

BEFORE THE DEPARTMENT OF WATER RESOURCES
OF THE
STATE OF IDAHO

IN THE MATTER OF APPLICATION FOR	)	
	)	
TRANSFER NO. 2761 OF WATER RIGHT	)	PRELIMINARY ORDER DENYING
	)	APPLICATION FOR TRANSFER
NO. 45-00533 FILED IN THE NAME OF	)	
	)	
THEODORE STURGILL	)	
	)	

This matter having come before the Department of Water Resources (department) in the review of an application for transfer of water right, the department makes the following Findings of Fact, Conclusions of Law and Order:

FINDINGS OF FACT

1. On March 7, 1904, the Fourth District Court issued a decree awarding J.E. Bower the entire flow of Cold Springs for irrigation purposes with a priority of use of 1870. On April 29, 1925 the department approved Transfer No. 355 changing the place of use to 27 acres in the NENE and 40 acres in the SENE, Section 1, T12S, R19E, B.M., Cassia County.

2. On December 8, 1982, Theodore Sturgill (applicant) filed Application for Transfer No. 2761 with the department proposing to divert the water in Lot 3, Section 7, to irrigate 67 acres within Section 6, T12S, R20E, B.M., Cassia County.

3. Review by the department found that proof of ownership of the right had not been submitted with the application and that the applicant is not the current land owner of record. The applicant stated that the right had been used at the proposed place of use for 30 years prior to filing the application for transfer on land owned by the applicant.

4. Right No. 45-00533 has not been claimed in the Snake River Basin Adjudication at either the original place of use or the proposed transfer place of use. The applicant has, however, identified irrigation of the proposed place of use through combined groundwater rights and a sprinkler irrigation system installed in 1977.

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5. On February 23, 1994, the department corresponded with Mr. Sturgill requesting proof of ownership and evidence that a Snake River Basin Adjudication Claim has been filed. The applicant did not respond.

6. The application for transfer should be denied for failure to show ownership of the water right.

CONCLUSIONS OF LAW

1. Section 42-222, Idaho Code, provides in pertinent part as follows:

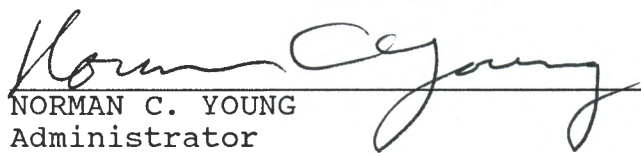
"Any person, entitled to the use of water whether represented by license issued by the department of water resources, by claims to water rights by reason of diversion and application to a beneficial use as filed under the provisions of this chapter, or by decree of the court, who shall desire to change the point of diversion, place of use, period of use or nature of use of all or part of the water, under the right shall first make application to the department of water resources for approval of such change." (Emphasis added.)

2. The department should deny the application for transfer since the applicant has not shown that he is entitled to the use of the right sought for transfer.

ORDER

IT IS, THEREFORE, HEREBY ORDERED That Application for Transfer of Water Right No. 45-00533 for the diversion of all the waters of Cold Springs is **DENIED**.

Dated this 16TH day of OCTOBER, 1995.


NORMAN C. YOUNG
Administrator

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SOUTH IDAHO PRESS

BURLEY, IDAHO

AFFIDAVIT OF PUBLICATION

County of Cassia,)
STATE OF IDAHO) ss.
)

Mary Summers, being first
duly sworn, deposes and says that s/he is the

Clerk of the South Idaho
Press, a daily newspaper published at Bur-
ley, Idaho, in the county aforesaid and that
the paper is of general circulation therein.
Deponent further states that the printed no-
tice attached hereto was duly published
according to law in the regular editions of

The South Idaho Press for Two
consecutive weeks, commencing with the issue
dated December 23 1982, and ending
with the issue dated December 30, 1982

Mary Summers

Subscribed and sworn to before me
this 31st day of December

1982

Notary Public

Cost of Publication \$ 15.60

Notary Fee

Total Cost

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Department of Water Resources
Cassia County District Office

Legal Notices

82-366

NOTICE OF PROPOSED
CHANGE OF WATER RIGHT
No. 45-0533
T-355

Notice is hereby given that Theodore Sturgill of
Kimberly, Idaho has applied to the Department of
Water Resources for a change of place of use of
the waters from Cold Springs tributary to Dry
Creek. The right sought to be changed is evidenced
by decree to J.E. Bower in case of Frank J. & Annie
Terrill vs. Samuel L. Land et al dated March 7,
1904 in Fourth District Court county of Cassia and
is recorded as follows:

Amount: Entire flow of Cold Springs. Priority:
March 15, 1870. Point of Diversion: NW $\frac{1}{4}$ NE $\frac{1}{4}$,
Sec. 12, T12S; R19E, B.M., Cassia County. The
water is used for irrigation of 67 acres from March
15 to November 15 within the E $\frac{1}{2}$ NE $\frac{1}{4}$, Sec. 1,
T12S, R19E, B.M.

TO BE CHANGED AS FOLLOWS:

Amount: No change.

Point of Diversion: L13, Sec. 7, T12S, R20E, B.M.,
Cassia County. The water is used for irrigation of
67 acres from March 15 to November 15 within
the S $\frac{1}{2}$ NE $\frac{1}{4}$, N $\frac{1}{4}$ SE $\frac{1}{4}$, Sec. 6, T12S, R20E.

Any protests filed against approval of the
proposed change of the right described above must
be filed with the Department of Water Resources,
1041 Blue Lakes Blvd. North, Twin Falls, Idaho
83301, on or before January 10, 1983.

/s/ A. KEN DUNN
Director

Published in the South Idaho Press December 23
and 30, 1982

JAN 4 1983

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STATE OF IDAHO

DEPARTMENT OF WATER RESOURCES

Department of Water Resources

APPLICATION FOR TRANSFER OF WATER RIGHT

To Change the Point of Diversion and/or the Place of Use

Name of applicant Theodore Sturgill Phone 423-5434Post Office address Route #2, Kimberly, ID 83334

A. DESCRIPTION OF RIGHT AS RECORDED

1. Right evidenced by:

- a. Decree No. _____ Decreed to J. E. Bower (Name)
in case of Frank J. & Annie Terrill vs Samuel L. Land et al
dated in 3-7-1904 in Fourth District county of Cassia
(Name of court)
- b. License No. _____ issued by the Idaho Department of Water Resources
- c. Claim No. _____ on file with the Idaho Department of Water Resources

2. If applicant is not the original holder of this right, explain how it was acquired and attach a copy of the deed or other evidence of ownership of the land to which the right is appurtenant _____
purchase of water right

3. Source of water Cold Springs tributary to Dry Creek

4. Date of priority 1870

5. Water is used for the following purposes:

amount all for irrigation purposes from Mar 15 to Nov 15
amount _____ for _____ purposes from _____ to _____
amount _____ for _____ purposes from _____ to _____
(month/day — both dates inclusive)

6. Total amount of water under right: a. _____ cubic feet per second
&/or
b. _____ acre feet per annum

7. Location of original point of diversion is NW $\frac{1}{4}$ of NE $\frac{1}{4}$ of Section 12
Township 12S Range 19E, B.M., in Cassia County
Additional points of diversion, if any _____

8. Lands irrigated or place of use:

TWP.	RANGE	SEC.	NE $\frac{1}{4}$				NW $\frac{1}{4}$				SW $\frac{1}{4}$				SE $\frac{1}{4}$				TOTALS
			NE $\frac{1}{4}$	NW $\frac{1}{4}$	SW $\frac{1}{4}$	SE $\frac{1}{4}$	NE $\frac{1}{4}$	NW $\frac{1}{4}$	SW $\frac{1}{4}$	SE $\frac{1}{4}$	NE $\frac{1}{4}$	NW $\frac{1}{4}$	SW $\frac{1}{4}$	SE $\frac{1}{4}$	NE $\frac{1}{4}$	NW $\frac{1}{4}$	SW $\frac{1}{4}$	SE $\frac{1}{4}$	
12S	19E	1	27			40													67

Total number of acres to be irrigated 67

9. Describe any other water rights used for the same purpose as described above _____
?

10. To your knowledge, has any portion of this water right undergone a period of five or more consecutive years of nonuse? No If yes, describe in item D, REMARKS.

