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DATE OF
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AMOUNT IN
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POINT OF DIVERSION AND
PLACE OF USE

Township 13 South, Range 40 East, B.M.,
for domestic and culinary purposes in and
around the Oneida power plant, and the
dwellings and camps, built in connection
therewith, said rights to be continuous
throughout the year.

MINK CREEK.

11 0834
462. *Mink Creek Irrigation Company*
Number One:

1882—May 1:

Apr. 20 to July 25 10.5 c.f.s.

July 25 to Sept. 1 7.0 c.f.s.

Sept. 1 to Sept. 30 5.25 c.f.s.

To be diverted through Ditch Number One
diverting from said Mink Creek in the
Southeast quarter of Section 28, Town-
ship 13 South, Range 41 East, B.M., for
the irrigation of 525 acres in Sections 28,
32 and 33, Township 13 South, Range 41
East, and Sections 5, 6 and 7, Town-
ship 14 South, Range 41 East, and Section 12,
Township 14 South, Range 40 East.

11 0835
463. *Mink Creek Irrigation Company*
Number Three, successor in
interest to Lewis Keller, et al:

1882—May 1:

Apr. 20 to July 25 6.0 c.f.s.

July 25 to Sept. 1 4.0 c.f.s.

Sept. 1 to Sept. 30 3.0 c.f.s.

To be diverted through Ditch Number Two
diverting from said Mink Creek in the
Northeast quarter of Section 32, Town-
ship 13 South, Range 40 East, for the irri-
gation of 300 acres in Sections 30, 31 and
32, Township 13 South, Range 41 East.

11 0836
464. *Mink Creek Irrigation Company*
Number Four, successor in
interest to James M. Keller,
et al:

1882—May 1:

Apr. 20 to July 25 13.1 c.f.s.

July 25 to Sept. 1 9.93 c.f.s.

Sept. 1 to Sept. 30 6.55 c.f.s.

To be diverted through Ditch Number
Four diverting from said Mink Creek near
the East quarter corner of Section 22,
Township 13 South, Range 41 East. For
the irrigation of 655 acres in Sections 19,
20, 27, 28, 30, 31, 32 and 33, Township 13
South, Range 41 East, and Sections 25 and
36, Township 13 South, Range 40 East,
and Section 6, Township 14 South, Range
41 East.

11 0837
465. *Peoples Dairy Company:*
1882—May 1 10.0 c.f.s.

For power purposes only. To be diverted
from and returned to said Mink Creek in
Section 31, Township 13 South, Range 41
East, B.M.

11 0838
466. *Christina Nelson:*
1882—May 1
Apr. 20 to July 25 0.6 c.f.s.
July 25 to Sept. 1 0.4 c.f.s.
Sept. 1 to Sept. 30 0.3 c.f.s.

To be diverted from said Mink Creek in
Section 31, Township 13 South, Range 41
East, for the irrigation of 30 acres of land
in Section 6, Township 14 South, Range
41 East.

11 0839
467. *Mahonry Larson:*
1882—May 1 0.06 c.f.s.

To be diverted from said Mink Creek in
the Northwest quarter of Section 7, Town-

TRANSFER NO.	NAME	AMOUNT C.F.S.	BALANCE C.F.S.	RIGHT NO.
	Mink Creek Irrig. Co. #4	13.1		11-0836
515	Twin Lakes Canal Co.	4.0		11-0836B
	Mink Creek Irrig. Co.	9.1		11-0836A
2947	Mink Creek Irrig. Co.	9.1		11-0836A

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Application For Transfer of Water Right

STATE OF IDAHO,

County of Franklin

} ss.

Twin Lakes Canal Co

, being first duly sworn, deposes and says:

That his name is Twin Lakes Canal Co; that he is of lawful age, a citizen of the United States and of the State of Idaho, and that his postoffice address is Dayton - Idaho

That he is the owner and using a certain water right, bearing date of priority of May 1 19 1882 for Four cubic feet per second of the waters of Mink Creek - Bear River County of Franklin, State of Idaho, decreed to Mink Creek Irrig. Co. No. 4 by decree of Judge, Dietrich of the Federal Court Judicial District of the State of Idaho, in and for the County of Franklin, in the case of Utah Power & Light Co. vs. Last Chance Canal Co., said decree bearing date of July 14th, 1920 (or obtained by virtue of License No. , issued by the State Engineer of the State of Idaho, dated , 19 , bearing date of priority of , 19) for the purpose of irrigating the following described lands situate, lying and being in Water District No. in the County of Franklin and State of Idaho, to-wit: For the irrig of 655 A in Sect. 19, 20, 27, 28, 30, 31, 32 and 33, T. 13 S. R. 41 E. and Sec. 25 and 36 T 13 S R 40 E, and Sec. 6 T 14 S R 41 E

 and is the person (or representative of the corporation) to whom such right so issued, or has become the owner thereof in the following manner, i. e. Purchase from Adam and Urias Keller as per abstract of title of said water right hereto attached and made a part of this statement:

That said waters are now diverted from said stream in the Ditch No. 4 of Neat the East Quarter Cor. of Sect. 22 T 13 S R 41 E Section , Township , Range , B. M., and conducted to the above described lands through Ditch No. 4 as per map herewith and of this affidavit made a part;

That affiant and petitioner desires to abandon the use of Four cubic feet per second of said water upon the above described land, and to convey and use same upon the following tract, situate, lying and being in the County of Franklin and State of Idaho, to-wit:

All lands covered by the TwinLakes Canal Co.

That his reasons for desiring to make such transfer are as follows:

Shortage of water during short water seasons

That he intends to divert and convey said Four second feet of water to the tract of land last above described in the following manner, to-wit:

Through the Twin Lakes Canal - Approx. 2 miles below former diversion

as set forth upon the map herewith; and that no one will be injured by such transfer.

WHEREFOR, Affiant and Petitioner prays that the Commissioner of Reclamation of the State of Idaho issue to him the proper certificate authorizing such transfer, in accordance with the provisions of Section 5582 of the Idaho Compiled Statutes.

Twin Lakes Canal Co
by Thomas Preston, Pres - Applicant

Subscribed and sworn to before me this 10th day of June
A. D. 1932, Geo. E. Crockett
Notary Public for Idaho

APPLICANT WILL ANSWER THE FOLLOWING QUESTIONS:

From what stream is the water diverted? Mink Creek - Trib. to Bear River

Where is the diversion point located? Near the E $\frac{1}{2}$ cor. of Sec. 22, T. 13, S. R. 41 E

Through what ditch is it now conducted? Mink Creek Irrig. Co's Canal No. 4

How much land is now irrigated by the water sought to be transferred?

Give the description: Parts of Sec. 19, 20, 27, 28, 30, 31 and 32, T. 13, S. R. 41 E

What is the total amount of water in inches, or second feet, dedicated to said land? 4 second feet

What kind of crops are being raised? Hay, grain

How much water per acre is now required to irrigate said land? 50 acres per second foot

What will be the effect on the land now irrigated, if the use of water on it is discontinued?

Use of early water will assist on otherwise Dry Farm

Give location of new point of diversion, if change is to be made. SE $\frac{1}{4}$ Sect. 1, T. 14, S. R. 40 E

Through what ditch will it be conducted after transfer? Twin Lakes Canal

How much water will be required per acre to irrigate the land to which this water is transferred?

Do you claim any other water right for the land from which you seek to abandon the use of this water? yes

If so, give amount, date and source. 300 c f s April 1, 1901, Mink Creek

Is there now any other water right for the land to which you seek to make this transfer? If so, give amount, date and source. 300 c f s Apr 1st 1901, Mink Creek

Signed Twin Lakes Canal Co
by Thos Preston, President Applicant.

