County, in the Court house in Cache County, State of Utah, at Logan City, on the 26th day of June, 1922, and said petition is now on file in the office of the said County Clerk.

The boundaries of the land proposed to be included in said proposed Drainage District are described as follows, to wit:

Beginning at the north quarter corner of Section 11, Township 14 North of Range 1 West of the Salt Lake Meridian and running thence east one mile; thence south one-half mile; thence east $1\frac{1}{2}$ miles; thence north one-half mile to the northeast corner of section 7, Township 14 North, Range 1 East of the Salt Lake Base and Meridian; thence east 100 rods; thence north one-half mile; thence east 60 rods to the center of Section 5, last aforesaid township and range; thence north $\frac{3}{4}$ mile; thence west 40 rods; thence north 0.322 mile to the Utah-Idaho Boundary line; thence west along said boundary line $1\text{--}\frac{3}{8}$ miles; thence south .323 mile to the west quarter corner of the southwest quarter of Section 31, township 15 North, Range 1 East of the Salt Lake Base & Meridian; thence west one-fourth mile; thence south one-fourth mile; thence west one mile; thence south one-fourth mile; thence west one-fourth mile; thence south $\frac{3}{4}$ mile to the place of beginning.

and enclosing an area of approximately 2860 acres, and a more particular description of the lands proposed to be included within the boundaries of the proposed drainage district is as follows:

In Twp. 15 North, Range 1 East of the S.L.B. & M.

Lots one (1), two (2), three (3) and four (4) the southeast quarter and the southwest quarter of Section 31, the west half of lot three (3) and Lot four (4), the west three-fourths of the southwest quarter and the east half of the southeast quarter of the southwest quarter of Section 32.

In Twp. 15 North, Range 1 West of the S. L. B. & M.

36. The southeast quarter of the southeast quarter of section

In Twp. 14 North, Range 1 East of the S. L. B. & M.

The northwest quarter, and the west $\frac{5}{8}$ of the southwest quarter of Section 5.

All of Section 6.

The north half of Section 7.

In Twp. 14 North, Range 1 West of the S. L. B. & M.

All of section 1.

The southeast quarter, the east half and the southwest quarter of the northeast quarter of Section 2.

The northeast quarter of Section 12.

The starting points, routes and termini and general description of the proposed drainage system are as follows:

A main drain beginning at Bear River near the northwest corner of Section 2, Township 14 North, Range 1 West of the Salt Lake Base and Meridian, and running southeasterly to the center of said section 2, and thence east about 3 miles through the center of sections two and one of the aforesaid township and range and through the center of section 6 and 5 of Township 14 North, Range 1 east of the Salt Lake Base and Meridian to a point near the center of said section 5.

A lateral beginning at the center of Section 6, Township 14 North Range 1 East of the Salt Lake Base and meridian and running north one mile.

A second lateral beginning at the center of said section 6 and running south one mile, together with any necessary interior drainage.

The main drain is to be open drain. Whenever necessary the laterals are to be covered clay or concrete tile drain.

The purpose of organizing the said drainage district is to construct drains for the reclamation and protection of lands within the proposed district.

The said petitioners will ask for a hearing on said petition and will request that the same be granted at the regular meeting of the said Board of County Commissioners to be held on Monday the 31st day of July, 1922, at the hour of 10 o'clock A. M. or as soon thereafter as they can be heard at the court house in Logan City, Cache County, Utah, and on the hearing of said petition all parties interested and through or upon whose lands any of the proposed work may be constructed, or whose land may be damaged or benefitted thereby, may appear and contest the necessity or utility of the proposed work, or any part thereof, and contestants and petitioners may offer any competent evidence in regard thereto.

Witness my hand at Logan City, in Cache County, Utah, this 26 day of June, 1922.

W. H. Chugg
County Clerk

The motion for the adoption of the said resolution was seconded by Commissioner A. W. Hyer, whereupon a vote was called upon the motion which showed the following:

Commissioner H. A. Theurer	Aye
Commissioner William Murray	Aye
Commissioner A. W. Hyer	Aye

Whereupon the motion was declared unanimously adopted.

Dated this 26th day of June, 1922.

H. A. Theurer
Chairman

Wm Murray
Commissioner

A. W. Hyer
Commissioner

A F F I D A V I T

STATE OF UTAH ss
COUNTY OF CACHE

I, George Karren, being first duly sworn, under oath, depose and say: that on the 27 day of June, A.D. 1922, by order of W. H. Chugg, County Clerk of Cache County, State of Utah, I posted three notices, "To All Persons Interested", such notices being to property owners within the proposed Cache County Drainage District Number Five, informing them of the date on which a hearing would be given by the Board of County Commissioners at Logan, Utah, as required by Section 2042 of the Session Laws of Utah, 1921.

The places within the boundaries of said drainage district at which said notices were posted are as follows:

W One at G. H. Weisers Corner
 One at Lewiston Third Ecc. Ward Meeting House
 One at Nancy Jamison Corner

all within the proposed boundaries of said district.

George Karren

Subscribed and sworn to before me this 29th day of July, 1922.

W. H. Chugg
Notary Public

Residing at Logan, Utah



Affidavit of Posting
Cache County Drainage Dist #5-

Filed July 29th 1922

M. H. Chugg
clerk

Proof of Mailing notice
bacher County Drainage District #5

Filed June 30th 1922,

W.A. Chugg
clerk

In the matter of the organization of a
Drainage District to be known as the
Cache County Drainage District Number
Five in Cache County, State of Utah.

Proof of Mailing Notice.

I, Lilliam McCulloch, being first duly sworn on oath say,
that I am a citizen of the United States, over twenty-one years of
age; that on the 30th day of June, 1922, I mailed full, true and
correct copies of the annexed notice, by depositing the same in the
United States Post office at Logan, Utah, postage prepaid to the
following named persons and addressed to wit:

Amalgamated Sugar Company, Ogden, Utah
Wallace A. Allred, Preston, Idaho
Ed. A. Bowles, Fairview, Idaho
William Blair, Logan, Utah
Marion D. Bullen, Richmond, Utah
Cache County Board of Education, Logan, Utah
Howell Real Estate and Investment Co., Logan, Utah
John Kemp, Salt Lake City, Utah
Marvin Rawlins, Fairview, Idaho
Alphens Rawlins, Firth, Idaho, Route # 1
Ruth S. White, Farmington, Utah
Utah-Idaho Central Railroad Company, Ogden, Utah
Rose A. Young, Provo, Utah
W. E. Whitt, Salt Lake City, Utah

Lilliam McCulloch

Subscribed and sworn to before me this 30th day of June, 1922.

W. H. Chugg
County Clerk of Cache
County, Utah.

NOTICE

BEFORE THE BOARD OF COUNTY COMMISSIONERS, Cache County, State of Utah.

In the matter of the organization of a drainage district to be known as the Cache County Drainage District Number Five, in Cache County, State of Utah.

TO ALL PERSONS INTERESTED; Notice is hereby given that the petition of George Karren and 37 others, praying for the organization of a drainage district, to be known and named as Cache County Drainage District Number Five, in Cache County, State of Utah, was presented to the Board of County Commissioners of Cache County, State of Utah, on the 26th day of June, A. D. 1922, and was filed with the County Clerk of said Cache County, in the Court house in Cache County, State of Utah, at Logan City, on the 26th day of June, 1922, and said petition is now on file in the office of the said County Clerk.

The boundaries of the land proposed to be included in said proposed Drainage District are described as follows, to wit:

Beginning at the north quarter corner of Section 11, Township 14 North of Range 1 West of the Salt Lake Meridian and running thence east one mile; thence south one half mile; thence east 1 1-2 miles; thence north one half mile to the northeast corner of section 7, Township 14 North, Range 1 East of the Salt Lake Base and Meridian; thence east 100 rods; thence north one half mile; thence east 60 rods to the center of Section 5, last aforesaid township and range; thence north 3-4 mile; thence west 40 rods; thence N. 0.322 mile to the Utah-Idaho Boundary line; thence west along said boundary line 1 3-8 miles; thence south .323 mile to the west quarter corner of the southwest quarter of Section 31, township 15 North, Range 1 East of the Salt Lake Base and Meridian; thence west one fourth mile; thence south one fourth mile; thence west one fourth mile; thence south 3-4 mile to the place of beginning.

and enclosing an area of approximately 2860 acres, and a more particular description of the lands proposed to be included within the boundaries of the proposed drainage district is as follows:

In Twp. 15 North, Range 1 East of the S. L. B. and M.

Lots one (1), two (2), three (3) and four (4) the southeast quarter and the southwest quarter of Section 31. the west half of lot three (3) and Lot four (4), the west three fourths of the southwest quarter and the east half of the southeast quarter of the southwest quarter of Section 32.

In Twp. 15 North, Range 1 West of the S. L. B. and M.

The southeast quarter of the southeast quarter of section 36.

In Twp. 14 North, Range 1 East of the S. L. B. and M.

The northwest quarter, and the west 5-8 of the southwest quarter of Section 5.

All of Section 6.

The north half of Section 7.

In Twp. 14 North, Range 1 West of the S. L. B. and M.

All of section 1.

The southeast quarter, the east half and the southwest quarter of the northeast quarter of Section 2.

The northeast quarter of Section 12.

The starting points, routes and terminal and general description of the proposed drainage system are as follows:

A main drain beginning at Bear River near the northwest corner of Section 2, Township 14 North, Range 1 West of the Salt Lake Base and Meridian, and running southeasterly to the center of said Section 2, and thence east about 3 miles through the center of sections two and one of the aforesaid township and range and through the center of section 6 and 5 of Township 14 North, Range 1 east of the Salt Lake Base

and Meridian to a point near the center of said section 5.

A lateral beginning at the center of Section 6, Township 14 North Range 1 East of the Salt Lake Base and Meridian and running north one mile.

A second lateral beginning at the center of said section 6 and running south one mile, together with any necessary interior drainage.

The main drain is to be open drain. Whenever necessary the laterals are to be covered clay or concrete tile drain.

The purpose of organizing the said drainage district is to construct drains for the reclamation and protection of lands within the proposed district.

The said petitioners will ask for a hearing on said petition and will request that the same be granted at the regular meeting of the said Board of County Commissioners to be held on Monday, the 31st day of July, 1922, at the hour of 10 o'clock A. M. or as soon thereafter as they can be heard at the court house in Logan City, Cache County, Utah, and on the hearing of said petition all parties interested and through or upon whose lands any of the proposed work may be constructed, or whose land may be damaged or benefitted thereby, may appear and contest the necessity or utility of the proposed work, or any part thereof, and contestants and petitioners may offer any competent evidence in regard thereto.

Witness my hand at Logan City, in Cache County, Utah, this 26th day of June, 1922.

W. H. CHUGG,
County Clerk Adv-t

In the Matter of the Organization
of the Cache County Drainage District #5

Filed June 30th 1922.

W H Chugg
clerk.

In the Matter of the organization
of the Cache County Drainage District
Number Five

WHEREAS on the 1st day of July, 1907, there was organized a drainage district, known as Lewiston Drainage District, the lands within whose boundaries are now included within the boundaries of the proposed Cache County Drainage District Number Five, and,

WHEREAS it is deemed to the advantage of the said Lewiston Drainage District that the lands included within its boundaries should be included within the boundaries of the said proposed Cache County Drainage District Number Five.

NOW THEREFORE pursuant to the provisions of Section 2054x4 of the Compiled Laws of Utah, 1917, as amended by the session Laws of Utah, 1919 and 1921, the undersigned Board of Supervisors of the said Lewiston Drainage District do hereby consent that the lands included within the boundaries of the said Lewiston Drainage District may now be included within the boundaries of the proposed Cache County Drainage District Number Five.

Dated at Lewiston, Utah, this 30th day of June, 1922.

George Eason
L W Marler
Wm J Haslam

Proof of Publication
Cache Co, Drainage Dist No 5

Filed July 28th 1922

W H Chugg
clerk

Proof of Publication

STATE OF UTAH,

ss.

County of Cache,

On this 28th day of July A. D. 1922 personally appeared before me Leland Kidd who being first duly sworn, deposes and says that he is Principal Clerk of the LOGAN REPUBLICAN, a 4p4 Weekly Newspaper published in Logan City, Cache County, Utah, and that the Advertisement

Notice in the matter of organization of
Drainage District # 5

a copy of which is hereto attached, was published in said Newspaper at least 3 times a week for four weeks commencing June 27th 192 2 and ending July 27th 192 2

L. Kidd

Subscribed and sworn to before me, the day and year above written.

Louise W. Winchell

Notary Public Residing at Logan City, Utah.

My commission expires June 26, 1925 192 ...

NOTICE

BEFORE THE BOARD OF COUNTY COMMISSIONERS, Cache County, State of Utah.

In the matter of the organization of a drainage district to be known as the Cache County Drainage District Number Five, in Cache County, State of Utah.

TO ALL PERSONS INTERESTED:

Notice is hereby given that the petition of George Karren and 37 others, praying for the organization of a drainage district, to be known and named as Cache County Drainage District Number Five, in Cache County, State of Utah, was presented to the Board of County Commissioners of Cache County, State of Utah, on the 26th day of June, A. D. 1922, and was filed with the County Clerk of said Cache County, in the Court house in Cache County, State of Utah, at Logan City, on the 26th day of June, 1922, and said petition is now on file in the office of the said County Clerk.

The boundaries of the land proposed to be included in said proposed Drainage District are described as follows, to wit:

Beginning at the north quarter corner of Section 11, Township 14 North of Range 1 West of the Salt Lake Meridian and running thence east one mile; thence south one half mile; thence east 1 1-2 miles; thence north one half mile to the northeast corner of section 7, Township 14 North, Range 1 East of the Salt Lake Base and Meridian; thence east 100 rods; thence north one half mile; thence east

60 rods to the center of Section 5, last aforesaid township and range; thence north 3-4 mile; thence west 40 rods; thence N. 0.322 mile to the Utah-Idaho Boundary line; thence west along said boundary line 1 3-8 miles; thence south .323 mile to the west quarter corner of the southwest quarter of Section 31, township 15 North, Range 1 East of the Salt Lake Base and Meridian; thence west one fourth mile; thence south one fourth mile; thence west one fourth mile; thence south one fourth mile; thence south 3-4 mile to the place of beginning.

and enclosing an area of approximately 2860 acres, and a more particular description of the lands proposed to be included within the boundaries of the proposed drainage district is as follows:

In Twp. 15 North, Range 1 East of the S. L. B. and M.

Lots one (1), two (2), three (3) and four (4) the southeast quarter and the southwest quarter of Section 1. the west half of lot three (3) and Lot four (4), the west three fourths of the southwest quarter

and the east half of the southeast quarter of the southwest quarter of Section 32.

In Twp. 15 North, Range 1 West of the S. L. B. and M.

The southeast quarter of the southeast quarter of section 36.

In Twp. 14 North, Range 1 East of the S. L. B. and M.

The northwest quarter, and the west 5-8 of the southwest quarter of Section 5.

All of Section 6.

The north half of Section 7.

In Twp. 14 North, Range 1 West of the S. L. B. and M.

All of section 1.

The southeast quarter, the east half and the southwest quarter of the northeast quarter of Section 2.

The northeast quarter of Section

12.

The starting points, routes and termini and general description of the proposed drainage system are as follows:

A main drain beginning at Bear River near the northwest corner of Section 2, Township 14 North, Range 1 West of the Salt Lake Base and Meridian, and running southeasterly to the center of said Section 2, and thence east about 3 miles through the center of sections two and one of the aforesaid township and range and through the center of section 6 and 5 of Township 14 North, Range 1 east of the Salt Lake Base and Meridian to a point near the center of said section 5.

A lateral beginning at the center of Section 6, Township 14 North Range 1 East of the Salt Lake Base and Meridian and running north one mile.

A second lateral beginning at the center of said section 6 and running south one mile, together with any necessary interior drainage.

The main drain is to be open drain. Whenever necessary the laterals are to be covered clay or concrete tile drain.

The purpose of organizing the said drainage district is to construct drains for the reclamation and protection of lands within the proposed district.

