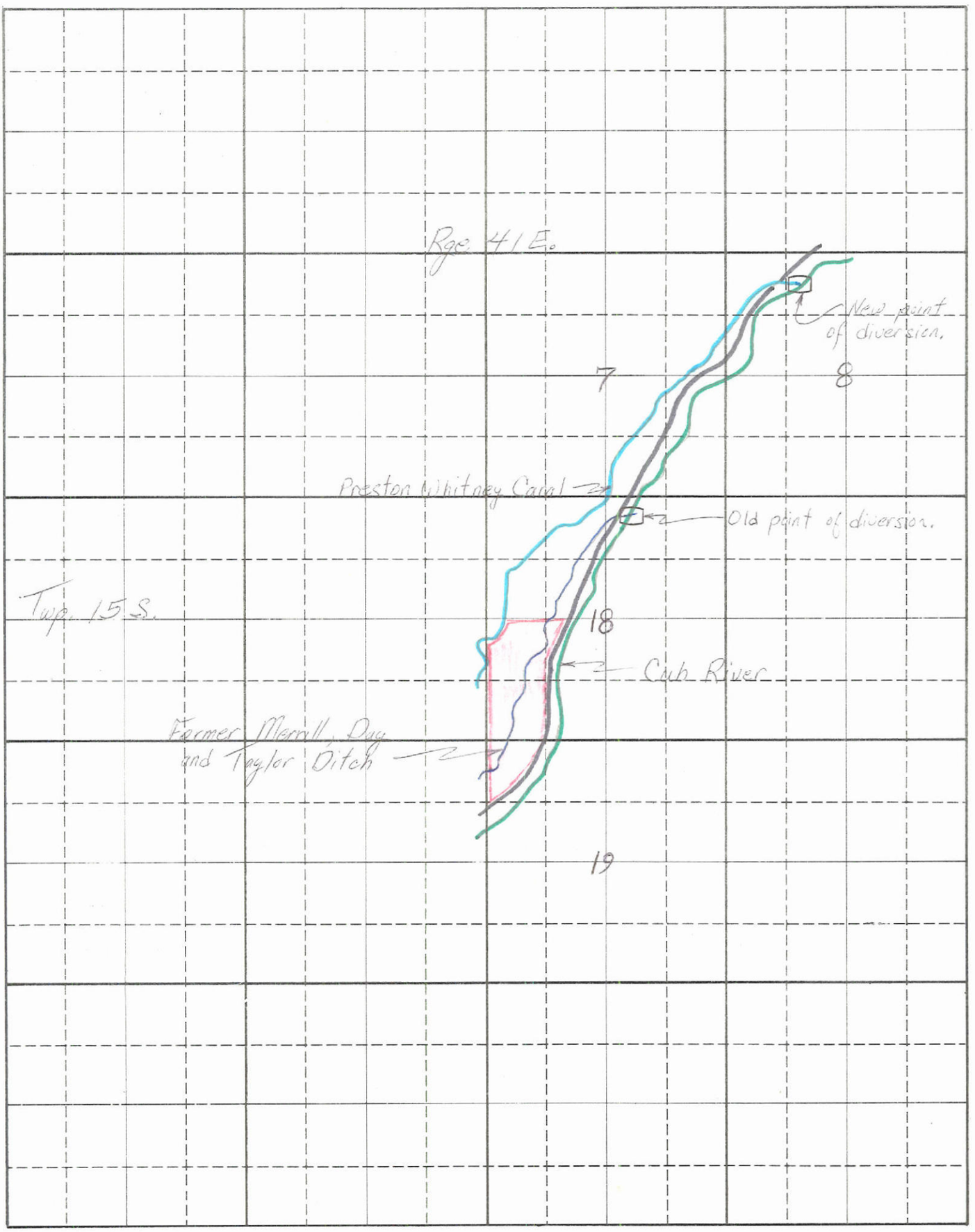
3. Draw a map indicating the new point(s) of diversion and/or the new land to be irrigated. Show clearly the land involved by section, township and range number.



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

SOUTHEAST TITLE & REALTY COMPANY
Agent for
Pioneer National Title Insurance Company
WASHINGTON TITLE DIVISION

Instrument No. 128780

QUIT CLAIM DEED

THIS INDENTURE WITNESSETH: That for value received CLAUDE J. JENKINS and HELEN G. JENKINS, husband and wife

the Grantor

hereby Remise, Release and forever Quit claim unto THOMAS A. ROBINSON and BARBARA R. ROBINSON, husband and wife

Grantee the following

described premises, in Franklin County, Idaho, to wit:

Township 15 South, Range 41 East of the Boise Meridian:
Section 18: Lots 3, 4, E1/2SW1/4, SE1/4
Section 19: Lots 1, 2, E1/2NW1/4

Together with all Taylor Grazing rights consisting of 160 acres, more or less.

Together with all water and water rights appertaining to said land, including but not limited to 1/4 of one CFS of the waters of Cub River with priority right of 1882, 7/10 of one CFS of the waters of Cub River with priority date of 1892 as decreed to Henry Day by Decree recorded in Book 1 of Judgments, page 167, records of Franklin County, Idaho, (as amended or revised) together with all right, title and interest in and to the Preston-Whitney Irrigation Company and the water of said company as evidenced by the current records of said company.

Together with all right, title and interest of properties as acquired on the original agreement between Lever S. Sorenson and his wife Delva B. Sorenson and Charles S. Hyer and his wife Karen Hyer, the original of which is held in escrow at the First Security Bank, Preston, Idaho.

TO HAVE AND TO HOLD the said premises, with their appurtenances, unto the said Grantee heirs and assigns forever.

Dated:

Claude J. Jenkins (SEAL) _____ (SEAL)
Helen G. Jenkins (SEAL) _____ (SEAL)

STATE OF IDAHO, COUNTY OF

On this 6 day of , 19 , before me, a notary public in and for said State, personally appeared

Claude J. Jenkins
Helen G. Jenkins

known or identified to me to be the person whose name subscribed to the within instrument, and acknowledged to me that executed the same.

Notary Public
Residing at
Comm. Expires

STATE OF IDAHO, COUNTY OF

I hereby certify that this instrument was filed for record at the request of

at minutes past o'clock M.
this day of
19 , in my office, and duly recorded in Book of Deeds, page

Ex-Officio Recorder

Deputy

Fee $

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

* *

HENRY T. McEWAN

Plaintiff,

-vs-

FRANKLIN COUNTY SUGAR COMPANY, A corporation, CITY OF PRESTON, A municipal corporation; THE CUB RIVER IRRIGATION CO. a corporation, THE CUB RIVER MIDDLE DITCH CO. a corporation; THE FRANKLIN CUB RIVER CANAL CO. a corporation; THE CUB RIVER AND WORM CREED CANAL CO. a corporation; B.M. BURBANK, CAROLINE J. ALLRED, GRACE H. WOOLEY, VIRGIL L. NELSON, HENRY P. BENNETT, MERLIN PERKINS, JAMES PERKINS, JANUS KELLER JR., JOS. SHARP, C.M. EPPECH, MARY ANN BUCKELY McGEE, HENRY DAY, J. A. DUNKLEY, JOSEPY T. SHARP, ALVIN C. HULL, LEROY HULL, PRISCILLA BOWMAN, TRACY LOAN & TRUST COMPANY, a corporation, AND S.W. PARKINSON, AS administrators of the Estate of Samuel C. Parkinson, deceased; ALVIN SHARP, CECIL WOODWARD, GARNET WOODWARD, FRANKLIN MAPLE CREEK PIONEER IRRIGATION CO. a corporation, ELIZA D. LOWE, ELIZABETH K. LOWE, LEVI OLIVERSON, JOHN W. GIBSON, WM. FOLLETT, and HOWARD GIBSON, as Administrators of the Estate of W.M. Gibson, deceased; WALLACE CHATTERTON, S.B. WRIGHT, S.J. HANDY, W. CHATTERTON, AARON CHATTERTON, JOANA WHITEHEAD, IVAN WOODWARD, EDWARD MORGAN, THOMAS HAWORTH, W.L. WICKHAM, PETER G. WHITEHEAD, WILLIAM STOCKDALE, P. A. ROBINSON, AND ALVIN C. HULL, as Administrator of the Estate of Robert M. Hull,

Defendants,

DECREE

* *

This cause came on regularly for trial on the 18th day of March, 1924, before Honorable O. R. Baum, one of the Judges of the said Court at Preston, Idaho, Charles H. Hart, Esq., of Salt Lake City, Utah, and P. J. Evans, Esq, of Preston, Idaho, appearing as attorneys for the plaintiff, Henry T. McEwan; Dey, Hoppaugh & Mark, Esqs., and Arthur W. Hart, Esq., appearing as attorneys for the Defendant, Franklin County Sugar Company, a copporation, P. M. Condie Esq., appearing as attorney for the Defendant, and cross complainant the City of Preston, a municipal corporation; Clark, Richards & Bowen, Esqs., and [illegible] E. Crowley, Esq, appearing as attorneys for the Defendant and cross complainant, The Cub River Irrigation Company, a corpo[illegible]on; A. W. Hart, Esq., appearing as attorney for the Defendant [illegible] cross complainant, the River Middle Ditch Company, a corporatio[illegible]nd for the Defendant and cross complainant, the Cub River [illegible]rm Creek Canal Company, a corporation, and also for t[illegible]efendants and cross complainants, Alsin C. Hull, Leroy Hull a[illegible]lvin C. Hull, as administrators of the Estate of Robert N. Hul[illegible]eceased, and none of the other Defendants appearing, eithe[illegible]rsonally or by counsel, and the default of all of said othe[illegible] fendants having been entered for failure to answer or other[illegible] plead to the complaint and amended complaint of the plaintiff[illegible] the cross complaint of the City of Preston, a municipal corpo[illegible], and for the failure to answer the cross complaint of the def[illegible] Cub River Irrigation Company, a corporation, in accordance [illegible] the Praecipe for Default filed

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herein, and the judgement of default having been entered herein against such defaulting defendants, and testimony on behalf of the Plaintiff and of the appearing defendants and cross complainants both oral and documentary, having been offered and received by the Court on behalf of each of said parties respectively, and the parties having, by consent of the Court, agreed among themselves with reference to certain facts and the Court having examined all the testimony offered and received for and on behalf of the respective parties and the agreements and stipulations entered into between the said parties and having taken the said cause under consideration and being fully advised in the premises, and having made and entered its Findings of Fact and Conclusions of Law herein in writing and ordered judgment to be entered in accordance therewith.

IT IS NOW BY THE COURT, ORDERED, ADJUDGED AND DECREED:

FIRST: That the irrigation season, as the term is uded herein, begins on the first day of April and extends to the 31st day of October of each and every year and the non irrigation season extends from the first day of November of each year to the first day of April, of the succeeding year.

SECOND: That irrigation rights as herein awarded and decreed are of two classes, primary rights and excess or high water rights.

The primary rights include the right to use at all times during the irrigation season, in the amounts herein awarded to the various appropriators respectively, and in the order of thier respective priorities, the quanity of water specifically allotted to the various appropriators for irrigation purposes, exclusive of the excess or high water rights awarded to Cub River Irrigation Company, a corporation, Cub River Middle Ditch Company, a corporation, and Cub River & Worm Creek Canal Company, a corporation. Paragraphs Third and Fourth and Fifth hereof.

Excess of high water rights are defined to be the right to use by defendants, Cub River Irrigation Company, Cub River Middle Ditch Company and Cub River Worm Creek Canal Company, a corporation during the irrigation season, for irrigation purposes, in the amounts and with the priorities in said Paragraphs Third, Fourt and Fifth hereof specifically set out, all waters flowing in the said Cub River and its tributaries in excess of the amount of water necessary to satisfy the primary irrigation rights as herein allotted.

THIRD: That the Defendant, Cub River Irrigation Company, a corporation, is the owner of the primary right to use, at all times during the irrigation season, of 45 cubic feet per second of time of all the waters of said Cub River and in excess of high waters right to the use of 45/100ths of said stream after the primary irrigation rights herein decreed are satisfied, up to a total of 158 cubic feet per second of time, its rights to use of said water to date from the year A. D. 1880; said water to be measured at the waste gate in said Company's canal at a point where the same is now situated and about a mile below the headgate of said canal, and to be used for the irrigation of 1800 acres of land lying in Sections 1,2,3,10,11,12,13,14,13,21,22,23,24,25,26, 27 and 28, Township 16 South, Range 39 East of the Boise Meridian in Franklin County, Idaho, in sections 35 and 36, Township 15 of Range 1 West of the Salt Lake Meridian, Cache County, Utah, and Sections 3,4,5,6,7,8,9,10,15,16,17,18,19,20,21,28,29,30,31, and 32 Township 14 North of Range 1 East of the Salt Lake Meridian in Cache County, Utah.

FOURTH: That the Defendant Cub River Middle Ditch Company is the owner of the primary right to the use, at all times during the irrigation season, of [illegible] cubic feet per second of time of all of the waters of said Cub River, and of an excess of high water right in the order of its priority of 30/100ths of the waters of said stream, after the primary rights herein allotted for

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irrigation purposes are ecified, up to the extent of 69.9 second feet, its right to the of said waters to date from the year A.D. 1882; said waters e measured at the waste gate in said Company's canal, at a p ; where it is now situated below the headgate of the said ca .

FIFTH: That the b River and Worm Creek Canal Company is the owner of a primary r t to the use at all times during the irrigating season of 25 cubic feet per second of time of all of the waters of said Cub River, and is also owner of an excess of high water right in the order of its priority to the extent of ½ of the waters of said stream, after the primary rights herein decreed are fully satisfied. The total right of said company, nevertheless, not to exceed 85 cubic feet per second of time. The right to the use of the said waters by said Company to date from the year 1882 and that said water to be measured at the headgate of said canal company, where said canal intercepts said stream.

SIXTH: That the Defendant, Franklin Cub River Canal Company is the owner of a primary right to use, at all times during the irrigation season, five cubic feet per second of time of all of the waters of said Cub River, its rights to the use thereof to date from the year 1882, and the said water to be measured at the head gate of said Company's canal, where the same intercepts said Cub River.

SEVENTH: That as between the said Cub River Middle Ditch Company and the said Cub River and Worm Creek Canal Company, the rights herein decreed to them shall be of equal dignity as to priority, and prior to July 1st, each season the Cub River Middle Ditch Company shall use 4/9ths of the water herein decreed to both Companies and the said Cub River and Worm Creek Canal Company shall use 5/9ths of the same; and after said first day of July, of each year, said water herin allotted to said Companies shall be used jointly by tjem, share and share alike.

EIGHTH: That the Defendant, Preston City, is the owner of the right to use, at all times for municipal purposes, one cubic foot per second of time of the waters of said Cub River to be diverted from Ranger Spring, one of the tributaries of said Cub River, through diverting works and pipe line now maintained and operated by said City, said right to date from the year A.D. 1879, and is entitled to the further right, at all times, to the use of all of the waters of Birch Springs, formerly a tributary of Cub River, said right to date from the year A.D. 1882, the said water to be diverted through the pipe line and diverting works now operated and maintained by said City. Said City, subject to the completion of the terms of the contract between it and the Cub River Irrigation Company, it entitled to use from Ranger Spring, during the whole of each and every year, such quantity of the waters of Cub River as may be conveyed to it by said Cub River Irrigation Company, pursuant to said Contract, not exceeding at any time two and one half cubic feet per second.

NINTH: That Defendants, B.M. Burbank and Caroline Allred are the owners of a primary rights to the use of two cubic feet per second of time of the waters of Cub River, their right to the use of the same to date from the year A.D. 1882, said water to be diverted and measured at the headgate of the Cub River Middle Ditch Company's Canal, and to be used upon and for the irrigation of lands belonging to said parties lying with in Sections 26 and 2 of Township 15 South, Range 40 East of the Boise Meridian.

TENTH: That Defendants Grace H. Woolley is the owner of a primary right to the use at all times during the irrigation seas of all of the waters flowing in Silver Creek, a tributary of Cub River, her right to the use of the same to date from the year A.D. 1879; said water to be measured at the point of diversion from sai Silver Creek and her said rights to be confined to the waters of said Creek, and use for the irrigation of the following described land, to-wit:

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Commencing at a point at the Northeast corner of the Southeast Quarter of Section 24, Township 15 South, Range 40 East of the Boise Meridian, thence running East 80 rods; thence South 320 rods; thence West 80 rods, thence North 320 rods to the place of beginning.

Also, the East half of the Southeast Quarter of Section 24, and the East half of the Northeast Quarter of Section 25, and the West half of the Southeast Quarter of Section 24, all in Township 15 South, Range 40 East of the Boise Meridian.

That except for such rights as the Defendant Virgil L. Nelson may have under agreement with the said Grace H. Wooley in and to the use of the waters herein allotted to said Grace H. Woolley, the said Defendant Virgil L. Nelson has no right, title or interest in or to the waters or use of the rights of said Cub River or its tributaries.

ELEVENTH: That the Defendants, Henry F. Bennett, Merlin Perkins, James Perkins, and Janus Keller, Jr. are owners of a primary right to the use, at all times during the irrigation season of 7-1/5 cubic feet per second of time of the waters of Sugar Creek, a tributary of said Cub River, and the Defendant Joseph Sharp is the owner of a primary right to the use, at all times during the irrigation season, to 2-2/5 cubic feet per second of time of the waters of said Sugar Creek, the right of said parties to date from the year A.D. 1879, and to be of equal dignity with respect to date of appropriation, and to be measured at the respective headgates of the said parties, at their respective points of diversion from said Sugar Creek, and their said rights to be confined to the waters of the said Sugar Creek.

The waters herein allotted to the said Henry F. Bennett, Merlin Perkins, James Perkins, and Janus Keller, Jr. shall be used upon and become appurtenant to the following described lands.

The East half of the Northwest Quarter of Section 35, and the West half of the Northwest Quarter of Section 35, and the Southwest Quarter of Section 35, and the Southeast Quarter of Section 34, all in Township 15 South of Range 40 East of the Boise Meridian, and the North half of the Northeast Quarter of Section 2, the Northeast Quarter of the Northeast Quarter of Section 3, in Township 16 South, Range 40 East of the Boise Meridian, in accordance with the ownership of said claimants in and to said lands, as the same appears from their respective titles.

And the water herein allotted to said Joseph Sharp shall be used upon and become appurtenant to the following described lands:

Southeast Quarter of the Southeast Quarter of Section 25, and the West half of the Southwest Quarter of the Southwest Quarter and the Southwest Quarter of the Northwest of Section 25, all in Township 15 South, Range 40 East of the Boise Meridian.

TWELFTH: That the Defendant C.M. Eppich is the owner of a primary right to the use at all times during the irrigation season of 3/5ths of a cubic foot of all of the waters of said Sugar Creek said right thereto to date from the year A.D. 1892, and also an additional primary right to use at all times during the irrigation season 4/5ths of one cubic foot per second of time of all of the waters of said Sugar Creek to date from the year 1896; the rights of the said C.M. Eppich to be confined to the waters of said Sugar Creek, which waters are to be measured at the head gate of said appropriator at his point of diversion from said stream, and the said waters to be used upon and become appurtenant to the following described lands.

Commencing at a point 80 rods North of the Northeast corner of Section 30, Township 15 South, Range 40 East of the Boise Meridian, thence running 80 rods, to the place of beginning.

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THIRTEENTH: That the defendant Mary Ann Buckely McGee is the owner of a primary right to the use, at times during the irrigation season of 4/5th of one cubic foot per second of time of all of the waters of said Sugar Creek, her right thereto to date from the year 1896; and to be confined to the waters of said Sugar Creek, which are to be measured at her point of diversion from said Creek, said waters to be used upon and become appurtenant to the following described lands:

Commencing at the Northeast corner of Section 36, Township 15 South of Range 40 East of the Boise Meridian, thence running East 80 rods, thence North 80 rods; thence West 80 rods; thence South 80 rods; to the place of beginning.

