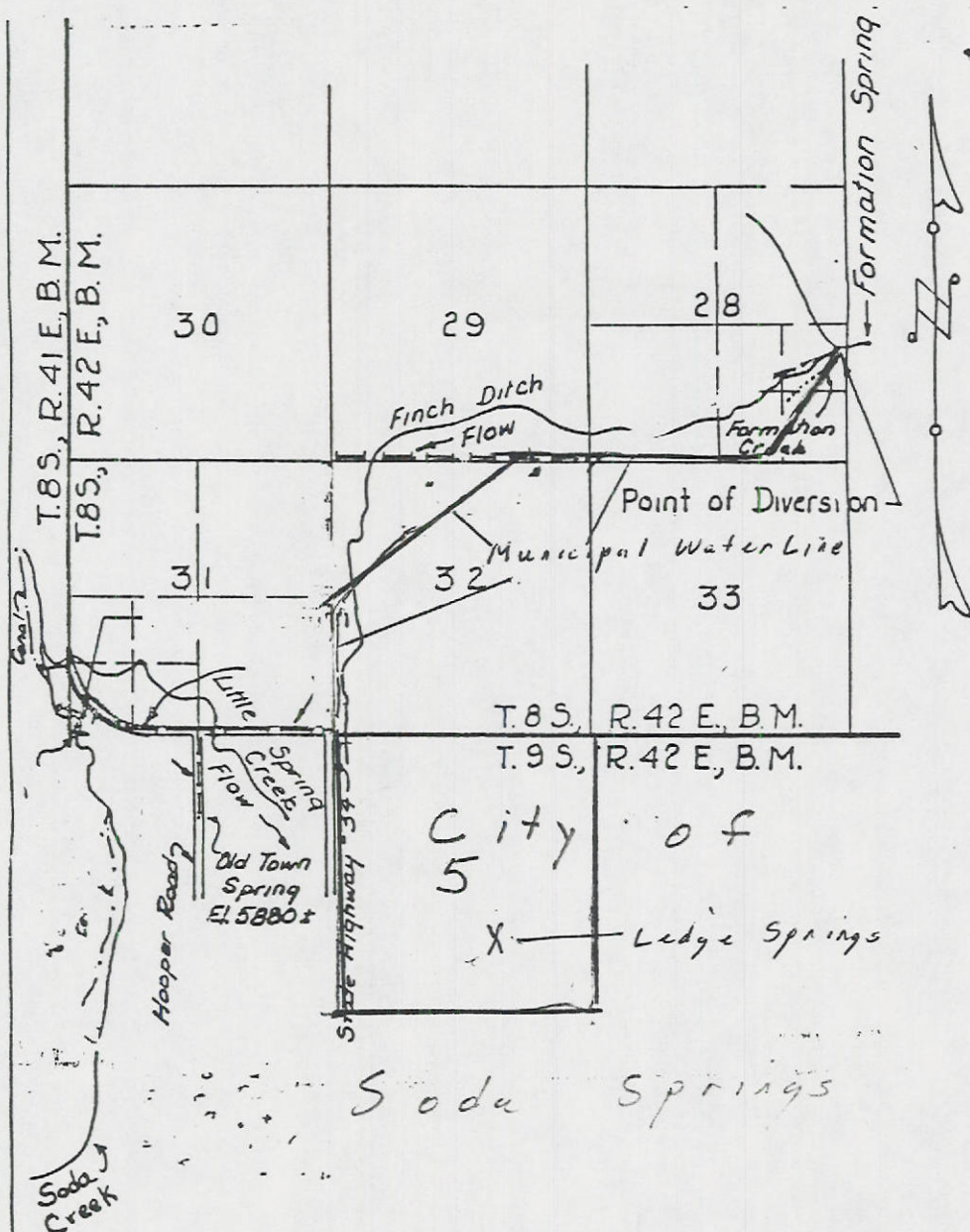


13. Map towns

section number,



## Map - Application for Permit

Showing Point of Diversion and  
Place of Use of Water to be  
Appropriated from Formation Creek  
in T.8S., R.42E., B.M., Caribou County, Idaho

Scale: 2 inches equal 1 mile

BE IT KNOWN that the undersigned hereby makes application for permit to appropriate the public waters of the State of Idaho as herein set forth.

Hilb S. Hansen  
(Applicant)

MAYOR, CITY OF SODA SPRINGS

# Affidavit of Publication

County of Caribou } ss.  
State of Idaho }

V. E. Lansberry  
being first duly sworn on his  
oath, states:

That he is Publisher  
of the Caribou County Sun, a  
newspaper of general circulation  
in Caribou County, Idaho pub-  
lished weekly at Soda Springs in  
said County, that said newspaper  
has been published in said county  
uninterruptedly and continuously  
for over seventy-eight consecu-  
tive weeks, prior to the first pub-  
lication of the annexed notice or  
advertisement:

That the annexed notice was  
published as per clipping at-  
tached in the regular and entire  
edition of said newspaper and  
not in any supplement thereof

for Two  
successive weekly issues thereof,  
the date of the first publication

being the 21st day

of April, 1966.

The date of the last publication

being the 28th day of

April, 1966.

x V. E. Lansberry

Subscribed and sworn to be-

fore me this 30th day

of November, 1966

David J. Lansberry

Notary Public, residing at  
Soda Springs, Idaho.  
(SEAL)

My Commission expires the

27 day of Oct.

1970.

