

T0221

| TRANSFER NO.  | NAME                      | AMOUNT<br>C.F.S.        | BALANCE<br>C.F.S.       | RIGHT<br>NO.        |
|---------------|---------------------------|-------------------------|-------------------------|---------------------|
|               | Misslen, Leon             | 4.0                     |                         | 27-0016             |
| <del>58</del> | <del>Kennedy, E. M.</del> | <del>0.6</del><br>(1.6) | <del>2.4</del>          | <del>27-0016A</del> |
| 99            | Johnston, Peter G.        | 1.0                     |                         | 27-0016AA           |
| (221)         | Johnston, Peter G.        | 0.44                    | 2.56<br><del>1.96</del> | 27-0016AB           |

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IN THE DISTRICT COURT OF THE FIFTH JUDICIAL DISTRICT OF THE  
STATE OF IDAHO, IN AND FOR BINGHAM COUNTY.

27-C Manual Copy  
Transfers  
Noted

Fred S. Stevens, et al. )  
Plaintiffs, )  
-vs- )  
Eastern Idaho Water Co. et al., )  
Defendants. )

This cause having been heretofore tried  
by the Court, without a jury, and the Court having made its  
findings of fact and conclusions of law:

It is now ordered, Adjudged and Decreed, that the  
following parties are entitled to divert from the Blackfoot  
River, the amount of water herein indicated, and the right  
of each party dates from the time hereinafter stated and  
set opposite each name, to-wit:-

|    |                         |                       |             |              |
|----|-------------------------|-----------------------|-------------|--------------|
| 12 | Fred S. Stevens         | July 6, A. D. 1869    | 138 Inches  |              |
|    | Henry Dunn              | July 1, A. D. 1870    | 300 Inches  |              |
|    | N. A. Just and )        |                       |             |              |
|    | : Emma Just )           | August 1, A. D. 1871  | 200 Inches  |              |
| 16 | Leon Misslen            | July 1st, A. D. 1873  | 200 Inches  | Trans 97-221 |
| 17 | John Misslen            | July 1st, A. D. 1874  | 120 Inches  | Trans 58     |
|    | H. R. Lewis             | March 1st, A. D. 1875 | 100 Inches  |              |
|    | Presto Burrell          | March 1st, A. D. 1876 | 100 Inches  |              |
|    | William Kirkpatrick     | May 1st, A. D. 1878   | 100 Inches  |              |
|    | F. M. Shoemaker         | April 1st, A. D. 1879 | 90 Inches   |              |
|    | Eastern Idaho Water Co. | March 25, A. D. 1880  | 1800 Inches |              |
|    | P. B. Fox Jr. )         |                       |             |              |
|    | : William Howard )      |                       |             |              |
|    | A. Whitten )            |                       |             |              |

The East  $\frac{1}{2}$  of South-west  $\frac{1}{4}$  and the North  $\frac{1}{2}$  of South-east  $\frac{1}{4}$  and the South-east  $\frac{1}{4}$  of South-west  $\frac{1}{4}$  of section 34 in township 2 South of Range 36 East Boise Meridian, and in Bingham County, Idaho, and containing 160 acres.

James Millen:

That in the year 1884 defendant James Millen, sued as James Mackie, was and since that time has been and now is the owner, and possessed of the following described lands to-wit:

The East  $\frac{1}{2}$  of South-west  $\frac{1}{4}$  and the West  $\frac{1}{2}$  of South-east  $\frac{1}{4}$  of Section 33 in Township 2 South of Range 36 East of Boise Meridian, and in Bingham County, Idaho, and containing 160 acres:

And that on said date the defendant Robert Miller was and since has been and now is the owner and in the possession of and entitled to the possession of the following described lands to-wit:

The West  $\frac{1}{2}$  of south-west  $\frac{1}{4}$  and the south  $\frac{1}{2}$  of North-west  $\frac{1}{4}$  of Section 33 in Township No. 2 South of Range 36 East of Boise Meridian in Bingham County, Idaho, and the East  $\frac{1}{2}$  of South-west  $\frac{1}{4}$  and the West  $\frac{1}{2}$  of the South-east  $\frac{1}{4}$  of Section 33, Township 2 south of Range 36 East, also in Bingham County, Idaho, the said lands of said defendant being of the area of 320 acres.