FOURTEENTH: That the Defendant B.M. Burbank is the owner of a primary right to the use, at all times during the irrigation season for irrigation purposes, of one cubic foot per second of time of the waters of said Cub River, said right to date from the year A.D. 1882, and is also the owner of a primary right to the use of an additional 3/10ths of a cubic foot per second of time of the waters of said stream, to date from the year 1883, all of said waters to be used upon and to become appurtenant to the lands owned by said claimant, lying within section 24 and 15 in Township 15 South, Range 40 East of the Boise Meridian; said waters to be conveyed through what is known as the Merrill, Day and Taylor Ditch, and to be measured at the headgate thereof, which is near the headgate of the Cub River and Worm Creek Canal Company.

FIFTEENTH: That the Defendant Henry Day is the owner of a primary right to the use, at all times during the irrigation season, of 1/4 of one Cubic foot per second of time of the waters of said Cub River, his said right to date from the year A.D. 1882 and is also the owner of a primary right to the use of an additional 7/10ths of a cubic foot per second of time of said water, to date from the year A.D. [1892,] all of said water to be used upon and to become appurtenant to lands owned by said claimant lying within Sections 24 and 15 in Township 15 South, Range 40 East of the Boise Meridian, and to be measured at the headgate of said Merrill, Day and Taylor Ditch; that except for such rights as the Defendant J.A. Dunkley may have in and to the use of the waters herein allotted to the said Henry Day, the said J.A. Dunkley has no right, title or interest in or to the use of the waters of said Cub River or any of its tributaries.

SIXTEENTH: That the Defendant Alvin Sharp is the owner of a primary right to the use, at all times, furing the irrigation season of 1/5th of a cubic foot per second of time of the waters of said Cub River, said right to date from the year 1882, and is also the owner of an additional primary right to the use of 7/10ths of one cubic foot per second of time of the waters of said stream, to date from the year A.D. 1892, all of said waters to be used upon and to become appurtenant to the lands owned by claimant, lying within sections 24 and 15 in Township 15 South of Range 40 East of the Boise Meridian, and to be conveyed through the said Merrill, Day and Taylor Ditch and measured at the headgate thereof.

SEVENTEENTH: That the Defendants Henry F. Bennett, Merlin Perkins, James Perkins and Janus Keller Jr. are the owners of a primary right to use, at all times during the irrigation season, of the flow of the waters of said Cub River in the amounts and in the quantities and with the priorities following, that is to say, the said Merlin Perkins and James Perkins, to one cubic foot per seconf of time and the said Henry F. Bennett to 1¼ cubic foot per second of time and the said Janus Keller Jr. to 3½ cubic feet per second of time, each of said rights to date from the year A.D. 1884, and the waters hereby allotted to be conveyed through what is known as the Sugar Creek Ditch, and to be measured at the headgate thereof and to be used upon and become appurtenant to the lands owned by them lying within.

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The East half of the Northwest Quarter of Section 35, and the West Half of the Northwest Quarter of Section 35, the Southwest Quarter of Section 35, and the Southeast Quarter of Section 34, all in Township 15 South, Range 40 East of the Boise Meridian, and the North half of the Northwest Quarter of Section 2, and the Northeast Quarter of Sectinn 3, in Township 16 South, Range 40 East of the Boise Meridian,

That the Defendnat Alvin C. Hull administrator of the Estate of Rbbert M. Hull, deceased, is the owner of a primary right to the use, at all times during the irrigation season, of all the waters of Sheep Creek, a tributary of Cub River, arising upon or above his premises described as:

A part of the Northwest Quarter of the Southeast Quarter and the Southeast Quarter of the Southeast Quarter of Section 14, and the Northeast Quarter of the Northwest Quarter of Section 23, in Township 15 South, Range 40 East of the Boise Meridian, said right to date from the year A.D. 1890 and the said waters to be used uppn and become appurtenant to the lands owned by said claimant above described.

EIGHTEENTH: That the Defendant Pricilla Bowman is the owner of a primary right to the use, at all times during the irrigation season, of all of the waters of Sheep Creek, a tributary of Cub River, flowing from and below the lands of said Alvin C. Hull in the paragraph next above described said water to be used upon the lands of the said Pricilla Bowman, lying in Section 24, township 15 South, Range 40 East of the Boise Meridian, said right to date from the year A.D. 1890, and the said waters to be appurtenant to the lands of the said Pricilla Bowman, above described.

NINETEENTH: The Defendants Alvin C. Hull and Leroy Hull are the owners of a primary right to the use, at all times during the irrigation season of 2.4 cubic feet per second of time of the waters of the left hand fork of Cub River, to be used upon and become appurtenant to the following described lands:

Beginning at corner No. 1 from which U. S. located monument No. 87 bears 54 degrees west 61 links distant; thence North 7 degrees 12' East 40 and 29/100ths chains to Corner No. 2; thence North 4 degrees 27' West 36.74 chains to corner No. 3; thence South 4 degrees 33' 37.75 chains to corner No. 5; thence South 81 degrees 22' East 14.38 chains to Corner No. 6, thence South 8 degrees and 4' West 39.81 chains to corner No. 7; thence North 82.46 minutes West 26.86 chains to corner No. 1, the place of beginning.

TWENTIETH: That the Defendant, Tracey Loan and Trust Company, a corporation, and S.W. Parkinson, as administrator of the Estate of Samuel C. Parkinson, deceased, have, and the said estate has, no right, title or interest in or to the waters or the use of the waters of said Cub River or its tributaries in conflict with the rights of any of the parties appearing herein, the rights of the said Estate of Samuel C. Parkinson, deceased, being only to such waters as arise to said stream or accumulate in it, below the point of diversion of the Cub River Irrigation Company, one of the Defendants in this action, and that the use of the Cub River by the Franklin County Sugar Company and its conditions as it flows after such use does not prejudice or in any manner injure the said estate; that the claims of the said estate to the waters arising or accumulating in the Cub River below the said point of diversion, are only sufficient for the Cub River below the said point of diversion, are only sufficient to the irrigation of forty acres of land with a priority dating from the year 1888 and with a point of diversion from the mill race of plaintiff extending from the said Cub River to mill located on the land adjacent to the County Road in the City of Franklin.

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TWENTY FIRST: That the Defendants Cecil Woodward, Garnet Woodward, Franklin Maple Creek Pioneer Irrigation Company, a corporation, Eliza D. Lowe, Elizabeth K. Lowe, Levi Oliverson, John W. Gibson, William Follett and Howard Gibson, as Administrators of the Estate of William Gibson, deceased, and the said Estate of William Gibson, deceased, Wallace Chatterton, S.B. Wright, S.J. Handy, W. Chatterton, Aaron Chatterton, Johanna Whitehead, Ivan Woodward, Edward Morgan, Thomas Howarth, W.L. Wicken, Peter C. Whitehead, William Stockdale, and O. A. Robinson, have no right title or interest in or to the waters of use of the waters of said Cub River, except such right as said Defendants may have in and to the waters of Maple Creek, a tributary of said Cub River, which has its confluence with said stream at a point below and the point of diversion, of the Defendant, Cub River, Irrigation Company from said Cub River, and are junior in time to the appropriations of the said Cub River Irrigation Company, and as to the rights of the said parties in and to the waters of said Maple Creek, no proof has been taken, and no decree is entered herein.

TWENTY SECOND: That the Plaintiff Henry T. McEwan is the owner of the right to use, during the non irrigation season, of each and every year, of 39 cubic feet per second of time of the waters of said Cub River, less the quantity thereof used by the Defendant, Franklin County Sugar Company, under its right as herein decreed, for power purposes in the turning of the grist mill of the Plaintiff located near said Cub River at all times throughout each and every year, subject nevertheless to the rights of other appropriators herein, as in this decree allotted and defined said right to date from the year 1887.

In addition to the right of the Plaintiff, Henry T. McEwan to the use of the waters of said Cub River, as above specified, during the non irrigation season, the said Henry T. McEwan is the owner of the right to the use for power purposes in the operation of said grist mill, with priority as of 1887, of all of the waters of Cub River not exceeding 39 cubic feet per second, of time which are not being used for irrigation purposes, or for culinary domestic and stock watering purposes, or sugar manufacturing purposes as set forth in the twenty third paragraph, following.

TWENTY THIRD: That the Defendant Franklin County Sugar Co. is the owner of a primary right (subject only to the rights herein defined) to use for all purposes in the operation of its sugar factory at Whitney, Idaho during the campaign season of said sugar factory, so much of the waters of the said Cub River as may be necessary for said purposes, not to exceed 15 cubic feet per second of time of said waters, measured at the point of delivery of the same at said factory. The quantity of the waters of said stream so being used by the said Franklin County Sugar Company to be deducted from the quantity of water herein allotted to the Plaintiff, Henry T. McEwan, it is specifically provided, nevertheless that the right herein allotted to the said Franklin County Sugar Company includes the right in cold weather, when in the judgment of the Sugar Company's water master or Superintendent, the flow of the water to the point of delivery at said defendant's sugar factory will be impeded by the freezing, to increase the amount of water to be delivered, to the full amount flowing in Cub River, at the intake of the Cub River Irrigation Company's canal, subject only to the prior rights of the other parties herein, as herein allotted, exclusive of the rights of the Plaintiff, Henry T. McEwan.

TWENTY FOUR: That in addition to their rights for irrigation purposes as herein allotted and decreed, the parties to this action are entitled to a primary right as a part of their irrigation appropriation to the use of water for culinary, domestic and stock watering purposes as follows:

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(a) The Cub River Irrigation Company is entitled, during each and every year, to the use, during the non-irrigation season as defined herein, of 12 C.F.S. of the waters of Cub River for culinary, domestic and stock watering purposes, said right to obtain any and all times during non irrigation season when freezing weather does not prevent the flowing of said water in said Company's canals for the uses specified, and when the same is not being used for said purposes, as above specified, the same shall be allowed to flow down Cub River above plaintiff's intake, except that such waters as the Defendant City of Preston uses or hereafter may use under the terms of said contract between it and the Cub River Irrigation Company or under any conveyance made pursuant to said contract may be diverted by Irrigation Company or under any conveyance made pursuant to said contract may be diverted by said City of Preston from the Ranger Spring during the whole of each and every year.

(b) The Defendant Cub River Middle Ditch Company is entitled to the use of four cubic feet per second of time of the waters of said Cub River or so much thereof as may be necessary for culinary, domestic and stock watering purposes, during the non-irrigation season, of each year, until the freezing weather prevents the same from running through the canal system of said Company, said priority to sate from the year A.D. 1882.

(c) That the Cub River and Worm Creek Canal Company, a corporation, is entitled to three (3) second feet of water of Cub River or so much thereof as may be necessary for culinary, domestic and stock watering purposes during the said non-irrigation season until the freezing weather presents the same from running through the canal system of said Company.

(d) If, during the said non-irrigation season, after the use of the quantity of water hereinabove specifed, there shall be sufficient water for that purpose, the quantity of water for the Cub River Middle Ditch Company, a corporation, for culinary and stock watering purposes, may be increased by an additional two (2) second feet to be used until the freezing weather shall prevent the same from running through the canal system of said company.

(e) If, during the said non-irrigation season, after the use of the quantity of water hereinabove specified, there shall be sufficient water for that purpose, a quantity of water fro the Cub River and Worm Creek Irrigation Company, a corporation, for culinary, domestic and stock watering purposes, may be increased by an additional three (3) second feet to be used until the freezing weather prevents the same from running through the canal system of said company.

Done in open Court this 9th day of July, 1924.

Robert M. Terrill, District Judge

Filed July 9, 1924
John A. Kofoed, Clerk

STATE OF IDAHO
COUNTY OF FRANKLIN --SS.

I, John A. Kofoed, Clerk of the District Court of the 5th Judicial District in and for Franklin County, State of Idaho, do hereby certify that the foregoing is a true and correct copy of the Decree in the Case of Henry T. McEwan vs Franklin County Sugar Company et al, found of record in Book "2" of Judgements, at page 383, records of Franklin County, Idaho.

IN WITNESS WHEREOF, I have hereunto set my hand and official seal this 19th day of February, A.D. 1927.

John A. Kofoed, Clerk of District Court

(Seal)

MICROFILMED

No 1024

AFFIDAVIT OF PUBLICATION

STATE OF IDAHO, } ss.
County of Franklin }

J. Walter Ross
being duly sworn,

deposes and says:

That he is the Co-Publisher of THE PRESTON CITIZEN, a weekly newspaper published at Preston, in the County of Franklin and State of Idaho; that said paper has been and is in general circulation in the county aforesaid, and in the vicinity of Preston; that the advertisement, a copy of which is attached hereto, was published in said newspaper once a week for 2 consecutive weeks in the regular and entire issue of said paper during the period of time of publication, and was published in the newspaper proper and not a supplement; that said paper has been established and regularly published for more than seventy-eight consecutive weeks prior to the date of first publication of said advertisement.

Such notice was published in the issue beginning with December 20, 19 79, and ending with the issue of December 27, 19 79

J. Walter Ross

Fee $ 12.96

Subscribed and sworn to before me this 31st day of December, 19 79.

Karen D. Allen

Notary Public, Residing at Preston, Idaho

My Commission Expires June 7, 19 82

OK EW 1/7/80

NOTICE OF PROPOSED CHANGE OF WATER RIGHT NOS. 13-0017 and 13-0018

Notice is hereby given that Thomas A. Robinson, Preston, Idaho, has applied to the Department of Water Resources for a change in the point of diversion of the waters of the Cub River tributary to the Bear River. The rights sought to be changed are evidenced by Decreed Rights Nos. 13-0017 and 13-0018 and are recorded as follows:

13-0017 AMOUNT: 0.25 cfs
PRIORITY: 1882
13-0018 AMOUNT: 0.70 cfs
PRIORITY: 1879

POINT OF DIVERSION: NW¼ NE¼, Sec. 18, T. 15S, R. 41E, B.M., Franklin County.

The water is used to irrigate 80 acres within the N½SW¼, SW¼SW¼, Sec. 18; NE¼NW¼, Sec. 19; T. 15S, R. 41E, B.M.

TO BE CHANGED AS FOLLOWS:

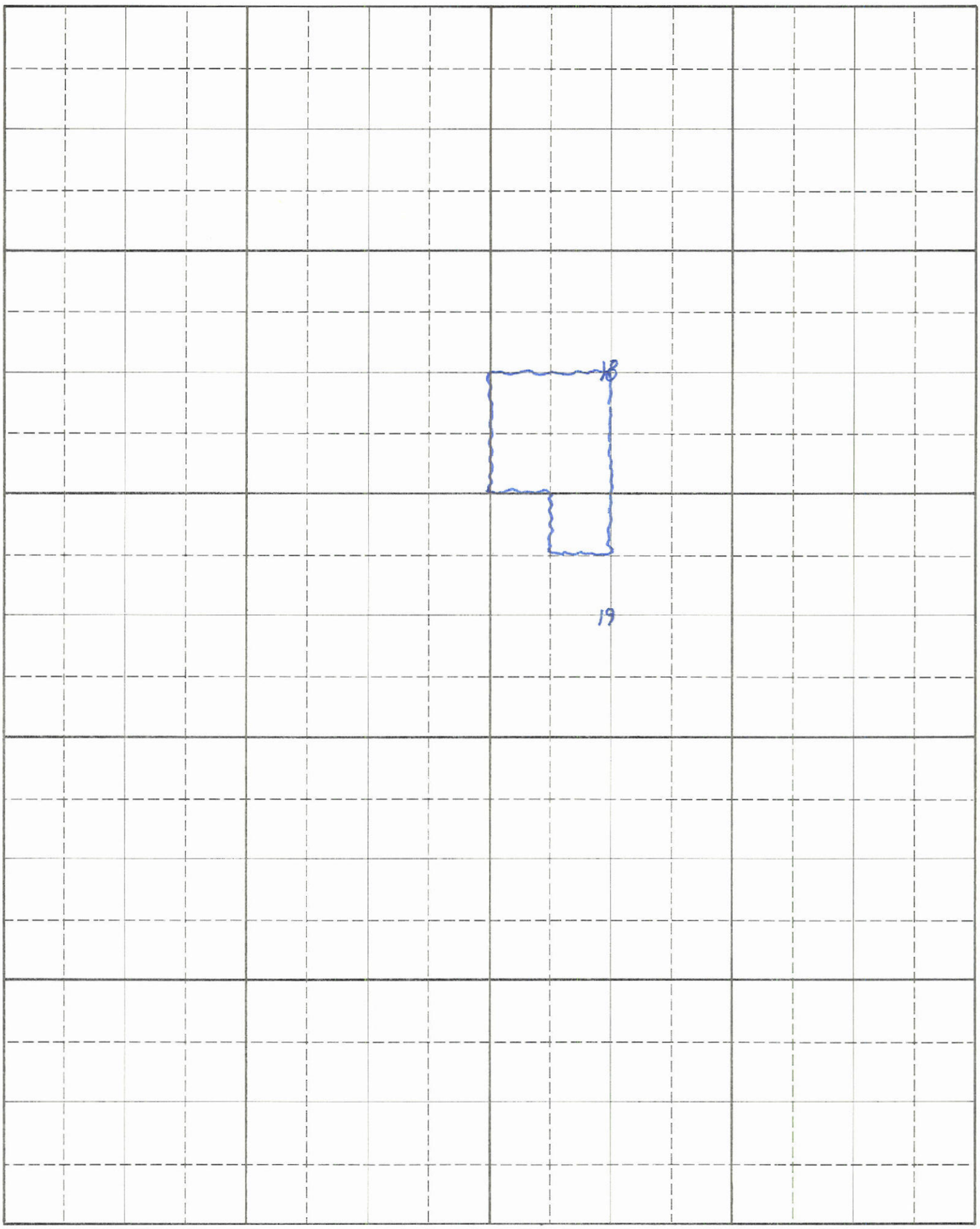
The point of diversion for these rights will be located within the NE¼NW¼, Sec. 8, T. 15S, R. 41E, B.M.

Any protest against approval of the above proposed change of water right must be filed with the Idaho Department of Water Resources, 1515 Lincoln Road, Idaho Falls, Idaho, 83401, on or before January 7, 1980.

C. STEPHEN ALLRED
Director

Legal No. 1024 - 36L - Pub. Dec. 20 and 27, 1979.

RECEIVED
JAN 3 1980
Department of Water Resources
Eastern District Office



SCALE: 2 Inches Equal 1 Mile. Draw Plan in Ink.

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I CERTIFY That the foregoing is a correct abstract of a judgment rendered in said action in the Justice Court of Twin Falls precinct, Twin Falls County, State of Idaho, as appears by Justice docket now in my possession.

ATTEST My hand and the Seal of said Court this 18th day of June 1917.

W.J.Smith Justice of the Peace

Asher B.Wilson, Twin Falls, Idaho, Attorney for Plaintiff.

Recorded at request of Asher B.Wilson, June 16th, 1917 at 4 P.M.

Fee $.50

John A Bofford
Clerk.

NO.7480

DECREE.

IN THE DISTRICT COURT OF THE FIFTH JUDICIAL DISTRICT of the STATE OF IDAHO,

in and for the County of Cassia.

- - - - - - -

The Cub River Irrigation Company, a corporation---------- Plaintiff,

vs.