STATE OF IDAHO,

County of Franklin

} ss.

N C Eskelsen

and

Chancy G Dockstader

being first duly sworn, each for himself, and not one for the other, deposes and says: That he is a citizen of the United States and of the State of Idaho, residing at Mink Creek that he is a user of water from Minkcreek, in Water District No. 5 County of Franklin, State of Idaho; that he has read or heard read the foregoing affidavit and petition of Twin Lakes Canal Co and is familiar with its allegations and with the water right and lands therein mentioned and described and is not in any way interested in either, nor in any way related to said petitioner; that the statements and allegations therein made are true of his own knowledge; and that no one will be injured by the granting of the certificate authorizing the transfer therein petitioned.

N C Eskelsen

Chancy G Dockstader

Subscribed and sworn to before me this

10th

day of

June

A. D. 1932.

Thomas Preston

Notary Public

STATE OF IDAHO,

County of Franklin

} ss.

I, E. J. Baird

Watermaster of

Benjamin & Tributaries

Water District No. 5, County of _____, State of Idaho, whose postoffice address is Loda Springs, have read or heard read the foregoing affidavit and petition of Twin Lakes Canal Co, and, of my own knowledge, believe the same to be true as to all matters therein alleged, and that no one will be injured by the transfer prayed to be authorized; and I hereby endorse my approval of said petition, and request that the Commissioner of Reclamation issue the certificate of transfer as petitioned; or (do not approve of the issuance of the certificate of transfer prayed for) for the following reasons:

more beneficial use

Watermaster Dist. No. 5

E. J. Baird

Dated at Preston, Idaho, this

10

day of

June

1932

County of...Franklin

SS.

, being first duly sworn, deposes and says:

; that he is of lawful age, a citizen

of the United States and of the State of Idaho, and that his postoffice address is

Dayton, Idaho

That he is the owner and using a certain water right, bearing date of priority of May 1 1982,
for four cubic feet per second of the waters of Mink Creek - Bear River

County of Franklin....., State of Idaho, decreed to Mink Creek Irrigation Co. No. 4
by decree of Judge, Dietrich..... of the Federal..... Court
Judicial District of the State of
Idaho, in and for the County of....., in the case of Utah Power & Light Co.

vs. Last Chance Canal Co., said decree bearing date of July 14th, 1920

(or obtained by virtue of License No....., issued by the State Engineer of the State of Idaho,
dated....., 19....., bearing date of priority of....., 19.....)

for the purpose of irrigating the following described lands situate, lying and being in Water District No. 5 in the County of Franklin and State of Idaho, to-wit: For the irrigation of 655 A in Sect. 19, 20, 27, 28, 30, 31, 32 and 33, T 13 S R 41 E and Section 25 and 36, T 13 S R 40 E, and Section 6 T 14 S R 41 E

.....and is the person (or representative of
the corporation) to whom such right so issued, or has become the owner thereof in the following man-
ner, i. e. Purchase from Adam and Urias Keller

as per abstract of title of said water right hereto attached and made a part of this statement:

That said waters are now diverted from said stream in the Ditch No. 4 of
Near the East Quarter Cof. of Sect. 22 T 13 S R 41 E
Section....., Township....., Range....., B. M., and con-
ducted to the above described lands through Ditch No. 4

as per map herewith and of this affidavit made a part;

That affiant and petitioner desires to abandon the use of Four.....cubic feet per second of said water upon the above described land, and to convey and use same upon the following tract, situate, lying and being in the County of Franklin..... and State of Idaho, to-wit:

All lands covered by the Twin Lakes Canal Co.

That his reasons for desiring to make such transfer are as follows:

Shortage of water during short water seasons

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That he intends to divert and convey said Four second feet of water to the tract of land last above described in the following manner, to-wit:

Through the Twin Lakes Canal - Approx 2 miles below former diversion

as set forth upon the map herewith; and that no one will be injured by such transfer.

WHEREFOR, Affiant and Petitioner prays that the Commissioner of Reclamation of the State of Idaho issue to him the proper certificate authorizing such transfer, in accordance with the provisions of Section 5582 of the Idaho Compiled Statutes.

Twin Lakes Canal Co
by Thomas Preston, Pres Applicant

Subscribed and sworn to before me this 10 th day of June
A. D. 1932...

E. E. Crockett
Notary Public for Idaho

APPLICANT WILL ANSWER THE FOLLOWING QUESTIONS:

From what stream is the water diverted? Mink Creek - Trib to Bear River

Where is the diversion point located? Near the E $\frac{1}{4}$ Cor. of Sec. 22 T 13 S R 41 E

Through what ditch is it now conducted? Mink Creek Irrig. Co's Canal No. 4

How much land is now irrigated by the water sought to be transferred?

Give the description: Parts of Sec. 19, 20, 27, 28, 30, 31, and 32 T 13 S R 41 E

What is the total amount of water in inches, or second feet, dedicated to said land?

What kind of crops are being raised? Hay, grain,

How much water per acre is now required to irrigate said land? 50 Acres per second foot

What will be the effect on the land now irrigated, if the use of water on it is discontinued?

Use of early water will assist on otherwise Dry Farm

Give location of new point of diversion, if change is to be made. SE $\frac{1}{4}$ Sect. 1, T 14 S R 40 E

Through what ditch will it be conducted after transfer? Twin Lakes Canal

How much water will be required per acre to irrigate the land to which this water is transferred?

2 acre foot per acre

Do you claim any other water right for the land from which you seek to abandon the use of this water? Yes

If so, give amount, date and source. 300 c f s April 1, 1901, Mink Creek

Is there now any other water right for the land to which you seek to make this transfer? If so, give amount, date and source. 300 c f s April 1st 1901 Mink Creek,

Signed Twin Lakes Canal Co
by Thomas Preston, President Applicant.

MICROFILMED

STATE OF IDAHO,

County of Franklin

} ss.

N C Eskelson

and

Chancy G Dockstader

being first duly sworn, each for himself, and not one for the other, deposes and says: That he is a citizen of the United States and of the State of Idaho, residing at Hink Creek that he is a user of water from Hink Creek, in Water District No. 5 County of Franklin, State of Idaho; that he has read or heard read the foregoing affidavit and petition of Twin Lakes Canal Co. and is familiar with its allegations and with the water right and lands therein mentioned and described and is not in any way interested in either, nor in any way related to said petitioner; that the statements and allegations therein made are true of his own knowledge; and that no one will be injured by the granting of the certificate authorizing the transfer therein petitioned.

N C Eskelson

Chancy G Dockstader

10th

day of June

Subscribed and sworn to before me this

A. D. 1932.

Thomas Preston

Notary Public

STATE OF IDAHO,

County of Franklin

} ss.

