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CASTLE DOME CANAL  
COMPANY,  
PHOENIX, ARIZONA.

Reports

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CASTLE-DOME CANAL CO.

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*President and Treasurer,*  
WALTER S. LOGAN.

*Vice-President,*  
LINDLEY VINTON.

*Secretary,*  
ARTHUR E. WALRADT.

*General Manager,*  
HERBERT H. LOGAN.

*Directors,*  
WALTER S. LOGAN,  
HORACE E. DEMING,  
LINDLEY VINTON,  
ARTHUR E. WALRADT,  
HERBERT H. LOGAN,  
HENRY E. KEMP,  
HARRY W. ADAMS.

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LAW OFFICES  
OF  
DEMING & LOGAN,  
58 WILLIAM STREET,  
New York.

February 16th, 1891.

The Castle Dome Canal Company is a corporation organized under the laws of the State of West Virginia, with a capital of one million dollars, divided into one hundred thousand shares of the par value of ten dollars each. The company is organized for the purpose of building and operating an irrigating canal or canals in the Territory of Arizona, and of selling, leasing or otherwise disposing of water, water rights and the annual or other uses of water; and has acquired, by location and otherwise, out of the waters flowing in the Gila River, sufficient water to irrigate the lands lying along its canal, and for manufacturing, mining and other purposes. The situation, length, capacity and prospects of the canal are fully described and set forth in the statement of Herbert H. Logan, of Phoenix, Arizona, which is herewith presented, and which we cordially endorse.

As understood in countries where irrigation is practiced, a "water right" is an ownership in perpetuity of such an amount of water as is usual and necessary, under careful and judicious management, to irrigate a tract of land not exceeding eighty acres. This right attaches to a definite tract of land and becomes a part of the real property, and can be transferred only with the property. The importance of a water right in sections of the United States requiring irrigation is demonstrated by the fact that the land is absolutely

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unproductive until a supply of water is furnished to it, and also by the fact that, under the land laws of the United States, title to desert land cannot be obtained until the locater of the land has acquired water, by purchase or otherwise, sufficient to irrigate each smallest legal subdivision of his location.

The Castle Dome Canal Company proposes to divide the water of this canal into 1200 equal parts, each of which will constitute a water right, and will be sold or otherwise disposed of for the benefit of the company. A few of these water rights will be reserved for mining, manufacturing or other purposes. The balance will all eventually be made appurtenant to, and a part of, definite tracts of land of 80 acres each, lying under the canal. The conditions under which such water rights are to be granted and held are set forth in the resolutions of the company hereto annexed.

No incumbrance of any kind will be placed on the canal at any time to which these water rights shall not be superior, and to assure this all of the water rights have been deeded to Deming & Logan, as trustees, and this trust deed will be properly recorded, so that if any incumbrance should be put upon the canal at any future time it will be junior to the water rights. There has been already expended on this canal some sixty thousand dollars, and a large part of the excavation has been completed. To provide funds for the continuation and completion of the work of construction, it is proposed to offer for sale two hundred of these water rights. On payment of the money for the water right there will be issued to the purchaser a water right certificate. The water right certificate will, in six months after the completion of the canal, entitle the purchaser to select the land to which it shall be applied and become appurtenant, and immediately after such selection and designation, and upon application and surrender of the water right certificate, a deed of the water right, as appurtenant to this land, will be issued. The parties who desire to sell their water rights will find ready purchasers from locaters of the land, who will be obliged to acquire the water rights from them before they can get title to their land.

The company will, where the holder of the water right

certificate desires it, undertake to acquire for him an eighty acre tract of land, to which the certificate shall become appurtenant. The land will be acquired at cost. The estimate of this cost is \$5 per acre.

DEMING & LOGAN.