The Cub River Middle Ditch Company, a corporation,---------- Defendant,

and

The Franklin Cub River Canal Company, a corporation; The Cub River and Worm Creek Canal Company; [illegible] Edward M.Perkins, Lorenzo Cutler, Calvin Wheeler, [illegible] S.Bodily, Orrin J.Merrill, Erasmus Olsen, [illegible] Franklin Taylor, Joseph A.Stone, Mary Ann Buckley, [illegible] Taylor, Joseph Neff, Marriner W.Merrill, Robert Hall and O.Preston Merrill,

Intervenors.

- - - - - - - - - -

D E C R E E.

- - - - - - - - - -

This cause came on regularly for trial in open court on the 24th day of January, 1905,

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before the Judge, sitting without a Jury.

Messrs. Hart & Nebeker and Messrs.Standrod & Terrell appeared as counsel for the plaintiff,the Cub River Irrigation Company;

Messrs. Arthur Hart, F.S.Dietrich and D.C.McDougall appeared as counsel for the defendant,the Cub River Middle Ditch Company;

Messrs Hart & Nebeker appeared as coudsel for the intervenor,the Franklin Cub River Canal Company; George E.Gray Esq., and Joseph Davis,Esq., appeared as counsel for intervenor, the Cub River and Worm Creek Canal Company; S.D.Davis, Esq., appeared as counsel for intervenors, Calvin Wheeler, Lamoni Taylor and Edward M.Perkins; Messrs. Hart & Nebeker appeared as counsel for intervenors, William S.Bodily, Orrin J. Merrill, Erasmus Olsen, Henry Day, Franklin Taylor, Robert Hull and O.Preston Merrill; Joseph A.Stone and Mary Ann Buckley appeared by Arthur Hart and D.C.McDougall, Esquires, who also appeared for Heber Taylor and Joseph Neff; and W.W.Maughan and L.R.Rogers, Esquires, appeared on behalf of intervenor, Marriner W.Merrill.

Testimony on behalf of the plaintiff was heard from witnesses introduced in its behalf, and documentary evidence in its behalf was ordered and received;

Witnesses on behalf of the defendant and the intervenors were also called,sworn and examined,in behalf of said defendant and intervenors offering the same, and also documentary evidence was offered and received in their behalf, respectively;

And after examining all the testimony offered and received for and on behalf of the respective parties,and the stipulations entered into between the said parties,and after hearing the arguments of the respective counsel aforesaid,the Court took said cause under consideration; and after having duly considered the law and the evidence, and being fully advised in the premises,the Court made its findings of fact and Conclusions of Law,and ordered judgment to be entered in said cause in accordance with said findings and conclusions;

WHEREFORE, IT WAS ORDERED, ADJUDGED AND DECREED AS FOLLOWS:--

First.

That the intervenor, Marriner W.Merrill, take nothing by his cross-complaint filed herein and that his cause of action therein out be dismissed absolutely.

Second.

That the plaintiff is entitled to the use, at all times, of forty-five (45) cubic feet per second of time of all of the water of Cub River aforesaid, and forty-five hundredths (45/100ths) excess or high water of said stream, to the extent of the capacity of said canal, its capacity being 158 second feet, its right to the use thereof to date from A.D. 1880; said water to be measured at the waste gate in said plaintiff's canal at a point where the same is now situated, bout one mile below the headgate of said canal.

Third.

That the said defendant, the Cub River Middle Ditch Company,is entitled to the use, at all times,of thirty (30) cubic feet per second of time of all of the waters of said Cub River,and to thirty hundredths (30/100ths) of the excess of high water,to the extent of the capacity of its said canal,its capacity being 69.3 second feet,its right to the use thereof to date from A.D.1882; said water to be measured at the waste gate in said company's canal, at the point where the same is now situated, below the headgate of said canal.

Fourth.

That the Cub River and Worm Creek Canal Company is entitled,at all times,to twenty-five (25) cubic feet per second of time of all of the waters of said Cub River,and to one-fourth (1/4th) of the excess of high water of said stream,to the extent of the capacity of its canal

the capacity of said canal being 86 second feet,its right to the use thereof to date from A.D. 1882; said water to be measured at the headgate of said company's canal,where said canal intercepts said stream.

Fifth.

That the Franklin Cub River Canal Company intervenor,is entitled,at all times,to five (5) cubic feet per second of time of all of the waters of said Cub River,their right to the use thereof to date from A.D'1882; and the water to be measured at the headgate of said company's canal,where the same intercepts said stream.

Sixth.

That as between the said Cub River Middle Ditch Company and the said Cub River and Horn Creek Canal Company,the rights hereinbefore decreed to them shall be of equal priority as to priority; and prior to July first of each year the Cub River Middle Ditch Company shall use four-ninths (4/9ths) of the waters herein decreed to both of said companies, and the said Cub River and Horn Creek Canal Company shall use five-ninths (5/9ths) of same; and after said first day of July of each year,all waters herein allotted to said companies shall be used by them jointly,share and share alike.

Seventh.

That the intervenors O.J.Merrill, William S. [illegible] Lyons as tenants in common, are entitled, at all times, to one (1) cubic foot per second of time of the waters of said Cub River, their right to the use of the same to date from A.D.1879; and the further right to,at all times, of two (2) cubic feet per second of time of said waters,their right to the use of the same to date from A.D.1882; said water to be diverted and measured at the headgate of the Cub River Middle Ditch Company's canal, and to be used upon and for the irrigation of lands belonging to said parties,lying and in sections 26 and 27,in township [illegible] south of Range 40 east of the Boise Meridian.

Eighth.

That the intervenors Heber Taylor and Joseph Jeffs are entitled,at all times,to all of the waters flowing in Silver Creek,a tributary of said Cub River,their right to the use of the same to date from the year 1879, and to be used [illegible] as follows,to-wit:-

The said Joseph Jeffs shall be entitled to the use of [illegible] eighths (6/8ths) of said water, and the said Heber Taylor shall be entitled to the use of [illegible] eighths (2/8ths) of said water. the same to be measured to said several intervenors at the [illegible] conducted at said Silver Creek. and their right to be confined to the waters of said Silver Creek.

The waters herein allotted to the said Joseph Jeffs shall be used upon and become appurtenant to the following described lands;--

Commencing at a point at the North-east corner of the South-east quarter of Section 24, in Township 15 South of Range 40 East of the Boise Meridian; thence running East 80 rods; thence South 320 rods; thence West 80 rods; thence [illegible] to the place of beginning.

The waters herein allotted to said [illegible] shall be used upon and become appurtenant to the following described lands;--

The East half of the South-east quarter of Section 24,and the East half of the North-east quarter of section 25,and the East half of the South-east quarter of Section 24,in township 15 south of range 40 east of the Boise Meridian.

Ninth.

That the intervenors Lemoni Taylor, Edward W.Perkins and Lorenzo Cutler are entitled,at all times,to the use of seven and one-fifth (7-1/5th) cubic feet per second of time of the waters of Sugar Creek,a tributary of said Cub River,and the intervenor Calvin Wheeler is entitled,at all times,to two and two-fifths (2-2/5ths) cubic feet per second of time of all of the

waters of said Sugar Creek; the rights of said parties the date of appropriation; to be measured at the respective headgates of said parties, at said Sugar Creek, and said rights shall be confined to the waters of said Sugar Creek.

The waters herein allotted to said Lemont Taylor, Edward M.Perkins and Lorenzo Cutler shall be used upon and become appurtenant to the following described lands:--

The East half of the North-west quarter of section 33, and the West half of the North-west quarter of section 34, the South-west quarter of Section 28, and the South-East quarter of Section 34; all in Township 15 south of Range 42 East of the Boise Meridian; and the North half of the North-west quarter of Section 3, the North-east quarter of the North-east quarter of section 3,in Township 16 South of Range 40 east of the Boise Meridian,in accordance with the ownership of said claimants in and to said lands, as the same appears from their respective titles.

And the waters herein allotted to said Calvin Cutler shall be used upon and become appurtenant to the following described lands:--

The South-east quarter of the South-east quarter of Section 21,and the West half of the South-west quarter and the East-west quarter of the South-east quarter of section 22,all in

Tenth.

That Joseph A.Stone,intervenor,is entitled to the use,at all times, of three-fifths (3/5ths) of one cubic foot per second of time of all the waters of said Sugar Creek; his right thereto to date from the year 1892; and also to the additional right,at all times,of four-fifths (4/5ths) of one cubic foot per second of time of all of the waters of said Sugar Creek, his right to the use thereof to date from the year 1896; his right to be confined to the waters of said Sugar Creek, and to be measured at his headgate leading therefrom,and shall be used upon and become appurtenant to the following described lands:--

Commencing at a point 80 rods North of the North-east corner of Section 30,in township 15 South of Range 40 East of the Boise Meridian, thence running East 160 rods; thence North 80 rods; thence West 160 rods; thence South 80 rods,to the place of beginning.

That Mary Ann Buckley,intervenor,is entitled,at all times,to the use of four-fifths (4/5ths) of one cubic foot per second of time of all of the waters in said Sugar Creek; her right therein to date from the year 1895, and to be confined to the waters of said Sugar Creek, and to be measured at the headgate of her ditch leading from said creek; said water to be used upon and to become appurtenant to the following described lands,to wit:--

Commencing at the North-east corner of section 36,in township 15 south of Range 40 East of the Boise Meridian; thence running East 80 rods; thence North 80 rods; thence West 80 rods; thence South 80 rods; to the place of beginning.

Twelfth.

That intervenor O.J.Merrill is entitled,at all times,to the use of one (1) cubic foot per second of time of the waters of said Cub River, his right to the use thereof to date from the year 1882; and the additional right of three-tenths (3/10ths) of a cubic foot per second of time of the waters of said stream,said additional right to date from the year 1883, and to be used upon and become appurtenant to the lands owned by said claimant,lying within sections 24 and 25,in township 15 south of Range 40 east of the Boise Meridian; said waters to be conveyed through what is known as the Merrill, Day and Taylor ditch,and to be measured at the headgate thereof,which is near the headgate of the Cub River and Warm Creek Canal Company.

Thirteenth.

That the intervenor Henry Day is entitled, at all times,to the use of one fourth (1/4th)

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of one cubic foot per second of time of the waters of said Cub River,his right to the use thereof to date from the year 1882, and the additional right of seven-tenths (7/10ths) of a cubic foot per second of time of said waters,his right to said additional use to date from the year [illegible] and to be used upon and become appurtenant to lands owned by said claimant, lying within sections 24 and 15,in township 15 South of Range 40 East of the Boise Meridian. Said water to be conveyed through the Mer. ill,Day and Taylor ditch,and to be measured at the headgate thereof.

Fourteenth.

That Franklin Taylor, Intervenor,is entitled to the use,at all times,of one-fifth(1/5th) of a cubic foot per second of time of all of the waters of said Cub River,his right to the use thereof to date from the year 1882; and the additional right to the use of said waters of seven-tenths (7/10ths) of one cubic foot per second of time thereof, such additional use to date from the year 1892, and to be used upon and to become appurtenant to the lands owned by said claimant,lying within sections 24 and 15,in township 15 south of Range 40 East of the Boise Meridian. Said water to be conveyed through the said Merrill, Day and Taylor ditch,and to be measured at the head gate thereof.

That the Intervenors Lemuel Taylor, Edward M.Per[illegible] and Lorenzo Cutler, is entitled,at all times,of the flow of the waters of said Cub River,to the use of said water as follows:--

The said Lemuel Taylor,to the use of three and one-half (3-1/2) cubic feet per second of time;

The said Edward M.Perkins,to one (1) cubic foot per second of time; and

The said Lorenzo Cutler to one and one half (1-1/2) cubic feet per second of time;

Their right to the use of said water to date from the year 1884, and to be conveyed through what is known as Sumar Creek ditch ,and to be measured at the headgate of said ditch; the same to be used upon and to become appurtenant to the lands owned by them,lying within the East half of the North-west quarter of section 36,the West half of the North-west quarter of section 36,the South-west quarter of said section 36,and the South-east quarter of section 34. all in township 15 south of range 40 East of the Boise Meridian; and the North half of the Northwest quarter of Section 3,and the Northeast quarter of Section 3,in township 16 south of Range 40 East of the Boise Meridian.

Sixteenth.

That the Intervenor Robert Hull is entitled,at all times,to the use of all of the waters of Sheep Creek,a tributary of Cub River,arising upon or above his premises,described as part of the North-west quarter of the South-east quarter and the South-east quarter of the South-east quarter of Section 14,and the North-east quarter of the North-east quarter of section 23, in township 15 south of range 40 east of the [illegible] right to the use thereof to date from the year 1890,and to be used upon and [illegible] to become appurtenant to the lands owned by said claimant above described.

Seventeenth.

That the Intervenor O.Preston Merrill is entitled,at all times,to the use of all of the waters of Sheep Creek,a tributary of Cub River, flowing from and below the lands of the said Intervenor Robert Hull above described,and to be used upon the lands of the said O.Preston Merrill lying and being in section 24,in township 15 south of range 40 East of the Boise Meridian,His right to the use thereof to date from the year 1890,and to become appurtenant to the lands of the said O.Preston Merrill above described.

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Eighteenth.

IT IS FURTHER ORDERED, ADJUDGED AND DECREED, that each of the parties hereto shall pay all the costs of the Clerk and all fees of witnesses incurred by it, or him, or her; and the costs of the Court Stenographer for transcribing testimony taken at the trial and for other services rendered herein, and the charges of the engineers for measuring the streams, canals and ditches of the respective parties; and said costs and charges shall be paid by said parties of this action in the following proportions, to wit:--

The plaintiff, the Cub River Irrigation Company, shall pay of said costs, $185.70.

The defendant, the Cub River Middle Ditch Company, shall pay of said costs, $58.20.

The Franklin Cub River Canal Company shall pay of said costs, $14.70

The Cub River and Worm Creek Canal Company shall pay of said costs, $48.50.

O.J.Merrill shall pay of said costs, $5.90.

Lamoni Taylor, Edward M.Perkins and Lorenzo Cutler shall pay of said costs, jointly, $14.10.

Calvin Wheeler, William S.Bodily and Orrin J.Merrill shall pay of said costs, $11.35.

Erasmus Olsen, Henry Day and Franklin Taylor shall pay, jointly, of said costs, $4.75.

Joseph A.Stone and Mary Ann Buckley shall pay, jointly, of said costs, $5.05.

Heber Taylor and Joseph Neff shall pay jointly of said costs, $2.90.

Robert Hull and O.Preston Merrill, jointly shall pay of said costs, $5.00.

AND IT IS ORDERED that the Clerk of this court shall tax said costs, and that execution may issue against the parties hereto for the amount of costs herein directed to be paid by them, respectively.

AND IT IS FURTHER ORDERED, ADJUDGED AND DECREED, that each and every of the parties to this action, the plaintiff and the defendant and the intervenors, each and every of their servants or employes, and their successors in interest be, and they and each of them are hereby perpetually enjoined and restrained from in any manner interfering with the waters of said Cub River and the tributaries thereof, except as their rights, as herein decreed, may appear, and each of said parties, his, her or its agents, servants, counselors, employes and successors in interest, are forever perpetually enjoined and restrained from in any way interfering with the rights of any other party or parties to this action, as said rights herein appear, in the use of said waters, or in the use of any dam, conduit, canal, or other works, in the diversion of any of said waters, except as their rights are herein defined and decreed with respect to the quantity of water herein allotted to each of said parties, respectively, and with respect to the date of their respective appropriations, it being the intention of this decree that the rights of said parties to the use of said waters shall be governed according to the dates of their respective appropriations.

Done in open court this 26th day of January, 1906.

ALFRED BUDGE.

District Judge.

Clerk's fees.---------- $23.00

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TRANSFER NO.	NAME	AMOUNT C.F.S.	BALANCE C.F.S.	RIGHT NO.
	~~Day, Henry~~	~~0.25~~		13-0017
~~1702~~	~~Robinson, Thomas A~~	~~0.25~~		13-0017
2378	Robinson, Thomas A.	0.25		13-0017

TRANSFERRED

MICROFILMED

	Day, Henry	0.25	13-0017
1702	~~Robinson, Thomas A.~~	0.25	~~13-0017~~
2378	Robinson, Thomas A	0.25	13.0017

Form No. 42-222

Transfer No. 2378

Water Right No. 13-0017
13-0018

STATE OF IDAHO

DEPARTMENT OF WATER RESOURCES

APPROVED

APPLICATION FOR TRANSFER OF WATER RIGHT

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

Name of applicant Thomas A. Robinson Phone 852-2962

Post office address Rt. #3, Box 607-C, Preston, Idaho 83263

A. DESCRIPTION OF RIGHT AS RECORDED

1. Right evidenced by:

   a. Decree to _____ (Name)

   in case of _____ vs _____

   dated _____ in _____ (Name of court) county of _____

   b. Transfer ~~License~~ No. 1702 (13-0017) 1703 (13-0018) 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 _____

3. Source of water Cub River tributary to Bear River

4. Date of priority (13- 0017) 1882 - (13-0018) 1879* See remarks

5. Water is used for the following purposes:

13-0017 amount 0.25 cfs for Irrigation purposes from Apr. 1 to Oct. 31

13-0018 amount 0.70 cfs for " purposes from " to "

amount _____ for _____ purposes from _____ to _____
(month/day – both dates inclusive)

6. Total amount of water under right: a. 0.95 cubic feet per second
   &/or
   b. _____ acre feet per annum

7. Location of original point of diversion is NW ¼ of NE ¼ of Section 18 Township 15S Range 41E, B.M., in Franklin County

   Additional points of diversion, if any Diversion point of the former Merrill, Day and Taylor Ditch on the Cub River.

8. Lands irrigated or place of use:

TWP.	RANGE	SEC.	NE¼				NW¼				SW¼				SE¼				TOTALS
			NE¼	NW¼	SW¼	SE¼	NE¼	NW¼	SW¼	SE¼	NE¼	NW¼	SW¼	SE¼	NE¼	NW¼	SW¼	SE¼	
15S	41E	18									10	20	30						60
		19					20												20

Total number of acres to be irrigated 80

9. Describe any other water rights used for the same purposes as described above 0.45 cfs and token amounts stockwater from Preston Whitney Irrigation Company.