B. DESCRIPTION OF PORTION OF RIGHT OWNED BY APPLICANT (If the entire right is owned by the applicant, omit part B).

1. Amount of water: a. _____ cubic feet per second
&/or
b. _____ acre feet per annum
2. Point of diversion _____ 1/4 _____ 1/4, Section _____ Township _____
Range _____, B.M., _____ County
Additional points _____
3. Place of use:

TWP.	RANGE	SEC.	NE 1/4				NW 1/4				SW 1/4				SE 1/4				TOTALS
			NE 1/4	NW 1/4	SW 1/4	SE 1/4	NE 1/4	NW 1/4	SW 1/4	SE 1/4	NE 1/4	NW 1/4	SW 1/4	SE 1/4	NE 1/4	NW 1/4	SW 1/4	SE 1/4	

Total number of acres to be irrigated _____

C. DESCRIPTION OF RIGHT OR PORTION THEREOF, AFTER THE REQUESTED CHANGE

1. General Information

- a. Amount of water to be diverted all of spring c.f.s. &/or _____ acre feet
Check dam,
- b. Description of diverting works Ditch to gravity system
- c. Describe the reasons for the proposed changes Show how the water has been used for many years

2. Change in point of diversion

Point of diversion Lot 3 1/4 _____ 1/4, Section 7 Township 12S
Range 20E, B.M., Cassia County
Additional points _____

3. Change in place of use

- a. Are there liens, mortgages, or contracts on the lands from which you propose to transfer the water right which limit your authority to make the proposed change? Yes _____ No XX. If yes, provide a statement agreeing to the proposed change from the holder of the lien, mortgage or contract.
- b. Describe the affect on the land now irrigated if the place of use is changed pursuant to this transfer
No affect - water has been used on present lands for at least 30 years.

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c. Describe the land or place of use to which the right will be transferred:

T # 2761

[illegible]

Total number of acres to be irrigated 67

4. Describe any other water rights used for the same purpose as described above. _____
groundwater licenses
5. Draw a map indicating the new point(s) of diversion and/or the new land to be irrigated. Show clearly the land involved by section, township and range number.

A grid of 10 columns and 10 rows with dashed lines. A faint circular stamp is visible on the left side, and a red date stamp "DEC 20 1995" is located in the lower right quadrant.

SCALE: 2 inches equal 1 mile. Draw plan in ink.

D. REMARKS

The maximum amount of water reaching the place of use is about 30-35 miner's inches.

I hereby assert that no one will be injured by such change and that the change does not constitute an enlargement in use of the original right. The information contained in this application is true to the best of my knowledge.

I understand that any willfull misrepresentations made in this application may result in voiding its approval.

Theodore Shetgall
(Signature of Applicant)

Subscribed and sworn to before me this 6th day of December, 19 82

Mary A. Hill
(Notary Public)

My commission expires Life

ACTION OF THE DIRECTOR, DEPARTMENT OF WATER RESOURCES

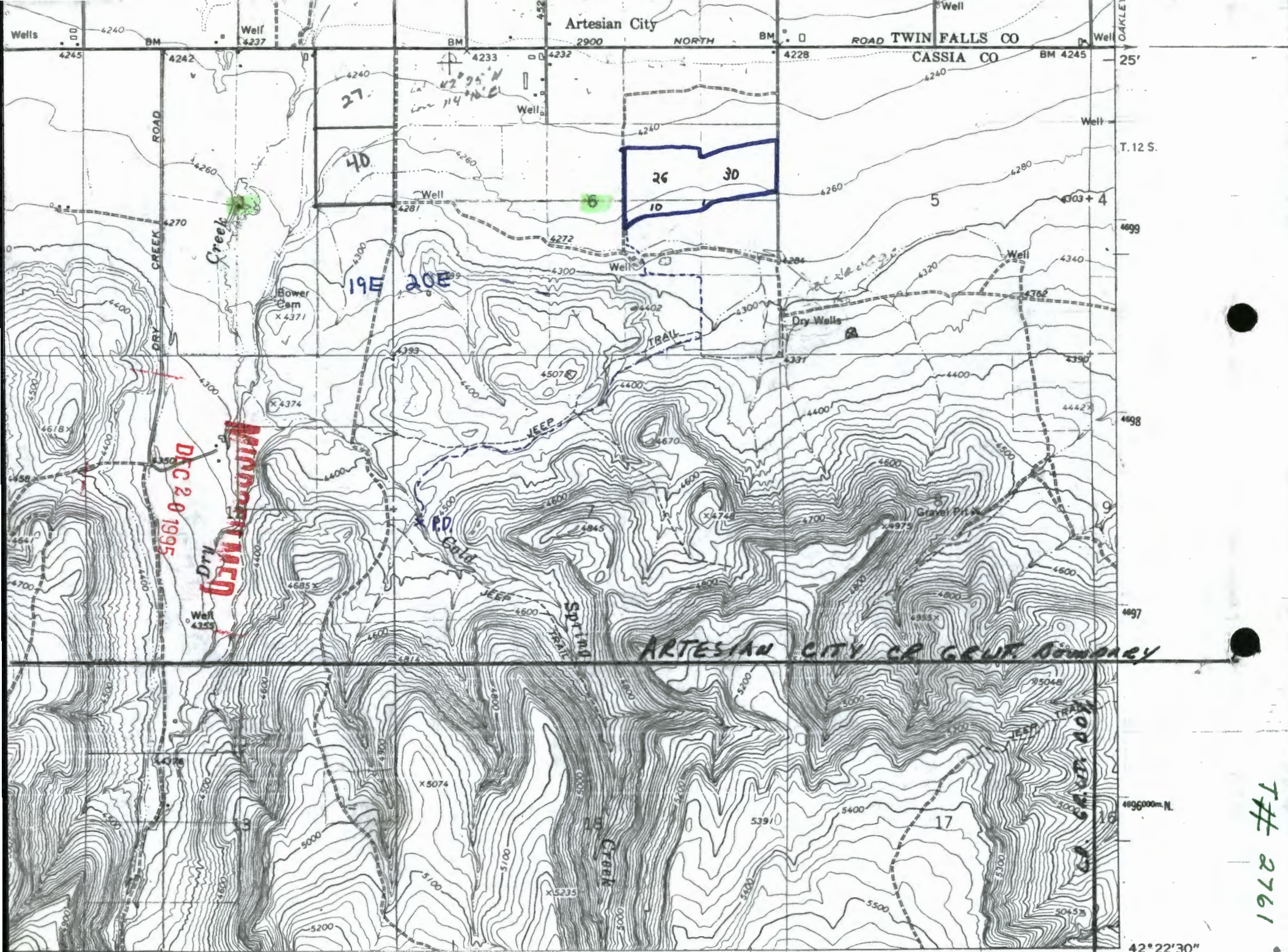
This is to certify that I have examined Application for Transfer of Water Rights No. _____ and said application is hereby _____, subject to the following limitations and conditions:

Witness my hand this _____ day of _____, 19 _____.

FOR DEPARTMENT USE ONLY

Received by <i>js</i>	Date <i>12-8-82</i>	Protest filed by <i>None</i>
Prelim. check by <i>ADM</i>	Fee <i>\$50.</i>	
Receipted by <i>js</i>	Date <i>12-8-82 #23874</i>	
Published in <i>South Idaho Press</i>		Copies of protest forwarded by _____
Pub. dates <i>12/23 + 12/30/82</i>		Hearing held by _____ Date _____
Watermaster recommendation requested on <i>12/17/82</i>		Recommended for <u>approval</u> denial
_____ rec'd. <i>12/20/82</i>		by <i>ADM</i>

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T# 2761

42°22'30"

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T#2761

S T A T E O F I D A H O
DEPARTMENT OF RECLAMATION
CERTIFICATE OF WATER RIGHT
Transferred Right No. 355.

This is to certify that Frank Stoner of Murtaugh, County of Twin Falls, State of Idaho, has a right to the use of the waters of Cold Springs, for irrigation and domestic purposes, and that said right has been confirmed by decree of the District Court of the Fourth Judicial District of the State of Idaho, in and for the County of Cassia, in the case of Frank J. Terrill, et al, plaintiffs, vs. Samuel Land, et al, defendants, wherein all of the waters of Cold Springs were dedicated to certain lands, which said lands were not particularly described in the decree, but that said waters have at all times been used on the Southwest quarter of the Southeast quarter (SW $\frac{1}{4}$ SE $\frac{1}{4}$) Section 1, Twp. 12 S., R. 19 E., B.M., said right bearing date of priority of 1870; that said decree has been entered in the records of the Department of Reclamation of the State of Idaho, at Boise, in Book 3 of Decrees, at page 986; that upon the application of Frank Stoner for a transfer of water right, made before the Commissioner of Reclamation of the State of Idaho, and said application having been granted, the right to the use of all of the waters of Cold Springs is hereby abandoned upon the lands above described and a description of the lands to be irrigated under such right and to which the water right hereby confirmed shall by this certificate 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 such purposes and shall not exceed the following amount, to-wit:

All of the waters of Cold Springs, with
Priority of 1870.