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*Report of Mr. Herbert H. Logan, of Phoenix, Arizona, as to the property, franchises, and prospects of the Castle Dome Canal Company:*

The canal of the Castle Dome Canal Company is situated on the Gila River, in Maricopa and Yuma Counties, Arizona, and its head is about seventy miles southwesterly from Phoenix. The canal takes its water from the Gila river at a point known as the mouth of the Box Cañon, about eight miles easterly from the Agua Caliente Springs, and continues in a generally southwesterly direction, parallel to the Gila River, about sixty miles. The lands lying under the canal are situated, on an average, eight miles north of the Southern Pacific Railroad, and are parallel with it. A large amount of excavation and engineering work has already been done, and the plan of building the canal has been carefully considered and submitted to experts eminent in matters pertaining to irrigation. The canal is twenty-eight feet wide on the bottom, forty-six feet wide on the top, and capable of carrying six feet of water, or upwards of 32,000 miner's inches, according to the usual measurement of water in that country. The canal, as located and now constructing, will be capable of supplying water for 100,000 acres of land, and approximately that amount of land is so situated along the course of the canal that it can be reached by the waters flowing through, and supplied by, the canal. This land is similar in character to the land in and about Phoenix and in the Salt River Valley, and is specially suited and adapted to irrigation, there being a surface soil of from six to fifteen feet in depth, and, underlying this soil, is a strata of cement conglomerate which holds the water from gradually seeping away, but at the same time furnishes perfect sub-drainage. The lands in the



Salt River Valley and in and about Phoenix are among the most productive lands of all the Southwestern country. They are not excelled in productiveness in any valley in the world. The land is suitable for the culture of all the fruits of the semi-tropical, and most of the fruits of the tropical climates, viz.: The peach, the pear, the apricot, the prune, the grape, the fig, the pomegranate, the nectarine, the orange and the lemon, and for wheat, barley and all the garden vegetables known. Hon. J. De Barth Shorb, of Pomona, Los Angeles County, Cal., a gentleman eminent in all matters relating to irrigated lands, says that he considers the Salt and Gila Valleys the most productive, for general farming and produces the semi-tropical and many of the tropical fruits to perfection. The grass grown in this section of the territory is alfalfa, known as Chilean clover or the Lucerne of the Islands of Jersey and Gurnsey. Under irrigation, this grass produces enormous crops. It is not unusual to get four or five crops a year, yielding in the aggregate eight tons to the acre, and furnish in addition a large amount of pasture during the cooler months of the late fall and winter.

The climate, although not absolutely tropical, is in Winter like the beautiful part of May and October, of the Atlantic coast. The air is so perfectly dry, and evaporation so great that the heat of summer is no more disagreeable and not so dangerous as the warm weather of the Atlantic coast. Sun-strokes, and any form of prostration from heat are practically unknown. These lands are of an average elevation of some seven hundred feet above sea level, and the climatic conditions are such as are conducive to perfect health and development.

Cattle and horses grown on the alfalfa fields of Arizona reach a very unusual growth in early life, and attain most perfect development, it being considered that the beef cattle grown in this climate, at two years, reach the development and size of three-year olds in the Northern countries. All of the lands lying under this canal are to day owned by the Government, and can be purchased by the locator for \$1.25 an acre; but before title can be perfected, certain improvements are required. The usual cost of these

improvements, exclusive of water, does not exceed \$3.75 per acre.

The Castle Dome Canal Company intends to build this canal and to be ready for the delivery of water in October, 1892. In this region the land is absolutely unproductive without irrigation, and without water, is valueless for all purposes. In order to supply water, a canal system for its distribution is necessary, as there is no other source of supply to this whole district except the Gila River. The Gila River, from which the water is taken for this canal, heads in the southeastern part of Arizona and western part of New Mexico, and is fed by the melting of the snow of the high levels and by innumerable rivers along its line; the San Pedro and Santa Cruz on the south, and the Salt and Verde rivers and innumerable creeks on the north. The Gila River drains all the country between the Rio Grande and the Colorado rivers. Its water supply is abundant and never-failing. The value of these lands, when irrigated, can be most easily demonstrated by showing the value of lands similarly situated in neighboring and surrounding counties. It seems almost incredible to state in detail what irrigation has done for Southern California. It is sufficient to say that lands, which only a few years ago were useless except for sheep herding, have been changed by irrigation into the most beautiful gardens, orchards and vineyards in the world. There are thousands of acres in Southern California that, before water was acquired and placed on them, were worth less than one dollar an acre, which are worth to-day from one hundred and fifty dollars to one thousand dollars an acre. In Arizona, a fair comparison would be the lands of the Salt River Valley, of which there are now under a canal system some three hundred thousand acres. Phoenix, the centre of this valley, has grown in the past eight years to a city of eight thousand people, having all modern improvements such as gas and electric lights, city water-works street car lines, &c. This place has been almost entirely built up by and through its agricultural lands. There are to-day, in and about Phoenix, thousands of acres of orchards and vineyards, growing all of the fruits mentioned as adapted to the Castle Dome lands. Between Phœ-