The said petitioners will ask for a hearing on said petition and will request that the same be granted at the regular meeting of the said Board of County Commissioners to be held on Monday, the 31st day of July, 1922, at the hour of 10 o'clock A. M. or as soon thereafter as they can be heard at the court house in Logan City, Cache County, Utah, and on the hearing of said petition all parties interested and through or upon whose lands any of the proposed work may be constructed, or whose land may be damaged or benefitted thereby, may appear and contest the necessity or utility of the proposed work, or any part thereof, and contestants and petitioners may offer any competent evidence in regard thereto.

Witness my hand at Logan City, in Cache County, Utah, this 26th day of June, 1922.

W. H. CHUGG,
County Clerk Adv-12

Protest of Marian Bullen
Cache County Drainage Dist. # 5

Filed July 31st 1922

W H Chugg
clerk

In the matter of the organization
of Drainage District No.5.

The protestant, Marian D. Bullen protests
against the inclusion of lands be~~lo~~gging to her within the bound-
aries of the pro~~s~~ed dra~~i~~lanage district, described as follows:

The northeast ^{corner} of section 12, township 14 north,
range 1 west, Salt Lake Meridian.

This protest is made upon the ground that the said lands are
not needing drainage, and that the said lands will not be benefited
by the proposed drainage system, and that the inclusion of the
said land within the boundaries of the said district and the
assessments of alleged benefits against the same, will be
confiscatory of the said lands.

Dated at Loga, Utah, this 31st. day of July, 1922

Marian D Bullen

Protestant

3
2
Protest of { W. A. Bowles
J. E. Horton
Emma J Baird
Cache County Drainage
District # 5

Filed July 31st 1922

W. H. Chugg
clerk

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H

PROTEST TO INCLUDING CERTAIN LANDS IN THE PROPOSED CACHE COUNTY
DRAINAGE DISTRICT NUMBER _____.

TO THE BOARD OF COUNTY COMMISSIONERS:

We, the undersigned land owners within the above
mentioned proposed drainage District, hereby protest to your Honorable
Body against our lands being included in the proposed drainage
district or being assessed for benefits in the proposed district for the
reason and upon the ground that said lands are now drained by good and
sufficient artificial drains, and that if included in said drainage
district the said lands would not be benefited in addition to the
benefits already derived from the drainage system now installed.
That the undersigned are the owners of the number of acres set opposite
their names.

NAME

NUMBER OF ACRES

W. A. Powell	67
J. E. Horton	80
Emma J. Baird	10

minute Entry of hearing
petitions and objections to the
Organization of Cache County
Drainage District #5

Filed July 31st 1922

W. H. Chugg
clerk

Recorded - B. R. & P. - 436

Minute Entry

Regular meeting of the Board of County Commissioners of Cache County, State of Utah, held at the Court House at Logan City, Cache County, Utah, Monday July 31, 1922.

Present:

H. A. Theurer, Chairman
William Murray, Commissioner
A. W. Hyer, Commissioner

W. H. Chugg, County Clerk

Chairman Theurer read the notice prescribing the time and place for hearing petitions and objections to the organization of the Cache County Drainage District Number Five.

A Committee composed of George Karren, Amasa M. Bybee and Stillman Pond appeared on behalf of the petitioners and W. A. Bowles, J. E. Horton, Emma J. Baird and Marion D. Bullen appeared and filed written protests against the creation of the said district and also a request for the exclusion of their lands, consisting of 314.13 acres, from the district. Evidence concerning said petition and the ownership of lands within the district was received and evidence taken thereon, and the matter was thereupon taken under further consideration until the commissioners shall have personally examined the said lands within the proposed district. Whereupon the said hearing of the said petition was continued to Monday the 7th day of August, 1922, at 10 o'clock A. M. of the said day.

Proclamation of Organization
of Cache County Drainage Dist. # 5

Filed August 7th 1922

W. H. Chugg
clerk.

Recorded Bk. J. Page. 440

MINUTE ENTRY

Regular meeting of the Board of County Commissioners of Cache County, State of Utah, held at the Court House at Logan City, Cache County, Utah, on Monday, the 7th day of August, 1922.

Present:

H. A. Theurer, Chairman
A. W. Hyer, Commissioner
William Murray, Commissioner

W. H. Chugg, County Clerk

The further hearing of the petition for the organization of the Cache County Drainage District Number Five and objections to the organization of the said district came on regularly to be heard pursuant to adjournment and continuance on the 31st day of July, 1922, and the commissioners having personally examined said petition and all proceedings to date, and it appearing that said petition is signed by the owners of title or evidence of title of a major portion in area of the lands proposed to be reclaimed or benefitted or which are susceptible of drainage within the area proposed to be organized as a district in the name of Cache County Drainage District Number Five in Cache County, Utah, and also that the said signers are a majority of such owners who represent at least one-third in area of such lands proposed to be reclaimed or benefitted, Commissioner A. W. Hyer thereupon introduced and moved the adoption of the following resolution:

RESOLUTION.

WHEREAS, a petition signed by the owners of title or evidence of title of a major portion in area of the lands proposed to be reclaimed or benefitted or which are susceptible of drainage within the area proposed herein to be organized as a drainage district in the name of Cache County Drainage District Number Five in Cache County, Utah, and the said signers being a majority of such owners who represent at least one-third in area of lands proposed to be reclaimed or benefitted, on the 26th day of June, 1922, duly filed in this office their petition in the manner and form prescribed by law, requesting the organization of a drainage district to be known as Cache County Drainage District Number ^{Five} One, and,

WHEREAS, the County Commissioners of Cache County, Utah, thereupon fixed Monday, the 31st day of July, 1922, at 10 o'clock A. M. at the Commissioners Room in the County Court House in Logan City, Cache County, Utah, as the time and place for the hearing on the said petition, and caused due notice thereof to be posted and published in the manner and form prescribed by law, proof of which appears in the files herein, and,

WHEREAS, the Board of County Commissioners duly met pursuant to the order and notice on the said day and heard the evidence concerning the said petition and examined the original equalized assessment roll in the County Assessor's office of Cache County, Utah, for the year 1921, and the Board having visited and viewed the lands within the proposed boundaries of the said district.

NOW THEREFORE BE IT RESOLVED BY THE BOARD OF COUNTY COMMISSIONERS OF CACHE COUNTY, UTAH, as follows:

1. That the Board of County Commissioners of Cache County, Utah, hereby find that the total number of land owners within the said proposed district is 64 and the number of signers on the said petition who are owners of land within the said district is 37 and that the total number of acres of land within the proposed district is 2847.79 acres and that the signers of the said petition are the owners, as appears from

the said records, of 1572⁷⁸ acres of the land in the said total and that the petition is made by a majority of the owners of title or evidence of title of lands within the district proposed to be organized into the said drainage district, who own or control more than one-half in area of the lands to be reclaimed and benefitted and which are susceptible of drainage and are the owners of title of a major portion in area of the lands to be reclaimed and benefitted and which are susceptible of drainage and are the owners of title of a major portion in area of the lands to be reclaimed and benefitted and which are susceptible of drainage within the said district; that written protests against the creation of the proposed district and requests for the exclusion of their lands within the said proposed district have been filed herein by W. A. Bowles, J. E. Horton, Emma J. Baird and Marion D. Bullen, and no other objections or protests have been made or filed.

2. That the objections and protests by the above mentioned parties are based upon grounds untrue in fact and wholly without just cause or reason and the same are hereby denied.

3. That no petitions for inclusion of lands were presented and that the petitions above mentioned for exclusion of lands from the said district and each of them and all of them are not based upon facts which would justify such petitions being granted and the said petitions and each of them are hereby denied.

4. That this Board of County Commissioners further finds that the proposed drains, ditches and other works are necessary and will be useful for the drainage of the lands proposed to be drained thereby for agricultural or sanitary purposes and are conducive to the public health and welfare.

5. That the said petition of the said George Karren and others for the creation of the district be and the same is hereby granted and that there is hereby created a drainage district, all of the lands of which are situated in Cache County, Utah, to be known as and the same is hereby named and designated as Cache County Drainage District Number Five and the boundaries of the said district are hereby established and defined as more particularly hereinafter fully set forth and described.

6. That the following named persons be and they are hereby appointed supervisors of the said drainage district for the respective terms set opposite their names:

George Karren, Lewistion, Utah, for the term of 3 years.
Amasa M. Bybee, Lewiston, Utah, for the term of 2 years.
Stillman Pond, Lewiston, Utah, for the term of 1 years.

7. That the said Board of Supervisors shall before entering upon the duties of their office, take and subscribe to an oath faithfully to discharge their duties without favor or partiality, and to render a true account of their doings to the County Commissioners by whom they are appointed, whenever required by law or order of the commissioners, which oath shall be filed with the clerk and shall each execute an official bond to the District in the sum of \$2000.00, hereby fixed by the County Commissioners as a reasonable bond to be furnished by such supervisors, which said bond shall be in the form prescribed by law for the official bond of County Officers.

8. That this Board has not modified the proposed boundaries of the said district so as to accept from the said district any land within the boundaries of the district proposed by the said petitioners which is susceptible of drainage by the system of works applicable to the other lands in such proposed district.

9. That this Board within 10 days after passage of this resolution shall publish in the manner prescribed by law, in the Logan Republican, a tri-weekly newspaper published in Logan City, Cache County, Utah, for at least 10 days its proclamation made herein and the said County Commissioners hereby make and enter in its minutes the following proclamation:

P R O C L A M A T I O N

Made and Given Pursuant to Order of the Board of
County Commissioners of Cache County, State of Utah, entered
August 7, 1922.

OFFICE OF THE BOARD OF COUNTY COMMISSIONERS
COUNTY OF CACHE, STATE OF UTAH, A. D., 1922.

In the Matter of the Petition for the
Organization of the Cache County
Drainage District Number *Five*.

PROCLAMATION ORDER.

RE: Cache County Drainage
District Number Five.

The petition having been heard in the manner required
by law and the Board of County Commissioners having fully examined
said petition, and having heard evidence concerning the same,
and considered all objections to the same, it is ordered by the
Board of County Commissioners, that the petition be, and the same
is hereby granted; and the Board of County Commissioners further
finds that the work proposed in said petition to be done will be
useful for agricultural or sanitary purposes to the owners of
land within the proposed district; and the Board of County
Commissioners also finds that the persons who have signed said
petition are of lawful age and are a majority of the adult landowners
representing a major portion (more than one-half) of the lands to be
affected by such work, and are the owners of title of a major portion
in area of the lands to be reclaimed or benefitted or which are suscept-
ible of drainage ~~work~~ within the said district and of the lands to be
affected by such work. And the Board of County Commissioners further
finds that the said Drainage District to be known as, and hereby named
Cache County Drainage District Number *Five*, the land to be included in
which are all situated in the County of Cache, State of Utah, and the
boundaries of which said district are hereby fixed as follows;

Beginning at the north quarter corner of section 11, Township 14 North of Range 1 West of the Salt Lake Meridian and running thence east one mile; thence south one-half mile; thence east $1\frac{1}{2}$ miles; thence north one-half mile to the northeast corner of Section 7, Township 14 North, Range 1 East of the Salt Lake Meridian; thence east 100 rods; thence north one-half mile; thence east 60 rods to the center of Section 5, last aforesaid township and range; thence north $\frac{3}{4}$ mile; thence west 40 rods; thence north 0.322 mile to the Utah-Idaho Boundary line; thence west along said boundary line $1\frac{3}{8}$ miles; thence south .323 mile to the west quarter corner of the southwest quarter of section 31, township 15 north, Range 1 East of the Salt Lake Base and Meridian; thence west one-fourth mile; thence south one-fourth mile; thence west one mile; thence south one-fourth mile; thence west one-fourth mile; thence south $\frac{3}{4}$ mile to the place of beginning.

and enclosing an area of approximately 2860 acres, and a more particular description of the lands proposed to be included within the boundaries of the proposed drainage district is as follows:

In Twp. 15 North, Range 1 East of the S. L. B. & M.

Lots one (1), two (2), three (3) and four (4) the southeast quarter and the southwest quarter of section 31, the west half of lot three (3) and Lot four (4), the west three-fourths of the southwest quarter and the east half of the southeast quarter of the southwest quarter of Section 32.

In Twp. 15 North, Range 1 West of the S. L. B. & M.

The southeast quarter of the southeast quarter of section 36.

In Twp. 14 North, Range 1 East of the S. L. B. & M.

The northwest quarter, and the west $\frac{5}{8}$ of the southwest quarter of Section 5.
All of Section 6.
The north half of Section 7.

In Twp. 14 North, Range 1 West of the S. L. B. & M.

All of section 1.
The southeast quarter, the east half and the southwest quarter of the northeast quarter of Section 2.
The northeast quarter of Section 12.

is duly established as provided by law.

And the following named persons are to be known as the Board of Supervisors for the terms set opposite their names:

George Karren of Lewiston, Utah, for the term of 3 years.

Amasa M. Bybee of Lewiston, Utah, for the term of 2 Years.

Stillman Pond of Lewiston, Utah, for the term of 1 years.

Adopted by the Board of County Commissioners this 7th day of August, 1922.

Attest:

W. H. Chugg
County Clerk, Cache County, Utah.

R. A. Thuermer

Wm. Murray

A. W. Byer

Board of County Commissioners
Cache County, Utah.

The motion for the adoption of the resolution was duly seconded by Commissioner William Murray and a vote taken upon the same showed the following:

Chairman H. A. Theurer, Aye
Commissioner William Murray, Aye
Commissioner A. W. Hyer, Aye

Whereupon Chairman Theurer declared the motion carried and the resolution duly adopted.

The foregoing minutes are hereby approved as correct.

ATTEST:

W. H. Chugg
Clerk

H. A. Theurer
Chairman

AFFIDAVIT

STATE OF UTAH

ss

COUNTY OF CACHE

I, George Karren, being first duly sworn under oath, depose and say: that on the 14th day of August, A.D.1922, I posted a copy of the attached proclamation in three public places in Cache County, Utah, all of which places were within the boundaries of the said Cache County Drainage District Number Five as described in the said proclamation; that the places within the boundaries of said drainage district at which said proclamations were posted are as follows:

One at Corner of G. H. Wiser's Land.

One at Corner of 3rd ward Meeting House.

One at Corner of Nancy Jamison's Land.

George Karren

Subscribed and sworn to before me this 16 day of Aug. 1922

Wm. J. Humphreys
Notary Public

My Commission Expires
Feb. 18, 1924.

Residing at:

Lewiston, Idaho

PROCLAMATION

Made and Given Pursuant to Order of the Board of County Commissioners of Cache County, State of Utah, entered August 7, 1922.
OFFICE OF THE BOARD OF COUNTY COMMISSIONERS COUNTY OF CACHE, STATE OF UTAH, A. D., 1922.

In the Matter of the Petition for the Organization of the Cache County Drainage District Number Five

PROCLAMATION ORDER

RE: Cache County Drainage District Number Five.

The petition having been heard in the manner required by law and the Board of County Commissioners having fully examined said petition, and having heard evidence concerning the same, and considered all objections to the same, it is ordered by the Board of County Commissioners, that the petition be, and the same is hereby granted; and the Board of County Commissioners further finds that the work proposed in said petition to be done will be useful for agricultural or sanitary purposes to the owners of land within the proposed district; and the Board of County Commissioners also finds that the persons who have signed said petition are of lawful age and are a majority of the adult landowners representing a major portion (more than one-half) of the lands to be affected by such work, and are the owners of title of a major portion in area of the lands to be reclaimed or benefited or which are susceptible of drainage within the said district and of the lands to be affected by such work. And the Board of County Commissioners further finds that the said Drainage District to be known as, and hereby named Cache County Drainage District Number five, the lands to be included in which are all situated in the County of Cache, State of Utah, and the boundaries of which said district are hereby fixed as follows:

Beginning at the North quarter corner of section 11, Township 14 North of Range 1 West of the Salt Lake Meridian and running thence East one mile; thence south one-half mile; thence east 1 1-2 miles; thence north one-half mile to the northeast corner of Section 7, Township 14 North, Range 1 East of the Salt Lake Meridian; thence east 100 rods; thence north one-half mile; thence east 60 rods to the center of Section 5, last aforesaid township and range; thence north 3-4 mile;

thence west 40 rods thence north 0.322 mile to the Utah-Idaho Boundary line; thence west along said boundary line 1 3-8 miles; thence south .323 mile to the west quarter corner of the southwest quarter of section 31, township 15 north, Range 1 East of the Salt Lake Base and Meridian; thence West one-fourth mile; thence south one-fourth mile; thence west one-fourth mile; thence south one-fourth mile; thence west one-fourth mile; thence south 3-4 mile to the place of Beginning.

and enclosing an area of approximately 2860 acres, and a more particular description of the lands proposed to be included within the boundaries of the proposed drainage districts is as follows:

In Twp. 15 North, Range 1 East of the S. L. B. and M.