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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 _____ ¼ _____ ¼, Section _____ Township _____
Range _____, B.M., _____ County
Additional points _____

3. Place of use:

TWP.	RANGE	SEC.	NE¼				NW¼				SW¼				SE¼				TOTALS
			NE¼	NW¼	SW¼	SE¼	NE¼	NW¼	SW¼	SE¼	NE¼	NW¼	SW¼	SE¼	NE¼	NW¼	SW¼	SE¼	

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

1. Change in point of diversion

a. Amount of water to be diverted 0.95 c.f.s. &/or _____ acre feet

b. Point(s) of diversion NE ¼ NW ¼, Section 8 Township 15S
Range 41E, B.M., Franklin County
Additional points _____

c. Description of diverting works Existing diversion point of the Preston-Whitney Irrigation Canal on the Cub River

d. Describe the reasons for applying for a change in the point(s) of diversion
To permit gravity pressure sprinkler irrigation on the same lands previously watered by flood irrigation

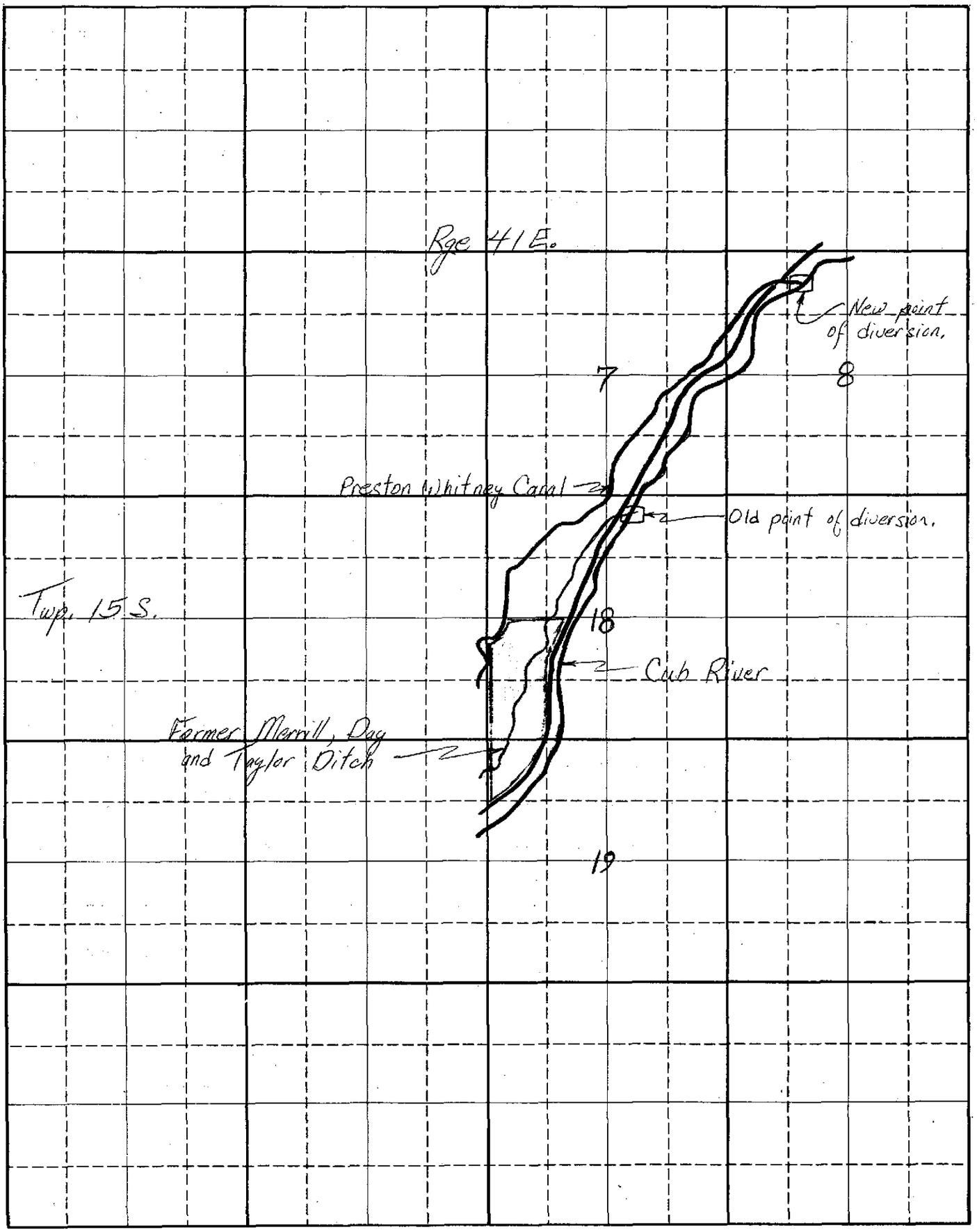
2. Change in place of use

a. Describe the lands or place of use to which the right will be transferred:

TWP.	RANGE	SEC.	NE¼				NW¼				SW¼				SE¼				TOTALS
			NE¼	NW¼	SW¼	SE¼	NE¼	NW¼	SW¼	SE¼	NE¼	NW¼	SW¼	SE¼	NE¼	NW¼	SW¼	SE¼	
15S	41E	18									10	20	30						60
		19						20											20

Total number of acres to be irrigated 80

3. 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.



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

4. Remarks Transfer No. 1703 was approved with a priority* date of 1892 while the decree states the priority date for this right is 1879.

I hereby assert that no one will be injured by such change and 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.

Thomas A. Johnson
(Signature of applicant)

Subscribed and sworn to before me this 5th day of December, 1979.

C. E. Jensen
(Notary public)

My commission expires Lifetime

ACTION OF THE DIRECTOR, DEPARTMENT OF WATER RESOURCES

This is to certify that I have examined Application for Transfer of Water Rights No. 13-0017/0018 and said application is hereby approved, subject to the following limitations and conditions:

(1) A measuring device of a type approved by this Department shall be permanently installed and maintained as part of the diverting works. (2) Use of water under this Right is subject to control by the watermaster of State Water District No. 13A Cub River. (3) The priority date of Right No. 13-0018 is 1892 as determined in the court decree between Henry T. McEwan vs. Franklin County Sugar Co.

Witness my hand this 8TH day of May, 1980.

Norman C Young
NORMAN C. YOUNG
Administrator, Resources Admin. Div.

FOR DEPARTMENT USE ONLY

Received by kw Date 12/6/79 Protest filed by

Prelim. check by EMC Fee 25.00

Receipted by kw Date 12/7/79 #15431

Published in Preston Citizen Copies of protest forwarded by

Pub. dates 12/20 & 12/27/79 Hearing held by Date

Watermaster recommendation requested on 1/15/80 Recommended for approval denial

rec'd. 2/7/80 by Ernest Carlson, Jim DRT

* Region had a copy of the decree with wrong priority date. Correct date should be 1892.

RECEIVED

JUL 10 1972

Department of Water Administration

Identification No. 13-0017

Transfer No. 1702

APPROVED

STATE OF IDAHO
DEPARTMENT OF RECLAMATION

Department of Water Administration

APPLICATION FOR TRANSFER OF WATER RIGHT
To Change the Point of Diversion and/or the Place of Use

1. Name of Right Holder Thomas A. Robinson

   Post office address 154 N. 2nd East, Preston, Idaho

2. Right obtained by:

   a. Decree to Henry Day (Name) in Case of Henry T. McEwan vs. Franklin Sugar Company, et al., Dated July 9, 1924 in Fifth Judicial District (Name of Court) Court. County of Franklin.

   b. License No. _____ issued by the State of Idaho, Department of Reclamation.

3. Source of water Cub River (Name of stream or source) tributary to Bear River

4. Date of Priority 1882

5. Amount of water a. .25 c.f.s. and/or

   b. _____ acre feet/annum

6. Water is used for Irrigation from April 1 (Month, Day) to October 31 (Month, Day)

7. Original location of point of diversion is NW ¼ NE ¼ of Section 18,

   Township 15S, Range 41E, B.M., in Franklin County;

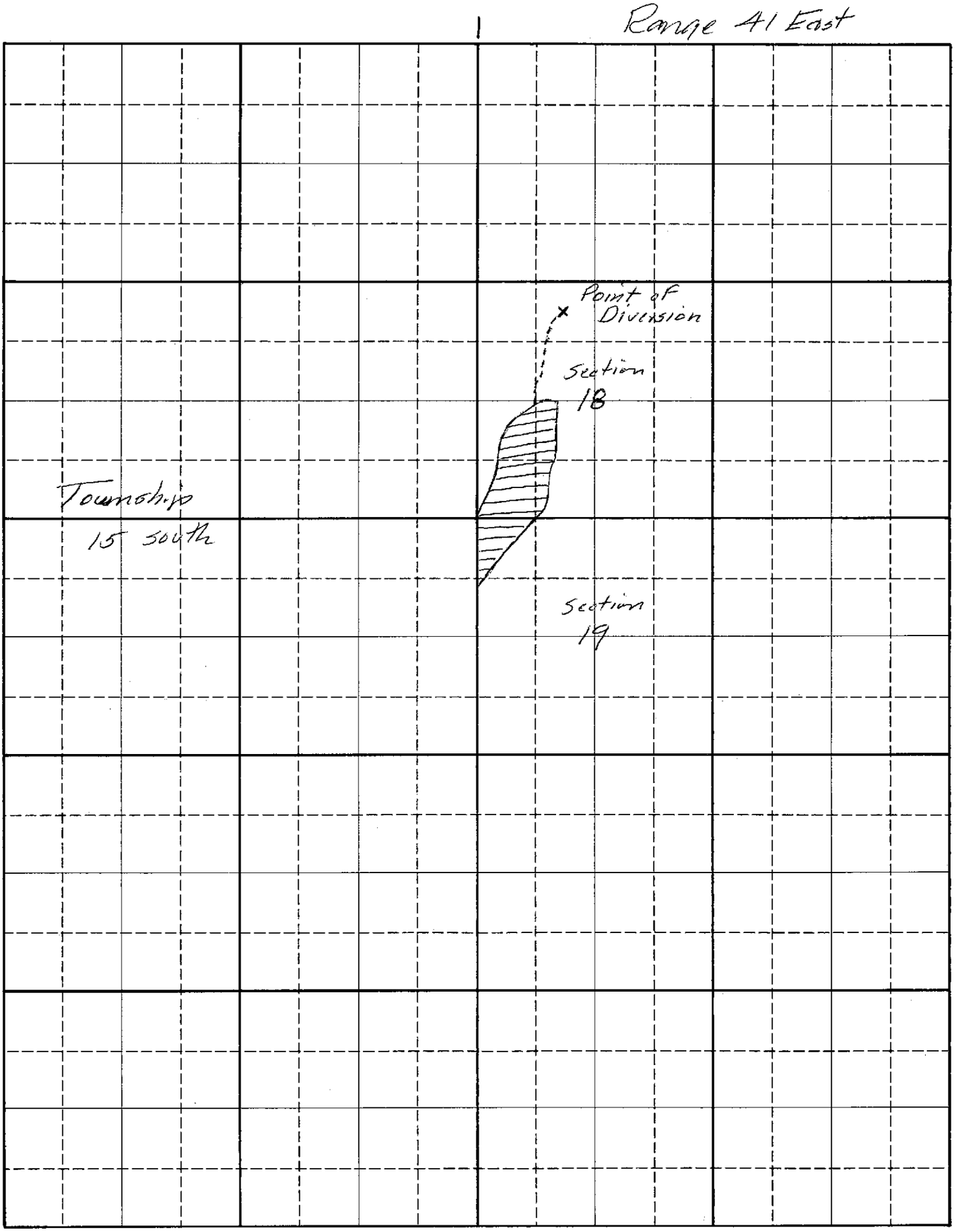
   Additional points of diversion, if any None

8. Lands presently irrigated or place of use:

TWP.	RANGE	SEC.	NE¼				NW¼				SW¼				SE¼				TOTALS
			NE¼	NW¼	SW¼	SE¼	NE¼	NW¼	SW¼	SE¼	NE¼	NW¼	SW¼	SE¼	NE¼	NW¼	SW¼	SE¼	
15S	40E	24	ACREAGES IN THESE TWO SECTIONS NOT SPECIFICALLY DEFINED IN ORIGINAL DECREE.																
15S	40E	15																	

Total number of acres presently irrigated 80

RECORDED



SCALE: 2 Inches Equal 1 Mile. Draw Plan in Ink.

MICROFILMED

9. If applicant was not the original holder of this right explain how it was acquired: Purchased

10. CHANGE IN POINT OF DIVERSION NONE

a. Quantity to be diverted at new point: .25 c.f.s. and/or _____ acre feet

b. New point of diversion: No Change ¼ ¼, Section _____, Township _____, Range _____, B.M.

c. Description of method of diversion and conveyance from new points of diversion: There is no change. This paperwork is to correct a typographical error on the original decree concerning the lands upon which the water was to be used and to become appurtenant thereto.

d. Is water to be conveyed to the lands previously irrigated? Yes X * No _____.

If not, the place of use should be changed below.

e. Describe the reasons for applying for a change in the ~~point of diversion~~: place specified for use. * To correct an error as noted above in the original decree in which all three paragraphs (FOURTEENTH; FIFTEENTH; SIXTEENTH:) pertaining to the water rights in the Merrill, Day and Taylor Ditch convey use to lands in sections 24 and 15, Township 15 South, Range 40 East when, in fact, the waters decreed to Mr. Henry Day, (fifteenth paragraph), have been used continuously since 1882 in sections 18 and 19, Township 15 South, Range 41 East of the Boise Meridian.

f. Do you intend to make the transfer permanent? Yes (change in area of use)

g. Do you intend to abandon completely the old point of diversion? No - no change

h. Indicate on the above plat the ~~new~~ point of diversion and lands to be irrigated.

11. CHANGE IN PLACE OF USE None

a. Describe the ~~new~~ lands on which you ~~will~~ use your right.

TWP.	RANGE	SEC.	NE¼				NW¼				SW¼				SE¼				TOTALS
			NE¼	NW¼	SW¼	SE¼	NE¼	NW¼	SW¼	SE¼	NE¼	NW¼	SW¼	SE¼	NE¼	NW¼	SW¼	SE¼	
15S	41E	18									10	20	30						60
		19					20												20

Total number of acres to be irrigated 80

b. Do you intend to make the transfer permanent? Yes

c. Are you completely abandoning the lands previously irrigated by this right? If not, explain your plans:

No. Same lands.

d. Describe any other water rights that you claim for the new ground upon which you wish to transfer this right: No new ground

e. Indicate on the above plat the new land to be irrigated and the point of diversion.

I hereby assert that no one will be injured by such transfer and that the change will be made at my own risk. The information contained in this application is true to the best of my knowledge.

(signature of applicant)

Subscribed and sworn to before me this 16th day of February, 1972

(notary public)

My commission expires Jan 6, 1973.

ACTION OF STATE RECLAMATION ENGINEER AND CERTIFICATE OF TRANSFER

This is to certify that I have examined Application for Transfer of Water Rights No. 13-0017, and said application is hereby APPROVED.

1. Approval of said application is subject to the following limitations and conditions:

A measuring device of a type approved by this Department shall be permanently installed and maintained as part of the diverting works.

2. Denial of said application is for the following reasons:

Witness my hand this 6th day of February, 19 73.

Director

FOR DEPARTMENT USE ONLY

Received by ej Date 5-2-72 (7-10-72)

Prelim. check by [illegible] Date 7-10-72

Fee received by ej Date 7/10/72 Fee $ 30.00

Approved for publication by

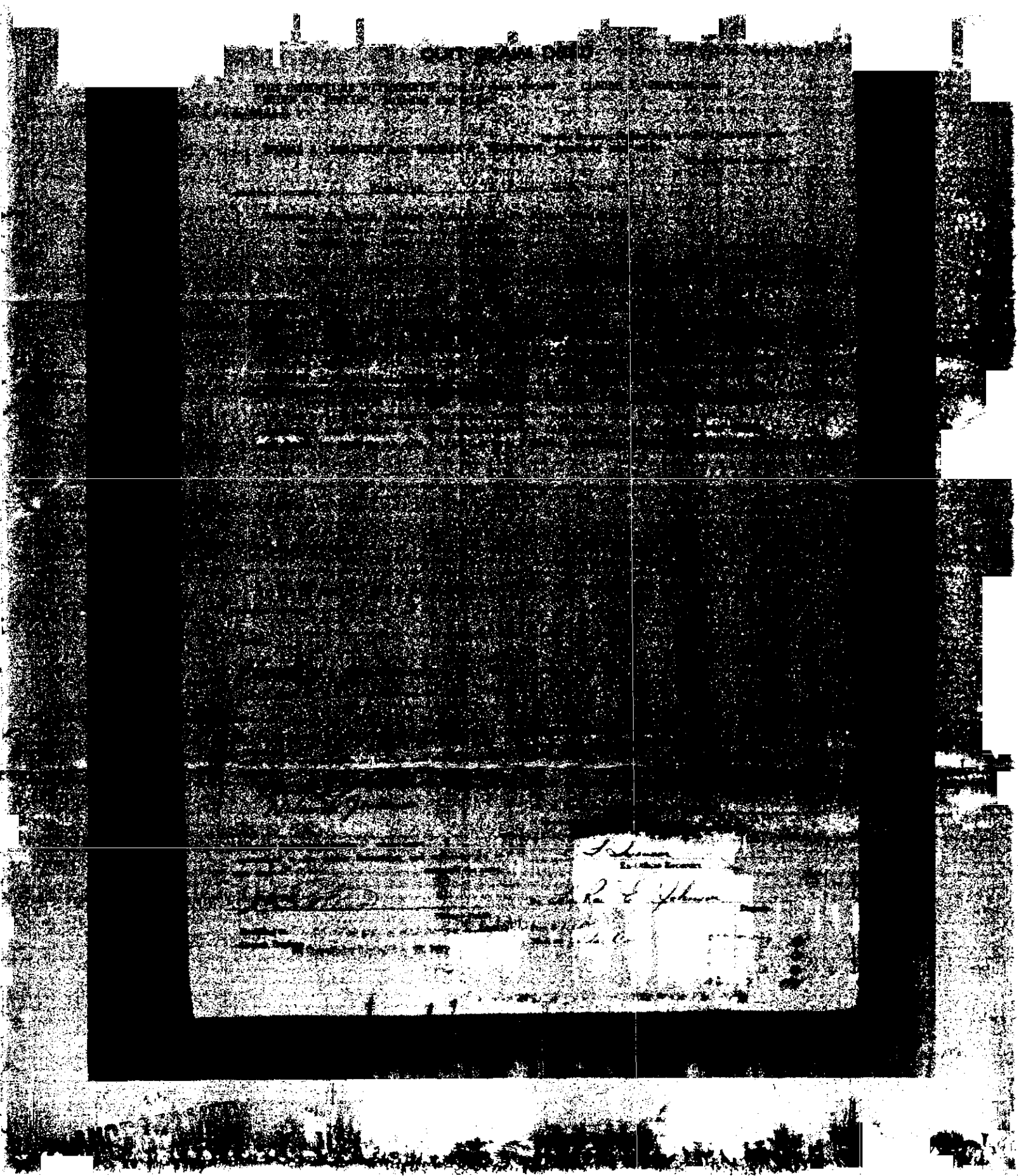
Published in Preston Citizen at Preston, Idaho Dates 7-27 & 8-3, 1972

Hearing held

Watermaster Recommendation sent

Protest filed by: Date

MICROFILMED



No. 2217

AFFIDAVIT OF PUBLICATION

STATE OF IDAHO, }
County of Franklin } ss.

J. Walter Ross
being duly sworn,

deposes and says:

That he is the Co-publisher of THE PRESTON CITIZEN, a weekly newspaper published at Preston, in the County of Franklin and State of Idaho; that said paper has been and is in general circulation in the county aforesaid, and in the vicinity of Preston; that the advertisement, a copy of which is attached hereto, was published in said newspaper once a week for two consecutive weeks in the regular and entire issue of said paper during the period and time of publication, and was published in the newspaper proper and not a supplement; that said paper has been established and regularly published for more than seventy-eight consecutive weeks prior to the date of first publication of said advertisement.

Such notice was published in the issue beginning with July 27, 19 72, and ending with the issue of August 3, 19 72

J. Walter Ross

Fees, $ 18.13

Subscribed and sworn to before me this 27 day of July, 19 72

Delma D. Geddes

Notary Public, Residing at Preston, Idaho

My Commission Expires March, 19 74

NOTICE OF PROPOSED CHANGE OF WATER RIGHT NO. 18-0017

Notice is hereby given that Thomas A. Robinson, 154 North 2nd East, Preston, Idaho, has applied to the Dept. of Water Administration for a change of the place of use of the waters of the Cub River, tributary to the Bear River. The right sought to be changed is evidenced by Decree to Henry Day, in Case of Henry T. McEwan vs. Franklin Sugar Company, et al, Dated July 9, 1924, in Fifth Judicial District Court, County of Franklin, and is recorded as follows:

Amount: 0.25 cfs
Priority: 1882
Point of diversion: NW¼-NE¼, Sec. 18, Twp. 15S, Rge. 41 E, B.M., Franklin County.

The water is used for irrigation purposes from April 1 to October 31 within Sections 24 and 15, Twp. 15S, Rge. 40 E,B.M. (acreages in these two sections not specifically defined in original Decree).