nix and the Castle Dome lands there are considerable numbers of small canals, covering a few thousand acres each, that have been built in the last two years. The lands under these canals are now under cultivation and are occupied by prosperous and contented settlers. Lands in the Salt and Gila Valleys, situated under a reliable canal system, are now worth, and readily sell at, from 25 to 50 dollars per acre. Every acre of land lying under a canal properly built and so located and situated as to furnish water in abundance has been promptly located, and the water rights in such canals have always found ready purchasers. The lands situated under a canal are usually located under an Act of Congress known as the Desert Land Act. By the terms of this act it is necessary for the locaters of the land to purchase and own water rights sufficient to cover the entire location before they can obtain title. There is, therefore, a guarantee that the water provided by this canal will be promptly sold. An annual charge for the maintenance of the canal system is provided for by the accompanying trust deed. I have personally spent a great deal of time in the examination, survey, location and building of this canal. Submitted with this are the statements of the engineers, both men noted for their large experience in matters relating to irrigation and irrigating canals. The Castle Dome Canal, as a canal, is pronounced by all people that have examined it, one of unusual merit. Its head, dam and head gates are situated at the mouth of the Box Cañon, and its situation is such that high water in the river can cause no damage.

The company is now building a first-class waterway of sufficient capacity to irrigate all the lands lying under it, and it is the intention of the company to build the canal in as perfect a manner as possible, and to supply water to and develop the lands along its course and make them of great value. Lands in the same section of country, no more productive, without as good railroad facilities, with a climate not so advantageous for many of the fruits and no better adapted for general farming, which were a desert three years ago are to-day blossoming in fields of grain, alfalfa, fruit trees and vines, and are worth, in many instances, upwards of 100 dollars an acre, and have not cost, including water and all expenses of



title, more than 20 dollars per acre. The usual price for water rights in canals in adjoining counties is 10 dollars per acre and upwards, and at this price water is readily salable to the locater of lands. In many instances the price of water rights, even before the canals have been completed, has risen to 15 dollars an acre.

A statement of the productiveness of the lands of the Salt and Gila Valleys to persons unacquainted with the results of irrigation seems scarcely credible. The growth of the tree and vine is substantially continuous throughout the year. The peach has been known to bear fruit in two years from the seed, and the grape to fruit within six months of its transplanting. Such cases are exceptional, but the orchards and vineyards of the Salt River Valley have been known to to pay their entire expense of cultivation and setting, the third year. Fresh fruits are to be had in this region from the 1st of May until January. The apricot ripens by the 10th of May; the peach, by the 20th; the grape, by June 1st; the fig, by June 15th, and other fruits in their season. The strawberry grows and fruits out of doors every month in the year. Vegetables of all kinds, including lettuce, cucumbers, radishes, tomatoes, beans, peas, potatoes, &c., can be had fresh from the garden at all times, summer or winter. The grains, wheat and barley, are sown during September, October, November, December, January and February, and the harvest comes early in May. Alfalfa is ready for its first cutting by the 15th of April, and can be cut every month or six weeks until November 1st.