I, E. J. Baird

,

Watermaster of Beaumont & tributaries

Water District No. 5, County of _____, State of Idaho, whose postoffice address

is Soda Springs, have read or heard read the foregoing affidavit and petition

of Twin Lakes Canal Co., and, of my own knowledge, believe the same to be

true as to all matters therein alleged, and that no one will be injured by the transfer prayed to be

authorized; and I hereby endorse my approval of said petition, and request that the Commissioner of

Reclamation issue the certificate of transfer as petitioned; or ~~(do not approve of the issuance of the~~

~~certificate of transfer prayed for)~~ for the following reasons:

more beneficial use

Watermaster Dist. No. 5

E. J. Baird

Dated at Preston, Idaho, this 10 day of June, 1932

MICROFILMED

Duplicate

A G R E E M E N T

THIS AGREEMENT entered into this 30th day of April, 1932, by and between and among Mink Creek Irrigation Company Number Four, a corporation organized and existing under the laws of the State of Idaho, hereinafter called Party of the First Part, and Twin Lakes Canal Company, a corporation also organized under the laws of the State of Idaho, hereinafter called Party of the Second Part, and Adam Keller and Alvina Keller, his wife, and Urias Keller, unmarried, hereinafter called Parties of the Third Part,

W I T N E S S E T H:

That the Party of the First Part for and in consideration of the surrender to it for cancellation of 4,923 shares of its issued and outstanding capital stock, represented by certificates numbered 18,22,23 and 31, does hereby agree to grant, bargain, sell, convey and confirm and deliver to the Party of the Second Part a ⁴⁹²³
16120 part of all of the waters and/or rights to the use of the waters of Mink Creek, a natural stream of water flowing eastwardly through the mountains in Franklin County, Idaho, and naturally discharging into the Bear River, to which said Party of the First Part is entitled under and pursuant to the provisions of that certain decree made and entered by the District Court of the United States for the District of Idaho, Eastern Division, on the 14th day of July, 1920, in a case then pending in said court in which Utah Power and Light Company, a corporation, was plaintiff and The Last Chance Canal Company and others, including the Party of the First Part, were defendants, said cause being further identified in the records of said Court as "In Equity Number 203".

And the said Party of the First Part does further agree for said consideration and without cost or charge, to divert the said water so to be transferred and conveyed to the Party of the Second Part, into and through the canal of the Party of the First Part at its spill-way located at what is commonly known as Ben's Holler, being approximately 3,000 feet below the point where said First

part's ditch number 4 diverts from Mink Creek in Section 22, Township 13 South of Range 41 East of the Boise Meridian in Franklin County, Idaho, and to discharge said water through said spill-way into the natural channel of said Mink Creek; provided, however, that during the irrigation season of 1932, some person competent so to do, shall make measurements of the waters flowing in the main canal of Mink Creek Irrigation Company Number Four, to determine what, if any, loss in transit occurs. If a loss in transit shall occur by reason of the diversion of the said 4,923 shares then the same shall be pro-rated ratiably among all the shares of stock in the corporation, and the amount of such loss apportionable to the 4,923 shares of stock sold by said Kellers to Twin Lakes Canal Company, shall be deducted from the amount of water deliverable to it at Ben's Holler under its rights as the purchaser of said stock. The findings as to loss of water in transit or lack of loss so made during the irrigation season of 1932 shall be conclusive of the question and shall govern as to all future operations under this contract and/or the deed herein provided for.

The Party of the Second Part has contracted to purchase said 4,923 shares of the capital stock of the Party of the first part from the owners thereof, to-wit, Adam and Urias Keller, and upon receipt of the certificates of stock representing the same agrees to deliver to the Party of the First Part said shares for cancellation and in full payment of the water and water rights hereby agreed to be conveyed to the Party of the Second Part.

The party of the First Part has executed a deed of conveyance to said water and water rights, transferring and conveying the same to the Party of the Second Part, and hereby deposits the said deed, together with a copy of this Agreement, with The First Security Bank of Preston to be delivered to the Party of the Second Part upon its delivery to the said First Security Bank, of the said certificates of stock properly endorsed for transfer. And said

First Security Bank, ~~corporation~~ is hereby authorized and directed, upon delivery to it for surrender to the Party of the First Part of the said certificates representing said shares of stock, to deliver to the Party of the Second Part said deed of conveyance.

The Party of the First Part specifically agrees that from the date hereof it will on demand of the Party of the Second Part and without cost or charge to it, deliver to the Party of the Second part, through the spill-way hereinbefore designed, a ⁴⁹²³₁₆₁₂₀ part of all of the waters of Mink Creek, less any deductible transit losses as herein provided, to the use of which the Party of the First Part shall be entitled under the terms of the decree hereinbefore referred to, unless and until it shall be established that the agreement between the Party of the Second Part and the Owners of said 4,923 shares of the capital stock of the Party of the First Part, for the purchase thereof, has been terminated.

The Parties of the Third Part agree that they will pay and discharge, before the same become delinquent, and all assessments levied or assessed upon or against the said shares of stock by the Party of the First Part, and will hold and save the Parties of the Second Part harmless against any and all claims, demands and liabilities whatsoever arising out of any such assessments or levies or for any other cause in favor of the Party of the First Part in connection with the maintenance and operation of its said canal system. And the said Party of the First Part agrees that in consideration of the payment of a ⁴⁹²³₁₆₁₂₀ part of the cost of the maintenance and operation of its said canal system by the Parties of the Third Part, the said Parties of the Third Part may, without further cost or charge, divert into and ~~transport~~^{transport} through the canals of the Party of the First Part such part of the waters of Mink Creek hereby agreed to be sold to the Party of the Second Part as the Party of the Second Part may now at anytime be taking or demanding to be delivered to it.

And in consideration of the promises and of the covenants and agreements of the parties hereto and in the further consideration for the promises of the Parties of the Third Part to pay and

discharge all assessments and all other charges assessed against or levied upon the said 4,923 shares of capital stock, the Party of the First Part hereby agrees to save and hold the Party of the Second Part harmless against all claims, demands and liabilities whatsoever which may at anytime be asserted by the Party of the First Part against the said shares of stock or the owners thereof, whether arising out of assessments or because of other charges for the maintenance and operation or improvement of its canal system.

All of the provisions hereof are binding upon the heirs, successors and assigns of the respective parties hereto.

IN WITNESS WHEREOF the Party of the First Part and the Party of the Second Part have caused this instrument to be signed by their respective presidents, thereunto duly authorized, and their respective corporate seals to be attached, and the Parties of the Third Part have executed this Agreement as of the day and year first above written.

MINK CREEK IRRIGATION COMPANY
NUMBER FOUR, Party of the First Part,

By J. Herman Bell
President

TWIN LAKES CANAL COMPANY
Party of the Second Part,

By Thomas Preston
President

Edwin Keller
Evelyn Keller
Wm. Keller
Parties of the Third Part.

P.R. div.

T.L. div.

Mink Creek

No. 3

No. 4

Schramm, W.

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D E E D

THIS INSTRUMENT made this 7th day of April, in the year of our Lord One Thousand Nine Hundred and Thirty Two, between MINK CREEK IRRIGATION COMPANY HEREIN FOUR, a corporation organized under the laws of the State of Idaho, and doing business in the County of Franklin, the Party of the First Part, and TWIN LAKES CANAL COMPANY, a corporation of the State of Idaho, doing business in the County of Franklin in said State, Party of the Second Part,

W I T N E S S E T H:

That the Party of the First Part for a valuable consideration, the receipt whereof is hereby acknowledged, has granted, bargained, and sold, and by these presents does, grant, bargain, sell, convey and confirm unto the said Party of the Second Part and to its successors and assigns forever, all of the following described property and rights, to-wit: A ⁴⁹²³~~16180~~ part of all of the waters and/or rights to the use of the waters of Mink Creek awarded to it by a decree of the District Court of the United States for the District of Idaho, Eastern Division, on the 14th day of July, 1928, in an action then pending, in which Utah Power and Light Company, a corporation, was plaintiff, and The Last Chance Canal Company Limited, and others, including the Party of the First Part, were parties defendant, which said decree is further identified in the records of said Court as "In Equity Number 303". And agrees to deliver said water to the Party of the Second Part through the spill-way located in the canal of the Party of the First Part approximately 3000 feet below the point where said canal diverts from the said Mink Creek in Section 22, Township 18 South of Range 41 East in Franklin County, Idaho. Known as Ben Holler

Together with all and singular the tenements, hereditaments and appurtenances thereunto belonging or in any wise appertaining, and all estate, right, title and interest in and to the said property and rights as well in law as in equity, of the said Party of the First Part.