## NOTICE OF PROPOSED TRANSFER OF WATER RIGHT

Notice is hereby given that  
Chris Phelps, Mayor of Soda  
Springs, of Soda Springs, Idaho,  
has applied to the State Recla-  
mation Engineer of the State of  
Idaho for a certificate authoriz-  
ing him to change the point of  
diversion and/or place of use of  
the waters of Formation Springs  
as follows: Amount: 5.5 cubic  
feet per second. Priority: May 1,  
1899. Point of diversion: NE $\frac{1}{4}$ -  
SW $\frac{1}{4}$ , Section 28, Township 8S  
Range 42 E., B. M. Place of use:  
W $\frac{1}{2}$ SW $\frac{1}{4}$ , SW $\frac{1}{4}$ NW $\frac{1}{4}$ , Lot 4,  
Sec. 5, Twp. 9 S., Range 42 E.,  
B. M.

To Be Transferred To  
Point of Diversion: NW $\frac{1}{4}$ -  
SW $\frac{1}{4}$ , Section 27, Township 8S,  
Range 42 E., B. M. Place of Use:  
City of Soda Springs and adja-  
cent territory (domestic and cul-  
inary use).

And that on the 5th day of  
May, 1966, at 2:00 o'clock P.M.  
at Room 107 Statehouse, Boise,  
Idaho, before the State Reclama-  
tion Engineer, or his authorized  
agent, the opportunity will be  
given to any and all persons to  
appear and present, for his con-  
sideration any reason or reasons  
why a certificate should not be  
issued authorizing such transfer.

CARL E. TAPPAN,  
State Reclamation Engineer  
Pub. A-21-28, 1966.

RECEIVED  
DEC 7 1966

Department of Reclamation

MICROFILMED

| TRANSFER NO. | NAME | AMOUNT<br>C.F.S. | BALANCE<br>C.F.S. | RIGHT<br>NO. |
|--------------|------|------------------|-------------------|--------------|
|--------------|------|------------------|-------------------|--------------|

|      |                      |     |   |          |
|------|----------------------|-----|---|----------|
|      | Finch, Henry L.      | 5.5 |   | 11-0994  |
| 1076 | City of Soda Springs | 5.5 | 0 | 11-0994A |

N

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MINOR FILMED

S T A T E   O F   I D A H O  
D E P A R T M E N T   O F   R E C L A M A T I O N

---

In the Matter of the Application of )

City of Soda Springs )  
Soda Springs, Idaho )

ORDER GRANTING TRANSFER  
NO. 1076

For a Transfer of Water Right in the )  
County of Caribou County, State of )  
Idaho )

WHEREAS, On the 5th day of May, 1966, at the Department of Reclamation of the State of Idaho at Boise, Idaho, this matter of the application of the City of Soda Springs, Soda Springs, Idaho, for a transfer of water right came on regularly for hearing, pursuant to the published notice in due and statutory form, and,

WHEREAS, a protest was made in person by Don Panting and Farrell Panting against the approval of said application, and,

WHEREAS, a decision was rendered on November 22, 1966, authorizing the issuance of a certificate authorizing the transfer of water right and change in point of diversion;

NOW, THEREFORE, IT IS HEREBY ORDERED, That the said application be, and the same is, HEREBY GRANTED, and that a Certificate of Transfer of Water Right be issued to the applicant herein, as provided by the laws of the State of Idaho.

IN WITNESS WHEREOF, I have hereunto set my hand and caused the official seal of the Department of Reclamation of the State of Idaho to be hereunto affixed at Boise, Idaho, this 23rd day of November, 1966.

(SEAL)

s/

R. KEITH HIGGINSON

R. KEITH HIGGINSON  
State Reclamation Engineer

RECORDED

STATE OF IDAHO  
DEPARTMENT OF RECLAMATION

---

CERTIFICATE OF DECREED WATER RIGHT  
TRANSFERRED RIGHT NO. 1076

THIS IS TO CERTIFY, That the City of Soda Springs, through Chris Phelps, Mayor, Soda Springs, Idaho, is the owner of and using a certain water right of 5.5 cubic feet per second of the waters of Formation Spring and Creek, with priority of May 1, 1889, decreed to Henry L. Finch, by decree of Judge B. S. Varian of the Fifth Judicial District of the State of Idaho, in and for the County of Caribou, in the case of

DANIEL J. LAU, et al

Plaintiffs

vs.

CHRIS PANTING, et al

Defendants

said decree bearing date of November 6, 1919, and being appurtenant to the following described lands, to-wit:

W<sup>1</sup>/<sub>2</sub>SW<sup>1</sup>/<sub>4</sub>, SW<sup>1</sup>/<sub>4</sub>NW<sup>1</sup>/<sub>4</sub>, Lot 4, Section 5,  
Township 9 South, Range 42 E.B.M.,

That said decree has been entered in the records of the Department of Reclamation of the State of Idaho, in Volume No. 4, at Page 206 thereof;

That said City of Soda Springs has become the owner of said water right by purchase;

And that now, upon the application of the City of Soda Springs for a Certificate of Transfer of Water Right, made before the State Reclamation Engineer of the State of Idaho, and the said application having been granted, the right to the use of 5.5 cubic feet per second of the waters of Formation Spring and Creek upon the above described lands is hereby abandoned, and the lands to be irrigated under such right and to which the water right HEREBY CONFIRMED shall become appurtenant by this Certificate for irrigation and domestic purposes, is described as follows, to-wit:

City of Soda Springs and  
adjacent territory;  
(domestic and culinary use)

That said water is to be limited at any given time to an amount actually needed and beneficially used for such purposes and shall not exceed the following amount, to-wit:

5.5 cubic feet per second of

MICROFILMED

the waters of Formation Spring  
and Creek, with priority of  
May 1, 1889;

That the water right hereby transferred has heretofore been  
conducted to the first described lands through Finch Ditch with  
point of diversion in the NE $\frac{1}{4}$ SW $\frac{1}{4}$ , Section 28, Township 8 South,  
Range 42 E. B. M.,

That the water right hereby transferred will hereafter be  
conducted through the pipeline with point of diversion in the NW $\frac{1}{4}$ SW $\frac{1}{4}$ ,  
Section 27, Township 8 South, Range 42 E. B. M.,

That the right to the use of the water aforesaid, hereby con-  
firmed, is restricted to the lands or place of use last above de-  
scribed, as provided by the laws of the State of Idaho;

IN WITNESS WHEREOF, I have hereunto set my hand and caused  
the official seal of the Department of Reclamation of the State of  
Idaho to be hereunto affixed at Boise, Idaho, this 23rd day of  
November, 1966.