The question may properly be asked here, where are the markets for this great tract of land, and what are its railroad facilities. The Southern Pacific Railroad runs parallel to, and only eight miles south of the Castle Dome lands, and there are stations established every few miles, giving a railroad facility almost unknown in the newer and undeveloped countries. This railroad goes through a country for 400 miles east, and 200 miles west, which is non-productive. Lying both to the north and to the south of the road are innumerable mining camps and stock ranges that use largely of the products that will be grown on the Castle Dome lands. Lying to the north of these lands is a mineral and stock

country, developed but little to-day, which does, and will, use very largely the products to be grown here. The markets for the hay and grain are substantially unlimited. Southern California seldom has a sufficient hay crop to carry her through the season. The Castle Dome lands are nearer to that point than any other country that has to-day, or will in the future, have a surplus of these products. Bailed alfalfa hay in Los Angeles, San Baradena and San Diego Counties, California, is worth upwards of \$20 per ton, to-day. It can be put on board the cars and delivered there for less than \$8.00. During the last six years alfalfa hay in and about Phoenix has never been worth less than \$4.00 a ton in the stack. During the winter it has frequently, and probably more than half the time, been worth more than twice that amount, and is to-day worth upwards of \$6.00 per ton in the stack. Alfalfa, yielding as it does an average of eight tons to the acre, that can be raised, harvested and cured for less than \$2.00 a ton, is, even at the lowest price it has ever been, \$4.00 a ton, an enormously profitable crop.

Barley yields an average crop of 2,400 to 2,600 pounds to the acre, and is worth an average of upwards of \$1.00 per hundred pounds and is worth to-day \$1.75 at Phoenix. The market for this grain is substantially unlimited, and it is a profitable crop to grow even at less than \$1.00 per hundred pounds.

The yield of wheat is from 1,800 to 2,000 pounds to the acre, and it is worth an average price of \$1.35 to \$1.50 per hundred pounds. The culture of all the fruits adapted to such semi-tropical climates has been very profitable since its early beginning. The orchards and vineyards of Phoenix and the Salt River Valley, which may be taken as a fair sample of what will be done here, are proving of great profit. It is not unusual for the crop of either the peach, the apricot and grape, as well as many other of the fruits grown, to pay the entire cost of cultivation and land. That is, where lands and cost of cultivation have not exceeded \$100 per acre, the crop of the third year has frequently paid net that amount. Orchards and vineyards of the varieties of fruits especially adapted to that climate and soil, in countries similarly situated, are paying to-day, and have for some years last past paid, up-

wards of \$200 per acre annually, net profit. Of course it will be necessary that canning establishments and drying and packing houses be established to reach perfection in the production of fruit. But it has been the case in Southern California and Arizona that whenever the acreage was sufficient to guarantee a production sufficient to furnish an amount that would warrant the erection of such institutions, they have always been forthcoming. There are many California packers always open with propositions to the settlers offering to establish packing houses such as are needed, at any time, where an acreage of 2,000 acres will be planted within a radius of ten miles.

The Castle Dome settlers to this extent are not pioneers in an absolutely new country; they are simply moving along a succession of valleys, where the growing of these different products is largely carried on, and these settlers will be able to profit by the experience of the people that have gone before them. For the dried and canned fruits as compared with Southern California they have a climate of absolute dryness during the summer—their main season for drying and preparing their fruit for market.

The culture of the fig, raisin grape, and orange promise to be one of the leading industries. All were grown and packed in considerable quantities in Phoenix, the past season, with great success. A box of the Phoenix figs, bought at random from a merchant's store, was sent to San Francisco to the Mechanics' Fair, and there took the first premium as the best dried fig packed on the Pacific coast during the season of 1890.

Probably too great stress cannot be laid upon the railroad facilities for the Castle Dome lands. They are some 500 miles nearer the eastern market than the best fruit sections of Southern California, with which they come in direct competition, and are situated along the line of one of the best of the Trans-Continental roads, giving them every facility for procuring first class transportation at the start, both east and west. It will give this company great pleasure to meet such people as may become interested in this canal or the lands lying under it, and show them this land of perpetual

sunshine, and prove to them many of the seemingly incredulous statements that have been made.

HERBERT H. LOGAN.

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*Report of H. R. Patrick, Civil Engineer.*

PHENIX, ARIZ., July 1, 1890.