Twp.	Rge.	Sec.	NE $\frac{1}{4}$	NW $\frac{1}{4}$	SW $\frac{1}{4}$	SE $\frac{1}{4}$	Totals
			NE $\frac{1}{4}$ NW $\frac{1}{4}$ SW $\frac{1}{4}$ SE $\frac{1}{4}$	NE $\frac{1}{4}$ NW $\frac{1}{4}$ SW $\frac{1}{4}$ SE $\frac{1}{4}$	NE $\frac{1}{4}$ NW $\frac{1}{4}$ SW $\frac{1}{4}$ SE $\frac{1}{4}$	NE $\frac{1}{4}$ NW $\frac{1}{4}$ SW $\frac{1}{4}$ SE $\frac{1}{4}$	
12	S.	19	E.	1	27	40	67

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 the State of Idaho.

No right to the use of waters on the lands herein described exists at the date of this certificate except as herein stated.

WITNESS, The seal and signature of the Commissioner of Reclamation of the State of Idaho, affixed at Boise, Idaho, this 29th day of April, 1925.

W. G. SWENDSEN
Commissioner of Reclamation

By GEO. N. CARTER
Assistant

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STATE OF IDAHO
DEPARTMENT OF RECLAMATION

IN THE MATTER OF THE APPLICATION)
of Frank Stoner for Transfer of)
Water Right: Water District No.) ORDER GRANTING TRANSFER
31; Case No. 137)

WHEREAS, On the 7th day of March, 1925, at the Department of Reclamation of the State of Idaho, at Boise, the matter of the application of Frank Stoner for transfer of water right, came regularly on for hearing, pursuant to the published notice: and

WHEREAS, No one appeared on the date set for hearing, either in person or by affidavit, to protest against the said application and the evidence filed by the application shows that a greater duty of water would result by reason of the said transfer, and that no one would be injured thereby:

IT IS THEREFORE, Hereby ordered that the said application for transfer be granted and that the certificate of transfer be issued the applicant herein.

IN WITNESS WHEREOF, I have hereunto set my hand and affixed the official seal of my office at Boise, Idaho, this 22nd day of April, 1925.

W. G. SWENDSEN
Commissioner of Reclamation

GEO. N. CARTER

By _____
Assistant



45-2-2

SECOND DIVISION

RAVENEL MACBETH, *Commissioner*

MACKAY, IDAHO

1912.

Decreed Water Rights
Dry Creek, Cassia County.

In the District Court of the Fourth Judicial District
of the State of Idaho, in and for Cassia County.

Frank J. Terrill and
Annie Terrill,
Plaintiffs.

vs.

Samuel L. Land, A. J. Fuller and
J. E. Bower,

Defendants.

Decree

This cause coming on to be heard upon the findings of Fact and Conclusions of Law herein filed, and the Court being fully advised in the premises; it is hereby ORDERED, ADJUDGED AND DECREED.

1st. That the plaintiff, Frank J. Terrill, he and is hereby awarded the use of the amount of water hereinafter stated from the waters of Dry Creek in

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each year to-wit: 460 inches dated from December 31st, 1877.

2nd. That the plaintiff, Annie Terrill be, and she is hereby awarded the use of the amount of water hereinafter stated from the waters of Dry Creek in each year to-wit: 80 inches dated from March 1st, 1900.

3rd. That the defendant, J. E. Bower, be and he is hereby awarded the use of the amount of water hereinafter stated from the waters of Dry Creek each year to-wit: 125 inches commencing with the irrigating season of 1879, and also all the waters of Cold Springs commencing with the irrigating season of 1870. Also 160 inches from Dry Creek, dated the 1st day of March 1882; also 160 inches dated March 1st, 1883; also 80 inches dated March 1st, 1884. 45-0533

4th. It is further ordered, adjudged and decreed that the plaintiff, Frank J. Terrill and Annie Terrill, have the right to the use of one-half of each and all of the divers appropriations of water awarded to defendant, J. E. Bower, and that said J. E. Bower is hereby adjudged and decreed the right to the use of one-half of all the waters awarded the plaintiffs from said creek.

5th. That the defendant, A. J. Fuller, be and he is hereby awarded the use of the amount of water hereinafter stated from the waters of Dry Creek in each year, to-wit: 130 inches dated March 1st, 1884.

6th. It is further ordered, adjudged and decreed that the defendant, A. J. Fuller, be and he is hereby awarded the exclusive right to the use of the waters of Fuller Springs situated upon the said defendant Fuller's land.

7th. That the defendant, Samuel L. Land, be

UNRECORDED



State of Idaho

DEPARTMENT OF WATER RESOURCES

1301 North Orchard Street, Statehouse Mail, Boise, Idaho 83720-9000

Phone: (208) 327-7900 FAX: (208) 327-7866

PHILIP E. BATT
GOVERNOR

KARL J. DREHER
DIRECTOR

OCTOBER 16, 1995

THEODORE STURGILL
ROUTE #2
KIMBERLY ID 83334

RE: Permit No. 45-00533

Dear Permit Holder:

The accompanying order is a "preliminary order" issued by the department pursuant to section 67-5243, Idaho Code. It can and will become a final order without further action of the department unless a party petitions for reconsideration within fourteen (14) days after issuance as further described below:

PETITION FOR RECONSIDERATION

Any party may file a petition for reconsideration of a preliminary order with the hearing officer within fourteen (14) days of the service date of this order. The hearing officer will act on a petition for reconsideration within twenty-one (21) days of its receipt, or the petition will be considered denied by operation of law. See section 67-5243(3) Idaho Code.

EXCEPTIONS AND BRIEFS

Within twenty-one (21) days after (a) the service date of a preliminary order, (b) the service date of a denial of a petition for reconsideration from this preliminary order, or (c) the failure within twenty-one (21) days to grant or deny a petition for reconsideration from this preliminary order, any party may in writing support or take exceptions to any part of a preliminary order and may file briefs in support of the party's position on any issue in the proceeding. Otherwise, this preliminary order will become a final order of the agency.

If any party appeals or takes exceptions to this preliminary order, opposing parties shall have twenty-one (21) days to respond to any party's appeal. Written briefs in support of or taking exceptions to the preliminary order shall be filed with the Director. The Director retains the right to review the preliminary order on his own motion.

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~ Celebrating Our Centennial Year of Service to Idaho 1895-1995 ~

Database Updated 01-16-96/Denied 28.

ORAL ARGUMENT

If the Director grants a petition to review the preliminary order, the Director shall allow all parties an opportunity to file briefs in support of or taking exceptions to the preliminary order and may schedule oral argument in the matter before issuing a final order. If oral arguments are to be heard, the Director will within a reasonable time period notify each party of the place, date and hour for the argument of the case. Unless the Director orders otherwise, all oral arguments will be heard in Boise, Idaho.

CERTIFICATE OF SERVICE

All exceptions, briefs, requests for oral argument and any other matters filed with the Director in connection with the preliminary order shall be served on all other parties to the proceedings in accordance with Rules of Procedure 302 and 303.

FINAL ORDER

The Director will issue a final order within fifty-six (56) days of receipt of the written briefs, oral argument or response to briefs, whichever is later, unless waived by the parties or for good cause shown. The Director may remand the matter for further evidentiary hearings if further factual development of the record is necessary before issuing a final order. The department will serve a copy of the final order on all parties of record.

Section 67-5246(5), Idaho Code, provides as follows:

Unless a different date is stated in a final order, the order is effective fourteen (14) days after its issuance if a party has not filed a petition for reconsideration. If a party has filed a petition for reconsideration with the agency head, the final order becomes effective when:

- (a) the petition for reconsideration is disposed of; or
- (b) the petition is deemed denied because the agency head did not dispose of the petition within twenty-one (21) days.

APPEAL OF FINAL ORDER TO DISTRICT COURT

Pursuant to sections 67-5270 and 67-5272, Idaho Code, if this preliminary order becomes final, any party aggrieved by the final order or orders previously issued in this case may appeal the final order and all previously issued orders in this case to district court by filing a petition in the district court of the county in which:

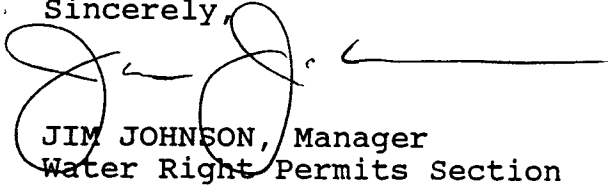
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- i. A hearing was held,
- ii. The final agency action was taken,
- iii. The party seeking review of the order resides, or
- iv. The real property or personal property that was the subject of the agency action is located.