Presto Burrill:

That Presto Burrill is and was at all times hereinafter mentioned, a citizen of the United States over the age of twenty one years. That in the year A. D. 1872, in the month of May of said year, and continuously thereafter, said defendant was, and is now, the owner in possession and entitled to the possession of the following described tract of land lying and being in Bingham County, Idaho, Territory, to-wit:

Lot 4 Section 12 and N. E.  $\frac{1}{4}$  N. W.  $\frac{1}{4}$  and Lots 1, 2 and 3 in Section 11, Township 2 South of Range 37 East Boise Meridian, containing 160 acres.

Levi Warren:

That Levi Warren is and was at all times hereinafter mentioned a citizen of the United States over the age of twenty one years.

The North-east quarter of the South-east quarter and the South-east quarter of the North-east quarter of section No. 4, in Township No. 3, South of Range 36 East of Boise Meridian; and also of Lot 2 and south  $\frac{1}{2}$  of South-west  $\frac{1}{4}$  of Section 25 and Lots 1, 2, 3, and 4, and north  $\frac{1}{2}$  of N. W.  $\frac{1}{4}$  and South-west  $\frac{1}{4}$  of North-west  $\frac{1}{4}$  of section 35, and the North-east  $\frac{1}{2}$  of the South-east  $\frac{1}{2}$  of Section 34, Township 2 South of Range 36 East of Boise Meridian; and also Lots 5 and 6, and North-west  $\frac{1}{4}$  of South-west  $\frac{1}{4}$  of Section 3 and South-east  $\frac{1}{4}$  of the South-east  $\frac{1}{2}$  of Section 4 in Township 3 South of Range 36 East of Boise Meridian; said lands in all being in area, seven hundred and seventy three and 65/100 acres.

Leon Mislen:

That the defendant Leon Mislen is now and has been continuously since the year 1873 the owner and in the possession of and entitled to the possession the following described lands, to-wit:

The Lot numbered (1,) one of section 34, in township 2 south and the lots numbered 1, 2, and 4, of section 3 in Township 3 South of Range 36 East of Boise Meridian, containing one hundred and sixty-five & 64/100 acres: Also the south-east quarter of section 25, and the North-east quarter of Section 25, and Lots 1 and 2 of section 25, and Lot 2 of section 24 in Township 2 South of Range 36 East of Boise Meridian, and containing 614 17/100 acres: Also Lot 1 in section 4 and Lot 3 and the South-west quarter of the north-west quarter of section 3, in Township 3 South of Range 36 East of Boise Meridian, and containing 160 acres, more or less; Also the south-west quarter of south-east quarter of section 34 in Township No. 2 South of Range No. 36 East of Boise Meridian, and containing 40 acres; all of said land being situate in Bingham County, Idaho.

John Mislen:

That the defendant John Mislen is and was at all the times hereinafter mentioned a citizen of the United States; that in the year 1873 said defendant was and since has been, and now is, the owner and in the possession of and entitled to the possession of the following described lands:

File 20-6

22-

STATE OF IDAHO  
OFFICE OF THE STATE ENGINEER  
CERTIFICATE OF WATER RIGHT  
Transferred Right No. 221.

This Is To Certify That PETER G. JOHNSTON of Blackfoot, State of Idaho, has a right to the use of the waters of Blackfoot River, for irrigation and domestic purposes, and that said right has been confirmed by decree of the District Court of the Fifth Judicial District of the State of Idaho, in and for the County of Bingham, in the case of P. G. Stephens, plaintiffs, vs. Eastern Idaho Irrigation Company, defendant, dated the 1st day of May, 1885, by Charles Cobb, Judge, wherein 1.48 second feet of the waters of Blackfoot River, Water District No. 34, were dedicated to the S.E. 1/4, Sec. 24, T. 2 S., R. 36 E., E. 1/4, the said decree being entered at Boise, Idaho, in the records of the State Engineer in Vol. 1 of Decrees, page 31; that, upon application of the above named Peter G. Johnston for a transfer of water right, made before the State Engineer of the State of Idaho, and after due investigation, said application having been granted by the said State Engineer, the right to use 22/50 of 1 second foot of said water upon the lands above described is hereby abandoned and a description of the lands to be irrigated under such right and to which the water right hereby confirmed shall by this instrument become appurtenant, for irrigation and domestic purposes, is shown in the following table, limited at any given time to an amount actually needed and beneficially used for said purposes, and shall not exceed the following amount: 22/50 of 1 second foot, dated July 1, 1877.

| NE 1/4 | NW 1/4 | SW 1/4 | SE 1/4 | Total |
|--------|--------|--------|--------|-------|
| 22/50  | 22/50  | 22/50  | 22/50  | 74    |

The right to the use of the water aforesaid, hereby confirmed, is restricted to the lands or place of use herein described, as provided by the laws of Idaho.