CASTLE DOME CANAL CO.,

*Gentlemen:*

I make the following report of my examination of your canal, now building on the north side of the Gila River, commencing at a point at the mouth of the Box Cañon, about eight miles easterly from the Agua Caliente Springs, and continuing in a generally southwesterly direction sixty miles.

I have made a careful examination and survey at the head, at the proposed dam site, and have run a preliminary line in a southwesterly direction that will show the approximate location of the canal, and its levels, &c. I spent some weeks in this examination, and satisfied myself that it was not only feasible, but perfectly practical, to build, at the point spoken of, a head and head works, dam, &c., and to construct, build and operate a canal capable of irrigating the underlying lands. I find that nature has done everything at the head works but excavate the waterway. The location is one of the most advantageous points along either the Salt or the Gila River for establishing a permanent canal, and its cost comes within the reasonable limits of the value of water in this locality. There are no engineering difficulties to interfere with the construction of your canal, and when constructed it will be a property that can be operated at a very small expense. I have been connected, in the professional capacity of civil engineer, with irrigation and the construction of irrigating canals for the past seventeen years, and I am perfectly familiar with the Salt and Gila Rivers and

their several characteristics, and also with the nature of the water supply and the character of the lands. I measured the Gila River at the head of your canal at a period of extreme lowness of the water, and found not only all the water necessary for the successful irrigation and cultivation of the lands lying under your canal, but a quantity far in excess of any possible needs, and I have no hesitancy in recommending the completion of your canal, and consider the enterprise one of unusual merit.

H. R. PATRICK,  
*Civil Engineer.*

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*Report of Samuel A. Davidson, Civil Engineer.*

CASTLE DOME CANAL CO.,

*Gentlemen:*

At your request I accompanied your Mr. H. H. Logan over your canal now being constructed on the north side of the Gila River. I made a careful examination of the head at the head and proposed dam site of the canal, and along its length, and the lands lying under it. I found the situation to be feasible, and have no hesitancy in recommending the canal as a first-class waterway. I have considered your plan of building, and have investigated it in detail, and I feel no hesitancy in saying that I consider it one of the most perfect of canals. I carefully examined the line of the canal to the westward along its length. I consider its location as very perfect, and its lands among the choicest that I have seen in this whole southern country. With its water supply I am very familiar, having measured the waters of the Salt River frequently, and having kept a daily record of its flow for the past three years. From my investigations of the water question of the Salt and Gila Rivers I have procured accurate estimates of the flow of the Gila River. I should have no hesitancy in saying that the water supply was most abundant. The canal, as you propose to build it, 28 feet wide on the bottom, a slope of banks of one and one-half to

one, carrying a depth of six feet of water, and a grade of three in one hundred, will, in my judgment, furnish abundance of water for the lands lying under it, and for mining and manufacturing purposes as may become necessary or useful. My experience in the building of dams, head gates and general canal works, would lead me to state that I consider it not only possible, but entirely practical and feasible, to dam the river as you propose in such a way as to create a permanent work; one that no rise of the river, either usual or unusual, could ever damage. The bed rock at the mouth of the Box Cañon is of a permanent character, that would allow of perfect protection. I believe, when completed, that you will have one of the best and most permanent irrigating canals in the United States.

S. A. DAVISON,  
*Civil Engineer.*

Phoenix, Arizona, Jan. 1, 1891.

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Connected with the Castle Dome Canal in Arizona are the following gentlemen:

Herbert H. Logan, Col. William Christy, Henry E. Kemp, Jerry Millay and Harry W. Adams. Mr. Logan is one of the incorporators and a member of the executive committee of the Maricopa Loan and Trust Company of Phoenix, Col. William Christy is cashier of the Valley Bank, and vice-president of the Arizona Improvement Company. Henry E. Kemp is one of the largest hardware merchants in Phoenix. Jerry Millay is manager of the Maricopa Loan and Trust Company. Harry W. Adams is a gentleman largely interested in the orchards and vineyards and irrigated lands of the Salt River Valley. These gentlemen are all residents of Phoenix, having spent years there. They are, all of them, familiar with irrigation and have many of them been interested in developing the water system of the Salt River Valley. They are gentlemen of prominence in the community and familiar with practical irrigation in all of its departments and are per-

sonally known to our Mr. Walter S. Logan. We have no hesitancy in recommending them as gentlemen of character and standing. Mr. Patrick and Mr. Davidson, civil engineers, are personally unknown to us, but we know of them as connected with irrigating enterprises, and have every reason to believe them people of unusual intelligence, and their judgment in matters pertaining to irrigation and irrigating canals to be relied upon. Mr. Davidson has been connected, in his capacity as civil engineer, with many of the prominent canal enterprises of Colorado.