(SEAL)

s/

R. KEITH HIGGINSON

R. KEITH HIGGINSON  
State Reclamation Engineer

RECORDED

11-778  
11-125

copy

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

-----

Daniel J. Lau, Joseph E. Lau,  
Louise Horsley and Daniel Cross,

)  
Plaintiffs.)

VS

)  
D E C R E E.  
)

Chris Panting, Adelbert Panting,  
Lina Panting, and Henry L. Finch,

)  
Defendants.  
)

-----

THIS CAUSE came on Regularly for trial the Fifth day of November, 1919, upon the amended complaint of Daniel J. Lau, Joseph E. Lau, Louise Horsley and Daniel Cross; the answer and cross complaints of Chris Panting, Adelbert Panting and Lina Panting and the answer and cross complaint of Henry L. Finch; Budge & Merrill of Pocatello, Idaho, appearing as attorneys for the Plaintiffs; J. M. Stevens, Esquire, appearing for the Pantings and N. E. Snell, Esquire, appearing for the defendant, H. L. Finch; and it appearing to the court that the respective rights of all the parties to the waters of Formation Spring and Creek, the water course mentioned and described in the pleadings herein, have been agreed upon and stipulated in open court and the parties having also stipulated all facts necessary as a basis for the complete determination and adjudication of the claims of all said parties to the said waters, and Findings of Fact and Conclusions of Law having been expressly waived and the Court being fully advised in the premises,

It is ordered, adjudged, and decreed that the said several parties are and shall be entitled to receive of the waters of said Formation Spring and Creek which rises in the NW $\frac{1}{4}$ -SW $\frac{1}{4}$  of Section 27 and the NE $\frac{1}{4}$ -SE $\frac{1}{4}$  of Section 28, Township 8 South, Range 42 East, 3. M., in Idaho for the irrigation of the lands hereinafter described, the quantity of water set opposite their respective names with priority dating from the dates stated as follows, to-wit:

CHRIS PANTING, 7 $\frac{1}{2}$  second feet (375 miner's inches), from May 1, 1887, for the irrigation of the;

NW $\frac{1}{4}$ , and the SE $\frac{1}{4}$ -NE $\frac{1}{4}$ , the NE $\frac{1}{4}$ -SE $\frac{1}{4}$ , W $\frac{1}{2}$ -SE $\frac{1}{4}$  of Section 28, and the SE $\frac{1}{4}$ -NE $\frac{1}{4}$ , and the NE $\frac{1}{4}$ -SE $\frac{1}{4}$  of Section 29, all in Township 8 South, Range 42 East, 3. M., in Idaho.

RECEIVED

ADELBERT PANTING, 3 second feet (150 miner's inches), from May 1, 1887, for the irrigation of the;

$\frac{1}{2}$ -NE $\frac{1}{4}$  of Section 28, and the SE $\frac{1}{4}$  of Section 21, Township 8 South, Range 42 East, B. M., in Idaho;

LINA PANTING,  $\frac{1}{2}$  second foot (25 miner's inches), from May 1, 1887, for the irrigation of the;

SE $\frac{1}{4}$ -NE $\frac{1}{4}$  of Section 29, in Township 8 South, Range 42 East, B. M. in Idaho;

The water hereinbefore decreed to Chris Panting, Adelbert Panting, and Lina Panting to be diverted from the said Formation Spring and Creek within the NE $\frac{1}{4}$ -SE $\frac{1}{4}$  of Section 28 and at a point at or near the boundary line between the NE $\frac{1}{4}$ -SE $\frac{1}{4}$  of Section 28, and the NW $\frac{1}{4}$ -SW $\frac{1}{4}$  of Section 27, Township 8 South, Range 42 East, B. M.

10-0994 HENRY L. FINCH, 5 $\frac{1}{2}$  second feet (275 miner's inches), from May 1, 1889, for the irrigation of the;

$\frac{1}{2}$ -SW $\frac{1}{4}$ , and the SW $\frac{1}{4}$ -NW $\frac{1}{4}$ , and Lot 4 of Section 5, Township 9 South, Range 42 East, B. M., in Idaho;

The said water to be diverted from the channel of Formation Springs Creek at a point in the NE $\frac{1}{4}$ -SE $\frac{1}{4}$  of Section 28, Township 8 South, Range 42 East, B. M. in Idaho.

DANIEL J. LAU, 6.9 second feet (345 miner's inches), as of May 1, 1895, for the irrigation of the;

E $\frac{1}{2}$ -SW $\frac{1}{4}$  and Lots 3 and 4, and the  $\frac{1}{2}$ -SW $\frac{1}{4}$ -SE $\frac{1}{4}$  of Section 18, and the NW $\frac{1}{4}$ -NE $\frac{1}{4}$ , and Lot 1 of Section 19, all in Township 8 South, Range 42 East, B. M., in Idaho.