Lots one (1), two (2), three (3) and four (4) the southeast quarter and the southwest quarter of section 31, the west half of lot three (3) and Lot four (4), the west three-fourths of the southwest quarter and the east half of the southeast quarter of the southwest quarter of Section 32.

In Twp. 15 North, Range 1 West of the S. L. B. and M.

The southeast quarter of the southeast quarter of section 36.

In Twp. 14 North, Range 1 East of the S. L. B. and M.

The northwest quarter, and the west 5-8 of the southwest quarter of Section 5.

All of Section 6.

The north half of Section 7.

In Twp. 14 North, Range 1 West of the S. L. B. and M.

All of section 1.

The southeast quarter, the east half and the southwest quarter of the northeast quarter of Section 2.

The northeast quarter of Section 12, is duly established as provided by law.

And the following named persons are to be known as the Board of Supervisors for the terms set opposite their names:

George Karren of Lewiston, Utah, for the term of 3 years.

Amasa M. Bybee of Lewiston, Utah, for the term of 2 years.

Stillman Pond of Lewiston, Utah, for the term of 1 year.

Adopted by the Board of County Commissioners this 7th day of August, 1922.

H. A. THEURER
WILLIAM MURRAY

A. W. HYER.

Board of County Commissioners
Cache County, Utah.

Attest:

W. H. CHUGG.

County Clerk, Cache County, Utah
Aug 8 to 19 inc. adv.

In the Matter of the
Petition for the organization
of Cache County Drainage
District # 5.

Defendants

affidavit.

Aug 31 1922

W. H. Chung

Lucian McCulloch

DEPUTY CLERK

In the Matter of the Cache
County Drainage District
Number Five.

SUPERVISORS REPORT

To the Honorable Board of County Commissioners of Cache
County, Utah:

Comes now the Board of Supervisors of the Cache County
Drainage District Number Five and hereby makes and files with the
Board of County Commissioners of Cache County, Utah, its findings
and report, pursuant to the provisions of Sections 2053 and 2054,
Chapter 41, Session Laws of Utah, 1919, as amended by Chapter 47
of the Session Laws of Utah, 1921:

1. That immediately after their appointment, the Board
of Supervisors of the Cache County Drainage District Number Five
employed as engineers of the said district, Humphreys Brothers of
Logan, Utah, and that this Board of Supervisors with the said
engineers having examined all of the lands proposed to be drained or
protected and the lands over or upon which the work is proposed
to be constructed; that the said engineers have made a complete survey
and maps of the lands within the said district as well as exhaustive
investigation of sub-surface conditions both with reference to the
soil and to the ground water; that the said engineers have made
a detailed written report to the Board of Supervisors of the results
of their survey and investigation and a copy of the said report is
submitted to the County Commissioners with this report for their
reference and further information.

That from the said examination by the supervisors and
report of the said engineers this Board now makes the following
findings and report:

(a) "Whether the proposed work and the proposed location thereof are in all respects proper and feasible; and if not, what is or are so."

The drainage system proposed in the petition for the organization of the district is feasible and proper except for the changes hereinafter mentioned. Some of the drains on account of flat slopes, quicksand and large discharge, necessarily should be open ditches and concrete tile may properly be substituted for clay tile under certain conditions. That a proper description of the feasible drainage system for the said land is as follows:

No. 1. An open drain having its outlet in Pond Slough near the North quarter corner of Section 2, Township 14 North, Range One West of the Salt Lake Base and Meridian, and running thence south $\frac{3}{8}$ mile to the center of said section 2; thence east one mile to center of Section 1, said Township and Range; thence south 50 rods; thence east one mile to a point about 50 rods south of the center of Section 6, Township 14 North of Range One East of the Salt Lake Base and Meridian.

No. 2. An open drain having its outlet in No. 1 near the East quarter Corner of Section 2, Township 14 North, Range One West of the Salt Lake Base and Meridian, and running thence North one-half mile.

No. 3. An open drain having its outlet at the head of No. 1, and running thence north to the Utah-Idaho Boundary Line; thence East along said line $\frac{3}{8}$ mile.

No. 4. An open drain having its outlet at the head of Drain No. 1, and running south approximately $\frac{7}{8}$ mile to the Center of Section 7, Township 14 North Range One East of the Salt Lake Base and Meridian.

No. 5. An open drain having its outlet in Drain No. 3, about $\frac{5}{16}$ mile north of the south quarter corner of Section 31, Township 15 North, Range One East of the Salt Lake Base and Meridian, and running thence west one-half mile.

No. 6. An open drain having its outlet in Drain No. 4, and running thence East and Southeast to a point approximately 50 rods North of the Southeast Corner of Section 6, Township 14 North, Range One East of the Salt Lake Meridian. That a map of the said district and of the drainage system proposed as prepared by the said engineers is hereunto attached and made a part of this report and to which reference is hereby made for further particulars.

(b) "the probable cost of the work mentioned in the petition, including all incidental expenses, and the cost of the proceedings therefor;"

The probable aggregate cost of the proposed work including all incidental expenses and cost of organization will be \$71,500.00, or at a rate of \$25.00 per acre. However, if the drains are constructed with the view of taking care of only Spring flood water, the aggregate cost will be \$28,600.00, or at the rate of \$10.00 per acre.

(c) "The probable annual cost of keeping the same in repair after the work is completed;"

The cost of maintaining the drains will be about \$75.00 per mile. Therefore the probable annual cost of keeping the drainage system in repair will be \$525.00.

(d) "What lands will be injured by the proposed work, and the probable aggregate amount of all damages such lands will sustain by reason of the laying out and construction of such work; and what lands, if any, should be excluded from the district;"

That no lands will be injured by the construction of the said drainage system, except that there will be required a strip of land on each side of the drains as a right of way for open drains. There will be no damages caused by the construction of closed drains for the reason that if any are constructed farming operations can be done upon the land in the same manner as if the said drains had not been constructed. It is estimated that the value of the land taken for the construction of the drainage system will be approximately \$10,800.00 for a complete system or about \$7500.00 for a system to take care of spring flood waters only. Your Board of Supervisors recommends that no lands should be excluded from the said district and no other lands included in the said district.

(e) "what lands will be benefitted by the construction of the proposed work, and whether the aggregate amount of benefits will equal or exceed the cost of constructing such work, including all incidental expenses, cost of proceedings, and damages;"

All the lands in the district as organized by the County Commissioners will be benefitted by the construction of the proposed drainage system. The aggregate amount of the benefits will exceed the cost of constructing the works including all incidental expenses, cost of proceedings and damages. The total value of the benefits to the lands in the district will exceed \$286,000.00.

(f) "Whether the proposed district as set out in the petition filed will embrace all the lands that may be damaged or benefitted by the proposed work; and if not, to report what additional lands will be so affected."

The district boundary lines are fixed by the County Commissioners determines a natural drainage unit and there should be no inclusions or exclusions.

And the Board of Supervisors having found that the benefits derived from the said drainage system will exceed the costs and expenses of the construction and maintenance and damages and respectfully requests that this report be accepted by the Board of County Commissioners in the manner and form prescribed by law.

Dated this 5th day of May, 1923.

CACHE COUNTY DRAINAGE DISTRICT NUMBER FIVE

BY George Kanner
President and Supervisor

Stillman Pond
Secretary and Supervisor

Amasa Bybee
Treasurer and Supervisor

ENGINEERS REPORT TO SUPERVISORS

George Karren, Amasa M. Bybee, and Stillman Pond

of

Drainage District Number 5, Cache County, Utah

by

Humpherys Brothers, Engineers.

Logan, Utah.

Jan. 1923.

General Statement

Cache County Drainage District Number 5 lies in the North Central part of Cache County, Utah.

The district as proclaimed by the County Commissioners includes approximately 2860 acres. Practically all of this land is irrigated and is growing or has grown crops.

Surveys and Investigations

An accurate topographic map of the proposed drainage area has been made showing the contour of the ground, the names of the owners of all lands as shown by Cache County Records. The map also shows physical features such as roads, canals, houses, fences, etc., all of which are made with reference to section, township, and range.

A number of borings or test wells were put down on your district. The location, number and elevation of each well is given on the accompanying map. An observation of the soil and the distance to ground water was carefully observed and recorded for each well.

Supervisor's Report

There follows the data required for your report to the County Commissioners as provided in Section 2053, Title 26, Compiled Laws of Utah 1917, as amended by 1919 and 1921 Session Laws.

A.

Feasibility of Proposed Work

The drainage system proposed in the petition of the district is feasible and proper except for minor changes in the location of drains as set out in the petition. A proper description of the feasible drainage system for the land in the district as now constituted is as follows:

Description of Drains

No. 1.

An open drain having its outlet in Pond Slough near the N $\frac{1}{4}$ Cor. of Section 2, Township 14, North of Range One West of the Salt Lake Base and Meridian, and running thence south $\frac{3}{8}$ mile to the center of said section 2; thence East one mile to center of Section 1, said Township; ^{and Range} thence South 50 rods; thence East one mile to a point about 50 rods South of the center of Section 6, Township 14 North of Range One East of the Salt Lake Base and Meridian.

No. 2.

An open drain having its outlet in No. 1 near the E $\frac{1}{4}$ Cor. of Section 2, Township 14 North, Range One West of Salt Lake Base and Meridian, and running thence North one-

half mile.

No. 3.

An open drain having its outlet at the head of No. 1, and running thence North to the Utah-Idaho Boundary Line; thence East along said line $3/8$ mile.

Drain No. 4

An open drain having its outlet at the head of Drain No. 1 and running south approximately $7/8$ mile to the Center of Section 7, Township 14 North Range One East of Salt Lake Base and Meridian.

Drain No. 5

An open drain having its outlet in Drain No. 3 about $5/16$ mile north of the S $\frac{1}{4}$ cor. of Section 31, Township 15 North Range One East of S. L. Base and Meridian, and running thence West One-half mile.

Drain No. 6.

An open drain having its outlet in ^{Drain} No. 4 and running thence East and Southeast to a point approximately 50 rods North of the Southeast corner of Section 6, Township 14, North Range One East of the Salt Lake Meridian.

Cost of Construction

B.

The probable aggregate cost of the construction of a complete drainage system including all incidental expenses and the cost of organization, will be ^{\$ 71,500.00} ~~\$100,000.00~~, or at the rate of ^{\$25.00} ~~\$35.00~~ per acre. However, if the drains are constructed with a view of taking care of only Spring flood water, the aggregate cost will be \$28,600.00, or at the rate of \$10.00 per acre.

Maintenance

C.

The cost of maintaining the drains will be about \$75.00 per mile. Therefore the probable annual cost of keeping the drainage system in repair will be \$525.00.

Damages

D.

The damage which will be done to the lands in the district will be the taking of a strip of land on each side of drain as a right of way for the opened ditches. This will amount to \$10,800.00 for a complete system, or about \$7,500.00 for a system that will take care of the spring flood water.

Benefits

E.

All the lands in the district as organized by the County Commissioners will be benefited by the construction of the proposed drainage system. The aggregate amount of the benefits will exceed the cost of the constructing the works including all incidental expenses, cost of proceedings and damages. The total value of the benefits to the lands in the district will exceed \$286,000.00.

Boundary of District.

F.

The district boundary lines as fixed by the County Commissioners determines a natural drainage unit and there should be no inclusions or exclusions.

Supervisors Report

Drainage District # 5

Filed May 7. 1923

J. J. Gordon

Clark

C. M. Moline

Secretary

In the Matter of the Cache County
Drainage District Number Five.

STATEMENT AND ESTIMATE
OF THE AMOUNT OF MONEY TO
BE RAISED BY TAXATION FOR
THE YEAR 1923.

To the Honorable Board of County Commissioners of Cache
County, Utah, and to the County Assessor of Cache County, Utah:

Comes now the Board of Supervisors of Cache County Drainage
District Number Five and hereby makes and files with the Board
of County Commissioners of Cache County, State of Utah, and the
County Assessor of Cache County, Utah, their statement and estimate
of the amount of money to be raised by taxation within the said
district, as follows, to wit:-

1. For liquidating district warrants and notes
and paying interest thereon, which notes and warrants
were issued by the district pursuant to the provisions
of Section 2060, Chapter 41, Session Laws of Utah,
1919, for the purpose of organization, and preliminary
examination of the said district, in the sum of \$ 1930.00.

2. For the management and control of the said
drainage system, in the sum of \$ 1800.00; and

3. 15% of each of the amounts above set forth to provide
for incidentals and possible delinquency in the sum
of \$ 560.00, making a total of \$ 4290.00 or \$1.50 per acre

And this Board hereby certifies the said amount to the County
Assessor of Cache County, Utah, within which such district is located
for levy upon the lands within the district in proportion to the
equalized benefits.

CACHE COUNTY DRAINAGE DISTRICT NO.5.

George Barron
Amos Bybee *Stillman Pond*

Statement - Drange
District - # 5

FILED

May 7

1923

F. J. Gordon

CLERK

J. C. McElroy

DEPUTY CLERK

ATTORNEY FOR

BEFORE THE BOARD OF COUNTY COMMISSIONERS OF CACHE COUNTY, UTAH

In the Matter of the Cache
County Drainage District
Number Five

ASSESSMENT OF BENEFITS

To the Honorable Board of County Commissioners of
Cache County, State of Utah;

The Board of Supervisors of Cache County Drainage
District Number Five pursuant to the provisions of Section 2054 x5
Chapter 41, Session Laws of Utah, 1919, respectfully reports:

That they have viewed each tract of land within the
district and carefully considered all of the damages and benefits
that each particular tract of land will receive from the construction
and maintenance of such drainage system and have assessed each
tract of land in accordance with the benefits to be received by it,
making proper allowance for damages if any there be.

That the said Board of Supervisors have placed all of
the lands within the boundaries of the district in one class, and have
assessed a uniform benefit of \$ 50⁰⁰ per acre on all of the lands
in the said district.