The appeal must be filed within twenty-eight (28) days of this preliminary order becoming final. See section 67-5273, Idaho Code. The filing of an appeal to district court does not itself stay the effectiveness or enforcement of the order under appeal.

Sincerely,



JIM JOHNSON, Manager
Water Right Permits Section

JJ:rl

Enclosure

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CERTIFICATE OF MAILING

I hereby certify that on the 16th day of October, 1995, I mailed a true and correct copy, postage prepaid, of Preliminary Order Denying Application for Transfer No. 2761 of Water Right 45-00533 to the person(s) listed below:

Theodore Sturgill
Route #2
Kimberly ID 83334



Roberta Loveall
Clerical Specialist

MINNESOTA

DEC 20 1995

MEMORANDUM

TO: FILE 45-00533

FROM: PAM SKAGGS/^{CS}STATE OFFICE

SUBJECT: SUMMARY TRANSFER NO. 2761

DATE: May 10, 1994

=====

Transfer No. 2761 was filed on 12-08-82 to change the point of diversion and place of use under decreed Right No. 45-00533, an irrigation right from Cold Springs tributary to Dry Creek. Region review was completed 07-13-93 and the transfer file received in the State Office 07-19-93.

Preliminary review found that the original place of use is not currently owned by the applicant and no proof of ownership or release by the land owner of record had been submitted with the application. The application states that the right had been used at the proposed location for 30 years when the application was filed. The proposed place of use is owned by the applicant.

Further review of overlapping rights on both the original and proposed place of use reflect use of groundwater/surface rights used on the original place of use and only groundwater used on the proposed place of use. Right No. 45-00533 was not claimed in the Snake River Basin Adjudication at any location.

Rights claimed by the applicant at the proposed place of use reflect a sprinkler irrigation system using specific combined groundwater rights and no other rights on the same land.

A letter was sent to Mr. Sturgill on 02-23-94 requesting the necessary proof of ownership or release and evidence that a SRBA Claim had been filed, or a statement withdrawing the transfer application. The letter was not returned and no response was received.

A Preliminary Order to Reject the Transfer Application has been prepared in order to clear Department records of this apparently unessential transfer application that cannot be processed without the requested information.

MINOR REVISION

DEC 20 1995



State of Idaho

DEPARTMENT OF WATER RESOURCES

1301 North Orchard Street, Statehouse Mail, Boise, Idaho 83720-9000

Phone: (208) 327-7900 FAX: (208) 327-7866

CECIL D. ANDRUS
GOVERNOR

R. KEITH HIGGINSON
DIRECTOR

February 23, 1994

Theodore Sturgill
Rt. 2
Kimberly, ID 83334

RE: Transfer No. 2761 of Water Right No. 45-00533

Dear Mr. Sturgill:

The above referenced transfer has recently been sent to our state office for processing. A review of the records have raised several questions that need to be addressed before further processing can occur.

Transfer Application No. 2761 was filed requesting a change in the place of use of Right No. 45-00533. This right is an irrigation right from Cold Springs tributary to Dry Creek. No record of a Snake River Basin Adjudication Claim can be found for this right. A check of the proposed place of use show the associated groundwater rights have been claimed and reflect a change to a groundwater sprinkler system at some point in time. Is Right No. 45-00533 no longer used?

Also, in order to change the place of use of a water right, proof of ownership of the right, or the land from which it is being removed, is required. This has not been included with the transfer application.

If you have an interest in pursuing this transfer, please submit proof of ownership and evidence that a SRBA Claim has been filed on this right.

If you have no further interest in this transfer, please submit a statement requesting that the transfer be withdrawn.

I appreciate your assistance in this matter and will hold the application pending your response. If I do not receive a response within 15 days, steps will be taken to remove the transfer from our records. If you require any further assistance, please contact me directly at 327-7943 and I will be happy to assist you.

Sincerely,

A handwritten signature in cursive script that reads "Pamela Skaggs".

PAMELA SKAGGS
Water Resource Agent

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APPLICATION FOR TRANSFER OF WATER RIGHT

DEC 20 1982

NO. 45-0533
T-355

Department of Water Resources
Southern District Office

RECOMMENDATION OF WATERMASTER

I, Lloyd T. Hicks, watermaster of District 45-N,
of Water District No. 45-N, County of Twin Falls, State of Idaho,
whose address is RT-1, Mustang Id.
have read the attached copy of the application for transfer of water right for _____
Theodore Stagg, and to the best of my knowledge believe the
(name)
application to be true.

A. I hereby endorse the above numbered Application for Transfer and recommend
that the Director of the Department of Water Resources approve the transfer subject to
the following conditions: ~~none~~ no conditions

OR

B. I do not endorse approval of the above numbered Application for Transfer as re-
quested for the following reasons: _____

Dated at 12/20/82, Idaho, this 20 day of dec. 19 82

Lloyd T. Hicks
(signature)

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Please use reverse side if needed.



STATE OF IDAHO
DEPARTMENT OF WATER RESOURCES
SOUTHERN REGION

John V. Evans
Governor

C. Stephen Allred
Director

1041 Blue Lakes Blvd. North
Twin Falls, Idaho 83301
(208) 734-3578

December 17, 1982

Lloyd Hicks
Watermaster District 45-N
Murtaugh, Idaho 83344

Re: Application for Transfer of Water Right No. 45-0533 T-355

Dear Mr. Hicks

Enclosed is a copy of an Application for Transfer of a Water Right within your District, and Watermaster's Recommendation Form.

Section 42-222 of the Idaho Code requires that the watermaster must be advised of proposed changes in water rights in the water district and must notify the Department of his recommendation on the application.

Please complete the enclosed recommendation form and return it to this office.

Processing of the application can be completed in 20 days, so your prompt response to this request will be appreciated.

If you have any questions about the application, please contact this office or the applicant.

Very truly yours,

LOREN O. HOLMES
Southern Region Supervisor

LOH:marya

Encl:

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DEC 20 1995

NOTICE OF PROPOSED CHANGE OF WATER RIGHT

OK 1/9/83

NO. 45-0533
T-355

Notice is hereby given that Theodore Sturgill of Kimberly, Idaho has applied to the Department of Water Resources for a change of place of use of the waters from Cold Springs tributary to Dry Creek . The right sought to be changed is evidenced by decree to J. E. Bower in case of Frank J. & Annie Terrill vs Samuel L. Land et al dated March 7, 1904 in Fourth District Court county of Cassia and is recorded as follows:

Amount: Entire flow of Cold Springs Priority: March 15, 1870

Point of Diversion: NW $\frac{1}{4}$ NE $\frac{1}{4}$, Sec. 12, T12S, R19E, B.M., Cassia County

The water is used for irrigation of 67 acres from March 15 to November 15 within the E $\frac{1}{4}$ NE $\frac{1}{4}$, Sec. 1, T12S, R19 E, B.M.

TO BE CHANGED AS FOLLOWS:

Amount: No change

Point of Diversion: Lt3, Sec. 7, T12S, R20E, B.M., Cassia County

The water is used for irrigation of 67 acres from March 15 to November 15 within the S $\frac{1}{2}$ NE $\frac{1}{4}$, N $\frac{1}{2}$ SE $\frac{1}{4}$, Sec. 6, T12S, R20E

Any protests against approval of the proposed change of the right described above must be filed with the Department of Water Resources, 1041 Blue Lakes Blvd. North, Twin Falls, Idaho 83301, on or before January 10, 1983.

A. KEN DUNN, Director

Published in South Idaho Press December 23 and December 30, 1982.

MICROFILMED
DEC 20 1995

**NOTICE OF PROPOSED
CHANGE OF WATER RIGHT
No. 48-0633
T-365**

Notice is hereby given that Theodore Sturgill of Kimberly, Idaho has applied to the Department of Water Resources for a change of place of use of the waters from Cold Springs tributary to Dry Creek. The right sought to be changed is evidenced by decree to J.E. Bower in case of Frank J. & Annie Terrill vs. Samuel L. Land et al dated March 7, 1904 in Fourth District Court county of Cassia and is recorded as follows:

Amount: Entire flow of Cold Springs. Priority: March 15, 1870. Point of Diversion: NW 1/4 NE 1/4, Sec. 12, T12S, R19E, B.M., Cassia County. The water is used for irrigation of 67 acres from March 15 to November 15 within the E 1/4 NE 1/4, Sec. 1, T12S, R19E, B.M.

TO BE CHANGED AS FOLLOWS:

Amount: No change.