TO BE CHANGED AS FOLLOWS

The water will be used for irrigation purposes within the N½SW¼, SW¼SW¼, Sec. 18; NE¼NW¼, Sec. 19; Twp. 15S, Rge. 41 E,B.M.

Any protest against approval of the above proposed change of water right must be filed with the Idaho Dept. of Water Administration, Statehouse — Annex 2, Boise, Idaho, 83707, on or before August 14, 1972.

R. KEITH HIGGINSON,
Director

Published in the Preston Citizen, Preston, Idaho, on July 27 and August 3, 1972.

Legal No. 2217 — Pub. July 27 and Aug. 3, 1972.

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

* *

HENRY T. McEWAN

Plaintiff,

-vs-

FRANKLIN COUNTY SUGAR COMPANY, A corporation, CITY OF PRESTON, A municipal corporation; THE CUB RIVER IRRIGATION CO. a corporation, THE CUB RIVER MIDDLE DITCH CO. a corporation; THE FRANKLIN CUB RIVER CANAL CO. a corporation; THE CUB RIVER AND WORM CREED CANAL CO. a corporation; S.M. BURBANK, CAROLINE J. ALLRED, GRACE H. WOOLEY, VIRGIL L. NELSON, HENRY P. BENNETT, MERLIN PERKINS, JAMES PERKINS, JANUS KELLER JR., JOS. SHARP, C.M. EPPICH, MARY ANN BUCKELY McGEE, HENRY DAY, J. A. DUNKLEY, JOSEPY T. SHARP, ALVIN C. HULL, LEROY HULL, PRISCILLA BOWMAN, TRACY LOAN & TRUST COMPANY, a corporation, AND S.W. PARKINSON, AS administrators of the Estate of Samuel C. Parkinson, deceased; ALVIN SHARP, CECIL WOODWARD, GARNET WOODWARD, FRANKLIN MAPLE CREEK PIONEER IRRIGATION CO. a corporation, ELIZA D. LOWE, ELIZABETH K. LOWE, LEVI OLIVERSON, JOHN W. GIBSON, WM. FOLLETT, and HOWARD GIBSON, as Administrators of the Estate of W.H. Gibson, deceased; WALLACE CHATTERTON, S.S. WRIGHT, S.J. HANDY, W. CHATTERTON, AARON CHATTERTON, JOANA WHITEHEAD, IVAN WOODWARD, EDWARD MORGAN, THOMAS HAWORTH, W.L. WICKHAM, PETER S. WHITEHEAD, WILLIAM STOCKDALE, P. A. ROBINSON, AND ALVIN C. HULL, as Administrator of the Estate of Robert M. Hull,

Defendants,

DECREE

* *

This cause came on regularly for trial on the 18th day of March, 1924, before Honorable O. R. Baum, on eof the Judges of the said Court at Preston, Idaho, sharles H. Hart, Esq., of Salt Lake City, Utah, and P. J. Evans, Esq. of Preston, Idaho, appearing as attorneys for the plaintiff, Henry T. McEwan; Day, Rappaugh & Mark, Esqs., and Arthur W. Hart, Esq., appearing as attorneys for the Defendant, Franklin County Sugar Company, a copporation, P. M. Condie Esq., appearing as attorney for the Defendant, and cross complainant the City of Preston, a municipal corporation; Clark, Richards & Bowen, Esqs., and [illegible] E. Crowley, Esq, appearing as attorneys for the Defendant and cross complainant, the Cub River Irrigation Company, a corpo[illegible]on; A. W. Hart, Esq., appearing as attorney for the Defendant [illegible] cross complainant, the River Middle Ditch Company, a corporatio[illegible]nd for the Defendant and cross complainant, the Cub River [illegible]rm Creek Canal Company, a corporation, and also for t[illegible]efendants and cross complainants, Alsin C. Hull, Leroy Hull a[illegible]lvin C. Hull, as administrators of the Estate of Robert N. Hul[illegible]leceased, and none of the other Defendants appearing, eithe[illegible]rsonally or by counsel, and the default of all of said othe[illegible]fendants having been entered for failure to answer or otherw[illegible] plead to the complaint and amended complaint of the plaintiff[illegible] the cross complaint of the City of Preston, a municipal corpo[illegible], and for the failure to answer the cross complaint of the def[illegible] Cub River Irrigation Company, a corporation, in accordance [illegible] the Praecipe for Default filed

herein, and the judgement of default having been entered herein against such defaulting defendants, and testimony on behalf of the Plaintiff and of the appearing defendants and cross complainants both oral and documentary, having been offered and received by the Court on behalf of each of said parties respectively, and the parties having, by consent of the Court, agreed among themselves with reference to certain facts and the Court having examined all the testimony offered and received for and on behalf of the respective parties and the agreements and stipulations entered into between the said parties and having taken the said cause under consideration and being fully advised in the premises, and having made and entered its Findings of Fact and Conclusions of Law herein in writing and ordered judgment to be entered in accordance therewith.

IT IS NOW BY THE COURT, ORDERED, ADJUDGED AND DECREED:

FIRST: That the irrigation season, as the term is uded herein, begins on the first day of April and extends to the 31st day of October of each and every year and the non irrigation season extends from the first day of November of each year to the first day of April, of the succeeding year.

SECOND: That irrigation rights as herein awarded and decreed are of two classes, primary rights and excess or high water rights.

The primary rights include the right to use at all times during the irrigation season, in the amounts herein awarded to the various appropriators respectively, and in the order of thier respective priorities, the quanity of water specifically allotted to the various appropriatérs for irrigation purposes, exclusive of the excess or high water rights awarded to Cub River Irrigation Company, a corporation, Cub River Middle Ditch Company, a corporation, and Cub River & Worm Creek Canal Company, a corporation. Paragraphs Third and Fourth and Fifth hereof.

Excess of high water rights are defined to be the right to use by defendants, Cub River Irrigation Company, Cub River Middle Ditch Company and Cub River Worm Creek Canal Company, a corporation during the irrigation season, for irrigation purposes, in the amounts and with the priorities in said Paragraphs Third, Fourt and Fifth hereof specifically set out, all waters flowing in the said Cub River and its tributaries in excess of the amount of water necessary to satisfy the primary irrigation rights as herein allotted.

THIRD: That the Defendant, Cub River Irrigation Company, a corporation, is the owner of the primary right to use, at all times during the irrigation season, of 45 cubic feet per second of time of all the waters of said Cub River and in excess of high waters right to the use of 45/100ths of said stream after the primary irrigation rights herein decreed are satisfied, up to a total of 158 cubic feet per second of time, its rights to use of said water to date from the year A. D. 1880; said water to be measured at the waste gate in said Company's canal at a point where the same is now situated and about a mile below the headgate of said canal, and to be used for the irrigation of 1800 acres of land lying in Sections 1,2,3,10,11,12,13,14,13,21,22,23,24,25,26, 27 and 28, Township 16 South, Range 39 East of the Boise Meridian in Franklin County, Idaho, in sections 35 and 36, Township 15 of Range 1 West of the Salt Lake Meridian, Cache County, Utah, and Sections 3,4,5,6,7,8,9,10,15,16,17,18,19,20,21,28,29,30,31, and 32 Township 14 North of Range 1 East of the Salt Lake Meridian in Cache County, Utah.

FOURTH: That the Defendant Cub River Middle Ditch Company is the owner of the primary right to the use, at all times during the irrigation season, of [illegible] cubic feet per second of time of all of the waters of said Cub River, and of an excess of high water right in the order of its priority of 30/100ths of the waters of said stream, after the primary rights herein allotted for

RECEIVED

irrigation purposes are scified, up to the extent of 59.9 second feet, its right to the of said waters to date from the year A.D. 1882; said waters e measured at the waste gate in said Company's canal, at a pe ; where it is now situated below the headgate of the said ca .

FIFTH: That the b River and Worm Creek Canal Company is the owner of a primary ht to the use at all times during the irrigating season of 25 cubic feet per second of time of all of the waters of said Cub River, and is also owner of an excess of high water right in the order of its priority to the extent of ½ of the waters of said stream, after the primary rights herein decreed are fully satisfied. The total right of said company, nevertheless, not to exceed 85 cubic feet per second of time. The right to the use of the said waters by said Company to date from the year 1882 and that said water to be measured at the headgate of said canal company, where said canal intercepts said stream.

SIXTH: That the Defendant, Franklin Cub River Canal Company is the owner of a primary right to use, at all times during the irrigation season, five cubic feet per second of time of all of the waters of said Cub River, its rights to the use thereof to date from the year 1882, and the said water to be measured at the head gate of said Company's canal, where the same intercepts said Cub River.

SEVENTH: That as between the said Cub River Middle Ditch Company and the said Cub River and Worm Creek Canal Company, the rights herein decreed to them shall be of equal dignity as to priority, and prior to July 1st, each season the Cub River Middle Ditch Company shall use 4/9ths of the water herein decreed to both Companies and the said Cub River and Worm Creek Canal Company shall use 5/9ths of the same; and after said first day of July, of each year, said water herin allotted to said Companies shall be used jointly by tjem, share and share alike.

EIGHTH: That the Defendant, Preston City, is the owner of the right to use, at all times for municipal purposes, one cubic foot per second of time of the waters of said Cub River to be diverted from Ranger Spring, one of the tributaries of said Cub River, through diverting works and pipe line now maintained and operated by said City, said right to date from the year A.D. 1879, and is entitled to the further right, at all times, to the use of all of the waters of Birch Springs, formerly a tributary of Cub River, said right to date from the year A.D. 1882, the said water to be diverted through the pipe line and diverting works now operated and maintained by said City, Said City, subject to the completion of the terms of the contract between it and the Cub River Irrigation Company, it entitled to use from Ranger Spring, during the whole of each and every year, such quantity of the waters of Cub River as may be conveyed to it by said Cub River Irrigation Company, pursuant to said Contract, not exceeding at any time two and one half cubic feet per second.

NINTH: That Defendants, S.M. Burbank and Caroline Allred are the owners of a primary rights to the use of two cubic feet per second of time of the waters of Cub River, their right to the use of the same to date from the year A.D. 1882, said water to be diverted and measured at the headgate of the Cub River Middle Ditch Company's Canal, and to be used upon and for the irrigation of lands belonging to said parties lying with in Sections 28 and 2 of Township 14 South, Range 40 East of the Boise Meridian.

TENTH: That Defendants Grace H. Woolley is the owner of a primary right to the use at all times during the irrigation seas of all of the waters flowing in Silver Creek, a tributary of Cub River, her right to the use of the same to date from the year A.D. 1879, said water to be measured at the point of diversion from sai Silver Creek and her said rights to be confined to the waters of said Creek, and use for the irrigation of the following described land, to-wit:

Commencing at a point at the Northeast corner of the Southeast Quarter of Section 24, Township 15 South, Range 40 East of the Boise Meridian, thence running East 80 rods; thence South 320 rods; thence West 80 rods, thence North 320 rods to the place of beginning.

Also, the East half of the Southeast Quarter of Section 24, and the East half of the Northeast Quarter of Section 25, and the West half of the Southeast Quarter of Section 24, all in Township 15 South, Range 40 East of the Boise Meridian.

That except for such rights as the Defendant Virgil L. Nelson may have under agreement with the said Grace H. Wooley in and to the use of the waters herein allotted to said Grace H. Woolley, the said Defendant Virgil L. Nelson has no right, title or interest in or to the waters or use of the rights of said Cub River or its tributaries.

ELEVENTH: That the Defendants, Henry F. Bennett, Merlin Perkins, James Perkins, and Janus Keller, Jr. are owners of a primary right to the use, at all times during the irrigation season of 1-1/5 cubic feet per second of time of the waters of Sugar Creek, a tributary of said Cub River, and the Defendant Joseph Sharp is the owner of a primary right to the use, at all times during the irrigation season, to 2-2/5 cubic feet per second of time of the waters of said Sugar Creek, the right of said parties to date from the year A.D. 1879, and to be of equal dignity with respect to date of appropriation, and to be measured at the respective headgates of the said parties, at their respective points of diversion from said Sugar Creek, and their said rights to be confined to the waters of the said Sugar Creek.

The waters herein allotted to the said Henry F. Bennett, Merlin Perkins, James Perkins, and Janus Keller, Jr. shall be used upon and become appurtenant to the following described lands.

The East half of the Northwest Quarter of Section 35, and the West half of the Northwest Quarter of Section 35, and the Southwest Quarter of Section 35, and the Southeast Quarter of Section 34, all in Township 15 South of Range 40 East of the Boise Meridian, and the North half of the Northeast Quarter of Section 2, the Northeast Quarter of the Northeast Quarter of Section 3, in Township 16 South, Range 40 East of the Boise Meridian, in accordance with the ownership of said claimants in and to said lands, as the same appears from their respective titles.

And the water herein allotted to said Joseph Sharp shall be used upon and become appurtenant to the following described lands:

Southeast Quarter of the Southeast Quarter of Section 25, and the West half of the Southwest Quarter of the Southwest Quarter and the Southwest Quarter of the Northwest of Section 25, all in Township 15 South, Range 40 East of the Boise Meridian.

TWELFTH: That the Defendant C.M. Eppich is the owner of a primary right to the use at all times during the irrigation season of 3/5ths of a cubic foot of all of the waters of said Sugar Creek said right thereto to date from the year A.D. 1892, and also an additional primary right to use at all times during the irrigation season 4/5ths of one cubic foot per second of time of all of the waters of said Sugar Creek to date from the year 1896; the rights of the said C.M. Eppich to be confined to the waters of said Sugar Creek, which waters are to be measured at the head gate of said appropriator at his point of diversion from said stream, and the said waters to be used upon and become appurtenant to the following described lands.

Commencing at a point 80 rods North of the Northeast corner of Section 30, Township 15 South, Range 40 East of the Boise Meridian, thence running 80 rods, to the place of beginning.

THIRTEENTH: That the defendant Mary Ann Buckely McGee is the owner of a primary right to the use, at times during the irrigation season of 4/5th of one cubic foot per second of time of all of the waters of said Sugar Creek, her right thereto to date from the year 1896; and to be confined to the waters of said Sugar Creek, which are to be measured at her point of diversion from said Creek, said waters to be used upon and become appurtenant to the following described lands:

Commencing at the Northeast corner of Section 36, Township 15 South of Range 40 East of the Boise Meridian, thence running East 80 rods, thence North 80 rods; thence West 80 rods; thence South 80 rods; to the place of beginning.

FOURTEENTH: That the Defendant S.M. Burbank is the owner of a primary right to the use, at all times during the irrigation season for irrigation purposes, of one cubic foot per second of time of the waters of said Cub River, said right to date from the year A.D. 1882, and is also the owner of a primary right to the use of an additional 3/10ths of a cubic foot per second of time of the waters of said stream, to date from the year 1883, all of said waters to be used upon and to become appurtenant to the lands owned by said claimant, lying within section 24 and 15 in Township 15 South, Range 40 East of the Boise Meridian; said waters to be conveyed through what is known as the Merrill, Day and Taylor Ditch, and to be measured at the headgate thereof, which is near the headgate of the Cub River and Worm Creek Canal Company.

FIFTEENTH: That the Defendant Henry Day is the owner of a primary right to the use, at all times during the irrigation season, of 1/4 of one Cubic foot per second of time of the waters of said Cub River, his said right to date from the year A.D. 1882 and is also the owner of a primary right to the use of an additional 7/10ths of a cubic foot per second of time of said water, to date from the year A.D. [1892,] all of said water to be used upon and to become appurtenant to lands owned by said claimant lying within Sections 24 and 15 in Township 15 South, Range 40 East of the Boise Meridian, and to be measured at the headgate of said Merrill, Day and Taylor Ditch; that except for such rights as the Defendant J.A. Dunkley may have in and to the use of the waters herein allotted to the said Henry Day, the said J.A. Dunkley has no right, title or interest in or to the use of the waters of said Cub River or any of its tributaries.

SIXTEENTH: That the Defendant Alvin Sharp is the owner of a primary right to the use, at all times, furing the irrigation season of 1/5th of a cubic foot per second of time of the waters of said Cub River, said right to date from the year 1882, and is also the owner of an additional primary right to the use of 7/10ths of one cubic foot per second of time of the waters of said stream, to date from the year A.D. 1892, all of said waters to be used upon and to become appurtenant to the lands owned by claimant, lying within sections 24 and 15 in Township 15 South of Range 40 East of the Boise Meridian, and to be conveyed through the said Merrill, Day and Taylor Ditch and measured at the headgate thereof.

SEVENTEENTH: That the Defendants Henry F. Bennett, Merlin Perkins, James Perkins and Janus Keller Jr. are the owners of a primary right to use, at all times during the irrigation season, of the flow of the waters of said Cub River in the amounts and in the quantities and with the priorities following, that is to say, the said Merlin Perkins and James Perkins, to one cubic foot per second of time and the said Henry F. Bennett to 1¼ cubic foot per second of time and the said Janus Keller Jr. to 3½ cubic feet per second of time, each of said rights to date from the year A.D. 1884, and the waters hereby allotted to be conveyed through what is known as the Sugar Creek Ditch, and to be measured at the headgate thereof and to be used upon and become appurtenant to the lands owned by them lying within.

The East half of the Northeast Quarter of Section 35, and the West half of the Northwest Quarter of Section 36, the Southwest Quarter of Section 25, and the Southeast Quarter of Section 26, all in Township 14 South, Range 41 East of the Boise Meridian, and the South half of the Northeast Quarter of Section 2, and the Northwest Quarter of Section 3, in Township 15 South, Range 41 East of the Boise Meridian.

That the Defendant Alvin C. Hull administrator of the Estate of Robert J. Hull, deceased, is the owner of a primary right to the use, at all times during the irrigation season, of all the waters of Sheep Creek, a tributary of Cub River, arising upon or above the premises described as:

A part of the Northwest Quarter of the Southeast Quarter and the Southeast Quarter of the Southeast Quarter of Section 14, and the Northeast Quarter of the Northeast Quarter of Section 23, in Township 13 South, Range 40 East of the Boise Meridian, said right to date from the year A.D. 1890 and the said waters to be used upon and become appurtenant to the lands owned by said claimant above described.

SEVENTEENTH: That the Defendant Priscilla Bowman is the owner of a primary right to the use, at all times during the irrigation season, of all of the waters of Sheep Creek, a tributary of Cub River, flowing from and below the lands of said Alvin C. Hull in the paragraph next above described said water to be used upon the lands of the said Priscilla Bowman, lying in Section 23, Township 13 South, Range 40 East of the Boise Meridian, said right to date from the year A.D. 1890, and the said waters to be appurtenant to the lands of the said Priscilla Bowman, above described.

EIGHTEENTH: The Defendants Alvin C. Hull and Leroy Hull are the owners of a primary right to the use, at all times during the irrigation season of 2.4 cubic feet per second of time of the waters of the left hand fork of Cub River, to be used upon and become appurtenant to the following described lands:

Beginning at corner No. 1 from which U. S. Located Monument No. 87 bears 54 degrees west 81 links distant; thence North 7 degrees 12' East 40 and 29/100ths chains to Corner No. 2; thence North 4 degrees 27' West 38.74 chains to corner No. 3; thence South 4 degrees 53' 37.75 chains to corner No. 5; thence South 81 degrees 22' East 14.10 chains to Corner No. 6, thence South 6 degrees and 4' West 39.91 chains to corner No. 7; thence North 82.45 minutes West 25.88 chains to corner No. 1, the place of beginning.