That the said board have made up such assessment
giving the name and address of the owner, description of the tract
of land, acreage and total assessment, and the secretary of the Board
of Supervisors herewith transmits to the Board of County Commissioners
of Cache County, Utah, the assessment roll so made up, in words and
figures as follows, to wit:

<u>NAME OF OWNER</u>	<u>Description of Parcel</u>	<u>Acreage</u>	<u>Total Assessment of benefits less damages.</u>
<u>All in Twp. 14 N. R. 1 E.S.L.M.</u>			
<u>Section 5.</u>			
Thomas S. Karren Lewiston, Utah	The north 48 acres of the northwest quarter of said section, containing.....	48	2400.00
Henry T. Talbot Jr. Lewiston, Utah	The south 32 acres of the north half of the northwest quarter of said Section, containing.....	32	1600.00
Stillman Pond Lewiston, Utah	The south half of the northwest quarter of said section, containing.....	80	4000.00
George H. Wiser Lewiston, Utah	The west 52 3/4 rods of the southwest quarter of said section, containing.....	52.75	2637.50
Samuel F. Wiser Lewiston, Utah	Beginning at a point 52.75 rods west from the southwest corner of the southwest quarter of said section, thence east 31.25 rods; thence north 18 rods; thence east 16 rods; thence north 142 rods; thence west 47.25 rods; thence south 160 rods to the place of beginning, containing..	45.45	2272.50
George H. Wiser Lewiston, Utah	Beginning at a point 60 rods west from the southeast corner of the southwest quarter of said section; thence north 18 rods; thence west 16 rods; thence south 18 rods; thence east 16 rods to beginning, containing	1.80	90.00
<u>Section 6</u>			
William Waddoups Lewiston, Utah	Beginning at the northeast corner of said section; thence west 100 rods; thence south 80 rods; thence east 100 rods; thence north 80 rods to beginning, less tract to Marvin A. Rawlins, containing	48	2400.00
George H. Wiser Lewiston, Utah	The west 60 rods of the north half of the northeast quarter of said section, containing.....	30	1500.00
Marvin A. Rawlins Parrish, Idaho Lewiston, Utah	Beginning 47 rods south and 3 rods west of the northeast corner of said section; thence west 20 rods; thence south 16 rods; thence east 20 rods; thence north 16 rods to beginning, containing.....	2	100.00

<u>Name of Owner</u>	<u>Description of Parcel</u>	<u>Acreage</u>	<u>Total Assessment of benefits less damages.</u>
<u>Section 6 (continued)</u>			
Alex L. Pond Lewiston, Utah	The south half of the north-east quarter of said section, containing.....	80	4000.00
George F. Mills Lewiston, Utah	The north half of lots 3 and 4, less tract to Amalgamated Sugar Company, containing...	39.32	1966.00
Samuel J. Wiser c/o Glen Wiser Lewiston, Utah	The south half of lots 3 and 4, less strip 250 feet by 66 feet to Amalgamated Sugar Company, containing.....	39.62	1966.00
Howell Real Estate and Investment Co. c/o John T. Haslam Lewiston, Utah	The south half of the northwest quarter of said section, containing.....	79.95	3997.50
Amalgamated Sugar Company Ogden, Utah.	Beginning at a point 347 feet south of the northwest corner of said section; thence east 99 feet; thence south 115 feet; thence east 186.15 feet; thence south 234 feet; thence west 285.12 feet; thence north 350 feet to beginning. Also Beginning at a point 701 feet south and 33 feet east of the northwest corner of said section thence south 250 feet; thence east 66 feet; thence north 250 feet; west 66 feet to beginning, containing.....	1.86	93.00
George Karren Lewiston, Utah	Beginning at a point 245 feet west of the northeast corner of the southeast quarter of said section; thence south 174 feet; thence east 245 feet; thence south 3 rods; thence west 42.5 rods; thence north 43.5 rods; thence west to the place of beginning, containing.....	9.27	463.50
Alex L. Pond Lewiston, Utah	Beginning at the northeast corner of the southeast quarter of said section; thence west 245 feet; thence south 174 feet; thence east 245 feet; thence north 174 feet to beginning, containing	1.79	89.50
Hyrum Karren Lewiston, Utah Logan.	Beginning at the southeast corner of said section; thence north $116\frac{1}{2}$ rods; thence west $42\frac{1}{2}$ rods; thence south $116\frac{1}{2}$ rods; thence east $42\frac{1}{2}$ rods to beginning, also, Beginning at a point 82 rods west of the southeast corner of said section; thence north 80 rods; thence west $38\frac{1}{2}$ rods; thence south 80 rods; thence east $38\frac{1}{2}$ rods to beginning, containing.....	50.25	2512.50

<u>Name of Owner</u>	<u>Description of Parcel</u>	<u>Acreage</u>	<u>Total Assessment of benefits less damages.</u>
<u>Section 6 (continued)</u>			
George Karren, Lewiston, Utah	Beginning 42½ rods west of the southeast corner of the southeast quarter of said section; thence north 160 rods; thence west 39½ rods; thence south 160 rods; thence east 39½ rods to the place of beginning, containing	39.5	1975.00
	Also, beginning at a point 82 rods west of the northeast corner of the southeast quarter of said section; thence west 78 rods; thence south 80 rods; thence east 78 rods; thence north 80 rods to beginning, containing..	39	1950.00
Joseph J. Haslam Lewiston, Utah	Beginning at the southwest corner of the southeast quarter of said section; thence north 80 rods; thence east 40 rods; thence south 80 rods; thence west 40 rods to beginning, containing.....	20	1000.00
Howell Real Estate and Investment Company, Go John J. Haslam Logan, Utah <i>Lewiston</i>	Beginning at the center of said section; thence south 53½ rods; thence west 30 rods; thence north 53½ rods; thence east 30 rods to the beginning, containing..	10	500.00
Daniel D. Butters, Lewiston, Utah	Beginning at the southeast corner of the southwest quarter of said section; thence west 30 rods; thence north 106 2/3 rods; thence east 30 rods; thence south 106 2/3 rods to beginning, containing.....	20	1000.00
Thomas S. Karren, Lewiston, Utah	Beginning at a point 30 rods west of the southeast corner of the southwest quarter of said section; thence north 160 rods; thence west 39 rods; thence south 160 rods; thence east 39 rods to beginning, containing.....	40	2000.00
Thomas S. Karren and wife Georgiana I. Karren Lewiston, Utah	Beginning at a point 25 rods north of the southwest corner of said section; thence north 117 2/9 rods; thence east 91 rods; thence south 142 2/9 rods; thence west 77 rods; thence north 25 rods; thence west 14 rods to the place of beginning, containing.....	79.83	3991.50
Loron W. Marler Lewiston, Utah	Beginning at the northwest corner of the southwest quarter of said section; thence east 90 rods; thence south 17 7/9 rods; thence west 90 rods; thence north 17 7/9 rods to beginning, containing.....	10	500.00

<u>Name of Owner</u>	<u>Description of Parcel</u>	<u>Acreage</u>	<u>Total Assessment of benefits less damages.</u>
<u>Section 6 (continued)</u>			
Cache County School Board, Logan, Utah	Beginning at a point 14 rods north of the southwest corner of the southwest quarter of said section; thence north 11 rods; thence east 14 rods; thence south 11 rods; thence west 14 rods to beginning, containing.....	.9	45.00
The Members of the Church of Jesus Christ of Latter Day Saints.	Beginning at the southwest corner of the southwest quarter of said section; thence east 14 rods; thence north 14 rods; thence west 14 rods; thence south 14 rods to beginning, containing.....	1.22	61.00
<u>Section 7</u>			
Martin Harris Pond, Lewiston, Utah.	The north half of the northeast quarter of said section, containing.....	80	4000.00
Martin Pond, Lewiston,	Beginning at the northeast corner of the south half of said section; thence south 1270 feet; thence west 90 feet; thence north 215.89 feet; thence west 592.3 feet; thence south 207.89 feet; thence west 350 feet; thence south 8 feet; thence west 1607 feet to the north and south center line of said section; thence north 1270 feet; thence east one-half mile to beginning, containing.....	73.97	3697.50
Amalgamated Sugar Company, Ogden, Utah	Beginning at a point 50 feet north and 90 feet west of the east quarter corner of said section; thence north 215.89 feet; thence west 592.3 feet; thence south 207.89 feet; thence west 350 feet; thence south 8 feet; thence east 943 feet to beginning, containing.....	3	150.00
U.I.C.R.R.Co. Ogden, Utah	Beginning at the east quarter corner of said section; thence north 50 feet; thence west 2640 feet; thence south 50 feet; thence east 2640 feet to beginning, containing..	3.03	151.50
Roy S. Kent, Lewiston, Utah	The northeast quarter of the northwest quarter of said section, containing.....	40	2000.00
James Ray Kent, Lewiston, Utah	The northwest quarter of the northwest quarter of said section, containing.....	40	2000.00

<u>Name of Owner</u>	<u>Description of Parcel</u>	<u>Acreage</u>	<u>Total Assessment of benefits less damages.</u>
	<u>Section 7 (continued)</u>		
Roy S. Kent, Lewiston, Utah	Beginning at the center of the northwest quarter of said section; thence south 408.03 feet; thence east 1327 feet to the quarter section line; thence north 408.03 feet; thence west 1327 feet to the place of beginning, containing.....	12.43	621.50
James Ray Kent, Lewiston, Utah	Beginning at the northwest corner of the northwest quarter of the northwest quarter of said section; thence south 172.5 feet; thence east 321 feet; thence south 310.68 feet; thence east 1006 feet; thence north 483.18 feet; thence west 1327 feet to beginning, containing.....	12.43	621.50
Joseph B. Kent, Lewiston, Utah	Beginning at a point 172.5 feet south of the northwest corner of the southwest quarter of the northwest quarter of said section; thence south 643.553 feet; thence east 2654 feet to quarter section line; thence north 408.03 feet; thence west 1327 feet; thence south 75.154 feet; thence west 1006 feet; thence north 310.68 feet; thence west 321 feet to beginning, containing.....	24.86	1243.00
Roy S. Kent, Lewiston, Utah	Beginning at a point 816.053 feet south of the northwest corner of the southwest quarter of the northwest quarter of said section; thence south 204.013 feet; thence east 2654 feet to the quarter section line; thence north 204.013 feet; thence west 2654 feet to the place of beginning, containing.....	12.43	621.50
Melvin E. Kent Lewiston, Utah	Beginning at a point 50 feet north of the center of said section; thence west 1154 feet; thence north 17 feet; thence west 700 feet; thence north 35 feet; thence west 385.8 feet; thence north 179 feet; thence east 2239.8 feet; thence south 250.43 feet to beginning, containing.....	12.38	619.00

<u>Name of Owner</u>	<u>Description of Parcel</u>	<u>Acreage</u>	<u>Total Assessment of benefits less damages.</u>
	<u>Section 7 (Continued)</u>		
U.I.C.R.R.Co. Ogden, Utah	Beginning at the center of said section; thence north 50 feet; thence west 1154 feet; thence north 17 feet; thence west 700 feet; thence north 35 feet; thence west 800 feet; thence south 102 feet; thence east 2654 feet to beginning, containing....	4.26	213.00
	Also, beginning at a point 102 feet north of the west quarter corner of said section; thence north 179 feet; thence east 81.9 feet; thence to the right on a 12°42' curve 249.6 feet; thence west 250.7 feet to beginning, containing.....	.619	30.95
Amalgamated Sugar Company, Ogden, Utah.	Beginning at a point 102 feet north and 250.7 feet east of the west quarter corner of said section; thence east 163.5 feet; thence north 179 feet; thence west 330.8 feet; thence southeasterly on a 12° 42' curve 249.6 feet; to the point of beginning, containing.....	1.08	54.00
	<u>Twp. 15 N.R.1 E.S.L.M.</u>		
	<u>Section 31</u>		
Henry J. Talbot, Lewiston, Utah	Lot 1 and the north 67 rods of the northeast quarter of the southeast quarter of said section, containing.....	45.02	2251.00
Robert W. Talbot Lewiston, Utah	Beginning at a point 61 rods south of the northeast corner of the southeast quarter said section; thence south 73 rods; thence west 50 rods; thence south 20 rods; thence west 30 rods; thence north 93 rods; thence east 80 rods to beginning, containing.....	39.25	1962.50
David Layne Lewiston, Utah.	The east 50 rods of the south 20 rods of the southeast quarter of said section, containing.....	6.25	312.50

<u>Name of Owner</u>	<u>Description of Parcel</u>	<u>Acreage</u>	<u>Total Assessment of benefits less damages.</u>
Section 31 (continued)			
Samuel F. Wiser Lewiston, Utah	The southwest quarter of the southeast quarter of said section, containing.....	40	2000.00
M. H. Stocks, Lewiston, Utah.	Lot 2 and the northwest quarter of the southeast quarter of said section, containing.....	51.5	2075.00
Joseph W. Bowden, Lewiston, Utah	Lots 3 and 4 of said section, containing.....	23	1150.00
Elias B. Layne Lewiston, Utah.	Beginning at the northwest corner of the southwest quarter of said section; thence east 160 rods; thence south 80 rods; thence west 50 rods; thence north 20 rods; thence west 100 rods; thence south 43 rods; thence west 12 rods; thence north 103 rods to the place of beginning, containing....	69.45	3472.50
Robert Lester Layne, c/o Eliz. Layne Lewiston, Utah	Beginning at the southwest corner of said section; thence north 57 rods; thence east 12 rods; thence north 43 rods; thence east 47.3 rods; thence south 60 rods; thence west 19.3 rods; thence south 40 rods; thence west 40 rods to beginning, containing.....	29.01	1450.50
David I. Layne Lewiston, Utah.	Beginning at the southeast corner of the southwest quarter of said section; thence north 80 rods; thence west 50 rods; thence north 20 rods; thence west 50.7 rods; thence south 60 rods; thence west 19.3 rods; thence south 40 rods; thence east 70 rods; thence north 40 rods; thence east 20 rods; thence south 40 rods; thence east 30 rods to beginning, containing..	56.51	2825.50
Arnell Layne, Lewiston, Utah	Beginning at a point 30 rods west of the south quarter corner of said section; thence north 40 rods; thence west 20 rods; thence south 40 rods; thence east 20 rods to beginning, containing.....	5	250.00
Section 32			
Robert W. Talbot Lewiston, Utah	The west half of lot 3, and lot 4, containing.....	17.25	862.50
Richard A. Talbot, Lewiston, Utah	The west 120 rods of the north 60 rods of the southwest quarter, containing.....	45.00	2250.00

<u>Name of Owner</u>	<u>Description of Parcel</u>	<u>Acreage</u>	<u>Total Assessment of benefits less damages.</u>
<u>Section 32 (continued)</u>			
Daniel S. Talbot Lewiston, Utah	Beginning at a point 60 rods south of the northwest corner of the southwest quarter of said section; thence south 60 rods; thence east 120 rods; thence north 60 rods; thence west 120 rods to beginning, containing.....	45.00	2250.00
Olive L. T. Stephenson Lewiston, Utah	Beginning at a point 2 rods north and 2 rods east of the southwest corner of said section; thence north 38 rods; thence east 29 rods, 7 feet, 9 inches; thence south 38 rods; thence west 29 rods 7 feet 9 inches to beginning, containing.....	7	350.00
Mary E.T. Wheeler, Lewiston, Utah	Beginning at a point 2 rods north and 31 rods 7 feet 9 inches east of the southwest corner of said section; thence north 38 rods; thence east 29 rods, 7 feet, 9 inches; thence south 38 rods; thence west 29 rods 7 feet and 9 inches to beginning, containing.....	7	350.00
E.W.T. Drury, Lewiston, Utah	Beginning at a point 2 rods north and 60 rods 15 feet 6 inches east of the southwest corner of said section; thence north 38 rods; thence east 19 rods 1 foot; thence south 38 rods; thence west 19 rods 1 foot to the place of beginning, Also, beginning at a point 2 rods north and 58 rods 15 feet 6 inches west of the southeast corner of the southwest quarter of said section; thence north 38 rods; thence west 10 rods 6 feet 9 inches; thence south 38 rods; thence east 10 rods 6 feet 9 inches to beginning, containing.....	7	350.00
Ruth S. White Farmington, Utah.	Beginning at a point 29 rods 7 feet 9 inches west and 2 rods north of the southeast corner of the southwest quarter of said section; thence west 10 rods 8 feet 9 inches; thence north 38 rods; thence east 10 rods 8 feet 9 inches; thence south 38 rods to beginning, containing.....	2.01	100.50
Henry J. Talbot, Lewiston, Utah	Beginning at a point 20.00 chains east of a point 0.5 chains north of the southwest corner of the southwest quarter of said section; thence east 9 rods; thence north 38 rods; thence west 9 rods; thence south 38 rods to beginning, containing.....	2.15	107.50
Cache County, Logan, Utah.	The south 2 rods of the east 120 rods of the southwest quarter and the west 2 rods of the south 40 rods of the southwest quarter of said section, containing.....	2.00	100.00