Point of Diversion: Lt 3, Sec. 7, T12S, R20E, B.M., Cassia County. The water is used for irrigation of 67 acres from March 15 to November 15 within the S 1/4 NE 1/4, N 1/4 SE 1/4, Sec. 6, T12S, R20E.

Any protests filed against approval of the proposed change of the right described above must be filed with the Department of Water Resources, 1041 Blue Lakes Blvd. North, Twin Falls, Idaho 83301, on or before January 10, 1983.

/s/ A. KEN DUNN
Director

Published in the South Idaho Press December 23 and 30, 1982.

ok
mace
1/3/83

MICROFILMED
DEC 20 1995

December 17, 1982

South Idaho Press
Box 190
Burley, Idaho 83318

Re: Notice of Proposed Change of Water Right 45-0533 T355

Gentlemen:

Enclosed you will find a legal notice which we wish to have published once a week for two consecutive weekly issues of your newspaper. We have inserted the publication dates allowing ample time for you to submit us a galley proof for review before publication.

After sending us a galley proof, proceed with the publication on the dates we have inserted, assuming the notice is correct. If we have any corrections, we will notify you before the first publication. If you cannot publish the notice on the proposed dates, please contact us immediately.

In order to receive payment, an affidavit of publication must be submitted to the Department along with the publication bill.

Sincerely,

Mary A. Hill
Sec/Office Corrr

for

Loren O. Holmes
Southern Region Supervisor

Encl:

MICROFILMED
DEC 20 1995

Bill submitted: _____

RETURN RECEIPT

Received from the Postmaster the Registered or Insured Article, the original number of which appears on the face of this Card.

Walter & Perry

(Signature or name of addressee.)

May Cook

(Signature of addressee's agent.)

May 4 1925
Date of delivery, _____, 19*25*

Form 3811

GOVERNMENT PRINTING OFFICE

Post Office Department
OFFICIAL BUSINESS

REGISTERED ARTICLE

No. 17217

INSURED PARCEL

No. _____

Return to

Street and Number,
or Post Office Box, }

(NAME OF SENDER)

PENALTY FOR PRIVATE USE
TO AVOID PAYMENT OF
POSTAGE, \$800

POSTMARK OF DELIVERING
OFFICE

AND DATE OF DELIVERY

BOISE,

IDAHO.

EDWARD A. WALTERS
RAYMOND P. PARRY
J. R. KENNAN

WALTERS AND PARRY
ATTORNEYS AT LAW
FIRST NATIONAL BANK BUILDING
TWIN FALLS, IDAHO

August 31st, 1927.

Commissioner of Reclamation,
Boise, Idaho.

re: Stoner.

Dear Sir:

We enclose check \$.50 for certified copy
of Certificate of Transfer No. 355.

We thank you for your promptness in sending
the certified copy.

Very truly yours,

WALTERS AND PARRY,

By

May Cook
Secretary.

C

RECEIVED
AUG 31 1927
TWIN FALLS, IDAHO

August 29, 1927.

Re: Certified Copy.

Messrs. Walters & Parry,
Attorneys at law,
Twin Falls, Idaho.

Gentlemen:

In accordance with your request of the 27th instant, we are mailing you herewith certified copy of Certificate of Transfer No. 385.

Please remit fifty cents for the certificate.

Very truly yours,

GEO. H. CARTER,
Commissioner of Reclamation

By

Chief Clerk.

B:P
Enc.

MICROFILMED

purpose

EDWARD A. WALTERS
RAYMOND P. PARRY
J. P. KEENAN

WALTERS AND PARRY
ATTORNEYS AT LAW
FIRST NATIONAL BANK BUILDING
TWIN FALLS, IDAHO

August 27th, 1927.

Mr. Geo. N. Carter,
Commissioner of Reclamation,
Boise, Idaho.

Dear Sir:-

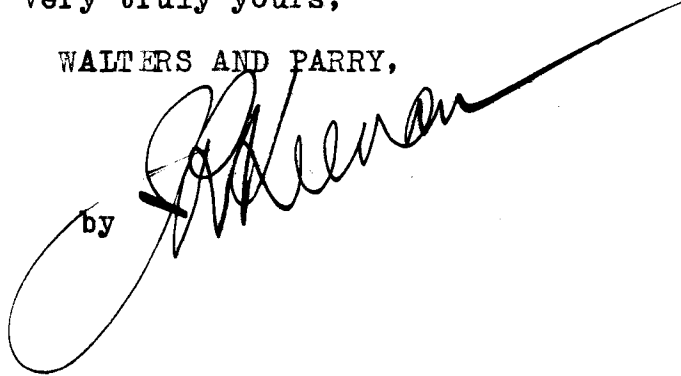
Certificate of Transfer #355

Will you please annex to the inclosed your formal certificate as to the same being true copies, etc., and return to us, with advice to amount of fee to be remitted.

Thanking you for the courtesy, we remain,

Very truly yours,

WALTERS AND PARRY,

by 

k

Murbough Ida
June 11-1927

Mr Myron Swendsen
Director of Water Resources
Boise Ida

Dear Mr Swendsen -

About 1 year ago Mr Frank Stoner
filed an application to transfer the
water of "Cold Spring" as decreed in the
1904 Decree to J.E. Bower from the S & N
S & N Sec 1 Tp 12 S R 19 E -

And I should like to know if the application
was allowed, and the land to which it
was transferred to -

I am asking for this information
for the reason Mr Stoner died last
winter and we cannot find any
papers referring to this transfer
among his effects -

Thanking you

Yours

Very Truly Yours
J. Marshall

MICROFILMED

June 13, 1927.

Re: Certificate Transfer #355

Mr. F. J. Marshall,
Hartough, Idaho.

Dear Sir:-

Referring to your letter of the 11th inst. would say that the above numbered certificate of transfer was issued to Frank Stoner April 29, 1925, and the original mailed to Messrs. Walters & Parry, attorneys, at Twin Falls. A copy is herewith enclosed for your information.

Very truly yours,
GEO. H. CARTER,
Commissioner of Reclamation.

By _____
Chief Clerk.

Encl.

RECORDED

May 2, 1925

Re: C.T. 355.

Messrs. Walters & Parry
Attorneys at Law
Twin Falls, Idaho

Gentlemen:

Enclosed you will find certificate
of transfer issued to Frank Stoner, together
with receipt for fee paid.

We are also returning Abstract of
Title together with Quitclaim Deed from Somsen
to Stoner.

Very truly yours,

W. G. SWENDSEN
Commissioner of Reclamation

By _____
Chief Clerk

CB:EK
Encl.

RECEIVED
MAY 11 1925

EDWARD A. WALTERS
ATTORNEY AT LAW
FIRST NATIONAL BANK BUILDING
TWIN FALLS, IDAHO

ASSOCIATE
RAYMOND P. PARRY

April 30, 1925.

Department of Reclamation,
Boise, Idaho.

Gentlemen:

Herewith find enclosed affidavit of
publication in the Stoner water transfer matter.
This was overlooked when mailing the check, and
we thank you for calling our attention to this.

Very truly yours,

WALTERS AND PARRY,

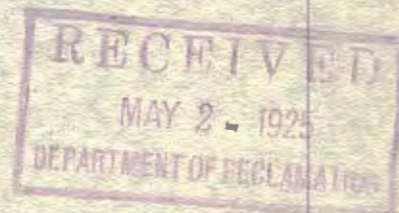
By

May Cook

Stenographer.

C

MICROFILMED



AFFIDAVIT OF PUBLICATION

State of Idaho, }
County of Cassia } ss.

I, A. C. Dworshak

do solemnly swear that I am the publisher
of the BURLEY BULLETIN, a newspaper of general circulation,
published at Burley, Idaho; that the notice attached hereto, and
which is a part of this affidavit and part of the proof of publica-
tion thereof, was published in the BURLEY BULLETIN for
two consecutive weeks, the first publication hav-
ing been made on the 26th day of Feb
1925 and the last publication having been made on the
5th day of March 1925; that said notice
was published in the regular edition of said newspaper and not
in a supplement thereof.

A. C. Dworshak

Subscribed and sworn to before me this 6th day of
March 1925

Chas A Johnson
Notary Public



NOTICE OF PROPOSED TRANSFER
OF WATER RIGHT
Notice is hereby given that Frank
Stoner of Murtaugh, Idaho, has applied
to the Commissioner of Reclamation of
the State of Idaho for a certificate au-
thorizing him to transfer the use of two-
thirds of the waters of Cold Springs and
Cold Springs creek, from the land upon
which it is now used, f. e. SW $\frac{1}{4}$ of
SE $\frac{1}{4}$, Sec. 1, Twp. 12 S., R. 19 E. B.
M. to the following described tract
The south 27 acres of Lot 1 and the
SE $\frac{1}{4}$ of NE $\frac{1}{4}$, Sec. 1, Twp. 12 S., R.
19 E. B. M.
And that, on the 7th day of March,
A. D., 1925, at the Dept. of Reclamation,
Capitol Bldg., Boise, Idaho, at 10 a. m.,
before the Commissioner of Reclama-
tion, or his authorized agent, the op-
portunity 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.
W. G. SWENDSEN,
Commissioner of Reclamation
(Feb. 26, Mar. 5, 2)

MICROFILMED

April 29, 1925

Re: Transfer-Frank Stoner.