No right to the use of water on the lands herein named exists at the date of this certificate, except as herein stated.

WITNESS the seal and signature of the State Engineer of the State of Idaho, affixed at Boise, this NINTH day of SEPTEMBER 1918.

FRED A. WILKIE  
State Engineer

(SEAI)

Recorded in Water Dist. No. 34 (1918)  
Platted on Map--Water Dist. No. 34 (378)  
Point of Diversion: NE 1/4 Sec.  
14 T. 2 S., R. 36 E., E. 1/4.

RECORDED

T3S

File 27C 27-016

## STATE OF IDAHO

-----OFFICE OF STATE ENGINEER-----

## CERTIFICATE NO. 99, AUTHORIZING TRANSFER OF WATER RIGHT.

Permission is hereby granted Peter G. Johnston, of Blackfoot, County of Bingham, State of Idaho, to transfer the use of fifty (50) inches of the waters of Blackfoot River, in Bingham County, State of Idaho, from the lands upon which it is now used, i.e., South half of Southeast quarter (S2 SE4) of Section 24, Township 2 South, Range 36 East of Boise Meridian, to the following described tract, to-wit: Fifty acres in the North half of Southwest quarter (N2 SW4) and South half of Northwest quarter (S2 NW4), Section 10, Township 3 South, Range 35 East of Boise Meridian.

The water right appurtenant to the above described lands was adjudged by decree, dated May 1, 1885, of Charles Cobb, Judge of the Fifth Judicial District of the State of Idaho, in and for the County of Bingham, in the matter of F. S. Stephens, plaintiff, vs. Eastern Idaho Irrigation Co., defendant, in the following words:

"It is now ordered, adjudged and decreed, that the following parties are entitled to divert from the Blackfoot River the amount of water herein indicated, and the right of each party dates from the time hereinafter stated and set opposite each name, to-wit:

.....  
"Leon Misslen, July 1st, A.D.1873, 200 inches."

Fifty (50) inches of the above water right was purchased by deed from E. M. Kennedy, grantee of Leon Misslen.

IN WITNESS WHEREOF I have hereunto set my hand and affixed the seal of my office at Boise, Idaho, this nineteenth day of July, A.D., 1912.

(SEAL)

A. E. Robinson.

State Engineer.

MICROFILMED

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Box 169

Department of Reclamation

Blackfoot, Idaho

Feb. 4, 1970

Dear Mr. Hamilton,

In going through my papers, I found a deed that may show some light to you on the Blackfoot River water right you were concerned about.

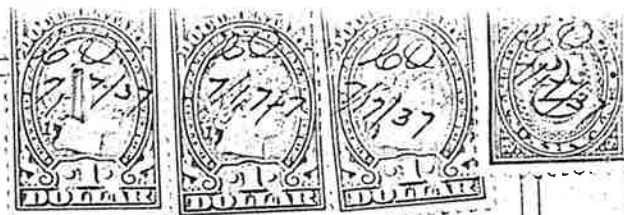
This is an old deed showing George Dore conveying the property to Claud & Ida Orisson. This is the deed to the same property that Claud & Ida Orisson conveyed to Owen & Gail Taylor. I sent you the copy of that deed. This copy shows more in detail the date and amount of our water right.

MICROFILMED

Sincerely,

Owen A. Taylor

WARRANTY DEED



THIS INDENTURE, made the 17th day of July in the year of our Lord, one thousand nine hundred and thirty-seven between Claude H. Orison and Ida M. Orison, husband and wife, of the County of Bingham State of Idaho the parties of the first part, and George F. Dore, of the County of Bingham State of Idaho the party of the second part.

WITNESSETH: That said parties of the first part, for and in consideration of the sum of Seven Thousand Five Hundred & no/100 - - - - - Dollars, lawful money of the United States of America, to them in hand paid by the said party of the second part, the receipt whereof is hereby acknowledged, do by these presents grant, sell, bargain and convey and confirm unto the said party of the second part, and to his heirs and assigns forever, all the certain lot, piece or parcel of land, situate, lying and being in the County of Bingham and State of Idaho, and bounded and described as follows, to-wit:

The Southeast Quarter of the Northwest Quarter, the East Half of the Southwest Quarter, the West Half of the Southeast Quarter, and Lot One of Section Thirty-four, Township Two South, Range Thirty-six, East of the Boise Meridian, in Idaho; also Lot One of Section Three, Township Three South, Range Thirty-six, East Boise Meridian; also, that part of Lots Two, Three, and Four of Section Three, and that part of Lot One of Section Four, Township Three South, Range Thirty-six, East Boise Meridian, lying north and east of a line commencing at a point 131 feet west of the northwest corner of said Section Three, running thence South 25 feet, thence South 58 degrees 30' East 3,545 feet, which is a point on the west bank of the Blackfoot River, and said line being otherwise described as the northeasterly side of county road now passing through said Sections Three and Four, Township Three South, Range Thirty-six, East, Boise Meridian.