NINETEENTH: That the Defendant, Treasy Loan and Trust Company, a corporation, and C.W. Parkinson, as administrator of the Estate of Samuel C. Parkinson, deceased, have, and the said estate has, no right, title or interest in or to the waters or the use of the waters of said Cub River or its tributaries in conflict with the rights of any of the parties appearing herein, the rights of the said Estate of Samuel C. Parkinson, deceased, being only to such waters as arise to said stream or accumulate in it, below the point of diversion of the Cub River Irrigation Company, one of the Defendants in this action, and that the use of the Cub River by the Franklin County Sugar Company and its conditions as it flows after such use does not prejudice or in any manner injure the said estate; that the claims of the said estate to the waters arising or accumulating in the Cub River below the said point of diversion, are only sufficient for the Cub River below the said point of diversion, are only sufficient to the irrigation of forty acres of land with a priority dating from the year 1889 and with a point of diversion from the mill race of plaintiff extending from the said Cub River to mill located on the land adjacent to the County Road in the City of Franklin.

TWENTY FIRST: That the Defendants Cecil Woodward, Vernon Woodward, Franklin Maple Creek Pioneer Irrigation Company, a corporation, Ellen B. Love, Elizabeth K. Love, Lewis Clinton, John W. Gibson, William Follett and Howard Gibson, as Administrators of the Estate of William Gibson, deceased, and the said Estate of William Gibson, deceased, Wallace Chatterton, A.E. Wright, C.J. Henry, W. Chatterton, Aaron Chatterton, Johanna Whitehead, Ivan Woodward, Edward Morgan, Thomas Howarth, W.L. Bruken, Peter C. Whitehead, William Stoddale, and T. A. Robinson, have no right, title or interest in or to the waters of use of the waters of said Cub River, except such right as said Defendants may have in and to the waters of Maple Creek, a tributary of said Cub River, which has its confluence with said stream at a point below and the point of diversion, of the Defendant, Cub River, Irrigation Company from said Cub River, and are barred in law to the appropriations of the said Cub River Irrigation Company, and as to the rights of the said parties in and to the waters of said Maple Creek, no proof has been taken, and no decree is entered herein.

TWENTY SECOND: That the Plaintiff Henry T. McOwan is the owner of the right to use, during the non irrigation season, of each and every year, of 30 cubic feet per second of time of the waters of said Cub River, less the quantity thereof used by the Defendant, Franklin County Sugar Company, under its right as hereiu decreed, for power purposes in the running of the grist mill of the Plaintiff located near said Cub River at all times throughout each and every year, subject nevertheless to the rights of other appropriators herein, as in this decree allotted and decreed said right to date from the year 1891.

In addition to the right of the Plaintiff, Henry T. McOwan to the use of the waters of said Cub River, as above specified, during the non irrigation season, the said Henry T. McOwan is the owner of the right to the use for power purposes in the operation of said grist mill, with priority as of 1891, of all of the waters of Cub River not exceeding 30 cubic feet per second, of time which are not being used for irrigation purposes, or for culinary domestic and stock watering purposes, or sugar manufacturing purposes as set forth in the twenty third paragraph, following.

TWENTY THIRD: That the Defendant Franklin County Sugar Co. is the owner of a primary right (subject only to the rights herein defined) to use for all purposes in the operation of its sugar factory at Whitney, Idaho during the campaign season of said sugar factory, so much of the waters of the said Cub River as may be necessary for said purposes, not to exceed 15 cubic feet per second of time of said waters, measured at the point of delivery of the same at said factory. The quantity of the waters of said stream so being used by the said Franklin County Sugar Company to be deducted from the quantity of water herein allotted to the Plaintiff, Henry T. McOwan, it is specifically provided, nevertheless that the right herein allotted to the said Franklin County Sugar Company includes the right in cold weather, when in the judgment of the Sugar Company's water master or Superintendent, the flow of the water to the point of delivery at said defendant's sugar factory will be impeded by the freezing, to increase the amount of water to be delivered, to the full amount flowing in Cub River, at the intake of the Cub River Irrigation Company's canal, subject only to the prior rights of the other parties herein, as herein allotted, exclusive of the rights of the Plaintiff, Henry T. McOwan.

TWENTY FOUR: That in addition to their rights for irrigation purposes as herein allotted and decreed, the parties to this action are entitled to a primary right as a part of their irrigation appropriation to the use of water for culinary, domestic and stock watering purposes as follows:

(a) The Cub River Irrigation Company is entitled, during each and every year, to the use, during the non-irrigation season as defined herein, of 12 C.F.S. of the waters of Cub River for culinary, domestic and stock watering purposes, said right to obtain any and all times during non irrigation season when freezing weather does not prevent the flowing of said water in said Company's canals for the uses specified, and when the same is not being used for said purposes, as above specified, the same shall be allowed to flow down Cub River above plaintiff's intake, except that such waters as the Defendant City of Preston uses or hereafter may use under the terms of said contract between it and the Cub River Irrigation Company or under any conveyance made pursuant to said contract may be diverted by Irrigation Company or under any conveyance made pursuant to said contract may be diverted by said City of Preston from the Ranger Spring during the whole of each and every year.

(b) The Defendant Cub River Middle Ditch Company is entitled to the use of four cubic feet per second of time of the waters of said Cub River or so much thereof as may be necessary for culinary, domestic and stock watering purposes, during the non-irrigation season, of each year, until the freezing weather prevents the same from running through the canal system of said Company, said priority to sate from the year A.D. 1882.

(c) That the Cub River and Worm Creek Canal Company, a corporation, is entitled to three (3) second feet of water of Cub River or so much thereof as may be necessary for culinary, domestic and stock watering purposes during the said non-irrigation season until the freezing weather prevents the same from running through the canal system of said Company.

(d) If, during the said non-irrigation season, after the use of the quantity of water hereinabove specifed, there shall be sufficient water for that purpose, the quantity of water for the Cub River Middle Ditch Company, a corporation, for culinary and stock watering purposes, may be increased by an additional two (2) second feet to be used until the freezing weather shall prevent the same from running through the canal system of said company.

(e) If, during the said non-irrigation season, after the use of the quantity of water hereinabove specified, there shall be sufficient water for that purpose, a quantity of water fro the Cub River and Worm Creek Irrigation Company, a corporation, for culinary, domestic and stock watering purposes, may be increased by an additional three (3) second feet to be used until the freezing weather prevents the same from running through the canal system of said company.

Done in open Court this 9th day of July, 1924.

Robert M. Terrill, District Judge

Filed July 9, 1924
John A. Koford, Clerk

STATE OF IDAHO
COUNTY OF FRANKLIN ss.

I, John A. Koford, Clerk of the District Court of the 5th Judicial District in and for Franklin County, State of Idaho, do hereby certify that the foregoing is a true and correct copy of the Decree in the Case of Henry L. Holman vs Franklin County Sugar Company et al, found of record in Book "G" of Judgements, at page 181, Records of Franklin County, Idaho.

IN WITNESS WHEREOF, I have hereunto set my hand and official seal this 18th day of February, A.D. 1927.

John A. Koford, Clerk of District Court

(Seal)

INTER-DEPARTMENT MEMO — 1

DATE

FROM

TO

SUBJECT

For further Correspondence Relating to this file see # 13-0018

MICROFILMED

SIGNATURE

INTER-DEPARTMENT MEMO — 1

DATE 5-7-80

FROM Jim Johnson

TO Dave Tuthill

SUBJECT Transfer 2378

This transfer should be ready for approval now. Norm had some question whether the applicant had permission from the Canal Co. to divert his water into their system.

I have talked to both parties and they confirm that an agreement has been made.

MICROFILMED

SIGNATURE

May 12, 1980

Thomas A. Robinson
Rt. # 3, Box 607-C
Preston, Idaho 83263

Dear Mr. Robinson,

RE: Transfer of Water Right No.'s 13-0017 & 13-0018

Enclosed is a copy of your approved Application for Transfer of the above referenced water rights (Transfer No. 2378). Be sure to note the conditions of approval as listed on the fourth page.

Sincerely,

L. GLEN SAXTON
Chief, Operations Bureau

LGS:mr

Enclosure

MICROFILMED

STATE OF IDAHO
DEPARTMENT OF WATER RESOURCES
EASTERN REGION

John V. Evans
Governor

C. Stephen Allred
Director

1515 Lincoln Road
Idaho Falls, Idaho 83401
(208) 523-7186

November 29, 1979

Thomas A. Robinson
Route #2, Box 607-C
Preston, ID 83263

Dear Mr. Robinson:

Enclosed please find the application for transfer and your personal check for $35.00 which were received in our office on 11/27/1979. We are returning the application because our review revealed two previous transfers which you filed with the Department and these transfers should have been described in Section A of the new application. To assist you in this matter we have typed another application which describes transfer #1702 and 1703 in Section A and the change in point of diversion in Section C. This application is also enclosed and should be carefully reviewed. You will note that the acreage on the new application is 80 acres. Based on the previous transfers this is the number of acres appurtanent to the rights. Section C also changes the place of use for the 20 acres irrigated in Section 19 from the NE¼NW¼ to the NW¼NW¼, which is consistant with the plat map on the application.

Prior to returning the new application, please sign it in the presence of a notary public, and then forward it to this office along with your check of $35.00 in payment of the statutory filing fee.

Feel free to call or contact me should you have questions concerning the above matter.

Respectfully submitted,

Ernest Carlsen.

ERNEST CARLSEN
Water Resource Analyst

EC:kw
Enclosures

MICROFILMED

STATE OF IDAHO

DEPARTMENT OF WATER RESOURCES
Eastern Region

1515 Lincoln Road
Idaho Falls, Idaho 83401
(208) 523-7186

DECEMBER 13, 1979

The Preston Citizen
P. O. Box 472
Preston, Idaho 83263

Gentlemen:

Enclosed you will find a legal notice which we wish to have published on the dates indicated (once a week for two consecutive weekly issues) in your newspaper. We have allowed ample time for you to submit a galley proof to this office for review before the first publication date. If you cannot publish the notice on the proposed dates, please contact us immediately.

An affidavit of publication must be submitted to the Department along with the publication bill. Your cooperation is appreciated.

Please send the affidavit of publication and publication billing to this office before JANUARY 7, 1980.

Yours truly,

RONALD D. CARLSON
Supervisor
Eastern Region

Encl.

MICROFILMED

NOTICE OF PROPOSED CHANGE OF WATER RIGHT

NOS. 13-0017 & 13-0018

Notice is hereby given that Thomas A. Robinson, Preston, Idaho, has applied to the Department of Water Resources for a change in the point of diversion of the waters of the Cub River tributary to the Bear River. The rights sought to be changed are evidenced by Decreed Rights Nos. 13-0017 and 13-0018 and are recorded as follows:

13-0017	AMOUNT:	0.25 cfs	PRIORITY:	1882
13-0018	AMOUNT:	0.70 cfs	PRIORITY:	1879

POINT OF DIVERSION: NW¼NE¼, Sec. 18, T. 15S, R. 41E, B.M., Franklin County

The water is used to irrigate 80 acres within the N½SW¼, SW¼SW¼, Sec. 18; NE¼NW¼, Sec. 19; T. 15S, R. 41E, B.M.

TO BE CHANGED AS FOLLOWS:

The point of diversion for these rights will be located within the NE¼NW¼, Sec. 8, T. 15S, R. 41E, B.M.

Any protest against approval of the above proposed change of water right must be filed with the Idaho Department of Water Resources, 1515 Lincoln Road, Idaho Falls, Idaho, 83401, on or before January 7, 1980.

C. STEPHEN ALLRED

Director

Published in the Preston Citizen on 12/20 & 12/27/79.

MICROFILMED

December 14, 1979

RE: Application for Transfer of Water Right Nos. 13-0017 & 13-0018

Thomas A. Robinson
Route #2, Box 607-C
Preston, ID 83263

Dear Mr. Robinson:

Attached herewith is Department Receipt No. 15431 in the amount of $35.00 for the above referenced application.

Sincerely,

KAY WALKER
Secretary

MICROFILMED

January 15, 1980

COPY

Re: Application for Transfer No. 13-0017/0018

Roland Carter
WaterMaster, Water District No. 13-A
Route #2, Box 323
Preston, ID 83263

Dear Mr. Carter:

Please find enclosed a copy of the above referenced application and a watermaster recommendation form. Please review the application and complete the form, returning it to this office on or before January 22, 1980.

Thank you for your cooperation in this matter.

Sincerely,

ERNEST CARLSEN
Sr. Resource Analyst

EC:kw
Enclosure

MICROFILMED

RECEIVED
FEB 7 1980
Department of Water Resources
Eastern District Office

APPLICATION FOR TRANSFER OF WATER RIGHT

NO. 13-0007/0018

RECOMMENDATION OF WATERMASTER

I, Roland Carter, watermaster of 13 A Cub River,

of Water District No. 13 A, County of Franklin, State of Idaho,

whose address is R. 2 Preston, Idaho

have read the attached copy of the application for transfer of water right for

Thomas A.Robinson, 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: # 4 Remarks, last page, 1892 is the correct date not 1879. The applicant shall be under the jurisdiction of the watermaster of the Preston Whitney Irrigation Co. as well as the River Watermaster # 13 A in regards to measuring of water.

OR

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

Dated at 7Preston, Id, Idaho, this Feb. 7th day of Feburary 19 80.

RECEIVED
FEB 7 1980
Department of Water Resources
Eastern District Office

Roland R. Carter
(signature)

Please use reverse side if needed.

MICROFILMED

No. 1024

AFFIDAVIT OF PUBLICATION

STATE OF IDAHO, } ss.
County of Franklin }

J. Walter Ross

being duly sworn,

deposes and says:

That he is the Co-Publisher of THE PRESTON CITIZEN, a weekly newspaper published at Preston, in the County of Franklin and State of Idaho; that said paper has been and is in general circulation in the county aforesaid, and in the vicinity of Preston; that the advertisement, a copy of which is attached hereto, was published in said newspaper once a week for 2 consecutive weeks in the regular and entire issue of said paper during the period of time of publication, and was published in the newspaper proper and not a supplement; that said paper has been established and regularly published for more than seventy-eight consecutive weeks prior to the date of first publication of said advertisement.

Such notice was published in the issue beginning with December 20, 19 79, and ending with the issue of December 27, 19 79.

J. Walter Ross

Fee $ 12.96

Subscribed and sworn to before me this 31st day of December, 19 79.

Lavon O. Allen

Notary Public, Residing at Preston, Idaho

My Commission Expires June 7, 19 82

or fw 1/7/80

NOTICE OF PROPOSED CHANGE OF WATER RIGHTS
NOS. 13-[redacted]

Notice is [redacted]
A. Robin[redacted]
applied to the Department of Water Resources for a change in the point of diversion of the waters of the C[redacted] River tributary to the Bear River. The rights sought to be changed are evidenced by Decreed Rights No. 13-0017 and 13-0018 and are recorded as follows:

13-0017 AMOUNT: 0.25 cfs
PRIORITY: 1882
13-0018 AMOUNT: 0.70 cfs
PRIORITY: 1879
POINT OF DIVERSION: [redacted] NE¼, Sec. 8, T. 15S, R. 41E, B.M. Franklin County.

The water is used to irrigate [redacted] within the [redacted]SW¼, SW¼SW¼ [redacted] 18; NE¼[redacted], Sec. 19; T. 15S, R. [redacted] B.M.

TO BE CHANGED AS FOLLOWS:

The point of diversion for the rights will be located within the NE¼NW¼, Sec. 8, T. 15S, R. 41E, B.M.

Any protest against approval of the above proposed change of water rights must be filed with the Idaho Department of Water Resources, 1515 Lincoln Road, Idaho Falls, Idaho, 83401, on or before January 7, 1980.

C. STEPHEN ALLRED
Director

Legal No. 1024 - 36L - Pub. Dec. 20 and 27, 1979.

RECEIVED
JAN 3 1980
Department of Water Resources
Eastern District Office

Form 222a
6/78

STATE OF IDAHO
DEPARTMENT OF WATER RESOURCES
TRANSFER ANALYSIS SHEET

INITIAL REVIEW BY: JC

1. Right number 1702 1703 Applicant Robinson
2. Type of right: ☑ Decree ☐ License ☐ Claim
3. Purpose of transfer: ☑ Change point of diversion ☐ Add diversion point(s) ☐ Change place of use
   ☐ Other _____
4. Check:
   a. ☑ Source ☑ Priority ☑ Amount ☑ Purpose ☑ Period of use
   b. ☑ Description of original point of diversion.
   c. ☑ Description of original place of use.
5. Amount of land &/or water transferred:
   a. ☑ All of right.
   b. ☐ Part of right *(NOTE! Part B should be filled in only if part of the right is owned by the applicant).*
   c. ☑ Check description of point(s) of diversion.
   d. ☑ Check description of place of use.
   e. ☑ Check map (shows p.d. and p.u. after transfer).
   f. ☑ Check for correct signature, notarization, and fee.
   g. ☐ Check proof of ownership of right &/or land from which water is transferred.
   h. ☑ Check for expansion in use of right. Comments change P.D. only
   i. ☑ Check for existing water rights from same source, on land water is being transferred to.
      Right number(s) _____
   j. ☑ Is use within a Watermaster District? ☑ Yes ☐ No
      If yes, what district? 13 A

FINAL PROCESSING REVIEW BY: Ernest

1. Watermaster recommendation requested on 1/15/80 Received on 2/7/80
2. Is transfer published correctly? ☑ Yes ☐ No
3. Protest received? ☐ Yes ☑ No

RECOMMENDED ACTION

1. ☑ Approve
2. ☐ Deny
3. Conditions* ① Measuring device, ② Subject to watermaster control.
   01 05 (13 A CUB RIVER)
4. By EAC Date 2/12/80

Jim 3/7/80 use above conditions

** All uses within Watermaster Districts require special conditions.*

February 13, 1973

Re: Transfers No. 13-0017 & 13-0018

Mr. Thomas A. Robinson
154 North 2nd East
Preston, Idaho 83263

Dear Mr. Robinson:

Enclosed is a copy of your approved Application for Transfer of Water Right No. 13-0017 and 13-0018.

Be sure to note that a special condition requiring you to install and maintain a measuring device at your point of diversion has been placed on these transfers. We are enclosing a letter describing different types of measuring devices approved by this Department.

Sincerely,

BOBBY D. FLEENOR
Assistant Director

BDF:DR
Enc: Copy of transfer (2)
Information letter
Receipt No. 9747 for $60.00
bc: Eastern District Office

Captain Thomas A. Robinson, U.S. Navy (ret.)
154 North, Second East
Preston, Idaho 83263

Dec 29

December 27, 1972

State of Idaho
Department of Water Administration
Statehouse Annex 2
Boise, Idaho 83707

Dear Mr. McEldowney,

A copy of the deed on record in Franklin County transfering ownership of the property in question in your letter of Nov. 3, 1972, to me, is herewith forwarded as requested.

Yours Truly

Thomas A. Robinson

Enc. Quit Claim Deed

November 3, 1972

Re: Transfer No. 13-0017 and 13-0018

Thomas A. Robinson
154 North 2nd East
Preston, Idaho

Dear Mr. Robinson:

Before we can take final action on your Application for Transfer of Water Right No. 13-0017 and 13-0018, we will need evidence of your ownership of this property. A Deed or Purchasers Contract would be considered satisfactory evidence.

Your assistance in this matter is appreciated.

Very truly yours,

Donald W. McEldowney
Water Rights Administrator

DWM/cd

September 8, 1972

Re: Applications for Transfer of Water Right
No. 13-0017 & 13-0018 - Thomas A. Robinson

C

Mr. Roland Carter, Watermaster
Water District No. 13-A
Route 2, Box 100
Preston, Idaho 83263

O

Dear Mr. Carter:

On July 20, 1972, the Department forwarded copies of the above referenced applications for transfer and asked for your comments.

P

To this date, we have had no response from you. May we please hear from you regarding this matter by return mail.

Enclosed are recommendation forms for your use.