Messrs. Walter and Parry
Twin Falls, Idaho

Gentlemen:

Referring to your letter of the 25th instant in which you state that fee of \$1.00 and the affidavit of publication for transfer of water right were enclosed, would say that the affidavit of publication was evidently overlooked in making up the mail as the same was not with the letter and fee. As soon as this affidavit is received here the certificate will be forwarded to you together with your receipt for fee.

Very truly yours,

W. G. SWENDSEN
Commissioner of Reclamation

By _____
Chief Clerk

MICROFILMED
CB:EK

Each has $\frac{1}{2}$ rt. ~~to~~ these other water

Frank Stoner defendant - Partial judgment - 6-16-24
Babcock - 11 dist.

Sonnen to Stoner $\frac{1}{2}$ in in water rts -

Make cert. of transfer for $\frac{2}{3}$ of water of
Cold Springs, priority commencing with issue
of 1870. - 135 in -

Mar. 7-1925 - hearing

MICROFILMED

J. C. GASKILL, President

S. H. KUNAU, Sec. and Treas.

Cassia County Abstract Company, Ltd.

Bonded Abstractors

Associated with Burley Realty & Abstract Company

Farms, City Property, Business Opportunities
Investments and Insurance

Burley, Idaho

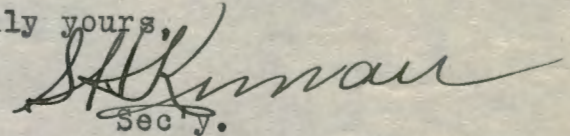
March 6, 1925.

Mr. Geo. M. Carter,
Asst. Commissioner.
Bureau of Reclamation,
Boise, Idaho.

Dear Sir:-

At the request of Frank Stoner I hand you
herewith abstract of water right and quit claim deed duly recorded.

Very truly yours,


Sec'y.

C Copy to Frank Stoner.

MICROFILMED

EDWARD A. WALTERS
ATTORNEY AT LAW
FIRST NATIONAL BANK BUILDING
TWIN FALLS, IDAHO

ASSOCIATE
RAYMOND P. PARRY

April 25, 1925.

Department of Reclamation,
Boise, Idaho.

Attention: Mr. A. Brown, chief clerk.

Gentlemen:

IN RE: Transfer of water right - Frank Stoner.

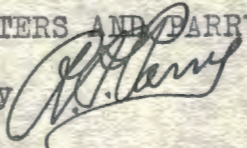
In accordance with your letter of the 17th we have secured from our client and are enclosing, affidavit of publication of transfer in Burley Bulletin which we are herewith enclosing. We are also enclosing our check for \$1.00 in payment of the fee required therefor.

If this sufficiently closes this matter to entitle Mr. Stoner to the issuance of the certificate, will you kindly issue the same and mail direct to us? If anything else is required, kindly advise us.

RPP/C

Very truly yours,

WALTERS AND PARRY,

By 

RECORDED

April 17, 1925

Re: Transfer of Water Right.-Frank Stoner

Messrs. Walters & Parry
Attorneys at Law
Twin Falls, Idaho

Gentlemen:

On March 9th, we wrote you relative to the affidavit of publication from the Burley Bulletin, together with the \$1.00 fee required for transfer of water right. As yet these have not been received. Kindly take the matter up with your client to the end that the case may be closed and the certificate granted.

Very truly yours,

W. G. SWENDSEN
Commissioner of Reclamation

By _____
Chief Clerk

MICROFILMED

March 9, 1925.

Re: Transfer of Water-
Frank Stoner.

Messrs. Walters & Parry,
Attorneys at law,
Twin Falls, Idaho.

Gentlemen:-

Upon receipt of the affidavit of publication from the Burley Bulletin, together with statutory fee of \$1.00, the certificate of transfer will be granted in the above entitled case.

Very truly yours,
W. G. SWENDSEN,
Commissioner of Reclamation.

By _____
Chief Clerk.

RECORDED

THIS INDENTURE, Made this fifth day of March in the year of our Lord one thousand nine hundred and twenty-five, between Frank Somsen and Gladys Somsen and J. H. Stoner of Murtaugh, County of Twin Falls, State of Idaho, the parties of the first part, and Frank Stoner of Murtaugh, County of Twin Falls, State of Idaho, the party of the second part,

WITNESSETH, That the said party of the first part, for and in consideration of the sum of one and no/100 dollars, lawful money of the United States of America, to him in hand paid by the said party of the second part, the receipt whereof is hereby acknowledged, does by these presents Remise, Release, and forever Quit-claim unto the said party of the second part, and to his heirs and assigns forever, all the following described Water Right, situated in the County of Cassia, State of Idaho, to-wit:

An undivided two-thirds (2/3) interest in all the waters of Cold Springs as originally determined and decreed in the case of Frank J. Terrill et al. Plaintiffs, versus Samuel Land et al, Defendants, as Recorded March 7, 1904, and Recorded in Book 1 A & J Page 146.

Together with all and singular the tenements, hereditaments and appurtenances there unto belonging or in any wise appertaining, and the reversion and reversions, remainder and remainders, rents, issues and profits thereof.

TO HAVE AND TO HOLD, All and singular the said premises, together with the appurtenances, unto the said party of the second part and to his heirs and assigns forever.

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

FRANK SOMSEN

GLADYS SOMSEN

J. H. STONER

Signed, sealed and delivered in
the presence of

T. J. MARSHALL

STATE OF IDAHO)
) ss.
County of Twin Falls)

On this fifth day of March, in the year 1925, before me, F. W. Wachholtz, Notary Public in and for said County, personally appeared Frank M. Somsen and Gladys Somsen and J. H. Stoner, known to me to be their persons whose names are subscribed to the within instrument, and acknowledged to me that they executed the same.

IN WITNESS WHEREOF, I have hereunto set my hand and affixed my official seal, the day and year in this certificate first above written.

F. W. WACHHOLTZ
Notary Public in and for the
State of Idaho, Residing at
Twin Falls, Idaho.

(SEAL)

No. 75348

QUIT-CLAIM DEED

STATE OF IDAHO)
) ss.
County of Cassia)

I hereby certify that this instrument was filed for record at request of Burley R.A.A. Co., Burley, Idaho, at 20 minutes past 10 o'clock A. M., this 6th day of March, A. D. 1925, in my office and duly recorded in Book 34 of Deeds at Page 341.

B. F. WILSON
Ex-officio Recorder.

Fees, \$1.00

Return to Burley R. A. A. Co., Burley, Idaho

From office of Twin Falls Title & Abstract Co., Ltd., Twin Falls, Idaho.

March 2, 1925.

Re: Transfer Case 137

Mr. F. J. Marshall,
Murtaugh, Idaho.

Dear Sir:

Further reference is made to the matter of the application of Frank Stoner, to transfer the waters of Cold Springs Creek to lands other than those to which it was made appurtenant by the decree.

If the intent is to transfer all of the flow of Cold Springs Creek, I suggest that you secure the quit-claim deed from Somsen to Stoner and have same incorporated in the abstract, which I am returning herewith for that purpose. With the recording of this quit-claim, the transfer can be made for the entire flow of the springs.

With reference to your statement regarding the waters of Fullers Springs, it seems to me the obvious thing to do is to measure the flow of these springs at the point where they discharge into Dry Creek and then allow Mr. Fuller to divert this amount and no more from the stream. It occurs to me that Mr. Fuller might quite properly be required to install and maintain a weir at the point where the flow from these springs enters Dry Creek. Then the watermaster could at any and all times determine the amount of water which Mr. Fuller is contributing to Dry Creek and thus immediately and intelligently determine the amount of water he would be allowed to divert in addition to the 130 inches of priority date of March 1, 1884, which is awarded him in the decree.

Your suggestion as to having a representative of this office measure the flow of the springs can be carried out, however, unless the flow of the springs is very nearly constant, a single measurement might not indicate the amount of water which could be diverted by Mr. Fuller, at any and all times.

Very truly yours,

Assistant Commissioner of
Reclamation

GNC:E
Enc.