<u>Name of Owner</u>	<u>Description of Parcel</u>	<u>Acreage</u>	<u>Total Assessment of benefits less damages.</u>
<u>All In Twp. 14 N.R.1 W.S.L.M.</u>			
<u>Section 1.</u>			
Albert L. Marler, Lewiston, Utah	Beginning at a point 34 rods east and 38 rods north of the southwest corner of lot 2 of said section; thence north 42 rods; thence east 126 rods; thence south 42 rods; thence west 126 rods to the place of beginning, containing.....	33.07	1653.50
Loron W. Marler, Lewiston, Utah	Beginning at the southwest corner of lot 2, said section; thence north 80 rods; thence east 34 rods; thence south 42 rods; thence east 126 rods; thence south 38 rods; thence west 160 rods to beginning, containing.....	46.92	2346.00
W. A. Bowles, Lewiston, Utah.	Beginning at the southeast corner of the northeast quarter of said section; thence north 80 rods; thence west 160 rods; thence south 80 rods; thence east 98 rods 11½ feet; thence north 27 rods; thence west 1 rod; thence south 27 rods; thence east 60 rods 5 feet to beginning, containing.....	74 ⁸² 79.82	3741.00 3991.00
E. A. Bowles, Fairview, Idaho.	Beginning 60 rods and 5 feet west of the southeast corner of the northeast quarter of said section; thence north 27 rods; thence west 1 rod; thence south 27 rods; thence east 1 rod to the place of beginning, containing....	0.18	9.00
Joseph E. Hortin, Lewiston, Utah.	The east half of the northwest quarter of said section containing.....	80	4000.00
Ivie Jamison, Lewiston, Utah	Beginning at the northeast corner of the west half of the northwest quarter of said section; thence west 32 rods; thence south 133.35 rods; thence east 32 rods; thence north 133.30 rods to beginning, containing....	26.66	1333.00
Nancy L. Jamison, Lewiston, Utah.	Beginning at the northwest corner of the northwest quarter of said section, thence south 160 rods; thence east 80 rods; thence north 76.75 rods; thence west 32 rods; thence north 133.33 rods; thence west 48 rods to beginning, containing..... Also, the north 100 rods of the east half of the southeast quarter of said section; containing.....	53.34 50	2667.00 2500.00

<u>Name of Owner</u>	<u>Description of Parcel</u>	<u>Acreage</u>	<u>Total Assessments of benefits less damages.</u>
<u>Section 1 (continued)</u>			
W. H. Jackson Lewiston, Utah	Beginning at a point 60 rods north of the southeast corner of said section; thence west $13 \frac{1}{3}$ rods; thence south 6 rods; thence west $13 \frac{1}{3}$ rods; thence north 6 rods; thence west 53 rods; thence north $9 \frac{11}{21}$ rods; thence east 80 rods; thence south $9 \frac{11}{21}$ rods to beginning, containing.....	5.23	261.50
Ivie May Jamison, Lewiston, Utah	Beginning at a point 60 rods north of the southeast corner of the southeast quarter of said section; thence west $13 \frac{1}{3}$ rods; thence south 6 rods; thence east $13 \frac{1}{3}$ rods; thence north 6 rods to the place of beginning, containing.....	.5	25.00
George H. Blair Lewiston, Utah	Beginning at a point 54 rods north of the southeast corner of said section; thence north 12 rods; thence west 27 rods; thence south 12 rods; thence east 27 rods to beginning, containing.....	2	100.00
Rose A. Young, Provo, Utah.	Beginning at a point $15 \frac{2}{5}$ rods north of the southeast corner of said section; thence north 435 feet; thence west 445.5 feet; thence south 435 feet; thence east 445.5 feet to beginning, containing..	3.40	170.00
W. E. Whitt, Salt Lake City, Utah.	Beginning at the southeast corner of said section; thence north $15 \frac{2}{5}$ rods; thence west 27 rods; thence south $15 \frac{2}{5}$ rods; thence east 27 rods to beginning, containing.....	2.6	130.00
Eugene Bair Lewiston, Utah	Beginning at a point 2 rods north and 27 rods west of the southeast corner of the southeast quarter of said section; thence north 12 rods $12 \frac{3}{4}$ feet; thence west 25 rods; thence south 12 rods $12 \frac{3}{4}$ feet; thence east 25 rods to the place of beginning, containing.....	1.9	95.00
West Cache Sugar Company Cornish, Utah	Beginning at a point 53 rods west and 2 rods north of the southeast corner of said section; thence west 14 rods; thence north $11 \frac{3}{7}$ rods; thence east 14 rods; thence south $11 \frac{3}{7}$ rods to beginning, containing.....	1	50.00

<u>Name of Owner</u>	<u>Description of Parcel</u>	<u>Acreage</u>	<u>Total Assessment of benefits less damages.</u>
<u>Section 1 (continued)</u>			
John Kemp Salt Lake City, Utah.	Beginning 52 rods west of the southeast corner of said section; thence west 18 rods; thence north 60 rods; thence east 53 rods; thence south 45 rods 3-3/4 feet; thence west 39 rods; thence south 13 3/7 rods; thence east 14 rods; thence south 1 rods to beginning, containing.....	16.77	838.50
Libbie Stephensen Lewiston, Utah	The east 1.818 chains of the west half of the southeast quarter of the said section, less county road, containing.....	7.182	359.10
Orpha Bodily Fairview, Idaho	Beginning at a point 0.5 chains north of a point 21.818 chains west of the southeast corner of said section; thence north 39.5 chains; thence west 1.818 chains; thence south 39.5 chains; thence east 1.818 chains to the place of beginning, containing.....	7.182	359.10
Vira Elwood <i>Lewiston, Utah</i>	Beginning at a point 0.5 chains north of a point 23.636 chains west of the southeast corner of said section; thence north 39.5 chains; thence west 1.818 chains; thence south 39.5 chains; thence east 1.818 chains to beginning, containing.....	7.182	359.10
H. E. Elwood <i>Lewiston, Utah</i>	Beginning at a point .5 chains north of a point 25.454 chains west of the southeast corner of said section; thence north 39.5 chains; thence west 1.818 chains; thence south 39.5 chains; thence east 1.818 chains to the place of beginning, containing....	7.182	359.10
Joseph McKnight, <i>Lewiston, Utah</i>	Beginning at a point 0.5 chains north of a point 27.272 chains west of the southeast corner of said section; thence north 39.5 chains; thence west 6.364 chains; thence south 39.5 chains; thence east 6.364 chains to beginning, containing.....	25.14	1257.00
Eugene Bair <i>Lewiston, Utah</i>	Beginning at a point .5 chain north of a point 33.636 chains west of the southeast corner of said section; thence north 39.5 chains; thence west 6.364 chains; thence south 39.5 chains; thence east 6.364 chains to beginning, containing.....	25.136	1256.80

<u>Name of Owner</u>	<u>Description of Parcel</u>	<u>Acreage</u>	<u>Total Assessment of benefits less damages.</u>
<u>Section 1 (continued)</u>			
Cache County, Logan, Utah	The south 2 rods of the southeast quarter of said section, containing.....	2	100.00
William Blair, Logan, Utah	The east 40 rods of the southwest quarter of said section, containing.....	40	2000.00
Ephraim I. Blair Lewiston, Utah	The east half of the west half of the east half of the southwest quarter of said section, containing.....	20	1000.00
George H. Blair Lewiston, Utah	The west half of the west half of the east half of the southwest quarter of said section, containing.....	20	1000.00
Nancy L. Jamison Lewiston, Utah	The west half of the southwest quarter of said section, containing.....	80	4000.00
<u>Section 2</u>			
Amasa M. Bybee Lewiston, Utah	The northeast quarter of the northeast quarter and the south half of the northeast quarter of said section, containing.....	120	6000.00
Alphens L. Rawlins, c/o Hyrum Morrison Firth, Idaho	The north half of the southeast quarter of said section, containing.....	80	4000.00
Lewiston Sugar Company, Lewiston, Utah.	The south half of the southeast quarter of said section, containing.....	80	4000.00
<u>Section 12</u>			
Marion D. Bullen, Richmond, Utah	Beginning at a point 13.913 rods south of the northeast corner of said section; thence south 142.087 rods; thence west 577.5 feet; thence south 66 feet; thence west 2062.5 feet; to the quarter section line; thence north 160 rods; thence east 134 rods; thence south 13.913 rods; thence east 26 rods to beginning, containing...	157.13	7856.50
T.S. Karren Lewiston, Utah	Beginning at the northeast corner of said section; thence west 26 rods; thence south 13.913 rods; thence east 26 rods; thence south north 13.913 rods to beginning, containing.....	2	100.00
U.I.C.R.R.Co. Ogden, Utah	Beginning at the east quarter corner of said section; thence west 577.5 feet; thence north 66 feet; thence east 577.5 feet; thence south 66 feet to beginning, containing.....	0.87	43.50

<u>Name of Owner</u>	<u>Description of Parcel</u>	<u>Acreage</u>	<u>Total Assessment of benefits less damages.</u>
<u>All in Twp. 15 N.R. 1 W.S.L. B.&.M.</u>			
<u>Section 36.</u>			
Wallace A. Allred, Preston, Idaho.	Beginning at the east quarter corner of the southeast quarter of section 36; thence south 38-2/3 rods; thence west 80 rods; thence north 38-2/3 rods; thence east 80 rods to beginning, containing.....	19.33	966.50
George R. Allred <i>Mesa Arizona</i>	The south 41.33 rods of the southeast quarter of said section, containing.....	20.9	1045.00

And this Board of Supervisors hereby requests the County Commissioners to fix a time, at which said Board of County Commissioners shall sit as a Board of Equalization of Drainage District benefits and taxes and equalize and finally determine the assessment of benefits and taxes to be made and levied upon each tract of land within the district and that notice thereof be given in the manner prescribed by law and that after such notice and hearing your Honorable Board of County Commissioners do equalize and finally determine the assessment of benefits and taxes to be made and levied upon each tract of land within the district in the manner and form prescribed by law.

Respectfully submitted,

George K. Kamey
President and Supervisor

Stillman Pond
Secretary and Supervisor

Amasa Byler
Treasurer and Supervisor

Drainage District #5.

Assessment of Benefits

FILED May 7 1928

F. J. Gordon

CLERK

William M. Cueloch

DEPUTY CLERK

ATTORNEY FOR

NOTICE.

LOGAN, UTAH, May 8th, 1923.

Owner_____

Address_____

Take notice that on the 7th day of May, 1923, the Board of Supervisors of the Cache County Drainage District Number Five filed with this Board their assessment of benefits, by which assessment you are assessed with the sum of \$_____ benefits assessed upon the_____ acres of land owned by you within the district; and that on Monday, the 28th day of May, 1923, at 2:00 o'clock P. M. of the said day at the Commissioners Room of the County Court House in Logan City, Cache County, Utah, the Board of County Commissioners will meet as a Board of Equalization to hear and determine complaints made against such assessments and to sit as a Board of Equalization of Drainage District Benefits and taxes and to equalize and finally determine the assessment of benefits and taxes to be made and levied upon each tract of land within the district.

By order of the County Commissioners of Cache County, Utah,

Attest:

_____. Clerk.

M. C. RIGBY,

Chairman.

In the Matter of the
CACHE COUNTY DRAINAGE DISTRICT
NUMBER 5.

State of Utah, ss
County of Cache.

Thos. S. Karren,	Lewiston, Utah.	Henry J. Talbot,	Lewiston, Utah.
Henry T. Talbot Jr.	" "	Robert W. Talbot,	" "
Stillman Pond,	" "	David Layne,	" "
George H. Wiser,	" "	M. H. Stocks,	" "
Samuel F. Wiser,	" "	Joseph W. Bowden,	" "
George H. Wiser,	" "	Elias B. Layne,	" "
William Waddoups	" "	Robert Lester Layne,	" "
Marvin A. Rawlins	" "	David I. Layne,	" "
Alex L. Pond,	" "	Arnell Layne,	" "
George F. Mills	" "	Richard A. Talbot,	" "
Samuel F. Wiser	" "	Daniel S. Talbot,	" "
Howell Real Estate & Invest.	" "	Olive L. T. Stephensen,	" "
% John T. Haslam,	" "	Mary E. T. Wheeler,	" "
Amalgamated Sugar Company,	Ogden, Utah.	E. W. T. Drury,	" "
George Karren,	Lewiston, Utah.	Ruth S. White,	" "
Wyrum Karren,	" "	Cache County	Logan, Utah.
Jos. J. Haslam	" "	Albert L. Marler,	Lewiston, Utah.
Howell Real Estate and		Loron W. Marler,	" "
Investment Company,	Logan, Utah.	W. A. Bowles,	" "
Daniel D. Buttars,	Lewiston, Utah.	E. A. Bowles,	Fairview, Idaho
Eron W. Marler,	Lewiston, Utah.	Joseph E. Hortin,	Lewiston, Utah
Cache County School Board,	Logan, Utah.	Ivie Jamison,	" "
Church of J.C. of L.D.S.	Lewiston, Utah	Nancy L. Jamison,	" "
Martin Harris Pond,	" "	W. H. Jackson,	" "
Martin Pond	" "	Ivie May Jamison,	" "
U. I. C. R. R. Company	Ogden, Utah	George H. Blair,	" "
Roy S. Kent,	Lewiston, Utah	Rose A. Young,	Provo, Utah.
Jas. Ray Kent,	" "	W. E. Whitt,	Salt Lake City, Utah
Joseph B. Kent,	" "	Eugene Bair,	Lewiston, Utah.
Melvin E. Kent,	" "	West Cache Sugar	Cornish, Utah.
		Company.	

John Kemp,	Salt Lake City, Utah.
Libbie Stephensen,	Lewiston, Utah.
Orpha Bodily,	Fairview, Idaho
Vira Elwood,	Lewiston, Utah.
H. E. Elwood,	" "
Joseph McKnight,	" "
Eugene Bair, &	" "
William Blair,	Logan, "
Ephraim I. Blair,	Lewiston, "
Amasa M. Bybee,	" "
Alphens L. Rawlins,	
% Hyrum Morrison,	Firth, Idaho.
Lewiston Sugar Co.	Lewiston, Utah.
Marion D. Bullen,	Richmond, Utah.
T. S. Karren,	Lewiston, Utah.
Wallace A. Allred,	Preston, Idaho
George R. Allred	Mesa, Arizona.

Signed :

William McCulloch

Subscribed and sworn to before me this 8th day of May, 1923.

J. J. Gordon
County Clerk.

Drainage District
5-

Filed May 8, 1923

F. J. Gordon
Clerk

By Lillian M. Culloch
Deputy

Protests against the Assessment of Benefits in
Drainage District Number 5.

Henry T. Talbot protests that he is assessed with ~~30~~ 32 acres of land which should be 22.

Samuel F. Wiser protests on 45 acres asks that it be eliminated from the district, because it is now tile drained and he is taking his water the other way. Therefore would not be benefited. On the other tract of 40 acres, the assessment is satisfactory.

Marion D. Bullen is assessed with 157.13 acres and protests that she would receive no benefits.

X Glen Wiser is assessed with 39.52 acres and protests on 17 acres, claiming that the drain puts water on his land instead of taking it off.

Howell Real Estate % John T. Haslam -79.95 acres . Protests against so high a valuation on land which produces nothing and they should have 30 acres of this land put in as waste.

X Jos. B. Kemp assessed with 24.86 acres protests that he will receive no benefits.

Henry Talbot 45.02 acres ; protests that he drains into Idaho and has been draining the same way for 20 years. Also there is 10 acres of waste land which is now drowned out. He is in the Idaho Draining Company and he does not feel that he should be forced into two draininage districts on the same land.

X Elias B. Layne protests that he is assessed on too much land. His assessment shows 69.45 acres and he has only 63.45.

X Robert Lester Layne assessed with 29.01 acres, protests that he would receive no benefits.

X David L. Layne protests on 56.51 acres; that he would receive no benefits.

Richard Talbot protests on 45 acres, claiming his land cannot be drained by this drain.

S.
Daniel/Talbot protests on 45 acrés. He is already in the Idaho Drain and therefore would received no benefits.

Mary E. T. Wheeler protests on 7 acres , claiming no benefits.

W. A. Howles protests on 79.82 acres . He had a ditch running to the river which drained his land and he would receive no benefits. He refuses to be taxed and keep up two ditches..

Nancy L. Jamison protests on $66\frac{2}{3}$ acres claiming she has only $61\frac{2}{3}$ acres and on another tract she is assessed with 80 acres which should be 78 acres.

Cochise County Drainage
District # 5.

Filed May 28, 1923

F. J. Gordon, Clerk

By Lillian M. Collock
Deputy.