Very truly yours,

Y

Donald W. McEldowney
Appropriation Supervisor

DWM:DR
Enclosures

[illegible]

July 20, 1972

Re: Applications for Transfer No. 13-0017
and 13-0018 - Thomas A. Robinson

Mr. Roland Carter, Watermaster
Water District No. 13-A
Route 2 - Box 100
Preston, Idaho 83263

Dear Mr. Carter:

Enclosed please find copies of the above referenced applications for transfer.

We would appreciate receiving any comments you might have regarding these transfers. We are enclosing two forms for your convenience.

If you have any questions, please contact us; we appreciate your cooperation in this matter.

Very truly yours,

Donald W. McEldowney
Appropriation Supervisor

DWM:DR
Enclosures

COPY

July 20, 1972

Re: Application for Transfer Nos. 13-0017 & 13-0018 - Thomas A. Robinson

Preston Citizen
Box 472
Preston, Idaho 83263

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.

An affidavit of publication must be submitted to the Department along with the publication bill. In order to receive payment, the following certification must appear on the bill:

> " I hereby certify that the foregoing account is just and correct, that the amount claimed is legally due, after allowing all just credits, and that no part of the same has been paid."
>
> ---
>
> (signature of claimant)

Very truly yours,

Donald W. McEldowney
Water Rights Supervisor

Bill submitted 8-1-72 by dw

DWM:DR
Enc: Legal notices (2)

NOTICE OF PROPOSED CHANGE OF WATER RIGHT

NO. 13-0017

Notice is hereby given that Thomas A. Robinson, 154 North 2nd East, Preston, Idaho, has applied to the Dept. of Water Administration for a change of the place of use of the waters of the Cub River, tributary to the Bear River. The right sought to be changed is evidenced by Decree to Henry Day, in Case of Henry T. McEwan vs. Franklin Sugar Company, et al, Dated July 9, 1924, in Fifth Judicial District Court, County of Franklin, and is recorded as follows:

Amount: 0.25 cfs Priority: 1882

Point of diversion: $NW\frac{1}{4}NE\frac{1}{4}$, Sec. 18, Twp. 15S, Rge. 41E, B.M., Franklin County.

The water is used for irrigation purposes from April 1 to October 31 within Sections 24 and 15, Twp. 15S, Rge. 40E, B.M. (acreages in these two sections not specifically defined in original Decree).

TO BE CHANGED AS FOLLOWS

The water will be used for irrigation purposes within the $N\frac{1}{2}SW\frac{1}{4}$, $SW\frac{1}{4}SW\frac{1}{4}$, Sec. 18; $NE\frac{1}{4}NW\frac{1}{4}$, Sec. 19; Twp. 15S, Rge. 41E, B.M.

Any protest against approval of the above proposed change of water right must be filed with the Idaho Dept. of Water Administration, Statehouse - Annex 2, Boise, Idaho, 83707, on or before August 14, 1972.

R. KEITH HIGGINSON, Director

Published in the Preston Citizen, Preston, Idaho, on July 27 and August 3, 1972.

13-0017

STATE OF IDAHO
DEPARTMENT OF WATER ADMINISTRATION

Cecil D. Andrus
Governor
R. Keith Higginson
Director

Statehouse – Annex 2
Boise, Idaho 83707
(208) 384-2215

Water Rights Administration
Water Resource Investigations
Dam and Reservoir Safety
Water Well Drilling
Waste Disposal Wells
Stream Channel Protection

May 3, 1972

Thomas A. Robinson
154 N. 2nd East
Preston, Idaho

Dear Mr. Robinson:

We are returning your transfers and Check No. 92-171 in the amount of $70. The transfers appear to be in order; however, an error was made in our letter of November 18, 1971 stating that the filing fee would be $35 for each transfer. The correct fee for each document is $30.

Please forgive the delay in this matter. Return the transfers as soon as possible along with the proper fee and we shall begin processing.

Very truly yours,

Donald W. McEldowney
Appropriation Supervisor

DWM:CR

Enc: Application for Transfer (2)
Check No. 92-171 ($70.00)

Captain Thomas A. Robinson, U.S. Navy (ret.)
154 North, Second East
Preston, Idaho 83263

February 16, 1972

Mr. Dorian Clay
State of Idaho
Department of Water Administration
Statehouse - Annex 2
Boise, Idaho
83707

Dear Mr. Clay,

Herewith enclosed are two separate application forms prepared and forwarded as requested in your letter of November 1971 together with a check in the amount of $70.00 for filing fees.

The cooperation of your office in helping correct this old administrative error is appreciated.

Very truly yours,

Thomas A. Robinson

TAR/b
Enclosures

November 18, 1971

Thomas A. Robinson
154 N. 2nd East
Preston, Idaho

Dear Mr. Robinson:

In reviewing your application for transfer, it appears that the information contained in it should be included on two separate forms--one describing your decreed water right with the 1882 priority and the other describing the portion covered under the 1892 priority. As you will note, we have taken the liberty of retyping the transfer on two separate forms for your convenience.

Please complete item 10b of each of the applications, describing your present point of diversion and indicate on the map where the point of diversion lies in relation to the lands irrigated. The filing fee for these applications will be $35.00 each. Please review these forms carefully and if you find them acceptable, return them properly signed with the proper fee and we shall begin their processing.

If you should have any questions, please feel free to contact us.

Very truly yours,

Dorian Clay
Appropriation Examiner

DC/bb

Enclosures

Captain Thomas A. Robinson, U.S. Navy (ret.)
154 North, Second East
Preston, Idaho 83263

November 8, 1971

Mr. Dorian T. Clay
Appropriation Examiner
State of Idaho
Department of Water Administration
Statehouse - Annex 2
Boise, Idaho 83707

Dear Mr. Clay:

The application for transfer of water right mailed to me in your letter of January 22, 1971, is herewith returned as requested, prepared to the best of my ability considering the unusual situation involved. This situation was explained in my letter of January 15, 1971 (copy attached).

From your letter, it appears some further explanation may be in order. The ditch involved provides water to three farms. Each has a different amount of water, but all three paragraphs of the decree show the same area of use, namely Sections 24 and 15 in Township 15 South, Range 40 East. The ditch flows through my farm (decreed to Henry Day) in Sections 18 and 19 of Township 15 South, Range 41 East, where it has been used for irrigation since the ditch was constructed. The decree is in error in this respect. There is no change in use of the water. I am simply trying to set the record straight. The use of the water is not several miles away, it is just across the Range line. I have now completed purchase of the lands involved and the owners of the other two farms have their own water rights.

To substantiate this contention as suggested in your letter, I enclose not only another statement from the former owner of my ranch, but also one from each of the owners of the other two ranches involved. These are all notarized as you also suggested.

I am sure these efforts will meet with your approval. If you will tell me how much money is involved for filing fees, I will forward it.

Sincerely yours,

Thomas A. Robinson

State of Idaho
Department of Water Administration
Statehouse - Annex 2
Boise, Idaho 83707

Gentlemen,

On November 20, 1970 I purchased three quarter sections of land in sections 18 & 19 of Township 15 South and Range 41 East of the Boise Meridian. This property, located on the Cub River, is locally known as the Sorenson Ranch for it was owned by Lever S. Sorensen, a resident of Preston, from 1922 until 1962 when he sold it on a contract that he still holds. Interests in this ranch, other than Mr. Sorenson's, have passed since 1962 through three other buyers to me.

Certain water rights to this property referred to in the contracts and deeds concerning it since 1922 refer to a judgement of Franklin County recorded in 1906. This original judgement was revised in 1924, but the wording of the paragraph concerning the water rights for the Sorenson ranch remain essentially unchanged. These judgements indicate the waters allocated to this property were to be used only in sections 15 & 24 of Township 15 South, Range 40 E.B.M. although, in fact, they have been used since the irrigation system was put in about the turn of the century on sections 18 and 19 of Township 15 South, Range 41 E.B.M.

Enclosed is a statement from Mr. Sorenson concerning the actual use of this water since it was first used by the original owner, whom he personally knew.

Also enclosed herewith are copies of the judgements referred to above with appropriate paragraphs noted. The specific paragraph of the contracts and deeds used in the sales of the subject property concerning water rights since 1924 is quoted as follows: "Together with all water and water rights thereto appertaining, and especially, but not limited to the right to the use of 1/4 of one cfs of the waters of Cub River as of 1882 and 7/10 of one cfs of the waters of said river as of 1892 as decreed to Henry Day by Decree recorded in Book 1 of Judgements page 167, records of Franklin County, Idaho, together with all right, title and interest in or to the Preston-Whitney Irrigation Company and the water of said company."

I have been unable to find in writing any change made to correct this situation. If it is important that accurate records be made of water allocations and uses of this nature it is requested that this action be taken by appropriate offices -

within our state at their convenience.

Sincerely yours,

_____

Thomas A. Robinson

November 1, 1971

STATEMENT BY LEVER S. SORENSON
of 180 North 2nd East, Preston, Idaho

In 1962, I sold, on a land contract, three Quarter Sections of land located on the Cub River Northeast of Franklin, Idaho. I had owned this property since I purchased it from a Mr. John Dudley in 1922.

Obtained by me when I bought the property and sold with it were certain water rights. To my personal knowledge these rights were used by a Mr. Henry Day, whom I knew well, and in whose name the water and water rights were decreed in open court in 1906 and recorded in Book of Judgments, page 167, records of Franklin County.

I hereby confirm that these waters were used since the land was patented and have continued to be used to this date, on land in Sections 18 and 19 of Township 15 South, Range 41 East of the Boise Meridian, notwithstanding the statement in paragraph thirteen of the stated judgment indicating use upon and appurtenant to lands lying in Sections 24 and 15 of Township 15 South and Range 40 East of the Boise Meridian.

I know of nothing in writing correcting this error in the area in which these irrigation waters were originally assigned.

Lever S. Sorenson

STATE OF IDAHO)
) ss
County of Franklin)

On this 1st day of November, 1971, before me, a Notary Public in and for said State, personally appeared LEVER S. SORENSON, known to me to be the person whose name is subscribed to the within Instrument, and acknowledged to me that he executed the same.

Notary Public
Commission Expires January 6, 1973

RECORDED

November 5, 1971

STATEMENT BY GLEN BOWMAN
Route #3, Preston, Idaho

I own one of the three farms using irrigation waters from the Merrill, Day and Taylor Ditch on the Cub River in Franklin County, Idaho.

One of the other two farms using irrigation waters from this ditch is the former Henry Day property now owned by Thomas A. Robinson. This ranch has been using the water rights decreed to Henry Day in Open Court in 1906, Book of Judgments, page 167, paragraph 13, records of Franklin County, State of Idaho, since the Decree and prior to it. Although the Decree reads that the Henry Day share of water was to be used in Sections 24 and 15, Township 15 South, Range 40 East of the Boise Meridian, which is the location of my farm and the farm belonging to Mr. Sharp, the Henry Day property is located in Sections 18 and 19, Township 15 South, Range 41 East of the Boise Meridian, and it always has been.

I know of nothing in writing correcting this error in the area in which these irrigation waters were originally assigned.

Glen T Bowman
Glen Bowman

STATE OF IDAHO)
) ss
County of Franklin)

On this 5th day of November, 1971, before me, a Notary Public in and for said State, personally appeared GLEN BOWMAN, known to me to be the person whose name is subscribed to the within Instrument, and acknowledged to me that he executed the same.

Notary public
Preston, Idaho
Commission expires January 6, 1973

November 5, 1971

STATEMENT BY CLIFFORD SHARP
Route #3, Preston, Idaho

I own one of the three farms using irrigation waters from the Merrill, Day and Taylor Ditch on the Cub River in Franklin County, Idaho.

One of the other two farms using irrigation waters from this ditch is the former Henry Day property now owned by Thomas A. Robinson. This ranch has been using the water rights decreed to Henry Day in Open Court in 1906, Book of Judgments, page 167, paragraph 13, records of Franklin County, State of Idaho, since the Decree and prior to it. Although the Decree reads that the Henry Day share of water was to be used in Sections 24 and 15, Township 15 South, Range 40 East of the Boise Meridian, which is the location of my farm and the farm belonging to Mr. Bowman, the Henry Day property is located in Sections 18 and 19, Township 15 South, Range 41 East of the Boise Meridian, and it always has been.

I know of nothing in writing correcting this error in the area in which these irrigation waters were originally assigned.

Clifford Sharp

STATE OF IDAHO)
) ss
COUNTY OF FRANKLIN)

On this 5th day of November, 1971, before me, a Notary Public in and for said State, personally appeared CLIFFORD SHARP, known to me to be the person whose name is subscribed to the within Instrument, and acknowledged to me that he executed the same.

Notary Public
Preston Idaho
Commission expires January 6, 1973

MICROFILMED

13-7021

January 22, 1971

Re: Application for Transfer of Water Right

Mr. Thomas A. Robinson
154 North Second East
Preston, Idaho 83263

Dear Mr. Robinson:

In reference to your letter of January 15, 1971, we are enclosing a transfer of water right form and a set of instructions for your use. This form should be used in transferring the location of the point of diversion and place of use as described in the original decree to the present location. Both the point of diversion and place of use should be changed, since part of the lands the water is now being used on appears to be several miles from the lands described in the original decree. You should also have a statement from the present owner of the lands described in the decree disclaiming this water right. The burden of proof of ownership of the water right is yours and must be clarified before the transfer can be processed. You should be aware that the watermaster can deliver water only in accordance with the existing decree and transfers.

We are preserving all the evidence that you have submitted in reference to this transfer except the statement submitted by Lever S. Sorenson. We feel that if Mr. Sorenson's signature were notarized that his statement would be more acceptable in a court of law, if such a circumstance were ever to arise. When you have completed the transfer, return it together with any other evidence you have to substantiate it and the proper filing fees and we will initiate the steps necessary to process the transfer.

If you have any questions, please feel free to contact us.

Very truly yours,

DORIAN T. CLAY
Appropriation Examiner

DTC/kh

Enclosures

RECEIVED

Captain Thomas A. Robinson, U.S. Navy (ret.)
154 North, Second East
Preston, Idaho 83263

1/15/71

State of Idaho
Department of Water Administration
Statehouse - Annex 2
Boise, Idaho 83707

Gentlemen,

On November 20, 1970 I purchased three quarter sections of land in sections 18 & 19 of Township 15 South and Range 41 East of the Boise Meridian. This property, located on the Cub River, is locally known as the Sorenson Ranch for it was owned by Lever S. Sorenson, a resident of Preston, from 1922 until 1962 when he sold it on a contract that he still holds. Interests in this ranch, other than Mr. Sorenson's, have passed since 1962 through three other buyers to me.

Certain water rights to this property referred to in the contracts and deeds concerning it since 1922 refer to a judgement of Franklin County recorded in 1906. This original judgement was revised in 1924, but the wording of the paragraph concerning the water rights for the Sorenson ranch remain essentially unchanged. These judgements indicate the waters allocated to this property were to be used only in sections 15 & 24 of Township 15 South, Range 40 E.B.M. although, in fact, they have been used since the irrigation system was put in about the turn of the century on sections 18 and 19 of Township 15 South, Range 41 E.B.M.

Enclosed is a statement from Mr. Sorenson concerning the actual use of this water since it was first used by the original owner, whom he personally knew.

Also enclosed herewith are copies of the judgements referred to above with appropriate paragraphs noted. The specific paragraph of the contracts and deeds used in the sales of the subject property concerning water rights since 1924 is quoted as follows: "Together with all water and water rights thereto appertaining, and especially, but not limited to the right to the use of 1/4 of one cfs of the waters of Cub River as of 1882 and 7/10 of one cfs of the waters of said river as of 1892 as decreed to Henry Day by Decree recorded in Book 1 of Judgements page 167, records of Franklin County, Idaho, together with all right, title and interest in or to the Preston-Whitney Irrigation Company and the water of said company."

I have been unable to find in writing any change made to correct this situation. If it is important that accurate records be made of water allocations and uses of this nature it is requested that this action be taken by appropriate offices

within our state at their convenience.

Sincerely yours,

Thomas A. Robinson

Enclosed

Statement by LeVern S. Sorenson
C.C. Letter to Mr Arnaud Candie, Sec
Preston-Whitney Investigations Co.

January 15, 1971

Mr. Angus Condie
Secretary, Preston/Whitney Irrigation Company
Preston, Idaho

Dear Mr. Condie,

In accordance with your instructions before and after consumation of purchase of the former Sorenson ranch by me in November, 1970, I have collected the necessary background information and current facts concerning the water rights problem we discussed. I have prepared and presented them, with recommendations, in the form of a letter (copy enclosed) with two enclosures (one of which you provided) to the Idaho State Department of Water Administration.

Since I seem to be the only owner or interested individual concerned with the small print of the referenced documents in over half a century and since there was no change in the actual use of the water in that length of time or contemplated in the future, it appears an official letter from the department adding sections 18 & 19 of Range 41 East to those authorized in the basic documents for the water usage, would satisfy all concerned and set the records straight.

I hope you will find time without inconvenience during this session of the state legislature to personally provide any additional information needed by the Water Administration Department as you planned to do and I appreciate your assistance and cooperation in this matter very much.

Sincerely yours,

Thomas A. Robinson

c.c. State of Idaho, Department of Water Administration
TR/ber

Identification No. _____

Transfer No. _____

RECEIVED
NOV -- 71
Department of Water Administration

STATE OF IDAHO
DEPARTMENT OF RECLAMATION

APPLICATION FOR TRANSFER OF WATER RIGHT
To Change the Point of Diversion and/or the Place of Use

1. Name of Right Holder Thomas A. Robinson

   Post office address Rt 154 N 2nd East Preston Idaho

2. Right obtained by:

   a. Decree to Henry Day in Case of Henry T. McEwan
   (Name)
   vs. ~~many others~~ Franklin Irrigation Co et al. Dated 9 July 1934 in Fifth Judicial District
   (Name of Court)
   Court, County of Franklin.

   b. License No. — issued by the State of Idaho, Department of Reclamation.

3. Source of water Cub River tributary to Bear River
   1. (Name of stream or source)

4. Date of Priority 1. 1882 & 2. 1892

5. Amount of water a. ~~1/4~~ 1. (.25) c.f.s. and/~~or~~

   b. 2. 2/40 (.7) ~~acre feet/annum~~ cfs.

6. Water is used for Irrigation from May 1 to Oct. 31
   (Month, Day) (Month, Day)

7. Original location of point of diversion is — ¼ — ¼ of Section ~~5~~ 34 & 15.
   Through Cub River Middle Ditch Co. Canal
   Township 15 S, Range ~~40~~ 41 E, B.M., in Franklin County;

   Additional points of diversion, if any The other two users of water from this ditch have exactly the same terminal way in their respective paragraphs of ref decree — but their land is on these sections

8. Lands presently irrigated or place of use: and the same the waters have been used to irrigate since ditch was constructed

TWP.	RANGE	SEC.	NE¼				NW¼				SW¼				SE¼				TOTALS
			NE¼	NW¼	SW¼	SE¼	NE¼	NW¼	SW¼	SE¼	NE¼	NW¼	SW¼	SE¼	NE¼	NW¼	SW¼	SE¼	
~~15S~~	~~41E~~	~~18~~									~~10~~	~~30~~	~~30~~	~~10~~					~~70~~
		~~19~~					~~10~~												~~10~~
15S	40E	26																	80
15S	40E	27																	

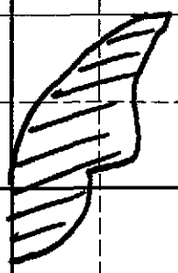
Total number of acres presently irrigated 80

MICROFILMED

Range 41 East

Township 15 South

Section 14



Section 19

SCALE: 2 Inches Equal 1 Mile. Draw Plan in Ink.