CC: Walters & Parry,
Twin Falls, Idaho.

MICROFILMED

Transfer
Case #137

1 Murtaugh Idaho
Feb 27-1925

Mr Geo H Carter

Assistant Commissioner of Reclamation
Boise Idaho

Dear Sir-

Replying to your favor
of the 14th relative to the Stoner Transfer
of Cold Springs. The amount of which
is indefinite and ~~uncertain~~ varying
from about 50 ~~acres~~ to 0. and I don't
know of anything in the Court records
that discloses ~~any~~ particular amount.
In the early Spring of 1917 or during May
49.5 ac ft 24th run was measured from 95.8 ac feet
July 35.8 ac feet on an average for the 76 days
measured of 2.4 ac ft per 24th run, this is the only
measurement I have for any year, and was
measured because it was used by others besides
Mr Bowers, on account of the fact that we had
plenty of water in Dry Creek to supply Mr Bowers
and this water could be used on lands which
Dry Creek proper could not supply -
I have not seen the abstract but it appears

120^{ac}

from your letter that Stoner¹ owns $\frac{2}{3}$ interest
 in this water by deed from Comsew¹ to Stoner.
 If I am correct can Stoner take a 2^d deed
 from Comsew to Stoner for the $\frac{1}{3}$ interest ^{per}
 and by so doing transfer the entire amount?
 If so Mr Stoner informs me he can get
 such deed and after recording the same
 will send it to you to attach to abstract.
 Of course in the measurements above given
 of 1917. we had more than the average run
 of water in this district, and I believe the
 normal amount of this water in question
 will average from 50 inches down.

And while discussing this decree can
 you inform me ^{amount of} the water of Fuller's
 Springs mentioned in Paragraph six of the
 Decree can be determined. as Watermaster
 for the past number of years, I have had
 considerable trouble over this water, which
 comes from a small spring on the East side
 of Dry Creek and originally was piped over
 Dry Creek, and disched on the West side to
 the stream. during late years Mr Fuller
 has removed the pipe and allows the
 Spring water to go into the Creek, and takes
 out by means of a Dam in the Creek, any
 amount he chooses by raising or lowering

The ~~same~~ - and many complaints have
been made to me in regard to it.

If you could suggest ~~anyway~~ that
this matter could be settled without
litigation I believe it would be appre-
ciated by all, and I know it would ^{help} ~~would~~
myself if settled -

I have thought of the plan to have the
decreed users ask the State to send an
engineer down to determine the amount
of water by ~~measurement~~ and feel that
this would be the most satisfactory
manner with the exception of possibly
Mr. Fuller and it might be he would
agree to it.

If you can give me a reply to this I should appreciate it and it might be avoid trouble in the future

Very Respectfully

F. J. Marshall

5th A.G. Fuller 1900
Long beach 24th 1902
6th in house all of
Fuller springs

MICROFILMED

1 1

STATE OF IDAHO
DEPARTMENT OF RECLAMATION
BOISE, IDAHO

DATE February 23, 1925.

Publisher The Bulletin,
Burley, Idaho.

DEAR SIR:

Enclosed you will find notice for publication once a week for ~~four~~ consecutive weeks prior to
March 7, 1925, the date set for hearing proof, the expense of the publication to be paid
by the applicant, Frank Steiner, of Burleigh, to whom you should
furnish proof of publication on or prior to the date set for proof. hearing.

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

Very truly yours,

W. G. SWENDSEN,

Commissioner of Reclamation.

RECORDED

Notice of Proposed Transfer of Water Right

Notice is hereby given that Frank Stamer of Hartaugh
Idaho, has applied to the Commissioner of Reclamation of the State of Idaho
 for a certificate authorizing him to transfer the use of 2/3 of the waters of Cold Springs and
Cold Springs creek, of the water of

from the land upon which it is now used, i. e. SW 1/4 of SE 1/4, Sec. 1, Twp. 12 S., R. 19 E., B.M.

to the following described tract The south 27 acres of Lot 1, and the SE 1/4 of NE 1/4, Sec. 1,
Twp. 12 S., R. 19 E., B.M.

And that, on the 7th day of March, A. D.
1935, at the Dept. of Reclamation, Capitol Bldg., Boise, Idaho, at 10 A.M.,
 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.

W. G. Swenson,

Commissioner of Reclamation

February 19, 1925.

Re: Transfer Case 137 ✓

Mr. Frank Marshall,
Murtaugh, Idaho.

Dear Sir:

We are just in receipt of abstract of water rights of J. E. Brower from the firm of Walters & Parry, in Twin Falls. This abstract is furnished pursuant to a previous request in connection with the application for a transfer of Frank Stoner.

I have given some little time to the decree which defines this water right and I am of the opinion that the court did not make as clear as possible the intent of this decree. In any event, I take it from the application for transfer that the desire is to transfer all of the waters of Cold Springs, which originally was decreed in an indefinite amount to J. E. Brower. I am somewhat at a loss as to the proper designation of the amount of water so to be transferred.

It appears that two-thirds of the original right has been conveyed in the deed - Somsen to Stoner - from which I conclude that the notice and certificate of transfer, if issued should describe as the water to be transferred two-thirds of the total flow of Cold Springs, as originally determined and decreed in the case of Frank J. Terrill, et al plaintiffs, versus Samuel Land, et al, defendants, as recorded March 7, 1904 in the District Court of the Fourth Judicial District of the State of Idaho, in and for Cassia County. Defining the rights so transferred in this manner is somewhat unsatisfactory and if you can advise me in more definite terms the amount of water involved, it would be appreciated.

For the present time the publication notice will be prepared and sent to a Burley paper for publication. Date of hearing is set for Saturday, March 7th, at this office.

Very truly yours,

Assistant Commissioner of
Reclamation.

GNC:E
CC: Walters & Parry

RECORDED

EDWARD A. WALTERS
ATTORNEY AT LAW
FIRST NATIONAL BANK BUILDING
TWIN FALLS, IDAHO

ASSOCIATE
RAYMOND P. PARRY

Feb. 17, 1925.

Department of Reclamation,
Boise, Idaho.

ATTENTION: Mr. Geo. N. Carter.

Dear Sir:

IN RE: Application for Transfer of
case No. 137.

Mr. Frank Marshall and Mr. Frank Stoner, both of Murtaugh, have turned over to us your letter of January 29th returning for correction the application for transfer in the above case.

We have secured from the Cassia County Abstract Company, an Abstract of the water right which it is desired to transfer in this case. We are returning the original application for transfer, together with this Abstract.

We trust that this will complete this application for your transfer and that further steps can be taken immediately. If there are any other further questions in regard to this or other corrections necessary, please let us know.

RPP/C

Very truly yours,

WALTERS AND PARRY,

By

R. P. Parry

Enc./1-1

*Deane to Bower
Dry Creek
125 in - 1879
all of Cold Springs - 1870
160 in 3-1-82
160 " 3-1-83
80 " 3-1-84*

*W. S. C. W. N. B. 36-112195
2 182-31-118-306
23 + 26 NW + 8 NW Sec. 1 - 12d-194
Cold Springs water transferred*

*Cassia Co
Burley*

RECEIVED
JAN 28 1925
DEPARTMENT OF RECLAMATION

Right

Application for Transfer of Water Right

STATE OF IDAHO,

County of TWIN FALLS,

SS.

FRANK STONER, being first duly sworn, deposes and says:

That his name is Frank Stoner, ; that he is of lawful age, a citizen of the United States and of the State of Idaho, and that his postoffice address is Murtaugh, Twin Falls County, Idaho,

a member of the partnership which is the
That he is ~~the~~ owner and using a certain water right, bearing date of priority of 19 1870

~~xxxxxx~~ ^{all the} ~~xxxxxx~~ the waters of Cold Springs, and Cold Springs
Creek.

County of Twin Falls, State of Idaho, decreed to J.E.BOWER,

by decree of Judge, Lyttleton Price of the Fourth Judicial District of the State of

Idaho, in and for the County of Cassia, in the case of Frank J. Terrill and Annie Terrill, vs. Samuel Land, A.J. Fuller, and J.E. Bower,

XXXX, said decree bearing date of March 7th, 1904,

~~jurisdiction by virtue of the fact that it is located by the State Engineer of the State of Idaho,~~
~~dated _____, 19____, bearing date of priority of _____, 19____.~~

and is the person (or representative of partnership) to whom such right so issued, or has become the owner thereof in the following manner, i. e. by mesne conveyances from the original owner thereof

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 Northwest corner of the Northwest Quarter of the of Northeast Quarter (NW¹ of NE¹) of Section Twelve (12), Township Twelve (12)S, Range Nineteen (19)E. B. M., and conducted to the above described lands through a dam and ditch.