TO HAVE AND TO HOLD all and singular the above mentioned water and water rights unto the Party of the Second Part and to its successors and assigns forever. And the said Party of the First Part and its successors and assigns,

RECORDED

the said water and water rights in ^{the} quiet and peaceable ^{possession} ~~XXXXXX~~ of the said Party of the Second Part, its successors and assigns, against the said Party of the First Part, and its successors and assigns, and against all and every person and persons whatsoever lawfully claiming or to claim the same, shall and will warrant and by these presents forever defend.

IN WITNESS WHEREOF the Party of the First Part has caused this instrument to be signed in its corporate name by its president thereunto duly authorized, and has caused its corporate seal to be hereunto affixed, the 7th day of April, 1932.

WINK CREEK IRRIGATION COMPANY
NUMBER FOUR

By J. Hyrum Boll, President.
Party of the First Part.

Harry Jensen (Sec.)

STATE OF IDAHO)
) ss.
County of Franklin)

On the 7 day of April, 1932, personally appeared before me a notary public in and for said State and County, J. Hyrum Bell, Harry Jensen and Secretary respectively the President/ of Wink Creek Irrigation Company Number Four, who acknowledged to me that he executed the foregoing Deed for and on behalf of said Company by authority of Stockholders, and that said Company executed the same.

J.N. Larsen
Notary Public residing at

Preston, Idaho

My commission expires:

Apr. 30, 1933

(seal)

IN THE CASE OF HARD V. BOISE CITY IRRIGATION CO 9th Ida. 589

"One claiming a water right under R.S.3163,as amended by laws of 1899,page 381,may sell the right to use such waters and the purchaser may transfer it to other lands susceptible of irrigation from such ditch if others are not injured thereby."

IN THE CASE OF WALKER V. MC GINNIS 8 Ida. 540

"Where the decree fixes the point of diversion of water*****
an injunction will lie to prevent the changing of such point of diversion to the injury of the parties in interest"

SAUNDERS V. ROBINSON 14 Ida. 770

If the party or parties get the full benefit af all the waters left after they have been used by the party making the change, there is no reason for complaint

BENNETT VS. NOURSE 22 Ida. 249

"The person entitled to the use of water may change the place of diversion,if others are not injured thereby"

⁵³⁶
HALL VS. BLACKMAN 22 Ida. 539

"A change in the place of use of the waters will not be permitted where to do so will damage another appropriator."

"To irrigate other and additional lands,wherein in doing so he deprives an appropriator of the seepage waste and percolating waters he had before received and is not permitted"

IBID.

UNDER R.C 3247 Joyce vs. Rubin 23 Ida. 296

"May change the point of diversion if others are not injured by the change"

O.S.5592 First Security Bank of Blackfoot vs. State 49 Ida. 740

May change the place of use "provided the rights of others are not adversely affected"
O.S.5363 Re: Department of Reclamation 50 Ida. 573.

~~Under R.R. 5247~~

C.S. 5582 First Security of Blackfoot vs. State 49 Ida. 740

" May change the place of use provided the rights of others are not adversely affected."

C.S. 5563 In re: Department of Reclamation 50 Ida. 573

"Generally, water appropriator may change point of diversion, if others are not injured.

In Re; Rice Page 660 (Ibid)

"Right to change point of diversion of water should not be denied where it is apparent that no injury is sustained or that it may be obviated. "

By

Preston Riverside
& Munkres
Canal Co

Arthur M. Hart

Atty for Protestants

July 14, 1932

RECORDED

(Not's taken during Hearing by M.H.C.)

Mr. Harb - P.R. & M.C. Co. Damaged by transfer.
8th below - Page 540 - No flow during or return flow if
change made. (Keays et al. - which I find not permitted
Hall vs Blackman 22 October 539.)

Mr Johnson Pres. benefited by this water because it
returns to Strawberry Creek and then to Milk Creek Canal.
2 to 3 ft. of this & would return.

Question: Harvested in No. 4. - Return flow comes from Keller's land
and not from canal. Has never actually seen this waste
returning. Keller's land is hillside mostly.

J.H. Main Bell: Lives on Strawberry where it empties into Milk Creek.

Upas 60 FT. Adam 100 FT.; 30 to 40 acres level. After Keller starts
irrig from 3 to 5 days, approx all of it has returned. When water
is out of No. 4, no return flow to Strawberry in fall.

Question: Needs more No. 4 water due to rapid loss down
hillside; can't hold this water, gets mostly away underground.
Can't say how much loss from Keller's land. Two div. about
3 miles apart. No. 3 is below No. 4. and No. 3 will catch back
of it. Has been there when Keller irrig and seen waste water.
No. 4. is five in time to Praelon Milk Crk. Canal.

Joe Kestegarden: Director. No. 4

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D. J. Cairnes: - 1 to 3 times a year between July & Sept.
creek runs up and down, due to waste water, five
all these ditches. If trans. is made others might sell and if 50%
is sold - great hardship on balance; will stop the flow of spring.
Question: Creek is lower when div. first made, but
builds up as irrig starts. During high water the Pres. takes
a canal full. Knows average runoff but not direct from

Kellerland. If no more Pub. gets $\frac{3}{5}$ F.L. $\frac{3}{5}$.

Question: Keller can't irrig with a lot getting back into creek: Everything below gets back into third creek

Dan Jensen: - own water in No. 4. 50% of spring will be dry in 3 days, all in a month if water turned out of No. 4. most loss is under the surface.

Gris Keller: 75 ft on West, 80 ft on E side of Strawberry 15 ft. & 70 ft. above. on W. side, 18 ft. on E. side; on E side about 45 ft. Irrig clear this: He does not let any water get away but uses it on lower lands. about $\frac{3}{4}$ mile below Strawberry, all his waste water runs on to flood land.

Question: all seepage from upper land goes to lower land from lower into No. 3.

Harry Jensen: Keller picks up his water - no surface runoff. No. 3 would get any wash

Hans Jensen: Lewis near the place, no runoff. He builds up Keller water and is not protecting.

Question: He picks up this water instead of letting it go down No. 3 would catch it if there were.

? Keller: There is waste water in the spring during high water; all ditches full. No waste water in season. Late in season no waste from Keller land.

Jack Sanford. All canal full till last Sunday. No. 4 would
be full till then anyway. If ditches are full till June 15th
no change will be made in return flow. Only buying
water from beginning of control of creek to end of season.

~~If No. 5 fails~~

300 Pac. 492. Johnson.

MICROFILMED

Transfer File # 515

April 4, 1932

Re: DISTRICT No. 5

PRESTON, RIVERDALE & MINK CREEK CANAL COMPANY
Preston
I d a h o

Gentlemen:

Attention: FRANK T. MERRILL, Secretary

Replying to your letter of April 2: There is not now, nor has there been, any application of the TWIN LAKES CANAL COMPANY to transfer the waters of MINK CREEK.

Until application is made, your protest can not be considered.

If application is made, notice of it will be published in a paper in the county from which the water is to be transferred for 2 consecutive weeks, at which time a date of hearing will be set. You will then, if you still desire, file your protest with this department.

Very truly yours,

Assistant Commissioner
of Reclamation

RECEIVED

Office Of

APR 4 1932 PRESTON=RIVERDALE AND MINK CREEK CANAL CO.