DEMING & LOGAN.

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## **FINANCIAL STATEMENT**

OF THE

### **Castle Dome Canal Company.**

The capital stock of the company consists of 100,000 shares of the par value of \$10 each. The company has in the treasury one-half the capital stock and 1,000 water rights. Two hundred of the water rights are to be sold as soon as possible to raise funds for the work of construction. The remaining 800 will be sold for not less than \$10 per acre, *i. e.*, eight hundred dollars each, and the majority of them will be sold to actual settlers and deeded directly to the land. It is reasonable to suppose that these water rights, or such part of them as are not sold before or immediately following the completion of the canal, will bring greatly enhanced prices. Probably a fair estimate would be 25% at the original price of \$10 per acre, 20% at \$12.50 per acre, 20% at \$15 per acre, 15% at \$20 per acre, making, including the 200 water rights that will be sold for immediate necessities, upwards of \$1,000,000 from the sale of water rights alone. There will be an annual rental of \$1.25 per acre for all water used, and an annual rental known as a payment for annual maintenance of fifty cents per acre if water is not used.

At the completion of the canal the company will be assured



of an annual income from the rental and maintenance charges on water rights, already disposed of, sufficient to more than pay the annual cost of maintenance and fixed charges.

All of the land to be irrigated by this canal must be located under the Desert Act. The principal provision of this Act is that water must be put upon the land by the person making the location within three years. Every one locating land will, therefore, be compelled to purchase a water right for each eighty acres of land and use the water from this canal before he can complete his title. If this is not done within three years his title lapses and all payments are forfeited, and the land can then be located by a new settler. This insures the sale of all the water rights within three years of the completion of the canal. The experience in the settlement of a country under such canals as have been completed shows that it is practical to sell to owners of land at least one-third of the water rights during the first year following the completion of the canal, and the remaining water rights in about equal proportions during the three following years. Assuming this basis, if only one-half of the purchasers of water at the end of three years should be annual users, the company would have an income from the annual charge for water used of \$60,000, and from the annual maintenance charged from water rights under which water is not used of \$24,000, a sum sufficiently in excess of the charges and costs of annual maintenance to pay a substantial dividend on the stock. At the end of five years the annual income from water rentals should amount to \$120,000. The sale of water rights at that time will have retired every possible debt, contingent or otherwise, and leave in the treasury at least \$500,000 in cash that would belong to the stockholders, allowing a cash dividend of fifty per cent, in five years, with an annual income of \$120,000, which would, after paying all legitimate expenses connected with maintenance, repairs, &c., make the stock of this canal a six per cent dividend paying stock. This statement and the estimates herein contained are figured from what canals have actually done and by people who have devoted years to irrigation and understand its profits and possibilities.

The water rights will be sold under the following rules, regulations, conditions and limitations:

“ 1. The conveyance of such water rights, for the purposes of irrigation, to be made in all cases to some person, persons or corporation, to be used only to irrigate a certain definite tract of land, not to exceed eighty acres, to be specified in such conveyance, and no other land, and for no other purpose, except for domestic purposes by persons residing on said tract, and for stock kept thereon, and under no circumstances to be used, or any portion thereof used, for mining, milling or mechanical power, or for any other purpose not directly connected with, or incidental to, the purpose first herein mentioned.

“ 2. When, however, one person shall own several eighty-acre tracts of land, all contiguous, and shall also own a water right for each of said eighty acre tracts, he may use all or any part of his water, on any part of said tract, and shall not be required to use each eleven hundred and fifty-two cubic inches on each eighty acres thereof.