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

That affiant and petitioner desires to abandon the use of all of ~~subsurface rock record~~
~~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 Twin Falls, and State of Idaho, to-wit:

The South twenty-seven (27) acres of Lot One (1), and the Southeast Quarter of Northeast Quarter (SE $\frac{1}{4}$ NE $\frac{1}{4}$) all in Section One (1), Township Twelve (12) South, Range Nineteen (19), E.B.M.

That his reasons for desiring to make such transfer are as follows: That the lands where same is now used are not readily susceptible of irrigation, and result in a great waste and loss of water; that the new lands are better adapted for agricultural purposes, will lessen the distance of conveying said water, and will result in a far greater economic use of the water involved.

1925

China, the U.S., and the Caribbean

That he intends to divert and convey said ~~water~~ water to the tract

of land last above described in the following manner, to-wit: By diverting the same from Cold Springs Creek, in the Southeast corner of the Northeast Quarter of the Northeast Quarter (NE $\frac{1}{4}$ NE $\frac{1}{4}$) of Section Twelve (12), Township Twelve (12), South, of Range Nineteen (19), E.B.M., and conveying the same through a ditch running in a general northerly direction to the land last above described.

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.

W. Frank Stoner

Applicant.

Subscribed and sworn to before me this

22nd

day of

December

A.D. 1924

J.E. Sawyer
U.S. Commissioner

APPLICANT WILL ANSWER THE FOLLOWING QUESTIONS:

From what stream is the water diverted? Cold Springs Creek.

Where is the diversion point located? Upper Jordan Dam, and confluence with Dry Creek.

Through what ditch is it now conducted? Short private ditch.

How much land is now irrigated by the water sought to be transferred? Approximately 40 acres

Give the description: Southwest Quarter of Southeast Quarter (SW $\frac{1}{4}$ SE $\frac{1}{4}$) of Section One (1), Township Twelve (12) South, Range Nineteen (19) E.B.M.

What is the total amount of water in inches, or second feet, dedicated to said land? Is spring flood water, and varies from fifty miners inches to nothing.

What kind of crops are being raised? wild hay.

How much water per acre is now required to irrigate said land? a miners inch to the acre.

What will be the effect on the land now irrigated, if the use of water on it is discontinued? Wild hay and pasture will continue to grow by reason of sub-irrigation and seepage from Dry Creek.

Give location of new point of diversion, if change is to be made. Southeast corner of Northwest Quarter of Northeast Quarter (NW $\frac{1}{4}$ NE $\frac{1}{4}$), Sec. 12, Twp. 12 So. Range 19 E.B.M.

Through what ditch will it be conducted after transfer? a new private ditch

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

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

If so, give amount, date and source. no

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. no

Signed

W. Frank Stoner

Applicant.

STATE OF IDAHO,

County of Twin Falls,

ss.

F. J. Terrill and W. A. Oliver

being first duly sworn, each for himself, and not one for the other, deposes and says: That he is a citi-

zen of the United States and of the State of Idaho, residing at Murtaugh, Ida

^{described water} that he is a user of water from Dry Creek, in Water District No. 31

County of Twin Falls, State of Idaho; that he has read or heard read the foregoing affidavit and

petition of Frank Stoner, 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.

2. F. J. Terrill

3. W. A. Oliver

Subscribed and sworn to before me this

26

day of

Jan

A. D. 1924

W. A. Oliver

Notary Public
Murtaugh, Ida

STATE OF IDAHO,

County of Twin Falls,

ss.

I, F. J. Marshall, Watermaster of Dry Creek Water

~~Water~~ District No. 31, County of Twin Falls, State of Idaho, whose postoffice address

is Murtaugh, Idaho, have read or heard read the foregoing affidavit and petition

of Frank Stoner, 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: That the lands proposed to

be irrigated under the Change are arid, and could be put under
Cultivation and the land on which the same is now used
will produce wild Hay from sub Irrigation

Watermaster, Dist. No. 31

F. J. Marshall

Dated at Murtaugh, Idaho, this

19th

day of December, 1924

Frank Brown

Tp 12 - R 09 E

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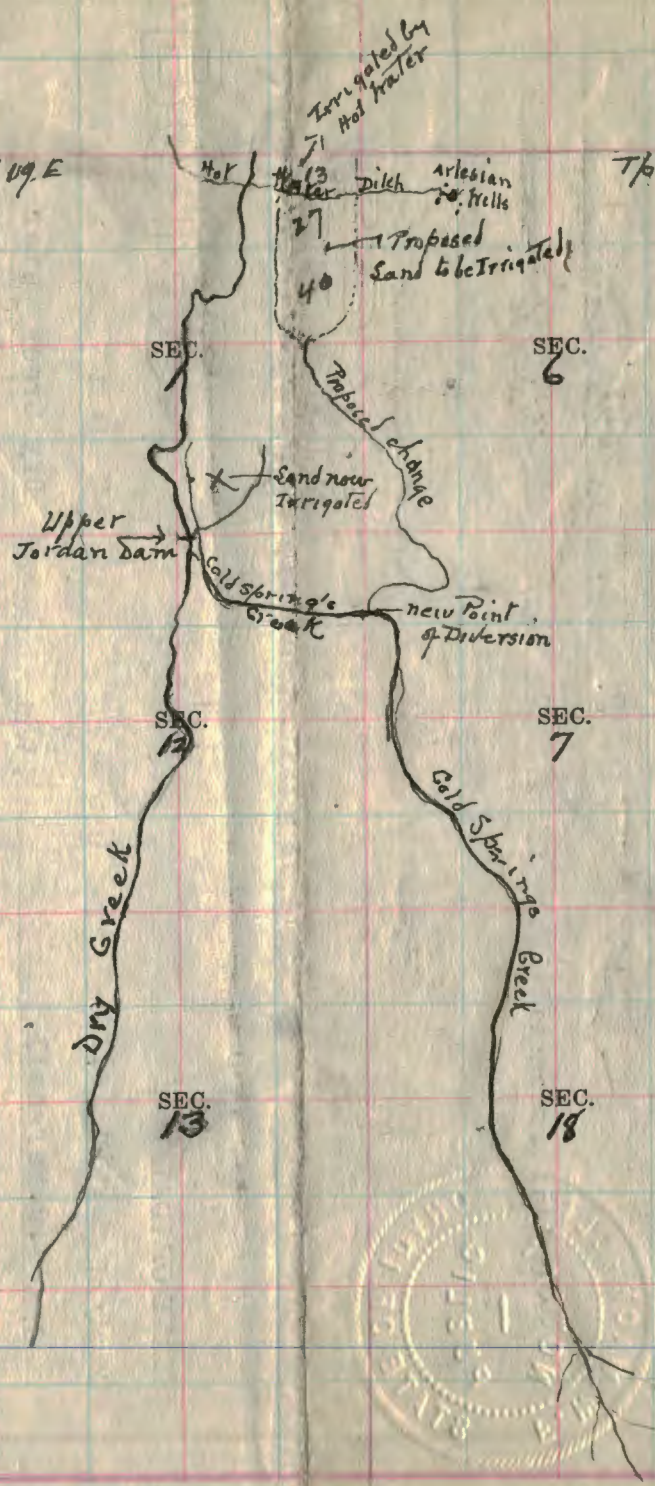
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January 29, 1925

Re: Application for transfer /
Case No. 137

Mr. F. J. Marshall,
Murtaugh, Idaho.

Dear Sir:

This will acknowledge receipt of your letter of January 26th enclosing application for transfer of water right, Frank Stoner, Murtaugh, Idaho, applicant.

The application seems to be in proper form and complete, with the exception that you have not furnished any evidence of title to the water for which transfer is petitioned. Will you note same on blank. It is stated certain evidence to right in the decree is furnished by abstract of title of said water right attached hereto and made a part of this statement. You should, therefore, furnish satisfactory evidence of title to the water which is proposed to be transferred.

Immediately upon receipt of this data, the necessary procedure will be initiated leading up to certificate of transferred water right should same be granted. It is necessary that publication of this petition be had in a paper in the county in which the land is located for two weeks after which hearing is set and evidence taken either for or against the petition. Should there be no protests the transfer is immediately authorized. All of the above details will be attended to by this office as soon as all requirements mentioned above are met.

Very truly yours,

Assistant Commissioner of
Reclamation

CNC:E

Murphy Idaho
Jan 26 - 1925

Hon W.G. Swenson
Commissioner of Reclamation
Boise Idaho

Dear Sir -

Enclosed please find Application
of Frank Stoner for Transfer of
Water Right -

Very Respectfully

J. M. Moore