X JOSEPH E. LAU, 4.7 second feet (235 miner's inches), as of May 1, 1895, for the irrigation of the;

SE $\frac{1}{4}$  NW $\frac{1}{4}$ , the E $\frac{1}{2}$  SE $\frac{1}{4}$ , and the E $\frac{1}{2}$  SW $\frac{1}{4}$  SE $\frac{1}{4}$  all in Section 18, Township 8 South, Range 42 East, B. M., in Idaho.

LOUISE HORSLEY, 1.4 second feet (70 miner's inches), as of May 1, 1895, for the irrigation of the;

$\frac{1}{2}$  SE $\frac{1}{4}$ , the SE $\frac{1}{4}$  SE $\frac{1}{4}$  of Section 13, the N $\frac{1}{2}$  NE $\frac{1}{4}$ , the SE $\frac{1}{4}$  NE $\frac{1}{4}$  of Section 24, Township 8 South, Range 41 East, B. M., in Idaho.

DANIEL CROSS, .5 of a second foot (25 miner's inches), as of May 1st, 1913, for the irrigation of the;

$\frac{1}{2}$  SW $\frac{1}{4}$  of Section 29, Township 8 South, Range 42 East, B. M. in Idaho;

The water hereinbefore decreed to the said Daniel J. Lau, Joseph E. Lau, Louise Horsley and Daniel Cross to be diverted from Formation Springs Creek at or near the boundary between the NE $\frac{1}{4}$  SE $\frac{1}{4}$  of Section 28, and the NW $\frac{1}{4}$  SW $\frac{1}{4}$  of Section 27, Township 8 South, Range 42 East, B. M., in Idaho.

It is further ordered, adjudged and decreed that the rights of each of said parties, as above specified, be and it is hereby quieted and established as against any claims of any of the other parties and each of said parties is hereby permanently restrained



State of Idaho  
DEPARTMENT OF WATER RESOURCES

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

EASTERN REGION

CECIL D. ANDRUS  
GOVERNOR  
R. KEITH HIGGINSON  
DIRECTOR

13-Sep-1991

COPY

CITY OF SODA SPRINGS  
PO BOX 797  
SODA SPRINGS ID 83276

ATTEN: Clyde Nelson

Mr. Nelson:

This is in regard to application for permit 11-07356 (amended), which I sent to you, and you returned to this office last year. It seems it was given to one of our agents to staff and was misplaced until this week.

I have now reviewed your additions to the 5 cfs amount on my original amended application. The addition of 5.0 cfs for groundwater recharge and inclusion of 5.5 cfs of decree 11-00994 for groundwater recharge is not an acceptable change. There is no recharge district involved in this application and water right 11-00994 cannot be inserted within a new application.

The stipulation as I read it, addresses only 5 cfs for municipal use and I will continue with this application for only that amount.

If you wish to address this issue further, you will need to respond within 15 days of this letter.

Sincerely,

*Harold W. Jones*  
Harold W. Jones  
Water Rights Supervisor

2nd copy of letter + amended applic  
Sent to Clyde Nelson  
on 2-4-92

CITY ADMINISTRATOR  
CITY OF SODA SPRINGS  
9 W. SECOND S.  
SODA SPRINGS, ID 83276

DEAR MR. SCHMIDT:

ATTACHED IS A COPY OF THE CITY'S ORIGINAL APPLICATION AND AN AMENDMENT SHEET PARTIALY COMPLETED. ACCORDING TO THE STIPULATED AGREEMENT THE AMOUNT WILL BE CHANGED TO 5.00 CFS AND THE USE WILL BE MUNICIPAL. I NEED YOU TO COMPLETE THE YELLOW HIGHLIGHTED AREAS AND SIGN THE APPLICATION BEFORE RETURNING IT WITH THE \$20 FEE. IVE ALSO ENCLOSED AN EXTRA AMENDMENT FORM IF YOU SHOULD NEED IT. IF YOU HAVE ANY QUESTIONS PLEASE GIVE ME A CALL.

SINCERELY,

HAROLD W. JONES

Sent 7-21-89

Call Clyde Nelson - City attorney  
547-2135

# COPY

Form 202  
6/85

Ident. No. 11-7356

STATE OF IDAHO  
DEPARTMENT OF WATER RESOURCES  
APPLICATION FOR PERMIT

To appropriate the public waters of the State of Idaho

AMMENDED

1. Name of applicant City of Soda springs Phone 547-4602  
Post office address P.O. Box 797, Soda Springs, ID 83276
2. Source of water supply Formation spring which is a tributary of Bear River
3. Location of point of diversion is \_\_\_\_\_  $\frac{1}{4}$  of NE  $\frac{1}{4}$  of SE  $\frac{1}{4}$ , Govt. Lot \_\_\_\_\_  
Sec. 28 Township 8S Range 42E B.M. Caribou County; additional  
points of diversion if any: \_\_\_\_\_
4. Water will be used for the following purposes:  
Amount 5.0 cfs for Municipal purposes from 01/01 to 12/31 (both dates inclusive)  
(cfs or acre-feet per annum) ~~Ground Water~~  
Amount 10.5 cfs for Recharge purposes from 01/01 to 12/31 (both dates inclusive)  
(cfs or acre-feet per annum) ~~Includes 5.0 cfs under 11-7356 and 5.5 cfs under 11-0994~~  
Amount \_\_\_\_\_ for \_\_\_\_\_ purposes from \_\_\_\_\_ to \_\_\_\_\_ (both dates inclusive)  
(cfs or acre-feet per annum)  
Amount \_\_\_\_\_ for \_\_\_\_\_ purposes from \_\_\_\_\_ to \_\_\_\_\_ (both dates inclusive)  
(cfs or acre-feet per annum) 5.0 cfs
5. Total quantity to be appropriated is (a) 10.5 and/or (b) \_\_\_\_\_  
cubic feet per second acre feet per annum
6. Proposed diverting works:
  - a. Description of ditches, flumes, pumps, headgates, etc. Concrete spring box and steel  
pipeline to the municipal system
  - b. Height of storage dam \_\_\_\_\_ feet; active reservoir capacity \_\_\_\_\_ acre-feet; total  
reservoir capacity \_\_\_\_\_ acre-feet; period of year when water will be diverted to storage:  
\_\_\_\_\_ to \_\_\_\_\_ inclusive.
  - c. Proposed well diameter is \_\_\_\_\_ inches; proposed depth of well is \_\_\_\_\_ feet.
  - d. Is ground water with a temperature of greater than 90°F being sought? \_\_\_\_\_
7. Time required for the completion of the works and application of the water to the proposed beneficial use is  
2 years (minimum 1 year).

