

THERRETT TOWLES

ATTORNEY AT LAW
OLD NATIONAL BANK BLDG.
SPOKANE, WASHINGTON
ZONE B

November 2, 1944

Mrs. Lucille M. Woodland
Box 1322
Wallace, Idaho

Dear Mrs. Woodland:

I have received your letter of the 30th ult. with postal money order for \$12.50. enclosed, for which I thank you.

In connection with the water right, I assume you refer to the following described water right which was a part of the John J. Hogus Estate and was distributed to Mrs. Hogus by decree of the Probate Court, dated February 14, 1938:

All of that certain water right situate and being in the County of Shoshone, State of Idaho, to-wit:

All of 1/2 of 1 cubic foot per second of the waters of an UNNAMED STREAM, more particularly described as follows: Part of the Southeast quarter of the Northwest quarter of Section 27, Township 48, N. R. 4E.B.M. The point of diversion of waters as follows: At a point 1025 feet S 28°15' W. of N. 1/4 corner of Section 27, Township 48, north of range 4, East of Boise Meridian, as designated in Permit No. 3622, Certificate of Completion of Works, and all the improvements thereon, and all and singular the tenements, hereditaments and appurtenances thereunto belonging, or in any wise appertaining.

You will note that the description of the property to be conveyed to you by Mrs. Hogus, both in the contract and deed, is followed by the words:

"and all and singular the tenements, hereditaments and appurtenances thereunto belonging, or in any wise appertaining"

and if this water right is appurtenant to this land and used on the land these words carry the water right.

The case of Russell v. Irish, 20 Idaho 194, 118 Pac. 501, 502, decides that a water right is an appurtenance to the land on which it is used, and a deed to the land, "together with appurtenances", carries with the water right appurtenant to the land at the time of the conveyance, unless the same is excepted from the grant.

Yours very truly,

Therrett Towles

TT:rg