“ 3. The amount of one twelve-hundredth part of the flow of said canal, not to exceed eleven hundred and fifty-two cubic inches per second, is the maximum amount to be allowed to each water right, at any time, but in no case, where the water right is conveyed for the purpose of irrigation, as aforesaid, shall more water be allowed than is reasonably necessary for the production of good, average crops of the kind cultivated under skillful and economical irrigation; and in no case shall any water, under and by virtue of any water right, be allowed to go to waste, to the injury of the owner of any other water right, and for the domestic purposes of the people residing on said tract, and for the stock kept thereon.

“ 4. The owners of water rights shall have a preference in the use of water to the extent of the water to which they are entitled, under the provisions hereof, and only the surplus water which may remain thereafter shall be otherwise sold.

“ In case of a shortage of water, for any cause, it shall be distributed *pro rata* to the persons entitled thereto, and the said Castle Dome Canal Company, or its successors in interest, may establish such rules and regulations for its distribution

as they may deem necessary or expedient, which rules and regulations shall be binding upon all parties interested.

“ 5. Each water right shall be subject to an annual rental, to be paid to the said Castle Dome Canal Company, its successors or assigns, in advance, on the first day of October in each year for the succeeding year, of one hundred dollars, to be paid by the owner thereof, which rental shall be in addition to, and independent of, the amount paid for the water right.

“ If, however, the owner of any water right does not desire to use the water to which he is entitled, for any year, and shall, previous to the commencement of such year, give notice that he does not so desire, and shall not, in fact, take or use any water for such year, upon such water right, the annual rental upon such water right for such year shall be forty dollars only, and which right and charge may be known and designated as a charge for maintenance, as distinguished from the charge for rental, aforesaid.

“ The amount of such charge for rental, or charge for maintenance, and interest thereon, shall be a lien upon the land to which said water right attaches, and upon said water right, which said lien shall take the precedence of any mortgage or other encumbrance of later date than this instrument, and may be enforced in any way allowed by law for the enforcement of liens. Said Castle Dome Canal Company, or its successors, may also refuse to furnish water until the rental or maintenance and interest thereon is paid, and interest at the rate of ten per cent. per annum, from the date when the same shall be due, as aforesaid, shall in all cases be charged thereon.

“ Said rental or maintenance, with the interest thereon, shall also be a personal obligation of the owner of said water right for the time being, and may be enforced against him, as such, at the option of the said Castle Dome Canal Company, its successors or assigns.

“ 6. The water shall be delivered to the owners of the water rights into a lateral ditch or subsidiary canal, to be provided and designated by the owner of the water rights, and connected with the Castle Dome Canal's said main ditch or canal, and the manner of delivering, measuring and regulat-

ing the supply shall be prescribed by said Castle Dome Canal Company, and shall, at all times, be under its control.

“ 7. No claim for loss or damage, by reason of any leakage or seepage or overflow from any canals or ditches or from any lake, reservoir or lateral ditch of said Castle Dome Canal Company, upon the land covered by said water rights, or any of them, or upon any other land owned by any owner of said rights, shall exist or be met, and the acceptance of a grant or conveyance of any water right by any persons or corporation shall be an express waiver and release of any such claim for loss which may, at any time, be made or received.

“ 8. The said Castle Dome Canal Company, at all times hereafter, shall have the right to add to and change and modify the foregoing rules and regulations, conditions and limitations, or any of them, so far as may be reasonably necessary to regulate the delivery and distribution of water to the owners of the water rights, and to prevent waste.

“ 9. The owners of said water rights shall have a vestage and indefeasible interest in said canal, ditch, dam and property, to the extent herein provided, and a perpetual right to have and enjoy the privileges herein conferred upon them, on the terms, conditions and limitations herein prescribed and provided, and such rights shall be superior and prior to any mortgage, lien or incumbrance upon said canal, and shall not be effected by any different conveyance, mortgage, foreclosure, or change of ownership of said property; but if such change of ownership shall occur, the succeeding owner shall, in all respects, stand in the place of the present owners, and have the same rights, duties and obligations in respect to the owners of said water rights as the said Castle Dome Canal Company now has.”