8. Description of proposed uses (if irrigation only, go to item 9):

- a. Hydropower; show total feet of head and proposed capacity in KW. \_\_\_\_\_
- b. Stockwatering; list number and kind of livestock. \_\_\_\_\_
- c. Municipal; show name of municipality. City of Soda Springs
- d. Domestic; show number of households. \_\_\_\_\_

e. Other, describe fully. ~~Ground Water Recharge 10.5 cfs consisting of 5.5 cfs (11-0994) and 5.0 cfs (11-7356) at the W1/2 SE1/4, Sec. 28, T8S, R42E, B.M. or at points downstream for purpose of recharging Ledge Springs Aquifer. See letter of Paul Link submitted by protestants at February 25, 1987 hearing.~~

9. Description of place of use:

- a. If water is for irrigation, indicate acreage in each subdivision in the tabulation below.
- b. If water is used for other purposes, place a symbol of the use (example: D for Domestic) in the corresponding place of use below. See instructions for standard symbols.

City of Soda Springs - 5.0cfs Municipal

| TWP | RANGE | SEC. | NE¼ |     |     |     | NW¼ |     |     |     | SW¼ |     |     |     | SE¼ |     |     |     | TOTALS                               |
|-----|-------|------|-----|-----|-----|-----|-----|-----|-----|-----|-----|-----|-----|-----|-----|-----|-----|-----|--------------------------------------|
|     |       |      | NE¼ | NW¼ | SW¼ | SE¼ | NE¼ | NW¼ | SW¼ | SE¼ | NE¼ | NW¼ | SW¼ | SE¼ | NE¼ | NW¼ | SW¼ | SE¼ |                                      |
| 9.S | 42E   | 5    |     |     |     |     |     |     |     |     |     |     |     |     |     | X   | X   |     | 10.5 cfs<br>Ground Water<br>Recharge |
|     |       |      |     |     |     |     |     |     |     |     |     |     |     |     |     |     |     |     |                                      |
|     |       |      |     |     |     |     |     |     |     |     |     |     |     |     |     |     |     |     |                                      |
|     |       |      |     |     |     |     |     |     |     |     |     |     |     |     |     |     |     |     |                                      |
|     |       |      |     |     |     |     |     |     |     |     |     |     |     |     |     |     |     |     |                                      |
|     |       |      |     |     |     |     |     |     |     |     |     |     |     |     |     |     |     |     |                                      |
|     |       |      |     |     |     |     |     |     |     |     |     |     |     |     |     |     |     |     |                                      |
|     |       |      |     |     |     |     |     |     |     |     |     |     |     |     |     |     |     |     |                                      |

Total number of acres to be irrigated \_\_\_\_\_

10. Describe any other water rights used for the same purposes as described above. Used in conjunction with 11-2091, 11-2161, 11-0495 and 11-2092, 11-0496, 11-0994 and Ledge Creek (water right number unknown)

11. a. Who owns the property at the point of diversion? Farrell and Margaret Panting