DEPARTMENT OF RECLAMATION

PRESTON, IDAHO, April 2, 1932 192

Hon. Chairman Reclamation Department
Boise, Idaho

Dear Sir:-

Re: Utah Power & Light Co., vs. Last Chance Canal Co
Twin Lakes Canal Co
Preston, Riverdale & Minkcreek Canal Co
Minkcreek Irrigation Company No one, two, three, four
Birch Creek Irrigation Company et al
Including all users of water from Minkcreek and/or
its tributaries

You have a certified copy of the decree entered in the above noted case by Judge F.S. Dietrich, about twelve years ago.

We understand that the water was made appurtenant to the land and the lands to be irrigated were described in each of the defendant companies.

Recently it has been brought to the attention of our company (Preston Riverdale & Minkcreek Canal Co) that certain water usures near and adjacent to the Minkcreek stream as it comes down the canyon, are offering for sale or have sold their water stock in the Minkcreek irrigation Companies above noted, to the Twin Lakes Canal Company and/or its stock-holders, having in view to change the point of diversion from the lands to which it is appurtenant under the said decree so that the said water can be carried across Bear River in the Twin Lakes Canal for the irrigation of lands under the said Twin Lakes Canal, a distance of about twenty miles.

Our company hereby protests against any such transfer. The greatest damage such a transfer would mean to us would be in losing the use of all the waste water from the Minkcreek water-users. For upwards of thirty years the stock-holders of our company have used the waste waters of all the Minkcreek water that has been used above the intake of our canal and above the intake of the Twin Lakes Canal; in other words, the lands above said intake are all sloping down towards the bed of the Minkcreek stream; the lands are soon irrigated and then move down the said stream into our canal and are used by us. We would lose many second feet of water if such a transfer of the point of use were permitted by your department.

We would be very pleased to hear from you.

Very truly

Preston, Riverdale & Minkcreek Canal Co
By *Frank J. Merrill* Secretary

MICROFILMED

June 11th 1932

Honorable R.S. Farris,
Commissioner of Reclamation,
Capitol Building,
Boise, Idaho.

Attention Mr. Coffin:

Dear Sir:

In accordance with previous conversations between our representative and Mr. Coffin of your office, we are sending herewith in triplicate, application for transfer of water right. As you know, we have made a deal with Adam Keller and Urias Keller to purchase shares of stock owned by them in Mink Creek Irrigation Company Number Four. We have also made an agreement with the Mink Creek Irrigation Company Number Four to deliver the water appertaining to those shares of stock into the canal of the Twin Lakes Canal Company for use by its stockholders at another point, and when the said shares of stock are delivered to it for cancellation to convey to the Twin Lakes Canal Company the proportionate amount of the waters to which the Mink Creek Irrigation Company Number Four is entitled appertaining to said stock.

The Kellers are not in position to deliver immediate possession of the stock because of its being hypothecated in the East. The Mink Creek Irrigation Company Number Four, however, has executed a deed to the Twin Lakes Canal Company covering the water right purchased and has deposited it in escrow with an agreement for delivery to us upon presentation for cancellation of the shares of stock. We are sending you herewith a copy of the deed and a copy of the agreement showing our right to have the water presently delivered to us and to have the conveyance finally delivered when the shares of stock are deliverable for cancellation.

Will you please notify us what, if any further requirements we need to meet, and what fees we are required to forward to you in order that this matter may be given immediate attention?

Yours truly,

*Twin Lakes Canal Co
by Thomas Preston, Pres.
address, Weston Idaho*

MICROFILMED

*Am sending only 2 copies
if you want other let me know.
J. P.*

June 30, 1932

Re: TWIN LAKES CANAL COMPANY
Application for Transfer of Water Right

E. J. BAIRD
Soda Springs
Idaho

Dear Sir:

Due to unlooked for emergencies arising in Boise, I shall be unable to be in Preston on July 7, as planned.

The hearing on the protest of the Preston Riverdale & Mink Creek Canal Company against the issuance of the transfer of water right requested by the Twin Lakes Canal Company will be held in Preston on July 14 at 10:00 A.M.

Very truly yours,

Assistant Commissioner
of Reclamation

MICROFILMED

WESTON IDAHO JULY 22nd 1932

Mr Mans H Coffin
Assistant Commissioner
of Reclamation,
Boise Idaho,

Dear Sir:-

I am just in receipt of your letter notifying me, as President of the Twin Lakes Canal Co , of your decision, granting the transfer, or diversion of the water which we purchased from the Keller Bros,

I feel that you have rendered a just decision in the matter, and want to thank you;

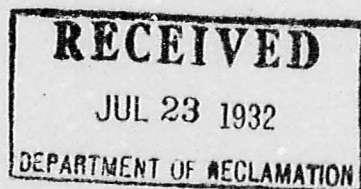
I have authorised our Secretary to forward a check to you at once, of \$1.00 as per your request, and no doubt you will receive same, perhaps as soon as this letter reaches you, if not it will only be a day or so;

Again thanking you for your decision in the matter;

I am most respectfully yours,

Thomas Preston

President Twin Lakes Canal Co,



OFFICE OF

TWIN LAKES CANAL COMPANY

PRESTON, IDAHO

July 21, 1932

Dept. of Reclamation,
Boise, Idaho.

Gentlemen: -

I am enclosing check
for \$1.00 for certificate of
water transfer.

Very truly yours,

J J Sanford

OFFICE OF

Preston-Riverdale & Minkoreek Canal Company

Hon. R.W. Faris
Commissioner of Reclamation
Boise, Idaho

Dear Commissioner:-

On behalf of the stock-holders of the above named irrigation company, I hereby protest against a certificate being granted to the Twin Lakes Canal Company to transfer water from the Minkoreek territory on the 655 acres as described in your notice published in the Franklin County Citizen, Preston, Idaho, under date of June 15th, 1932 to that territory across the Bear River to the west and under the territory of the said Twin Lakes Canal Company, for the reasons heretofore sent you and which we hereby refer to as part of this protest, the same having been mailed you under date of April 2, 1932.

If this four second feet of water were permitted then there would be no reason why other water in the same locality could not be likewise transferred and if this were done our Company would lose heavily. A glance at the country we think would convince anyone that we get a large portion of the drainage from the waters that are used in the Minkoreek territory and if the same were transferred to the Twin Lakes District, we would lose all of such drainage, which loss would practically destroy the water right which we have used continuously for about forty years. The Minkoreek district is composed of rolling hills, rolling towards the Minkoreek canal from which we take our water, and it takes but a few minutes before the water is back in its old channel, where we have taken it and used it on the lands of the stock-holders of our company.

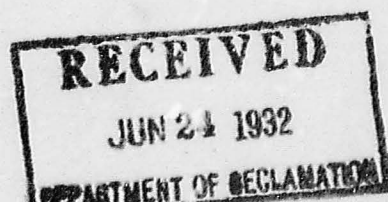
Will you kindly let us know whether the protest we are making should be made by affidavit or whether it will be necessary for our Directors to appear on July 6th, 1932, to protest in person; or whether you can hear or whether you would hear the protests at Preston which would be more convenient for all concerned.

Kindly let us hear from you.

Very truly,

Preston Riverdale & Minkoreek Canal Co

By Samuel Johnson
President



June 24, 1932

Re: TWIN LAKES CANAL COMPANY
Application for Transfer of Water Right

PRESTON RIVERDALE & MINK CREEK CANAL COMPANY
Preston
Idaho

Gentlemen:

Attention: DOMENZO JOHNSON, President
oooooooooooooooooooooooooooooooooooooooooooooooooooo

The protest of your canal company against the granting of transfer of water right for the TWIN LAKES CANAL COMPANY has been received.

In view of this protest, a field examination will be made and a hearing held, probably in Preston, regarding said application.

No further affidavit will be necessary from the directors of your company.

As soon as a definite date and place for hearing is set, you will be notified.