A RESOLUTION FIXING AND EQUALIZING AND
FINALLY DETERMINING THE ASSESSMENT OF
BENEFITS AND TAXES TO BE MADE AND LEVIED
UPON EACH TRACT OF LAND WITHIN THE CACHE
COUNTY DRAINAGE DISTRICT NUMBER FIVE

In the Matter of the Cache
County Drainage District
Number Five.

Equalized Assessment
Roll of benefits

WHEREAS on the 7th day of May, 1923, the Board of Supervisors of the Cache County Drainage District Number Five pursuant to the provisions of Section 2054x5 of Chapter 41 of the Session Laws of Utah, 1919, made and filed herein its assessment of benefits of the lands within said district which assessment was duly ordered filed and to which reference is hereby made for further particulars thereof, and,

WHEREAS this Board on the 7th day of May, 1923, duly passed a resolution prescribing Monday the 28th day of May, 1923, at the hour of 10 o'clock A. M. at the Commissioners Room of the County Court House at Logan City, Cache County, Utah, as the time and place for the Board of County Commissioners to meet as a Board of Equalization to hear and determine complaints and objections against such assessment and taxes and to sit as a Board of Equalization of Drainage District Benefits and taxes and to equalize and finally determine the assessment of benefits and taxes to be made and levied upon each tract of land within the Cache County Drainage District Number Five, and,

WHEREAS the said resolution prescribes that the Clerk of this Board give notice by mailing to each land owner within the district for at least fifteen days prior to the said date, and fixed the form of said notice, and,

WHEREAS, the Clerk of this Board did pursuant to the said resolution give such notice by mail, all of which more fully appears in the proof of mailing notice filed herein, and,

WHEREAS on the said 28th day of May, 1923, this Board did meet and sit as such Board of Equalization as above set forth and did hear the complaints and requests for reduction in assessments on their respective lands of the parties owning land, whose names appear in the minutes of the said meeting, and,

WHEREAS, this Board thereupon decided to personally inspect and view the lands and took the matter under advisement for the purpose of taking time to personally inspect and view the lands within the said district, and,

WHEREAS, this Board has viewed each tract of land within the said district and carefully considered all the damages and benefits that each particular tract of land will receive from the construction and maintenance of such drainage system and being fully advised in the premises

NOW THEREFORE be it resolved that the Board of County Commissioners of Cache County, Utah, does hereby make, adopt and file herein as and for its equalized and finally determined assessment of benefits and taxes for said Cache County Drainage District Number Five, the assessment of benefits as heretofore made and filed by the Board of Supervisors of said Cache County Drainage District Number Five and the same is hereby confirmed by the Board of County Commissioners as to each of the several tracts of land described therein and the amount of the assessment of benefits and taxes thereon with the following exceptions and changes, to wit:

<u>Name of Owner</u>	<u>Description of Parcel</u>	<u>Acreage</u>	<u>Amount finally fixed.</u>
	<u>All in Twp. 14 N.R. L W.S.L.M.</u>	..	
	<u>Section 1</u>		
W. A. Bowles, Lewiston, Utah.	Beginning at the southeast corner of the northeast quarter of said section; thence north 80 rods; thence west 160 rods; thence south 80 rods; thence east 98 rods; 11½ feet; thence north 27 rods; thence west 1 rod; thence south 27 rods; thence east 60 rods 5 feet to beginning, containing	74.82	3741.00

BE IT FURTHER RESOLVED that the clerk of this Board enter in red ink upon the original assessment of benefits made by the Board of Supervisors of the said district and filed herein as aforesaid the changes and alterations made by this Board of County Commissioners as such Board of Equalization and that the taxes and assessments upon the district shall be hereafter based upon this equalized assessment of benefits within the said district.

Passed and adopted by the Board of County Commissioners of Cache County, Utah, this 13th. day of June, 1923.

Attest:

J. J. Gordon
Clerk

M. C. Rigby
Chairman

Joseph H. Olsen
Commissioner

W. A. Thorne
Commissioner

Case No. _____

Cache County Drainage Dist #5

vs.

Plaintiff.

Defendant

FIRST DISTRICT Court

CACHE COUNTY, UTAH

DATE LOANED			PARTY BORROWING PAPERS	DAY RETURNED		
Month	Day	Year		Month	Day	Year
7	27	22	S. R. Humphreys	7	12	22
7	13	22	Mary Hansen	9	12	22
1	-13	23	S. R. Humphreys	1	19	23
2	22	23	S. R. Humphreys	2	26	23
4	24	23	S. R. Humphreys	5	2	23
4	24	24	St. John Perry			
Feb.	25	1927	Ernest T. Young			

Case No. _____
 Cache County Drainage
 Plaintiff
 District #5
 Defendant

FIRST DISTRICT COURT
CACHE COUNTY, STATE OF UTAH.

[illegible]

IN THE DISTRICT COURT OF CACHE COUNTY, STATE OF
UTAH

CACHE COUNTY DRAINAGE DISTRICT)
#5, a quasi corporation of the)
State of Utah,)

Plaintiff,)

vs.)

W. R. WESTOVER and MYRTHA WESTOVER,)
his wife; ALLEN G. WHEELER and DELORES)
G. WHEELER, his wife; SOICHI IWOMOTO)
and JANE DOE IWOMOTO, his wife; MICH)
IWOMOTO and JANE DOE IWOMOTO, his)
wife; and IRIEL IWOMOTO and JANE DOE)
IWOMOTO, his wife,)

Defendants.)

MEMORANDUM OF LAW IN
SUPPORT OF PLAINTIFF'S
POSITION.

#12448

In response to the court's request for a memorandum of authorities in
support of plaintiff's position, the following is respectfully submitted:

FIRST ISSUE

Does the plaintiff have a prescriptive easement in the Lewiston Third Ward
Drainage Canal?

The requirements to create a prescriptive easement are set out by many
authorities. In the authoritative treatise by Thompson and Real Property the
following was stated: Vol. 2, 1961 Replacement, Section 335:

"To establish an easement by prescription there must be an open,
visible, continued and uninterrupted use or enjoyment thereof
under claim of right, adverse to and with the knowledge of the
owner of the property. However, the owner of the servient land
is charged with knowledge of user and acquiescence in it where
the use is open, adverse, notorious, peaceable and uninterrupted.
A prescriptive easement does not rest upon consent, but upon use alone
and in some states without the aid of any statute. (P. 151)...
To establish a right by prescription, it is necessary to prove three
things: (1) The continued and uninterrupted use or enjoyment of the
right for a full period of twenty years or whatever period of time is
stated by statute; (2) The identity of the thing enjoyed; (3) That the
use or enjoyment was adverse, or under claim of right (P. 154).....
The ordinary rule is that, where there has been an unmolested,
open and continuous use of a way for twenty years or more with the
knowledge and acquiescence of the owner of the servient estate, the
use will be presumed to have been adverse and under a claim of
right, and sufficient to create a title by prescription, unless
contradicted or explained. (P. 155)."

The Utah Supreme Court has recently reaffirmed the same law for our State. In *Richins vs. Struhs* 17 Utah 2d, 356, 412 P2d 314 (1966, the court stated the requirements for obtaining a prescriptive easement:

"....that the use meets the requirements of being open, notorious, continuous and adverse for more than twenty years and therefore has established a prescriptive right to continue to so use it."

It appears that the Utah requirements are the same as those listed in *Thompson*. The case of *Richins vs. Struhs* involved adjoining land owners who shared a common roadway and bridge over a creek to their summer homes. Their predecessors in interest were brothers-in-law and had jointly constructed the bridge and roadway, and the road and bridge had been so used for over 40 years. In 1960 the defendants purchased one of the lots and erected a fence blocking the others use of the driveway. The District Court ruled for the defendant, finding that the original use was permissive and created no prescriptive easement. However the Supreme Court reversed that decision stating, on page 358, as follows:

"The trial court appears to have been of the opinion that because the Whipples and the Joneses were relatives, and that they used the driveway harmoniously and without conflict, that the use was permissive and that therefore no prescriptive right to use the driveway arose. The difficulty with this view is that it does not give effect to fundamental principles applicable to prescriptive rights. The origin and purpose of their recognition arises out of the general policy of the law of assuring the peace and good order of society by leaving a long established status quo at rest rather than by disturbing it. In order to serve this purpose, when a claimant has shown that such a use has existed peaceably and without interference for the prescriptive period of 20 years, the law presumes that the use is adverse to the owner, and that it had a legitimate origin....

We think it pertinent to here acknowledge that in this, as in most situations of controversy, there is another side of the coin to be kept in mind and that we do not lose sight of certain propositions advocated by the plaintiff in regard to a permissive use where that in fact exists. The presumption above mentioned that a use is adverse which arises from its continuance for a long period of time is not absolute. It would not preclude the owner of the servient estate (defendants herein) from proving that the use was by permission."

After noting that the presumption that the use was adverse can be overcome the court concluded that the defendant did not overcome that presumption, and held that there was a prescriptive easement for the plaintiff.

The facts of the case are remarkably parallel to those before the court in this instance. It would be difficult to design a more analogous situation. The evidence is un rebutted that plaintiff has used the canal which passes through defendant's property for over twenty years; that no payment was ever made by plaintiff for such use; that no consent nor permission was ever given by defendant for the use by plaintiff; and that the use was adverse to the defendants continuously during the entire twenty four year period, constantly eroding and washing the lands and ditch banks of the defendants. The fact that there has been no open hostility between the parties over the years does not give rise to a presumption of a permissive use. As the court said in Richins vs. Struhs at page 359:

"Even though it is sometimes referred to as a hostile use, it is not necessary that there be any open hostility manifest in the use of force or any policy of the law to encourage violence by rewarding it; and it generally does not make the protection or the acquisition of rights dependent upon it. The fact that the parties (predecessors) were friendly, or even cordial with each other, as they appear to have been, does not prevent a prescriptive right from coming into being."

The defendants have cited, by way of defense, the cases of Zollinger vs. Frank, 110 Utah 514, 175 P2d 174, and Lunt vs. Kitchens, 123 Utah 488, 260 P2d 535. Yet both of those cases are in complete harmony with the above 1966 statement of the Utah Supreme Court. In the 1953 decision of Lunt vs. Kitchens, the court states on page 537:

"The question here involved is whether there is sufficient evidence of adverse user for a period of twenty years to sustain the trial court's finding of a prescriptive easement."

The court then favorably explained the history of the legal fiction of a lost grant theory, then defined the difference between "consent" and "acquiescence" referring to their earlier statement in Zollinger vs. Frank.

"The distinction, we said, lies in whether the use was "against" the owner or "under" the owner, regardless of whether the use is described as peaceable, hostile, adverse to or as acquiesced in by the servient owner. Because of the presumption that the use of another's land is adverse to him, the owner has the burden to show that the use was under his permission as distinguished from against it. Cache Valley Banking Company vs. Cache County Poultry Growers Association...."

(It should be noted at this point that the defendant also relies upon the decision of Cache Valley Banking Company vs. Cache County Poultry Growers Association as a defense. However, it is clearly in line with the other numerous Utah decisions).

The court then found that on the facts of that particular case there was no adverse use during the 20 year period and therefore no prescriptive easement arose. The court expressly concluded:

"The use by the Kitchenses family added no burden to the driveway; they did not attempt to widen it, nor to interfere with the use by the Weidners."

That rule of law is still entirely valid and upon the facts of the instant case that law clearly requires a finding of a prescriptive easement for the plaintiff. The use of the canal by plaintiff over the years did widen the ditch and also eroded the land of the defendants. Defendants rely entirely upon their argument that where a property owner opens the way for use of his own premises and another uses it without interfering with the land-owners use or causing it damage, the presumption is that use was permissive. Plaintiff does not dispute that proposition of law. But the facts of this case do not allow such a finding - it is undisputed that defendants dug the drainage ditch a substantial additional distance for the benefit of the State of Utah and not for their own use or purpose and then requested plaintiff to also pay for using it. When asked to pay, plaintiff and its individual members all refused to comply and have been using the ditch adversely from that time forward.

The decision in Zollinger vs. Frank 110 U514, 175 P2d 714 in 1946 is directly in line with the cases already cited. There the plaintiff claimed a right of way by prescription across the north end of the defendants' property for the purpose of traveling with equipment and vehicles. The plaintiff filed the action to restrain defendant from interfering with its alleged right of way. A lower court found that the plaintiff did have the claimed right of way by prescriptive easement and the Supreme Court affirmed. The first issue to which the court addressed itself was whether or not the use was adverse

to the defendants' interest. The court there determined that in order to acquire a prescriptive easement the use must be "against" the owner as distinguished from "under" the owner. In finding that a prescriptive easement had been created, the court stated the rule more recently restated in *Richins vs. Struhs*:

"The prevailing rule is that where a claimant has shown an open, visible, continuous and unmolested use of land for the period of time sufficient to acquire an easement by adverse user, the use will be presumed to be under a claim of right. The owner of the servient estate, in order to avoid the acquisition of an easement by prescription, has the burden of rebutting this presumption by showing that the use was permitted. . . . We think the better rule is that described as the prevailing rule in the above quotation."

The court next dealt with the issue of whether or not a conveyance of the servient estate during the prescriptive period, without mention of the user of the roadway, interrupted the running of the prescriptive period. The court, on page 717, cited numerous cases and authorities and concluded:

"The conveyance of the servient estate in and of itself during the prescriptive period does not interrupt the running of that time. However, the change of ownership of the servient estate during the prescriptive period may become important in determining whether the servient estate owner knew or should have known during the entire prescriptive period that the claimant was using the claimed right of way."

The court there found that the owner was on notice by the continued use by the plaintiff just as in our case where the subsequent purchasers of the land, the named defendants, must be charged with notice that the plaintiff's water was flowing through the drainage ditch eroding their lands at the time they acquired their lands and for many years since.

All of the cases relied upon by defendants are in strict accord with the most recent statement of the Utah Supreme Court in *Richins vs. Struhs* and do not in any manner contradict the law stated therein. Each case was determined upon its facts, yet all agree upon the principles of law without variance. There is no question here of an original license granted to plaintiff. There is no such claim and no evidence to support such a theory. There is no evidence of express or even implied consent and the burden is entirely upon defendants to show that permission was given. Every Utah case cited by defendants places the burden upon them. There was no evidence presented at the trial to show permission was ever given. On the other hand substantial and multiplicitous evidence

was presented which showed an original lack of permission and continuous adverse use.

SECOND ISSUE

Assuming plaintiff has acquired a right - can plaintiff say "We want to use it but we don't have to maintain it."

While this second issue is really not before the court the court has asked that law in this direction be submitted and the following is submitted in response thereto. The court quoted Section 73-1-9 Utah Code Annotated 1953, which is as follows:

"Contribution between joint owners of ditch or reservoir. -
When two or more persons are associated in the use of any dam, canal, reservoir, ditch, lateral, flume or other means for conserving or conveying water for the irrigation of land or for other purposes, each of them shall be liable to the other for the reasonable expenses of maintaining, operating and controlling the same, in proportion to the share in the use or ownership of the water to which he is entitled."

The annotations given under the section all indicate that this section has application where no contract has been entered into between the parties. It also indicates that where a contract has been entered into then the section would have no application. It appears that Mr. Wood and the State of Utah might be in this position, that is that they paid a fixed sum for the privilege and their right or privilege still continues.

Whether or not the plaintiff is bound by this section after they have established a right to use the ditch over a period of 24 years in a much harder question to determine. We would also have this additional problem and that is that the State paid to put the water that had been accumulating along the barrow pit in this drain. The plaintiff had run its waters also into the barrow pit. Mr. Wood did not want the water level around his property to remain as high as it had been and knew if it drained through defendants' place it would lower the water level and so he paid. Consequently we have different interests that are effected and any method that would be used to apportion costs of upkeep would be difficult to carry out.