Together with all ditches, ditch rights of way, water and water rights thereunto belonging, or in anywise appertaining whether the same be flood water or decreed water rights and particularly 100 inches of the decreed water of the Blackfoot River as decreed by the District Court in Bingham County, Idaho, said rights dating from July 1st, 1873.

(Subject to mortgage to Union Central Life Insurance Company upon which there is an unpaid balance of \$4,085.28, which grantee assumes and agrees to pay as a part of the above consideration.)

Together with all and singular the tenements, hereditaments and appurtenances thereunto belonging or in anywise appertaining, and the rents, issues and profits thereof.

TO HAVE AND TO HOLD, all and singular, the said premises, together with the appurtenances and privileges thereto incident, unto the said party of the second part, and to his heirs and assigns forever, and the said parties of the first part and their heirs, and the said premises in a quiet and peaceable possession of the said party of the second part, his heirs and assigns, against the said parties of the first part and their heirs, and against all and every person and persons whomsoever, lawfully claiming or to claim the same shall and will warrant and by these presents forever defend.

IN WITNESS WHEREOF, the said parties of the first part have hereunto set their hands and seals the day and year first above written.

Signed, Sealed and Delivered in the Presence of

John W. Jones } Claude H. Orison (Seal)  
Ida M. Orison (Seal)  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_ (Seal)

January 30, 1970

Re: Transfer No. 221  
Water District No. 34

Mr. I. T. Stoddard, Superintendent  
Blackfoot School District No. 55  
440 West Judicial  
Blackfoot, Idaho 83221

Dear Mr. Stoddard:

We have made a further study of Transfer No. 221, by attempting to locate the total amount of April 1, 1873 water decreed to Leon Misslen in the case of Fred S. Stevens, et al, vs. Eastern Idaho Water Company, et al,. Mr. Owen Taylor of Riverside was kind enough to send us copies of his deeds which show that he has 100 inches or 1/2 of the 4-1-1873 water on one portion of his land. The other deed does not describe the amount or priority date of the water mentioned.

As indicated in my letter dated January 20, 1970, we do not have evidence to show that Transfer No. 221 is in error, so we must assume that your priority date is as shown on the transfer.

We are instructing Watermaster William Hall to put the priority date April 1, 1873 on his abstract in place of the date of May 1, 1885.

Very truly yours,

ROBERT W. HAMILTON  
Supervisor of Water Distribution

RWH:mjl

cc: Mr. William Hall, Watermaster  
Water District No. 34  
Box 615  
Blackfoot, Idaho 83221

MICROFILMED

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1919

of Reclamation

# WARRANTY DEED

THIS INDENTURE, Made this 2nd day of January,  
in the year of our Lord one thousand nine hundred and forty-seven, between  
CLAUDE H. ORISON and IDA M. ORISON, his wife,  
of Blackfoot, County of Bingham, State of Idaho,  
the parties of the first part, and OWEN A. TAYLOR and GAIL R. TAYLOR  
of the County of Bingham, State of Idaho,  
the parties of the second part.

WITNESSETH, that the said parties of the first part, for and in consideration of the  
sum of - - - - NINE THOUSAND FIVE HUNDRED (\$9,500) - - - - DOLLARS,  
lawful money of the United States of America,

to them in hand paid by the said  
parties of the second part, the receipt whereof is hereby acknowledged, have granted,  
bargained and sold, and by these presents do grant bargain, sell, convey and confirm  
unto the said parties of the second part, and to their heirs and assigns forever, all of  
the following described real estate, situated in the County of  
Bingham, State of Idaho, to-wit;

12

The Southwest Quarter of the Northwest Quarter of Section  
Three, in Township Three South, of Range Thirty-six, East of the  
Boise Meridian, in Idaho; also that part of Lots Two, Three and  
Four of said Section Three, and that part of Lot One in Section  
Four, said Township and Range, lying south and west of the County  
Road passing through said Sections Three and Four.  
Together with all ditches, ditch rights of way and water  
rights therefor and particularly decreed rights in the Blackfoot  
River appurtenant to said lands.