Very truly yours,

Assistant Commissioner
of Reclamation

RECEIVED

June 27, 1932

Re: TWIN LAKES CANAL COMPANY
Applicati a for Transfer of Water Right

PRESTON RIVERDALE & MINK CREEK CANAL COMPANY
Preston
I d a h o

Gentlemen:

Attention: LORENZO JOHNSON, President

Regarding your protest against the issuance of a transfer
of water right requested by the TWIN LAKES CANAL COMPANY:
I shall conduct a hearing at Preston at 10:00 o'clock on
July 7, in some place to be designated by you.

I shall try to be in Preston early in the afternoon of
July 6 and would, if possible, like to go over the ground
before the hearing is held.

Very truly yours,

Assistant Commissioner
of Reclamation

FILED

Transfer File #515

June 30, 1932

Re: TWIN LAKES CANAL COMPANY
Application for Transfer of Water Right

PRESTON RIVERDALE & MINK CREEK CANAL COMPANY
Preston
Idaho

Gentlemen:

Attention: LORENZO JOHNSON, President

Due to unlooked for emergencies arising in Boise, I
shall be unable to be in Preston on July 7, as planned.

The hearing on the protest of the Preston Riverdale &
Mink Creek Canal Company against the issuance of the
transfer of water right requested by the Twin Lakes
Canal Company will be held in Preston on July 14 at
10:00 A.M.

Very truly yours,

Assistant Commissioner
of Reclamation

MICROFILMED

STATE OF IDAHO
DEPARTMENT OF RECLAMATION
BOISE, IDAHO

Date June 14, 1932

FRANKLIN COUNTY CITIZEN
Preston
Idaho

DEAR SIR:

Enclosed you will find notice for publication once a week for ~~four~~ ^{two} consecutive weeks prior to July 6, 1932, the date set for proof, the expense of the publication to be paid by the applicant, TWIN LAKES CANAL COMPANY of Dayton,
Idaho

to whom you should furnish proof of publication on or prior to the date set for proof.

Please acknowledge receipt of this notice and furnish this office with a copy of the first publication.

Very truly yours,

R. W. PARIS

Commissioner of Reclamation

MICROFILMED

JUN 27 1932

DEPARTMENT OF RECLAMATION

Weston Idaho June 25th 1932

Mr R W Faris,
Commissioner of Reclamation
BOISE IDAHO.

Dear Sir:-

As President of the Twin Lakes Canal Co I am writing you for information as to procedure in the case where we, Twin Lakes Canal Co is asking for the diversion of 4 C F S Ft of water from the Mink Creek Canal No4, I have been informed that there is going to be a protest, The President of the Mink Creek Irrigation Co No 4 told me they were not satisfied with the way same was advertised, Viz For the Diversion of 4 c f s when our agreement with Keller Bros, and the Mink Creek Irrigation Co No 4 calls for a 4925/16120 Part of the waters, which at a certain time of the season, in accordance with a certain Decree made and entered by the District Court of the U S for the District of Idaho Eastern Division, on the 14th day of July 1920, in a case then pending in said Court in which Utah Power and Light Co and Others, were defendants, Identified in the records of said Court as "In Equity No 4"

By said Decree the amount we purchased from the Keller Bros would equal 4 c f s at the first part of the season, and as you will notice by the agreement we sent you together with the application for transfer we are to be subject to the decree;

The above is their reason as I was told for the protest, if made;

Now what I want to know is, should we be represented at Boise on the 6th of July, in the event of a protest, or will due notice be given us for a hearing in the matter at some future date, as may be set by you?

Please advise me as to the manner of procedure, so we may be prepared to defend our rights,

By so doing you will greatly Oblige,

TWIN LAKES CANAL COMPANY

By

Thomas Preston
President,

RECEIVED

June 27, 1932

Re: TWIN LAKES CANAL COMPANY
Application for Transfer of Water Right

TWIN LAKES CANAL COMPANY
Weston
Idaho

Gentlemen:

Attention: THOMAS PRESTON, President

In reply to your letter of June 25 relative to application
for transfer of the KELLER BROS. water: We have received
a protest from the PRESTON RIVERDALE & MINK CREEK CANAL
COMPANY against the granting of this application.

A hearing will be conducted in Preston on July 7 at 10:00
A.M.. I shall endeavor to contact you prior to this time.

Very truly yours,

Assistant Commissioner
of Reclamation

PROFILMED

June 30, 1932

Re: TWIN LAKES CANAL COMPANY
Application for Transfer of Water Right

TWIN LAKES CANAL COMPANY
Weston
Idaho

Gentlemen:

Attention: THOMAS PRESTON, President

Due to unlooked for emergencies arising in Boise, I
shall be unable to be in Preston on July 7, as planned.

The hearing on the protest of the Preston Riverdale &
Mink Creek Canal Company against the issuance of the
transfer of water right requested by the Twin Lakes
Canal Company will be held in Preston on July 14 at
10:00 A.M.

Very truly yours,

Assistant Commissioner
of Reclamation

REFILMED

June 27, 1932

TWIN LAKES CANAL COMPANY
Application for Transfer of Water Right

Mr. E. J. BAIRD
Soda Springs
Idaho

Dear Sir:

Regarding the application of the TWIN LAKES CANAL COMPANY for transfer of water right: A protest has been filed by the PRESTON RIVERDALE & MINK CREEK CANAL COMPANY against the granting of this application.

I have set date of hearing, to be held at Preston on July 7, at 10:00 A.M. It appears to me that it would be advisable for you to attend this hearing.

I am planning on going over the ground on the afternoon of July 6, but think your presence would not be necessary until July 7.

Very truly yours,

Assistant Commissioner
of Reclamation

OFILMED

Re;Twin Lakes Canal Co.
Transfer Water Right

Soda Springs Idaho
June 29 1932

Mr. Mans H. Coffin
Asst. Commissioner of Reclamation
Boise. Idaho

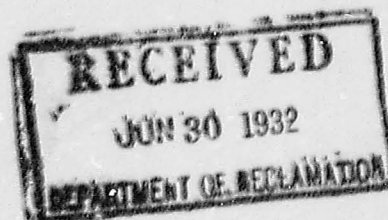
Dear sir;

As per your request of June 27, I will
meet you at Preston before 10 A.M. on July 7

I presume I can find out where you
are meeting without trouble. In that respect,
you might leave work at the hotel.

Very truly yours

E. J. Baird
Watermaster Dist. 5



July 20, 1932

Re: TRANSFERRED RIGHT No. 515

THE TWIN LAKES CANAL COMPANY
Weston
Idaho

Gentlemen:

Attention. Mr. THOMAS PRESTON

After my inspection in the field and after reviewing the evidence submitted at the hearing, this Department has decided to grant the transfer of water right, as requested by you.

Upon receipt of your check for \$1.00, we shall prepare Certificate of Transferred Right and mail it to you.

Very truly yours,

Assistant Commissioner
of Reclamation

MICROFILMED

September 12, 1932

Re: TRANSFER FILE No. 515

Mr. Arthur W. Hart
Prosecuting Attorney
Preston, Idaho

Dear Mr. Hart:

I note by your letter of September 8th that the Preston Riverdale & Mink Creek Canal Company desires to appeal from this department's decision relative to the transfer of water for the Twin Lakes Canal Company.

We have in our files both protests filed by your people. Verified copies of these may be obtained for \$1.00 each. I do not know whether it would be necessary to file these copies with your appeal or not.

Naturally, this department will accept service of the complaint but we will pass the burden of defending the case to the Twin Lakes Canal Company.