In researching it appears that Thompson on Real Property has some statements that might be of help bearing in mind that the plaintiff does not acquire an easement until after the 20 year period and that when it has acquired an easement it then has the rights referred to in Thompson as follows:

Article 675 (610) Repairs by owner of servient estate. -

As a general rule the owner of the servient estate is not bound, unless by virtue of an express stipulation, to keep the easement in repair, or to be to any expense to maintain it. His whole burden consists in being restrained from doing something or in suffering something to be done upon the property by another, who has the easement. The owner of the servient tenement is bound to do no more than abstain from acts inconsistent with the proper enjoyment of the easement unless there is a covenant, either express or implied, imposing other obligations upon him. Under such circumstances, the owner of the easement must bear the burden of its maintenance and repair where it exists and is used and enjoyed for the benefit of the dominant estate alone. The grantor of an easement of way is under no obligation to maintain it in a suitable condition for use unless he has expressly stipulated to do so. He is bound not to obstruct the way, but further than that its maintenance is left to the grantee. The right to make necessary repairs is an incident to an easement. Even though the grantor use the way in common with the grantee, there is no reason why the latter may not reasonably repair the way suitably to the character of his easement, provided he does not increase the burden on the servient tenement or unreasonably interfere with the grantor's right also to repair the common way. It has been held that the grantor of an easement to take ice from a pond is under no obligation to maintain the dam. A reservation in a conveyance of the right to take water from a well "now on the premises, or from any other well which may be dug," is held not to impose upon the grantee the obligation of keeping the well in repair, and in a suitable condition to afford wholesome water, nor even of continuing to preserve its existence. It has been held, however, that a servitude may be acquired by prescription, charging one's property with the payment of a portion of the cost of repairing a dam, of maintaining a fence, or of repairing a way. One who creates a servitude has the duty of maintaining it, and, should he fail to do so, and should injury result from his negligence, he is liable in damages therefor.

Article 676 (611) "Secondary easement" defined. - The right to enter upon the servient tenement for the purpose of repairing or renewing an artificial structure, constituting an easement, is called a "secondary easement," a mere incident of the easement that passes by express or implied grant, or is acquired by prescription. The owner of the dominant estate may enter on the servient tenement, and there do any act necessary for the proper user of the easement. This secondary easement can be exercised only when necessary, and in such a reasonable manner as not to needlessly increase the burden upon the servient tenement. The grant of the easement carried with it by implication whatever incidental right is necessary to its beneficial enjoyment, provided the grantor has power to bestow it. Thus, one having a right of way may grade and prepare the land for use as such, according to the nature of the way. He may enter the servient tenement to make repairs, and use such tenement for this purpose to a reasonable extent; doing no unnecessary injury to the servient estate. The owner of the dominant tenement can make no alterations in his mode of enjoying the easement which will increase

its burden. He has no right to commit a trespass upon the servient tenement, as he does when he enters upon the tenement and extends a ditch, which he has the right to maintain, either by grant or prescription, beyond the limits fixed by the grant or by use. The owner of a private right of way may make reasonable repairs and improvements, where the way is already in use and especially where without improvements the way is impassable.

Article 678 (613) Extent of right to make repairs. - One having a right of way may repair or improve same, provided in so doing he makes no material change in the state and condition of the soil, or does not disturb or interfere with the estate or privileges of other persons therein. In making repairs the owner of the easement can not increase the burden or enlarge the character or extent of the use. The owner of an easement of way may work the way to keep it reasonably usable as a private way, but he can not lawfully take dominant possession and deal with it as if he were the owner of the land. Where there are several owners in common of a private way each owner may make such reasonable repairs as will not injuriously affect his coowners or the servient owner, but he can not make any alterations of the course of the way, or any change in its grade or surface which makes the way less convenient and useful, to any appreciable extent, to any one who has an equal right in the way. One who has acquired by prescription a right of way over another's land, has no right to cut ditches for the improvement of the way by draining the water from it, without the consent of the servient owner. In making repairs on a way, one has no right to obstruct the flow of a stream which is a natural watercourse. If there are trees in the line of the way and it becomes necessary to cut them down and remove them, the property in the trees so cut remains in the landowner. The reservation of a right of way of a specified width retains for the grantor the right to the use of the entire width of the way and to put it in condition for use and to keep it in repair. The owner of a right of way easement may, by the use of road materials, make of the road a smooth and solid way but he can not raise the level of the roadway above the servient owner's adjoining land so as to affect the flow of flood waters. When an easement or other property right is created, every right necessary for its enjoyment is included by implication. In accordance with this rule, the right of anyone entitled to use a private way to make reasonable repairs and improvements is well established in cases where the way is already in use, and this right exists even more clearly where, without improvement, the way is impassable and useless. Whether the improvements made are reasonable in view of the equal rights of others is largely a question of fact. In improving the way, the dominant tenant may establish a grade where there was no existing or natural grade at which a useable way could be built, the only limitation being that the grade adopted must not be unreasonable. When both the dominant and servient owners use a private way they each have the right to make repairs. The servient owner may make repairs so long as he does not interfere with the corresponding right of the dominant tenant, or render the private way less convenient or useful for such tenant. It follows that each may be enjoined from interfering with or disturbing in any way proper improvements made or being made by the other. The right exists in the owner of an easement to remove obstructions whether placed either by the owner of the servient estate or other persons, or whether existing naturally. The right to repair includes, as a matter of course, the right to enter, at reasonable times, to make such repairs. The word "repair" is not limited to making good the defects in the original soil by subsidence or washing away, but it includes the right of making the road such that it can be used for the purpose for which it was granted.

Article 679 (614) Obligation of dominant owner to repair. -

The owner of an easement is under no obligation to make repairs except as he may desire to do so for his own advantage, or unless required to do so by contract or prescription. Inasmuch as the easement itself is the particular property of the dominant owner, it is his duty and privilege to make repairs. He may suffer the easement to become useless if he please; and, except where this neglect is in violation of his duty to the public or to his neighbor to keep his property in a safe condition, he is not answerable therefor to any one; but if the character of the easement is such that a failure to keep it in repair will result in injury to the servient estate or to third persons, the owner of the easement will be liable for any injury caused by such failure. A grant of a right of way implies no condition or covenant that the grantee shall keep it in repair. As between the owner of the easement and the owner of the servient estate the right and duty of repairing belong wholly to the former in the absence of any agreement by the latter. The owner of the dominant tenement may be liable for injuries occasioned by his neglect to repair, and in this way he may be considered as bound to make the necessary repairs of the subject of the easement; but it is held generally, in the absence of a contract stipulation or prescriptive right to the contrary, that the owner of the easement is liable for the costs of maintenance and repairs where the easement exists and is used and enjoyed for the benefit of the dominant estate alone. Generally, the owner of an easement or right of way over the lands of another must maintain it in a state of good repair and efficiency so that no unnecessary damage will result from its use to the servient estate.

Article 680 (615) Obligation of servient owner with respect to repairs: -

An owner of a servient estate is not bound to maintain an easement without some contractual or prescriptive obligation. Thus the servient owner is not, in the absence of an express or implied agreement placing this burden on him, required to rebuild a dam after the same has been washed away. One who has acquired a prescriptive right of way over another's land has no right to require such other to keep the road in repair, though it may not be obstructed. Should the servient owner repair the way, he can not enforce contribution from the owner of the easement in the absence of a contract or prescriptive right relating to keeping the way in repair. A servitude does not impose upon the owner of the servient estate any personal obligation to perform any act or service in respect of such estate for the benefit of the owner of the dominant estate, such, for instance, as to maintain a gate. It has been held, however, that a servitude may be acquired by prescription, charging one's property with the payment of a portion of the cost of repairing a dam, or to keep a well and pump in repair.

Article 681 (616) Alterations by owner of dominant estate. -

The owner of the dominant estate is not allowed to make material alterations in the character of his easement, although such alterations would not make the easement more burdensome to the servient estate, or might by some persons be regarded as a benefit to that estate, if the owner of that estate objects to the change, but he may make repairs and improvements that do not, in substance, affect the character of the servient estate. Thus, one who has an easement to convey water over the lands of another by a ditch for the purpose of irrigation may remove inequalities in the ditch to bring it to a uniform grade, provided this change does not increase the amount

of water to be conveyed through the ditch, or damage the servient lands. One who has acquired a right by prescription to take water from a spring may lay down a new and different conduit provided he takes no more water through it than he did through the original conduit. Where a right is acquired by use or prescription, the nature of the use can not be changed so as to render it more burdensome upon the servient tenement. A substantial change in the manner of enjoyment of an easement may be restrained by injunction, if the change would in effect result in the creation and substitution of a different servitude from that which had been acquired; and it is immaterial whether the change will benefit the servient estate or not. It is for the owner of that estate to determine whether the change will be beneficial to his estate, and it is for him to say whether he will allow such a change. No one can compel him to have his property improved in a particular manner. A grant in general terms of a right to lay a pipe for the purpose of conducting water across the land of the grantor without specifying the place for laying it or the size of the pipe is defined and made certain by the act of the grantee in laying down the pipe; and after he has once laid the pipe with the acquiescence of the grantor, the grant which was before general and indefinite becomes fixed and certain and the grantee can not change the easement either by relaying the pipe in another place or by increasing its size. However, the owner of a dominant estate is allowed to make such necessary alterations and improvements as do not impair or affect the substance of the easement so long as its use is confined to the purposes for which it was acquired. Thus it has been held that the owners of lots entitled to a right of way were entitled to reconstruct and regrade a terrace to make it conform to the street grade where other lots subject to the easement and also entitled to the use of the way would be benefited thereby. Also, an easement may be extended as a matter of right by the owner of the dominant estate to other lands owned by him. But material alterations which inflict an appreciable damage upon any abutting owner can not be made in an easement of passage. So, under an easement by express grant to construct and maintain a water pipe-line, whereunder the city constructed a thirty inch wooden pipe-line, the city was held not entitled to construct a new pipe-line parallel to the original line which would acquire approximately six feet of additional land, and to abandon the original line. A substantial change in the manner of enjoyment of an easement may be restrained by injunction. If the legal remedy is adequate a mandatory injunction is improper. An increase in the width of a way with the permission of the servient owner does not enlarge the original easement nor operate as an extinguishment thereof.

Each and all of these show the rights of each in respect to the easement.

Perhaps our statute was aimed at clearing some of these problems.

However, our statute does not give to either party the right to make the total decision of what repairs should be made but lays down the rule "reasonable expenses" of maintenance. If reasonable were used then no doubt a court of equity would require it.

In conclusion it appears that the evidence is clear and persuasive that the plaintiff has established an easement by prescription to use the drainage ditch; that an order should be made directing the defendants to remove the obstruction by a certain date and if not removed directing the plaintiff to enter upon the right of way and remove the same; that the court retain jurisdiction to hear the extent of the cost of removal if carried out by plaintiff so as to enter a proper judgment against the proper defendant for the cost thereof.

That the court should in addition thereto, if it felt so inclined, inform the parties that future maintenance which is necessary and reasonable for the joint use of said drain, could be carried on under the provision of Section 73-1-9 Utah Code Annotated, 1953.

Respectfully submitted,

MANN and HADFIELD

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A copy of the foregoing mailed this 8th day of January, 1970 to the following:

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IN THE SUPREME COURT OF THE STATE OF UTAH

CACHE COUNTY DRAINAGE
DISTRICT No. 5 a quasi corporation
of the State of Utah,

Plaintiff and Respondent,

vs.

W. R. WESTOVER and MYRTHA
WESTOVER, his wife; ALLEN G.
WHEELER and DELORES G.
WHEELER, his wife; SOICHI IWO-
MOTO and JANE DOE IWOMOTO,
his wife; MICHI IWOMOTO and
JANE DOE IWMOTO, his wife; and
IRIEL IWOMOTO and JANE DOE
IWOMOTO, his wife,

Defendants and Appellants.

Case No.
12151

RESPONDENT'S BRIEF

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IN THE SUPREME COURT OF THE STATE OF UTAH

CACHE COUNTY DRAINAGE
DISTRICT No. 5 a quasi corporation
of the State of Utah,

Plaintiff and Respondent,

vs.

W. R. WESTOVER and MYRTHA
WESTOVER, his wife; ALLEN G.
WHEELER and DELORES G.
WHEELER, his wife; SOICHI IWOMOTO and JANE DOE IWOMOTO,
his wife; MICHI IWOMOTO and
JANE DOE IWOMOTO, his wife; and
IRIEL IWOMOTO and JANE DOE
IWOMOTO, his wife,

Defendants and Appellants.

Case No.
12151

RESPONDENT'S BRIEF

STATEMENT OF NATURE OF CASE

Respondent adopts appellants' statement under
this heading.

DISPOSITION IN LOWER COURT

Respondent adopts the statement made by appellants under this heading.

RELIEF SOUGHT ON APPEAL

Respondent seeks to have the judgment of the trial court on its second count, sustained.

STATEMENT OF FACTS

The plaintiff is a quasi municipal corporation having been formed by a proclamation of the Cache County Commissioners in 1922 (T20L-26).

The Drainage District created by said proclamation included the N.E. $\frac{1}{4}$ of Section 12. T. 14. N.R.1.W.S. L.M., now owned by the appellants but for some unknown reason, that cannot now be discovered, there has never been an assessment for drainage purposes levied against said northeast quarter.

The balance of the land of the Drainage District lies to the north and east of said N.E. $\frac{1}{4}$. County Roads run north and south and east and west at the northeast corner of the northeast quarter. Also a large barrow pit on the north side of the northeast quarter and south side of the County Road was in existence in 1922, the year the district was organized, and the Drainage District used this barrow pit for one of its drains and it

carried the drainage water westward some mile or two to the Bear River.

This barrow pit did not function too efficiently (T33) and in wet years water would stand on the ground until June (T.28).

In 1945, Owen Rawlins, who owned property west of the northeast quarter of Section 12, started a drain from the brow of Bear River eastward through his property (T.87-90). Others to the east desired to hook on. They held a meeting, called themselves the Third Ward Drainage Company and extended the drain eastward and then northward through or near the middle of the northeast quarter of Section 12 towards the barrow pit drain of the respondent herein. (See plaintiff's exhibits 15 and 16 - red line representing drain). A Mr. Bergeson, who seemed to take charge of the Third Ward Drainage Company, collected certain monies from the people in this association (T91-L22) and then proceeded to try to collect from others. One was Harold Wood (Tr. 91-L25, whose property was immediately to the west of the northeast quarter of Section 12, who desired to draw the water from the barrow pit in front of his property. Mr. Bergeson also contacted Loraine Karren, who was the president of respondent drainage district in 1945 (T. 36-L37) and asked a payment of \$500.00 at the time when the Third Ward Drainage District tapped the barrow pit in the County Road, which was refused. He admitted to Mr. Karren (T. 37-L29) that the State had paid them \$500.00 to tap the

barrow pit also. Mr. Halgren, a witness for the respondent, on cross examination, (T. 66 line 13) said that Bergeson told him in 1969 that the State paid said amount to take the water from the highway through this drain to the river. Russell H. Peterson, a witness for the respondent who lives on the north side of the County Road on the lands to the north of the northeast quarter of Section 12, testified Mr. Bergeson in 1946 (T.155 line 17) had asked him to contact two of his neighbors for donations for the construction of the drain, but they each and all refused.

The witnesses for the appellant admitted that right from the beginning of the use of the drain it has been (T. 138-line 15): "Just washing, making it wider."

Iriel Iwomoto, a defendant, questioned on cross-examination (T. 139-line 1):

"Q. And these people then run it against your will during all of that time, making your ditches wider, and you never stopped them?"

A. Well, as long as use is use, it wasn't hurting us.

Q. I thought you said it was making your ditch wider and you didn't like that.

A. Yeah, but we didn't stop them.

Q. That's what I say. You didn't stop them."

A. That's right."

Mr. Bergeson, the president of the Third Ward Drainage group, who was one of the chief witnesses

for the appellant and who collected the money and paid the bills, talked about erosion (T. 111-line 21 to T. 112 - line 5):

"Q. Had it eroded considerably when you put the pipe in?

A. Not a tremendous amount. It had started, and of course when it once starts it can go fast.

Q. Well, then it would start from the time you you started the flow of water on it, would it, if it was erosion, each bit would have its effect?

A. I suppose so, naturally.

Q. So that from the very beginning of the drain down here there was a wearing away or erosion right from the very beginning?

A. That's a natural condition.

Q. Sure. So that the water that come off from this highway and from this drainage district up above right from day one began to have its effect upon the use of that ditch?