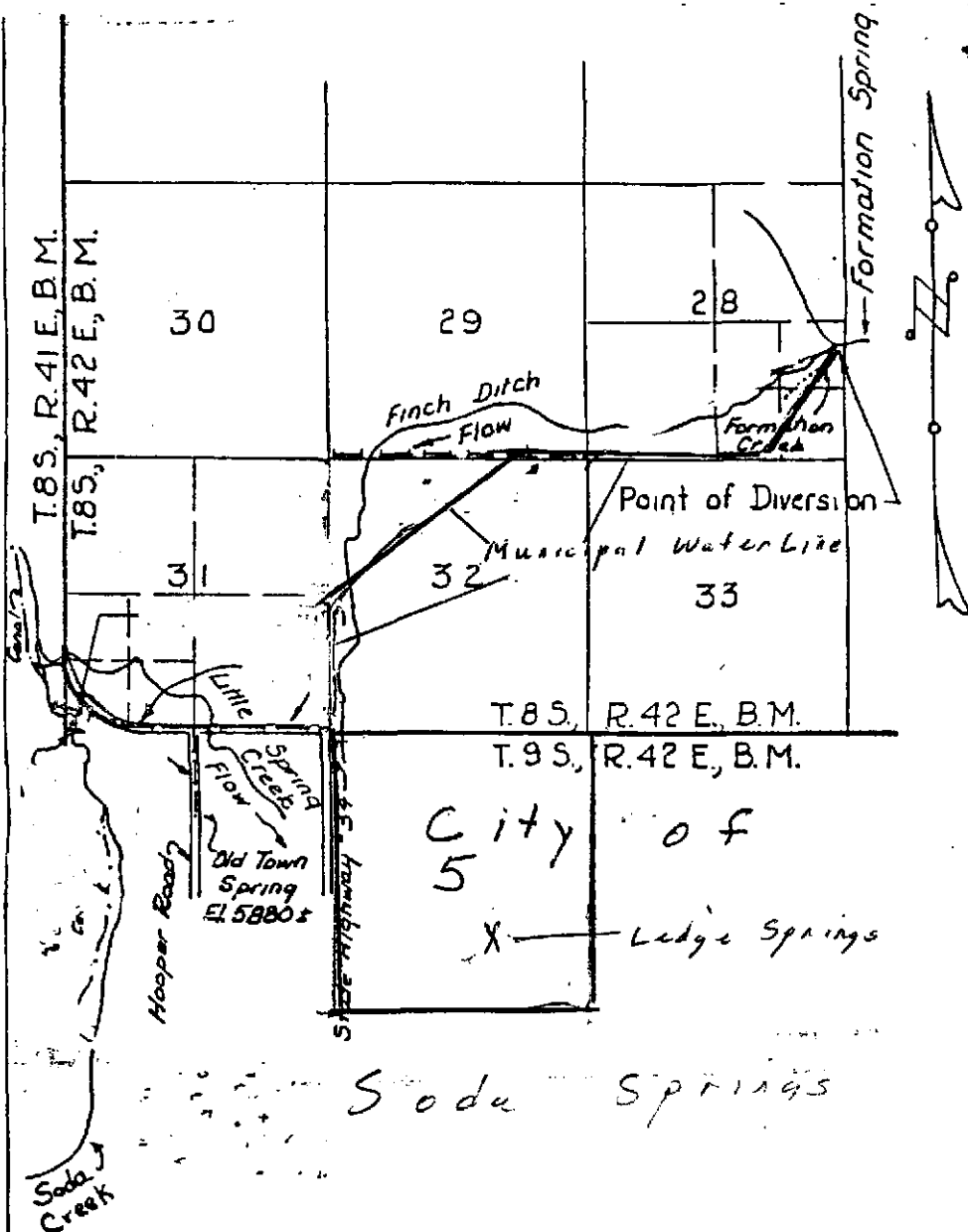
b. Who owns the land to be irrigated or place of use? City of Soda Springs

c. If the property is owned by a person other than the applicant, describe the arrangement enabling the applicant to make this filing. Right of way from Farrell and Margaret Panting to city of Soda springs, date Feb. 5, 1969, Document #65698

12. Remarks: \_\_\_\_\_

13. Map towns

section number,



## Map - Application for Permit

Showing Point of Diversion and  
Place of use of Water to be  
Appropriated from Formation Creek  
in T.8S, R.42E, B.M., Caribou County, Idaho

Scale: 2 inches equal 1 mile

BE IT KNOWN that the undersigned hereby makes application for permit to appropriate the public waters of the State of Idaho as herein set forth.

*Hubert L. Hansen*  
(Applicant)

MAYOR, CITY OF SODA SPRINGS

Received by CW Date 6-14-90 Time 12:15 Preliminary check by \_\_\_\_\_

Fee \$ 20.00 Received by HWJ # E014837 Date 6-14-90

Publication prepared by \_\_\_\_\_ Date \_\_\_\_\_ Published in \_\_\_\_\_

Publication approved \_\_\_\_\_ Date \_\_\_\_\_

### ACTION OF THE DIRECTOR, DEPARTMENT OF WATER RESOURCES

This is to certify that I have examined Application for Permit to appropriate the public waters of the State of Idaho No. \_\_\_\_\_, and said application is hereby \_\_\_\_\_.

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

a. SUBJECT TO ALL PRIOR WATER RIGHTS.

b. Proof of construction of works and application of water to beneficial use shall be submitted on or before \_\_\_\_\_, 19\_\_\_\_.

c. The rate of diversion, if water is to be used for irrigation under this permit, when combined with all other water rights for the same land shall not exceed 0.02 cubic feet per second for each acre of land.

d. The water right acquired under this permit if for hydropower purposes shall be junior and subordinate to all rights to the use of water, other than hydropower, within the State of Idaho that are initiated later in time than the priority of this permit and shall not give rise to any right or claim against any future rights to the use of water, other than hydropower, within the State of Idaho initiated later in time than the priority of this permit.

e. Other:

December 7, 1966

C  
O  
P  
Y

Hon. Chris Phelps,  
Mayor of Soda Springs,  
Soda Springs, Idaho.

Dear Mayor Phelps:

We are enclosing Order Granting Transfer and Certificate of Transfer of Water Right No. 1076, together with Departmental Receipt No. 33543, which was issued covering payment in the amount of \$1.00 for the recording fee of the above mentioned transfer.

Very truly yours,

ROBERT W. HAMILTON  
Supervisor of Water Distribution

Encl. -Certificate No. 1076  
Receipt No. 33543

RWH:pmk

MICROFILMED

SODA SPRINGS HEARING

Mr. Higginson: We will call this hearing to order. This is a hearing with regard to the proposed transfer of the City of Soda Springs. In connection with this proposed transfer a legal notice was published which I will read:

"Notice is hereby given that Chris Phelps, Mayor of Soda Springs, of Soda Springs, Idaho has applied to the State Reclamation Engineer of the State of Idaho for a certificate authorizing him to change the point of diversion and/or place of use of the waters of Formation Springs, as follows: Amount 5.5 cubic feet per second. Priority May 1, 1899. Point of diversion NE $\frac{1}{4}$ SW $\frac{1}{4}$ , Section 28, Township 8 S., Range 42 E., B. M.