MICROFILMED

9. If applicant was not the original holder of this right explain how it was acquired: Purchased Adjacent

10. CHANGE IN POINT OF DIVERSION

a. Quantity to be diverted at new point: 1/4 + .7 c.f.s. and/or _____ acre feet

b. New point of diversion: SW ¼ of NW ¼, Section 18 & 19, Township 15 S _____, Range 41 E, B.M.

c. Description of method of diversion and conveyance from new points of diversion: There is no change — this paperwork is to correct a typographical error on the original decree.

d. Is water to be conveyed to the lands previously irrigated? Yes ✓ No _____.

If not, the place of use should be changed below.

e. Describe the reasons for applying for a change in the point of diversion: To correct an error as noted above in the original decree in which all three paragraphs pertaining to these water rights read the same but the Henry Day property was and is in a different Range and section — but just across a Fence

f. Do you intend to make the transfer permanent? yes

g. Do you intend to abandon completely the old point of diversion? Not used — anymore — yes

h. Indicate on the above plat the new point of diversion and lands to be irrigated.

11. CHANGE IN PLACE OF USE

a. Describe the new lands on which you wish to use your right.

TWP.	RANGE	SEC.	NE¼				NW¼				SW¼				SE¼				TOTALS
			NE¼	NW¼	SW¼	SE¼	NE¼	NW¼	SW¼	SE¼	NE¼	NW¼	SW¼	SE¼	NE¼	NW¼	SW¼	SE¼	
					Same as before														
15 S	41 E	18									10	20	30	10					70
		19					10												10

Total number of acres to be irrigated 80

MICROFILMED

b. Do you intend to make the transfer permanent? yes

c. Are you completely abandoning the lands previously irrigated by this right? If not, explain your plans:

No — same one

d. Describe any other water rights that you claim for the new ground upon which you wish to transfer this right: —

e. Indicate on the above plat the new land to be irrigated and the point of diversion.

I hereby assert that no one will be injured by such transfer and that the change will be made at my own risk. The information contained in this application is true to the best of my knowledge.

(signature of applicant)

Subscribed and sworn to before me this 1st day of November, 19 71

(notary public)

My commission expires January 6, 1973

ACTION OF STATE RECLAMATION ENGINEER AND CERTIFICATE OF TRANSFER

This is to certify that I have examined Application for Transfer of Water Rights No. _____, and said application is hereby _____.

1. Approval of said application is subject to the following limitations and conditions:

2. Denial of said application is for the following reasons: _____

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

State Reclamation Engineer

FOR DEPARTMENT USE ONLY

Received by ____ Date 11-11-71		Protest filed by:	Date
Prelim. check by ____ Date ____			
Fee received by ____ Date ____ Fee $ No fee			
Approved for publication by ____			
Published in ____ Dates ____			
Hearing held ____			

Watermaster Recommendation sent ____

MICROFILMED

Identification No. _____

Transfer No. _____

STATE OF IDAHO
DEPARTMENT OF RECLAMATION

APPLICATION FOR TRANSFER OF WATER RIGHT
To Change the Point of Diversion and/or the Place of Use

1. Name of Right Holder Thomas A. Robinson

   Post office address 154 N. 2nd East, Preston, Idaho

2. Right obtained by:

   a. Decree to Henry Day (Name) in Case of Henry T. McEwan

   vs. Franklin Sugar Company, et al., Dated July 9, 1924 in Fifth Judicial District (Name of Court)

   Court. County of Franklin.

   b. License No. _____ issued by the State of Idaho, Department of Reclamation.

3. Source of water Cub River (Name of stream or source) tributary to Bear River

4. Date of Priority a. 1882 b. 1892

5. Amount of water a. a. .25cfs b. .7 cfs c.f.s. and/or

   b. _____ acre feet/annum

6. Water is used for Irrigation from May 1 (Month, Day) to Oct. 31 (Month, Day)

7. Original location of point of diversion is _____ ¼ _____ ¼ of Section _____, Through Cub River Middle Ditch Co. Canal Township 15S, Range 40E, B.M., in Franklin County;

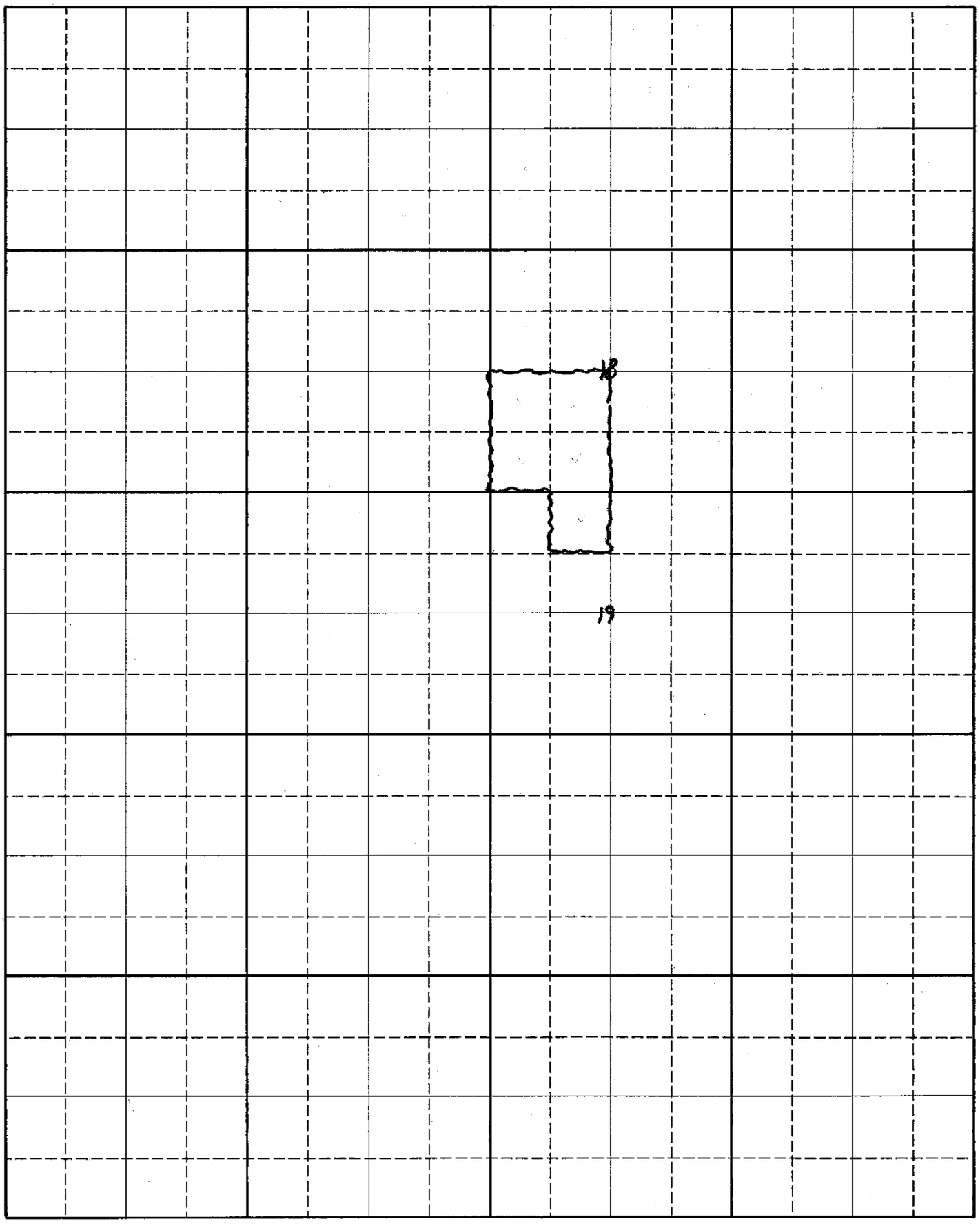
   Additional points of diversion, if any The other two users of water from this ditch have exactly the same terminology in their respective paragraphs of referenced decree, but their land is on these sections and the same waters have been used to irrigate since ditch was constructed.

8. Lands presently irrigated or place of use:

TWP.	RANGE	SEC.	NE¼				NW¼				SW¼				SE¼				TOTALS
			NE¼	NW¼	SW¼	SE¼	NE¼	NW¼	SW¼	SE¼	NE¼	NW¼	SW¼	SE¼	NE¼	NW¼	SW¼	SE¼	
15S	40E	26	)	80 ACRES IN THESE TWO SECTIONS NOT															
15S	40E	27	)	SPECIFICALLY DEFINED IN ORIGINAL DECREE.															

Total number of acres presently irrigated _____

MICROFILMED



SCALE: 2 Inches Equal 1 Mile. Draw Plan in Ink.

MICROFILMED

9. If applicant was not the original holder of this right explain how it was acquired: Purchased

10. CHANGE IN POINT OF DIVERSION

a. Quantity to be diverted at new point: _____ c.f.s. and/or _____ acre feet

b. New point of diversion: _____ ¼ _____ ¼, Section _____, Township _____, Range _____, B.M.

c. Description of method of diversion and conveyance from new points of diversion: There is no change. This paperwork is to correct a typographical error on the original decree.

d. Is water to be conveyed to the lands previously irrigated? Yes * No _____.

If not, the place of use should be changed below.

e. Describe the reasons for applying for a change in the point of diversion:

* To correct an error as noted above in the original decree in which all three paragraphs (13-0016) (13-0017) (13-0018) pertaining to these water rights read the same but Mr. Henry Day's paragraph was and is in a different section and range.

f. Do you intend to make the transfer permanent? Yes.

g. Do you intend to abandon completely the old point of diversion? Not used.

h. Indicate on the above plat the new point of diversion and lands to be irrigated.

11. CHANGE IN PLACE OF USE

a. Describe the new lands on which you wish to use your right.

TWP.	RANGE	SEC.	NE¼				NW¼				SW¼				SE¼				TOTALS
			NE¼	NW¼	SW¼	SE¼	NE¼	NW¼	SW¼	SE¼	NE¼	NW¼	SW¼	SE¼	NE¼	NW¼	SW¼	SE¼	
15S	41E	18									10	20	30	10					70
		19					10												10

80

Total number of acres to be irrigated _____

MICROFILMED

b. Do you intend to make the transfer permanent? Yes.

c. Are you completely abandoning the lands previously irrigated by this right? If not, explain your plans:

No. Same lands.

d. Describe any other water rights that you claim for the new ground upon which you wish to transfer this right:

e. Indicate on the above plat the new land to be irrigated and the point of diversion.

I hereby assert that no one will be injured by such transfer and that the change will be made at my own risk. The information contained in this application is true to the best of my knowledge.

(signature of applicant)

Subscribed and sworn to before me this_____ day of_____, 19_____

(notary public)

My commission expires_____.

ACTION OF STATE RECLAMATION ENGINEER AND CERTIFICATE OF TRANSFER

This is to certify that I have examined Application for Transfer of Water Rights No._____, and said application is hereby_____.

1. Approval of said application is subject to the following limitations and conditions:

2. Denial of said application is for the following reasons:

Witness my hand this_____ day of_____, 19_____.

State Reclamation Engineer

FOR DEPARTMENT USE ONLY

Received by_____ Date_____		Protest filed by:	Date
Prelim. check by_____ Date_____			
Fee received by_____ Date_____ Fee $_____			
Approved for publication by_____			
Published in_____ Dates_____			
Hearing held_____			

Watermaster Recommendation sent_____

MICROFILMED

I CERTIFY That the foregoing is a correct abstract [illegible] judgment roll [illegible] in the Justice Court of Twin Falls precinct, Twin Falls County, State of Idaho as appears by my Justice docket now in my [illegible] session.

ATTEST My hand and the Seal of said Court this 14th day of June 1917.

T.J.Smith Justice of the Peace

Asher E.Wilson, [illegible]
Reid, Idaho Attorney
For Plaintiff.

[redacted]

[redacted]

[illegible] second feet, its right to the use thereof to date from [illegible] [illegible] company's canal [illegible]

[illegible]

Sov [illegible]

That the intervenors O. J. Morrill, William [illegible] [illegible] all time, to one (1) cubic foot per second [illegible] their right to the use of the same to date from [illegible] of two (2) cubic feet per second of time [illegible] date from A.D.1882; said water to be diverted [illegible] Middle Ditch Company's canal, and to be used [illegible] to said parties, lying within sections 20 and [illegible] Baise Meridian.

[illegible]

That the intervenors Heber [illegible] [illegible]

[illegible]

[illegible] are entitled [illegible] feet per second of time of the [illegible] intervenor [illegible] is entitled [illegible] cubic feet per second of time of all of the [illegible]

waters of said Sugar Creek; the rights of said parties the date of appropriation; to be measured at the respective headgates of said parties, at said Sugar Creek, and said rights shall be confined to the waters of said Sugar Creek.

The waters herein allotted to said Lemont Taylor, [illegible] shall be used upon and become appurtenant to the following described [illegible]

The East half of the North-west quarter of section [illegible] quarter of section 35, the South-west quarter of Section [illegible] Section 34; all in Township 12 South of Range 41 [illegible] half of the North-west quarter of Section [illegible] of section 3, in Township 13 South of Range 40 [illegible] the ownership of said claimants in said [illegible] titles.

And the waters herein allotted to [illegible] to and to the following described [illegible]

The South-west quarter of the [illegible] South-east quarter of the [illegible]

[illegible]

That Joseph A.Stone,intervenor,is entitled to the use [illegible] (1/80th) of one cubic foot per second of time [illegible] creek to date from the year 1898; and also to the use [illegible] (one 14/80ths) of one cubic foot per second of time [illegible] this right to the use thereof to date from the year [illegible] waters of said Sugar Creek, and to be appurtenant [illegible] used upon and become appurtenant to the following [illegible]

Commencing at a point 80 rods North of the [illegible] South of Range 40 East of the Boise Meridian [illegible] rods, thence West 160 rods; thence South [illegible]

That Mary Ann Pumley,intervenor,is entitled [illegible] of one cubic foot per second of time [illegible] to date from the year 1898, and to be appurtenant [illegible] measured at the headgate or headgates [illegible] to become appurtenant to the following [illegible]

Commencing at the [illegible]

[illegal] of the waters of said Cub River, his right to the [illegal] and additional right of Seventeenths (7/17ths) [illegal] period, his right to said appropriated use to date [illegal] and premises appurtenant to lands owned by said claimant [illegal] which remain in South of range 40 East of the Boise Meridian [illegal] through the Cub River Ditch, to be measured at the [illegal]

Fourteenth.

[illegal] entitled to the use of the waters of Cub River, his right to [illegal] of the waters of said stream, his right to the [illegal] and to the [illegal] and premises appurtenant to the lands owned [illegal] within sections 28 and 33, in Township 18 South of Range 40 East of the [illegal] through the said Ditch. Ray and Taylor Ditch [illegal] of the said Ditch.

Fifteenth.

That the intervenor [illegal] and [illegal] Lorenzo Cutler, is entitled, [illegal] of the waters of said River, to the use of said water as follows:-

The said Lemoni Taylor, to the use of three and one-half (3-1/2) cubic feet per second of time;

The said Edward M. Per[illegal] to the use of [illegal] cubic feet per second of time; and

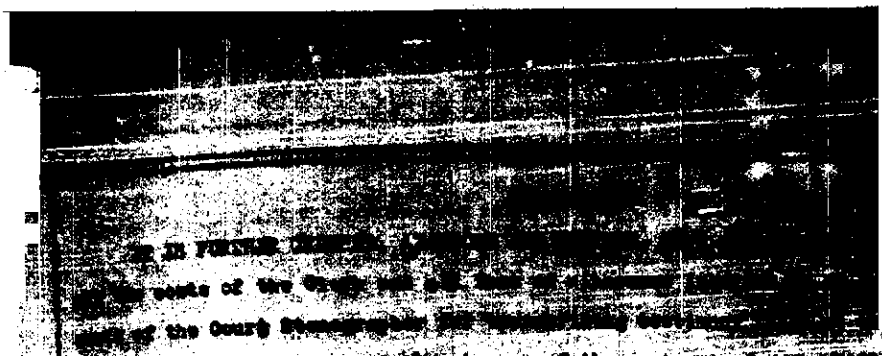
The said Lorenzo Cutler to the use of one and one-half (1-1/2) cubic feet per second of time;

Their right to the use of said water to date from the year 1884, and to be conveyed through the [illegal] known as Sugar Creek ditch, or to be measured at the [illegal] and upon and to become appurtenant to the lands owned [illegal] within the East of the North-west quarter of section 34, the West half of the North-west quarter of section 35, the South-west quarter of said section 34, and the South-east quarter of section 34, in township 15 South of range 40 East of the Boise Meridian, and the North half of the West quarter of Section 2, and the North-east quarter of the North-west quarter of Section 3, and the North-west quarter of the North-east quarter of Section 3, in township 16 South of range 40 East of the Boise Meridian.

Sixteenth.

That the intervenor Robert [illegal] is entitled, as against the [illegal] of the waters of said River, through or along the ditches described as [illegal] quarter of the North-east quarter and the North-west quarter of the South-east quarter of Section 12, and the South-west quarter of the South-west quarter of Section 11, and the North-west quarter of the North-west quarter of Section 14, all in Township 18 South of Range 40 East of the Boise Meridian.

[illegal]



AND IT FURTHER ORDERED [illegible]

[illegible] costs of the Clerk and [illegible]

[illegible] of the Court Stenographer [illegible]

[illegible] rendered herein, and the charges of the engineers [illegible]

and ditches of the respective parties; and said costs and charges shall be paid by the

parties of this action in the following proportions, to wit:-

The plaintiff, the Cub River Irrigation Company, shall pay of [illegible]

The defendant, the Cub River Middle Ditch Company, shall pay of [illegible]

The Franklin Cub River Canal Company shall pay of said costs, [illegible]

The Cub River and Worm Creek Canal Company shall pay of said [illegible]

O.J.Merrill shall pay of said costs, $6.90.

Lamoni Taylor, Edward M.Perkins and Lorenzo Cutler shall pay of said costs

$14.10.

Calvin Wheeler, William E.Bodily and Orrin J.Merrill shall pay of said [illegible]

Erasmus Olsen, Henry Day and Franklin Taylor shall pay, [illegible]

Joseph A.Stone and Mary Ann Buckley shall pay, jointly, of said costs, [illegible]

Heber Taylor and Joseph Neff shall pay jointly of said costs, $4.60.

Robert Hull and O.Preston Merrill, jointly shall pay of said costs [illegible]

AND IT IS ORDERED that the Clerk of this court shall tax said costs and

may issue against the parties hereto for the amount of costs herein directed

them, respectively.

AND IT IS FURTHER ORDERED, ADJUDGED AND DECREED, that each and every of

this action, the plaintiff and the defendant and the intervenors, each and their

vants or employes, and their successors in interest be, and they and each of them are

perpetually enjoined and restrained from in any manner interfering with the

Cub River and the tributaries thereof, except as their rights as herein [illegible]

each of said parties, his, her or its agents, servants, counselors, employes, and [illegible]

interest, are forever perpetually enjoined and restrained from in any way interfering with

the rights of any other party or parties to this action, as said rights herein [illegible]

use of said waters, or in the use of any ditch, conduit, canal, or other works in the [illegible]

any of said waters, except as their rights are herein defined and decreed with [illegible]

quantity of water herein allotted to each of said parties, respectively, [illegible]

the date of their respective appropriations, it being the intention of this [illegible]

rights of said parties to the use of said waters shall be governed [illegible]

of their respective appropriations.

Done in open court this 26t. day of January, 1906.

ALFRED RUDGE,

District Judge.

Clerk's fees.---------- $25.00

MICROFILMED

→ Elwin Coates - phone no

→ JUB -

S.B. ~~468~~
14