A. Right."

In 1969 during a wet spring the group known as the Third Ward Drainage Company stopped the water at their intake on the County Road and inside of the Westover property. Machines were used to fill the drain ditch with dirt (T45) which stopped all drainage from the barrow pit and water stood upon the surface of the ground (see picture exhibits 3 to 9) water logging the land and flooding basements. The water had been running continuously through this drain from the barrow pit from 1945 to the spring of 1969.

The barrow pit along the road had not been maintained as a drainage ditch since 1945. There was also testimony that the State of Utah in 1961 had made some grade changes (T.68) which caused water from the west of the entrance to the Third Ward Drainage Company ditch and barrow pit to flow from the west towards it. This water from the west did not come from respondent's drainage.

The water that stood on the ground in the spring of 1969 after it had flooded to a sufficient depth to go to the west was in places two to three feet deep (T.72) but prior to the stopping of the drain by the Third Ward Drainage Company was flowing freely through it (T.72).

POINTS RELIED ON

POINT I

RESPONDENT'S USE OF APPELLANTS' DRAINAGE DITCH WAS NOT PERMISSIVE, CAUSED DAMAGE TO APPELLANTS FROM THE VERY BEGINNING OF USE. SAID USE WAS ADVERSE AND RESPONDENT THEREFORE ACQUIRED A PRESCRIPTIVE RIGHT TO THE USE THEREOF.

POINT II

THE TRIER OF THE FACTS WAS THE COURT. IF THERE IS TESTIMONY IN THE

RECORD TO SUPPORT THE COURT'S DECISION, IT SHOULD NOT BE DISTURBED ON APPEAL.

ARGUMENT

POINT I

RESPONDENT'S USE OF APPELLANTS' DRAINAGE DITCH WAS NOT PERMISSIVE, CAUSED DAMAGE TO APPELLANTS FROM THE VERY BEGINNING OF USE. SAID USE WAS ADVERSE AND RESPONDENT THEREFORE ACQUIRED A PRESCRIPTIVE RIGHT TO THE USE THEREOF.

The court found, in its Memorandum Decision (R. 28-29):

"This court is in agreement with the defendants' contention as to what the law is. However, further the defendants contend that the evidence is uncontroverted that the way in question was open by defendants for their own use and at their expense and that the use of the way by the plaintiff neither interfered with nor caused damage to the defendant. This court holds that there was damage and testimony from the defendant and the other witnesses of the defendants who are property owners who share in the use of the drainage ditch and who initiated its construction was that there was damage by way of erosion over the past years, especially on the bottom end of the ditch where it goes over a rather steep incline into the Bear River. Further

that it was necessary for repair of the ditch, and further evidence that the reason the ditch was shut off to the plaintiff was that the plaintiff was asked to contribute expense to maintain and repair the ditch because of the erosion caused by the drainage. That is what apparently initiated this whole action."

In the Findings of Fact of the court entered on the 20th day of May, 1970, the court found (R. 54):

"4. That the use of said drain by the plaintiff after the construction of said drain has continuously, from the beginning of said use, caused damage by way of erosion over and above the erosion created by the owners thereof or their predecessors in interest and others for their own use. That said use by the plaintiff was not permissive and said use by plaintiff did interfere with and cause damage to the defendants right of way, during all of said time."

The chief witness of the appellant who was not a party to the law suit but who nevertheless sat at the council table of the appellants (T. 105) during all of the proceedings, Mr. Douglas A. Bergeson, said on cross-examination (T. 111-line 13):

"Q. Now you said you put some pipe on this grass down here on this outlet on the river. When did you put that pipe in?

A. Nineteen fifty-nine. Spring of 1959.

Q. And did this run all the time then until 1959 before you had to put pipe in?

A. It had, that's right.

Q. Had it eroded considerably when you put the pipe in?

A. Not a tremendous amount. It had started, and of course when it once starts it can go fast.

Q. Well, then it would start from the time you started the flow of water on it, would it, if it was erosion, each bit would have its effect?

A. I suppose so, naturally.

Q. So that from the very beginning of the drain down here there was a wearing away or erosion right from the very beginning.

A. That's a natural condition."

A Mr. Iriel Iwomoto, one of the defendants and appellants on cross-examination (T. 138-line 11) said:

"Q. Has this drain, as it comes through your property, done you any harm?

A. It hasn't done any good.

Q. Well, has it done you any harm?

A. Just washing, making it wider.

Q. Has it been making it wider ever since it was first used from '45?

A. I'd imagine.

Q. So that right from the very beginning that these people started to use it, there began to be a wear and detriment to you people from the very beginning of the time they started to use it?

A. Well, that I wouldn't know.

Q. Well, you say it was making it wider all the time.

A. It does. This big flush run-off.

Q. And you didn't like that?

A. Well—

Q. Did you ever go up and stop it during any of that twenty-four years except in 1969?

A. No.

Q. And these people then run it against your will during all of that time, making your ditches wider, and you never stopped them?

A. Well, as long as use is use, it wasn't hurting us.

Q. I thought you said it was making your ditch wider and you didn't like that.

A. Yeah, but we didn't stop them.

Q. That's what I say. You didn't stop them.

A. That's right."

There is nothing whatsoever in the record showing where consent was ever given to the respondent to run its water through the drain but on the contrary right from the beginning a demand was made on the officers of the respondent corporation for a payment for the privilege (T. 36-37).

The court made a determination after hearing the matter that there was damage caused to the appellants from the use made by the respondent right from the very beginning of its use and the record amply supports him. The record is silent as to any consent having been given by appellants to respondent. The appellant on the other

hand builds his case on appeal on his conclusions shown at the bottom of Page 9 and the top of Page 10 of his brief wherein he concludes:

"The evidence is uncontroverted that the way in question was opened by appellants and their predecessors in interest for their own use at their own expense, and that the use of the way by the respondent *neither interfered with nor caused damage to the appellants*".

He says no damage in the face of the judges memorandum of decision the last part of which says:

"... and further evidence that the reason the ditch was shut off to the plaintiff was that the plaintiff was asked to contribute expense to maintain and repair the ditch because of the erosion caused by the drainage. This is what apparently initiated this whole thing."

Appellant even goes further in his brief on Page 10 and says:

"Respondent's use of the drain caused no damage thereto. (T.139 lns. 1-4)"

This reference he makes is just a part of the full reference that the respondent has printed fully above starting with T. 138 Line 11. I cannot see how appellant can reach such a conclusion. The court didn't.

Consequently the appellant having built his entire case on a false premise to-wit: That the respondents use of the drain "caused no damage" and having furnished cases which he says are exceptions to the rule, which cases are also predicated upon the theory that the use

"caused no damage" must fail. He cannot get out of the general application of the law without first having a determination that the use made by this respondent "caused no damage." The court found just the opposite, that the appellants were damaged right from the very beginning of respondents use.

The requirements to create a prescriptive easement are set out by many authorities. In the authoritative treatise by Thompson on Real Property the following was stated: Vol. 2, 1961 Replacement, Section 335:

"To establish an easement by prescription there must be an open, visible, continued and uninterrupted use or enjoyment thereof under claim of right, adverse to and with the knowledge of the owner of the property. However, the owner of the servient land is charged with knowledge of user and acquiescence in it where the use is open, adverse, notorious, peaceable and uninterrupted. A prescriptive easement does not rest upon consent, but upon use alone and in some states without the aid of any statute. (P.151) . . . To establish a right by prescription, it is necessary to prove three things: (1) The continued and uninterrupted use or enjoyment of the right for a full period of twenty years or whatever period of time is stated by statute; (2) The identity of the thing enjoyed; (3) That the use or enjoyment was adverse, or under claim of right (P.154) . . . The ordinary rule is that, where there has been an unmolested, open and continuous use of a way for twenty years or more with the knowledge and acquiescence of the owner of the servient estate, *the use will be presumed to have been adverse and under a claim of*

right, and sufficient to create a title by prescription, unless contradicted or explained. (P.155)." (underlining added)

The Utah Supreme Court has recently reaffirmed the same law for our State. In *Richins vs. Struhs* 17 Utah 2d, 356, 412 P2d 314 (1966), the court stated the requirements for obtaining a prescriptive easement:

" . . . that the use meets the requirements of being open, notorious, continuous and adverse for more than twenty years and therefore has established a prescriptive right to continue to so use it."

It appears that the Utah requirements are the same as those listed in Thompson. The case of *Richins vs. Struhs* involved adjoining land owners who shared a common roadway and bridge over a creek to their summer homes. Their predecessors in interest were brothers-in-law and had jointly constructed the bridge and roadway, and the roadway, and the road and bridge had been so used for over 40 years. In 1960 the defendants purchased one of the lots and erected a fence blocking the others use of the driveway. The District Court ruled for the defendant, finding that the original use was permissive and created no prescriptive easement. However, the Supreme Court reversed that decision stating, on page 358 as follows:

"The trial court appears to have been of the opinion that because the Whipples and the Joneses were relatives, and that they used the driveway harmoniously and without conflict, that the use was permissive and that therefore

no prescriptive right to use the driveway arose. The difficulty with this view is that it does not give effect to fundamental principles applicable to prescriptive rights. The origin and purpose of their recognition arises out of the general policy of the law of assuring the peace and good order of society by leaving a long established status quo at rest rather than disturbing it. In order to serve this purpose, when a claimant has shown that such a use has existed peaceably and without interference for the prescriptive period of 20 years, the law presumes that the use is adverse to the owner, and that it had a legitimate origin . . .

We think it pertinent to here acknowledge that in this, as in most situations of controversy, there is another side of the coin to be kept in mind and that we do not lose sight of certain propositions advocated by the plaintiff in regard to a permissive use where that in fact exists. The presumption above mentioned that a use is adverse which arises from its continuance for a long period of time is not absolute. It would not preclude the owner of the servient estate (Defendants herein) from proving that the use was by permission.

After noting that the presumption that the use was adverse can be overcome the court concluded that the defendant did not overcome that presumption, and held that there was a prescriptive easement for the plaintiff.

The facts of the case are remarkably parallel to those before the court in this instance. It would be difficult to design a more analogous situation. The evidence is un rebutted that plaintiff has used the canal which

passes through defendant's property for over twenty years; that no payment was ever made by plaintiff for such use; that no consent nor permission was ever given, by defendant for the use by plaintiff; and that the use was adverse to the defendants continuously during the entire twenty four year period, constantly eroding and washing the lands and ditch banks of the defendants. The fact that there has been no open hostility between the parties over the years does not give rise to a presumption of a permissive use. As the court said in *Richins vs. Struhs* at page 359:

"Even though it is sometimes referred to as a hostile use, it is not necessary that there be any open hostility manifest in the use of force or any policy of the law to encourage violence by rewarding it; and it generally does not make the protection or the acquisition of rights dependent upon it. The fact that the parties (predecessors) were friendly, or even cordial with each other, as they appear to have been, does not prevent a prescriptive right from coming into being."

The cases of *Zollinger vs. Frank*, 110 Utah 514, 175 P2d 174, and *Lunt vs. Kitchens*, 123 Utah 488, 260 P2d 535, are in complete harmony with the above 1966 statement of the Utah Supreme Court. In the 1953 decision of *Lunt vs. Kitchens*, the court states on page 537:

"The question here involved is whether there is sufficient evidence of adverse user for a period of twenty years to sustain the trial court's finding of a prescriptive easement."

The court then favorably explained the history of the legal fiction of a lost grant theory, then defined the difference between "consent" and "acquiescence" referring to their earlier statement in *Zollinger vs. Frank*.

"The distinction, we said, lies in whether the use was "against" the owner or "under" the owner, regardless of whether the use is described as peaceable, hostile, adverse to or as acquiesced in by the servient owner. Because of the presumption that the use of another's land is adverse to him, *the owner has the burden to show that the use was under his permission as distinguished from against it.* Cache Valley Banking Company vs. Cache County Poultry Growers Association" (underlining added)

The court then found that on the facts of that particular case there was no adverse use during the 20 year period and therefore no prescriptive easement arose. The court expressly concluded:

"The use by the Kitchenses family added no burden to the driveway; they did not attempt to widen it, nor to interfere with the use by the Weidners."

That rule of law is still entirely valid and upon the facts of the instant case that law clearly requires a finding of a prescriptive easement for the plaintiff. The use of the canal by plaintiff over the years *did* widen the ditch and also eroded the land of the defendants. Defendants rely entirely upon their arguments that where a property owner opens the way for use of his own premises and another uses it without interfering with the

landowners use or causing damage, the presumption is that use was permissive. Plaintiff does not dispute that proposition of law. But the facts of this case do not allow such a finding—it is undisputed that defendants dug the drainage ditch a substantial distance for the benefit of the State of Utah and not for their own use or purpose and then requested plaintiff to also pay for using it. When asked to pay, Plaintiff and its individual members all refused to comply and have been using the ditch adversely from that time forward.

The decision in *Zollinger vs. Frank* 110 U514, 175 P2d 714 in 1946 is directly in line with the cases already cited. There the plaintiff claimed a right of way by prescription across the north end of the defendants property for the purpose of traveling with equipment and vehicles. The plaintiff filed the action to restrain defendant from interfering with its alleged right of way. A lower court found that the plaintiff did have the claimed right of way by prescriptive easement and the Supreme Court affirmed. The first issue to which the court addressed itself was whether or not the use was adverse to the defendants' interest. The court there determined that in order to acquire a prescriptive easement the use must be "against" the owner as distinguished from "under" the owner. In finding that a prescriptive easement had been created, the court stated the rule more recently restated in *Richins vs. Struhs*:

"The prevailing rule is that where a claimant has shown an open visible, continuous and unmolested use of land for the period of time suf-

ficient to acquire an easement by adverse user, the use will be presumed to be under a claim of right. The owner of the servient estate, in order to avoid the acquisition of an easement by prescription, *has the burden of rebutting this presumption by showing that the use was permitted. . . .* We think the better rule is described as the prevailing rule in the above quotation." (underlining added)

The court next dealt with the issue of whether or not a conveyance of the servient estate during the prescriptive period, without mention of the user of the roadway, interrupted the running of the prescriptive period. The court, on page 717, cited numerous cases and authorities and concluded:

"The conveyance of the servient estate in and of itself during the prescriptive period does not interrupt the running of that time. However, the change of ownership of the servient estate during the prescriptive period may become important in determining whether the servient estate owner knew or should have known during the entire prescriptive period that the claimant was using the claimed right of way."

The court there found that the owner was on notice by the continued use by the plaintiff just as in our case where the subsequent purchasers of the land, the named defendants, must be charged with notice that the plaintiff's water was flowing through the drainage ditch eroding their lands at the time they acquired their lands and for many years since.

There is no evidence of express or even implied con-

sent given to respondent and the burden is entirely upon appellants to show that permission was given. There was no evidence presented at the trial to show permission was ever given. On the other hand substantial and multiplicitous evidence was presented which showed an original lack of permission and continuous adverse use which use caused damage.

POINT II

THE TRIER OF THE FACTS WAS THE COURT. IF THERE IS TESTIMONY IN THE RECORD TO SUPPORT THE COURT'S DECISION, IT SHOULD NOT BE DISTURBED ON APPEAL.

The court, after listening to the testimony and observing the witnesses, found that the appellants ditch was damaged from the use made by the respondent. It also found that the damage to the ditch commenced from the very beginning of the use. It also concluded that the respondents had met the requirements of obtaining a right or easement by prescription.

This court in substance held in the matter of Newton vs. State Road Commission, 463 P2d, 565, 23 Utah 2d 350, where there has been a full trial of the issues and court has made findings and entered judgment thereon, Supreme Court will review the evidence and reasonable inferences that may fairly be drawn therefrom in light most favorable to the findings and judgment. See Mem-

mott vs. U. S. Fuel Co., 22 Utah 2d 356, 453 P2d 155;
Smith vs. Gallogos, 16 Utah 2d 344, 400 P2D 570.

CONCLUSION

The appellant having based his appeal on the theory that the use made by respondents in appellants drainage ditch *was a use that did not interfere with the landowners use or cause him damage*. The trier of the facts having found other wise from the evidence presented, appellant must fail in his appeal. He cannot from the evidence make his case come within the exceptions set out in the cases cited by him. Respondent sincerely requests this court to sustain the decision of the lower court.

Respectfully submitted,

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