Yours very truly,

Assistant Commissioner
of Reclamation

MHC:DEA

CC: Jack Sanford
Clifton, Idaho

MICROFILMED

ARTHUR W. HART
PROSECUTING ATTORNEY
FRANKLIN COUNTY
PRESTON, IDAHO

Sept. 8th, 1932

Hon. R.W. Faris
Commissioner of Reclamation
Boise, Idaho

Dear Mr. Faris:-

The Stock-Holders of the Preston Riverdale & Minkcreek Canal Company, met last evening and decided to appeal to the District Court of the Fifth Judicial District of the State of Idaho, in and for Franklin County, from the order made by your department on the 19 day of July 1932, wherein the Twin Lakes Canal Company of Dayton, Idaho, was granted a certificate authorizing it to transfer 4 second feet of the water of Minkcreek, a tributary of Bear River from the lands from which it is claimed it is now being used, that is 655 acres in sections 19, 20, 27, 28, 30, 31, 32, and 33 Twp. 13 South, Range 41 East; also from sections 25, 36 Twp. 13 S. R. 40 E.B.M; Sec. 6 Twp. 14 S. R. 41 E.B.M to the following

All lands irrigated by the Twin Lakes Canal Co.

This company has a copy of the order made by you granting permission to make the transfer, but do not have a copy of the License that you granted or has it been ~~granted~~ delivered; I do not know whether you deliver the license before the 60 day period for appeal has expired or not.

I suppose your department would be willing to accept service of complaint.

Our company sent you, I am informed, two protests but I do not know whether they should be filed in the suit (that is certified copies thereof) or not. But if so, what would be the cost of getting a certified copy of the papers you have on file so as to perfect our appeal. Would be pleased to hear from you soon as the time for filing the appeal will soon expire.

Very truly,

Arthur W. Hart
ARTHUR W. HART

RECEIVED

SEP 10 1932

DEPARTMENT OF RECLAMATION

IN THE DISTRICT COURT

OF THE FIFTH JUDICIAL DISTRICT OF THE STATE OF IDAHOIN AND FOR FRANKLIN COUNTY

PRESTON RIVERDALE & HINGGREEN
CANAL COMPANY
a corporation

Plaintiff

vs.

THE TWIN LAKES CANAL COMPANY
a corporation;
ADAM & UELIAS KELLER
DEPARTMENT OF RECLAMATION
OF THE STATE OF IDAHO

Defendant

SUMMONS—For Service

The State of Idaho Sends Greetings to

the above named defendant.

YOU ARE HEREBY NOTIFIED, That a complaint has been filed against you in the District Court of the
FIFTH Judicial District of the State of Idaho, in and for the County of
FRANKLIN by the above named plaintiff, and you are hereby directed to
appear and plead to the said complaint within twenty days of the service of this summons, and you are further
notified that unless you so appear and plead to said complaint within the time herein specified, the plaintiff
will take judgment against you as prayed in said complaint.

WITNESS My hand and the seal of said District Court this 16th
day of September, 1932, 19.

ARTHUR W. HART

Attorney for Plaintiff

John A. Kopped

Clerk.

Residence or Post Office address:

PRESTON, Idaho.

Deputy.

No. _____ Filed _____, 19 _____, Clerk.

Recorded in Book _____, Page _____

IN THE DISTRICT COURT

OF THE FIFTH JUDICIAL DISTRICT OF THE STATE OF IDAHOIN AND FOR FRANKLIN COUNTY

PRESTON RIVERDALE & MINECREEK
CANAL COMPANY
a corporation

Plaintiff

vs.

THE TWIN LAKES CANAL COMPANY
a corporation;
ADAM & URIAS KELLER
DEPARTMENT OF RECLAMATION
OF THE STATE OF IDAHO

Defendant **3**

SUMMONS—For Service

The State of Idaho Sends Greetings to

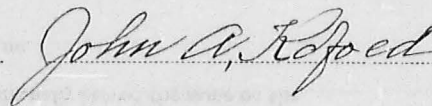
the above named defendant.....

YOU ARE HEREBY NOTIFIED, That a complaint has been filed against you in the District Court of the
FIFTH Judicial District of the State of Idaho, in and for the County of
FRANKLIN by the above named plaintiff, and you are hereby directed to
appear and plead to the said complaint within twenty days of the service of this summons, and you are further
notified that unless you so appear and plead to said complaint within the time herein specified, the plaintiff.....
will take judgment against you as prayed in said complaint.

WITNESS My hand and the seal of said District Court this 16th
day of September, 1932, 19.....

ARTHUR W. HART

Attorney for Plaintiff.....



Clerk.

Residence or Post Office address:

PRESTON, Idaho.

Deputy.

No. Filed, 19....., Clerk.

Recorded in Book....., Page.....

IN THE DISTRICT COURT OF THE FIFTH JUDICIAL DISTRICT
OF THE STATE OF IDAHO IN AND FOR FRANKLIN COUNTY

PRESTON RIVERDALE & MINKCREEK CANAL COMPANY
a corporation

Plaintiff

vs.

P E T I T I O N

THE TWIN LAKES CANAL COMPANY
a corporation,
ADAM and URIAS KELLER,
DEPARTMENT OF RECLAMATION
of the STATE OF IDAHO

Defendants

1.- Comes now the Plaintiff and makes this petition in appeal from the order granting transfer and certificate No 515 to the defendant Twin Lakes Canal Co of 4923/16120 of a certain water right bearing date of priority May 1st, 1882 for 13.1 cubic feet per second of the waters of Minkcreek, tributary of Bear River, Franklin County, Idaho, said fraction representing 4 cubic feet per second, decreed to Minkcreek Irrigation Company No 4 by decree of Judge Dietrich of the United States District Court, Eastern Division, in the case of Utah Power & Light Company vs. Last Chance Canal Co., et al, bearing date July 14, 1920, for the purpose of irrigation of the following lands: 655 acres in sections 19, 20, 28, 30, 31, 32, 33, Twp. 13 S. R. 41 E. B. M.; Sections 25, 36 Twp 13, Range 40 E. B. M. Section 6, Twp 14, Range 41 E. B. M. to be used upon

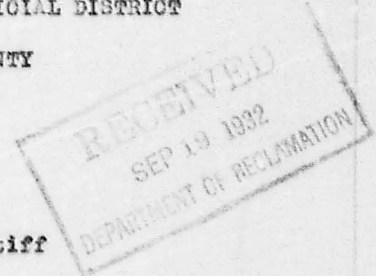
All lands lying under and irrigated by the Defendant corporation; said water right having been purchased by the said defendant The Twin Lakes Canal Company from defendants Adam and Urias Keller; and the said Defendant Department of Reclamation granting to said Defendant The Twin Lakes Canal Company, Certificate No 515 by its order dated July 19th, 1932, against the protests of the Plaintiff herein, of transferring the right of the use of said water right from the lands first above described to the lands Under the Twin Lakes Canal Company, defendant herein.

2.- Plaintiff alleges that it is a corporation organized and existing under the laws of the State of Idaho.

3.- That there is decreed to it certain waters in the Minkcreek in the action mentioned in Paragraph one hereof; that the water so decreed and the lands upon which the same is to be used is described in said action and duly recorded at page. 380. Book. V. Judgment Records of Franklin County.