To be Transferred to

Point of diversion: NW $\frac{1}{4}$ SW $\frac{1}{4}$ , Section 27, Township 8 S., Range 42 E., B. M., Place of use: City of Soda Springs and adjacent territory (domestic and culinary use)

And that on the 5th day of May, 1966, at 2:00 P. M., at Room 107, Statehouse, Boise, Idaho, before the State Reclamation Engineer, or his authorized agent, the opportunity will be given to any and all persons to appear and present, for his consideration any reason or reasons why a certificate should not be issued authorizing such transfer. Carl E. Tappan, State Reclamation Engineer.

We will proceed by first allowing the City of Soda Springs to present any information or evidence they may wish the State Engineer to consider in connection with this transfer after which we will hear from protestants with regard to their objections to the proposed change.

Mr. Higginson: If you will identify yourself.

Mr. Caldwell: I am Callis Caldwell, and I am the attorney for the City of Soda Springs. I would like to call as my first witness, if I could, the Mayor of the City of Soda Springs, Mr. Phelps.

Mr. Higginson: Mr. Phelps. We will swear in the witness so that we will have a sworn record. (You solemnly swear the testimony you are about to give in hearing before the State Reclamation Engineer to be the truth, the whole truth, and nothing but the truth)

Mr. Phelps: I do.

Mr. Caldwell: Now, would you give us your name please?

Mr. Phelps: Chris Phelps, Mayor of Soda Springs.

Mr. Caldwell: And are you at the present time serving as the Mayor of the City of Soda Springs?

Mr. Phelps: I am

Mr. Caldwell: Mr. Phelps, recently did the City of Soda Springs buy some land for the purpose of getting a water right?

Mr. Phelps: Yes, to the best of my knowledge.

Mr. Caldwell: Will you tell us how that land - how you title it or refer to it, in the City of Soda Springs - such and such a ranch.

Mr. Phelps: Yes, we call that the Finch Ranch.

Mr. Caldwell: And what was the purpose for buying - the City of Soda Springs buying that ranch? Was it the land you wanted?

Mr. Phelps: No

Mr. Caldwell: What was it you wanted?

Mr. Phelps: It was the title and the water right, for the use of the people of Soda Springs.

Mr. Caldwell: That is the land had a water right that the City of Soda Springs wanted - is that correct?

Mr. Phelps: Yes.

Mr. Caldwell: And why did they need that water - is it necessary for them to obtain that water?

Mr. Phelps: Definitely, we had such an influx in population that our present water system, this summer, we had to go on to even and odd days water ration to serve the people.

Mr. Caldwell: Now, would you put - place in the record - a little bit of description, what the growth has been to Soda Springs the past few years. What has happened to make this necessary?

Mr. Phelps: Well, for instance, our last census said we had 2424 people and we haven't had a census taken since then, and we only have an estimate, but we do send out between 1100 and 1200 light bills, which water is included, to users and it is our estimation that there is over 4,000 now.

Mr. Caldwell: That has happened when - within just the past four or five years is it not?

Mr. Phelps: Yes.

Mr. Caldwell: And, has that taxed your present water supply?

Mr. Phelps: Yes, it got so in the some of our subdivisions we have people calling all the time and they can't take a shower at certain times of the day.

Mr. Caldwell: And, I believe you stated that this last summer that you had to put restrictions on the use of the water during a period in the summer?

Mr. Phelps: Yes, we took even and odd house numbers and the evens were watering one day and the odds the next day.

Mr. Caldwell: Now, does the City of Soda Springs contemplate doing anything to alleviate this water shortage ?

Mr. Phelps: Yes, we have an extensive program under way now, with the assumption that we get this water transferred, we have purchased, through that right that belonged to the farm we had bought.

Mr. Caldwell: And you intend to use that water here in the Soda Springs Area, a that is, in the City of Soda Springs and the surrounding area as the drinking, cooking and culinary water of the area?

Mr. Phelps: Yes.

Mr. Caldwell: I believe that is all I need from Mr. Phelps.

Mr. Higginson: I was wondering - Mr. Panting, I don't believe you are represented by counsel today. Do you wish to ask the Mayor any questions?

Mr. Panting: No. I think it will be brought out.

Mr. Higginson: Fine.

Mr. Caldwell: That's all then Mr. Phelps. Now, Mr. Snell, the Superintendent of the water system here in Soda Springs.

(Mr. Higginson swears in the witness)

Mr. Caldwell: Would you give us your name please?

Mr. Snell: Max Snell.

Mr. Caldwell: And you are working for the City of Soda Springs at the present time?

Mr. Snell: I am

Mr. Caldwell: And what is your official capacity?

Mr. Snell: Superintendent of power and water

Mr. Caldwell: And in doing that do you have the water system under your supervision.

Mr. Snell: I do.

Mr. Caldwell: Now, would you say at the present time the system, the water system of Soda Springs is adequate.

Mr. Snell: Up to the present time, yes - right now.

Mr. Caldwell: Now, would you describe what the situation is, that is, relative to the water and the city, at the present time, and what according to your expert opinion as to - and being familiar with the system - what the need of the city is?

Mr. Snell: Well, the growth started in 1950. We had 1039 was the census, at that time, and I think the census in 1960 was 2240, or whatever the Mayor here mentioned a minute ago. Our estimate now is around 4,000. Well, with this constant increase all the time, consequently the demand for water increased along with the population. The present system now is Ledge Creek, the only place we get water and we barely got by last year by having off season or off hours watering. The flow line to this place is taxed to capacity and there isn't any other way except to go out and get further water some other source when it continues to increase and it looks like there is another plant coming in, from Salt Lake they tell me, and just seems to be city growth all the way along and we are up the point where any more we just have to cut somebody else and we are going to have to rob Peter to pay Paul.