4.- That the lands upon which the said 4 cubic feet per second has heretofore been used, be the same 655 acres or more or less are rolling side-hill and sloping lands, above and sloping down to the Minkcreek ~~canal~~ where said water is diverted to the Plaintiff and to the Defendant The Twin Lakes Canal Company, as follows: - 36 Second feet to Plaintiff of the priority May 1st 1888 and 300 second feet to Defendant, The Twin Lakes Canal Company of the priority April 1st 1901

5.- That the lands irrigated by Plaintiff's stockholders are located in the City of Preston and the adjacent farms; also in Riverdale; that the lands irrigated by Defendant, The Twin Lakes Canal Company are located West of Bear River, Franklin County; that the lands where the Defendants Adam & Urias Keller used said 4 second feet of water

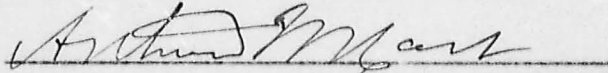


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prior to the date of the application to transfer its place of use to the lands of the Defendant The Twin Lakes Canal Company, on the lands to which said water was made appertenant, to-wit, the 655 acres described by sections in Paragraph one hereof; which said lands are sloping lands as aforesaid, and the waste, surplus, drainage, seepage, percolations, over-flow, under-flow from the said 4 second feet on said or any of the said 655 acres of lands, finds its way within a very short time to the the Minkcreek from which this plaintiff at a point below where said waters come into the said Creek, diverts its decreed water rights as aforesaid; and for many years all of the said waste and seepage waters have been used by Plaintiff and has augmented the flow in Plaintiff's canal.

6.-Plaintiff alleges that it would be a decided injury to it, in the loss of said seepage waters, if the said Defendants were permitted to change the place of use as requested by the said Defendant The Twin Lakes Canal Company, and as permitted by order of Defendant Reclamation Department in granting License No 515 under dated of July 19, 1932. (Certified copies of the License No 515, of the said order (Dated July 19, 1932) and the protests of Plaintiff, are attached) and made part hereof. 7.-That if said water could be changed from its present point of use to the contemplated point of use, Plaintiff would be deprived of water it has used for over a quarter of a century, to its injury in the loss of part of its water right; all waste, surplus, seepage and/or other percolating waters from the irrigation of the said 655 acres, finds its way, by gravity into the Creek from which at a point below, Plaintiff for all the years aforesaid has maintained its point of diversion.

Wherefore your petitioner prays that this appeal may be heard by the Court; that the order for the said License No 515 and the said License No 515 issued herein under date of July 19th, 1932, be revoked and held for naught; that the Court make its special finding that such a transfer would be and is an injury to the stock-holders of the Plaintiff corporation. Plaintiff prays for general relief in the premises.



Attorney for Petitioner

Preston, Idaho

State of Idaho

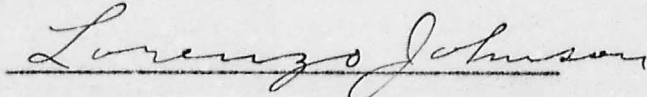
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SS:

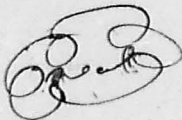
County of Franklin.

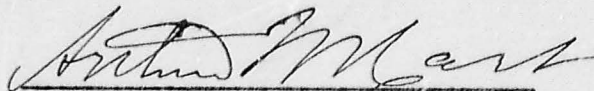
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Lorenzo Johnson, being first duly sworn says that he is the President of the Plaintiff Corporation; that he has read the foregoing petition and knows the contents thereof; that he believes the same to be true.



Subscribed and sworn to before me this 8th day of September, 1932.

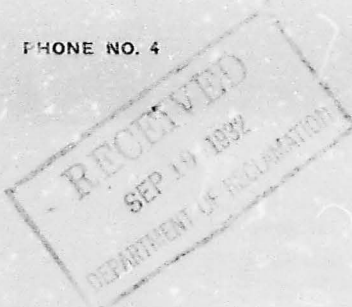




Notary Public

Preston, Idaho

MICROFILMED



ARTHUR W. HART
PROSECUTING ATTORNEY
FRANKLIN COUNTY
PRESTON, IDAHO

Sept. 16th, 1932

RECLAMATION DEPARTMENT
BOISE IDAHO

GENTLEMEN:-

I am enclosing herewith petition in appeal of the decision of your department in the case of Twin Lakes Canal Company for application to change the place of use of certain water they purchased from the Kellers.

It will not be necessary for you to make copies of the two letters mailed your department by way of protest.

In accordance with your letter of the 12th inst., written by Mans H Coffin, Director, I am asking that you send acceptance of service of the enclosed complaint and summons.

I suppose it will be necessary for your department to send us a certified copy of the order and certificate of transfer. Let me know what your fee is.

Very truly,


ARTHUR W. HART

MICROFILMED

September 18, 1932

RE: TRANSFER FILE No. 515

Mr. Arthur W. Hart
Preston, Idaho

Dear Mr. Hart:

As per your request of September 16th we are enclosing a certified copy of the Certificate of Water Right Transfer No. 515, and the Order Granting Transfer for same.

The cost of this service will be \$2.50. Kindly make check payable to the Commissioner of Reclamation.

Yours very truly,

Assistant Commissioner
of Reclamation.

MHC:DEA

CRG FILMED

September 19, 1932

RE: TRANSFER FILE No. 515

Mr. Arthur W. Hart
Preston, Idaho

Dear Mr. Hart:

We hereby acknowledge receipt of copy of Summons for Service in the case of Preston Riverdale & Minkcreek Canal Company vs. The Twin Lakes Canal Company, a corporation, Adam and Urias Keller, Department of Reclamation of the State of Idaho, now pending in the District Court of the Fifth Judicial District of the State of Idaho.

Very truly yours,

Assistant Commissioner
of Reclamation

MHC:DEA

CC to Twin Lakes Canal Company, Preston, Idaho.

MICROFILMED

Franklin County Citizen

FORM 21

Notice of Proposed Transfer of Water Right

Notice is hereby given that TWIN LAKES CANAL COMPANY of Dayton
Idaho, has applied to the Commissioner of Reclamation of the State of Idaho for a certificate authorizing him to transfer the use of 4.00 cubic feet per second
of the water of MINK CREEK, a tributary of BEAR RIVER
from the land upon which it is now used, i. e. 655 acres in Sections 19, 20, 27, 28, 30, 31, 32
and 33, Township 13 South, Range 41 East of Boise Meridian; Sections 25 and 36, Township
13 South, Range 40 East of Boise Meridian; Section 6, Township 14 South, Range 41 East of
Boise Meridian
to the following described tract All the lands lying under, and irrigated by, the TWIN LAKES
CANAL COMPANY

And that, on the 6th day of July, A. D.
1932, at Boise-Idaho
before the Commissioner of Reclamation, or his authorized agent, the opportunity will be given to any
and all persons to appear and present for his consideration any reason or reasons why a certificate
should not be issued authorizing such transfer.

R. W. FARIS

Commissioner of Reclamation.

MICROFILMED



STATE OF IDAHO

DEPARTMENT OF WATER RESOURCES EASTERN REGION

John V. Evans
Governor

A. Kenneth Dunn
Director

150 Shoup — Suite 15
Idaho Falls, Idaho 83402
(208) 525-7161

November 15, 1983

RE: Application for Transfer No. 11-0836A MINK CREEK IRRIGATION COMP.
13-0044 FRANKLIN MAPLE CREEK PIONEER (Am.)

Preston Citizen
Box 472
Preston, ID 83263

Gentlemen :

Would you please submit an affidavit of publication and certified bill in connection with the above referenced application(s). The legal notice was to have been published in your paper on October 27 and November 3, 1983.

Your cooperation in this matter is greatly appreciated.

Very truly yours,

COLLEEN WRAY
Adm. Secretary

MICROFILM

INTER-DEPARTMENT MEMO — 1

FROM Sharla *pc*

DATE 3/6/84

TO File 11-0836

SUBJECT

See file 11-0835 for all correspondence regarding transfer No. 2947.

SIGNATURE