Mr. Caldwell: And, then in your opinion, the City of Soda Springs needs another source of water?

Mr. Snell: Definitely.

Mr. Caldwell: And, how soon?

Mr. Snell: Within - by next year.

Mr. Caldwell: Is it your opinion then that they should be working on this system the next summer.

Mr. Snell: Absolutely.

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Mr. Caldwell: Again, I want to ask you about difficulties. Did you have difficulties as to water during the latter part of the summer this year?

Mr. Snell: Yes.

Mr. Caldwell: And, did you study this, made charts, etc., to see just what water is being used?

Mr. Snell: We have had a Sparling meter on and over the years we have a record of - but it broke down some time about the middle of June, this year, and I never had a chance to get it repaired, or I couldn't get it repaired, to show the flows of what it would be this summer, but we have records for around ten or twelve years, so I think it was installed, this meter, somewhere in the early 50s.

Mr. Caldwell: And, does that meter show a terrific increase in use during the past three years?

Mr. Snell: Yes

Mr. Caldwell: And, the last measure you had, the last records from that meter, I believe was during summer of 1965 was it not?

Mr. Snell: Right.

Mr. Caldwell: Did the record show at that time that you were reaching capacity of your use?

Mr. Snell: Yes.

Mr. Caldwell: That is, with the water you have at the present time?

Mr. Snell: Yes.

Mr. Caldwell: Now, have you examined the source of this new supply of water that the Mayor referred to as having been purchased by the City.

Mr. Snell: Yes

Mr. Caldwell: And, do you feel that that would be a good supply and

beneficial to the city for its needs?

Mr. Snell: Yes.

Mr. Caldwell: And, have you examined the place where the city is taking the water now, have used it on the ranch. - - You know where they have been taking it?

Mr. Snell: Where they have been taking it from?

Mr. Caldwell: Yes.

Mr. Snell: The Finch rights you mean?

Mr. Caldwell: Yes.

Mr. Snell: Yes

Mr. Caldwell: And, would you please describe the source of this water if you could. Tell them where the water comes from - is it a river, or just what is it?

Mr. Snell: It is a large spring. It just seems to be boiling up (and doesn't seem to boil up) Its any more than like any other spring of water there's no bubble to it or anything. It comes out from the base of a mountain, pretty good sized hill, and there is approximately, as near as we have been able to ascertain, through various measurements, around approximately 20 cubic feet per second, going on down in a westerly direction and it only goes so far, probably a couple of miles, and sinks into kind of a formation strata.

Mr. Caldwell: And, I believe you have talked to the - have you talked to Mr. Burkhardt of the Department of Health, the State Department of Health, about where this water should be taken from?

Mr. Snell: No, I haven't gone into this. I think Bob did though.

Mr. Caldwell: That's right. That's right, it was Mr. Hamilton, I believe.

O. K. that's all I have. Wait a minute, they might want to cross-examine.

Mr. Higginson: Did you have any questions on that from Mr. Snell, Mr.

Panting?

Mr. Panting: Yes, I have . Did you say

Mr. Snell: Yes.

Mr. Panting: This is where?

Mr. Snell: Right there by Finch's house

Mr. Panting: In what creek?

Mr. Snell: Electric.

Mr. Panting: This has nothing to do with Formation Creek?

Mr. Snell: No.

Mr. Panting: You talked about the source of this as quoted here. You didn't even say what the source was.

Mr. Snell: Spring.

Mr. Panting: What spring?

Mr. Snell: Formation Spring

Mr. Panting: All Right - Where is the diversion point?

Mr. Snell: Well, I don't know.

Mr. Panting: Roughly, state where?

Mr. Snell: I couldn't tell you right off the bat. I haven't got that yet. They have it here I am sure of that but I don't have it. I can't recite it right off.

Mr. Panting: You do not - I mean the City in buying this, they do not have the diversion point at the spring, is this true?

Mr. Snell: As far as I know they don't.

Mr. Panting: But you don't know where the diversion point is?

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Mr. Snell: I don't follow you. You ask where the Spring was?

Mr. Panting: I am asking you for the diversion point of this water ~~on this ranch~~ the city bought. Do you have that?

Mr. Snell: No, I don't.

Mr. Panting: Do you have any idea where it is?

Mr. Snell: Well, I know it is out there on the creek some place, but I couldn't exact it for you. I think that Bob probably has it.

Mr. Panting: Max, you have been up there haven't you?

Mr. Snell: Yes.

Mr. Panting: You have been down along the creek?

Mr. Snell: Yes

Mr. Panting: And you mean you haven't ran into that diversion point?

Mr. Snell: Well, I say I can't tell you where it is?

Mr. Higginson: You mean you can't give him a legal description?

Mr. Snell: No, I can't give you a legal description - No. I don't know what section it is or anything like that

Mr. Caldwell: You've just seen the spot.

Mr. Snell: Yes, but I can't describe it.

Mr. Panting: Is there a measuring device there?

Mr. Snell: Yes.

Mr. Panting: You say there is a plant coming in from Salt Lake?

Mr. Snell: That's what I hear.

Mr. Panting: O. K. You think this will effect us?

Mr. Snell: Definitely.

Mr. Panting: I wish I knew where they are going to set up.

Mr. Snell: Everyone wants to know about that.

Mr. Panting: Especially the real estate men. Now you say you had enough water this summer:

Mr. Snell: No, I didn't say I had enough. We got by. We had to curtail.

Mr. Panting: I thought you said it was OK at the present.

Mr. Snell: That was up to last year, it is. We had to go on water restrictions this year to get by.

Mr. Panting: During the conversation I just wrote this down "Water OK for the present." On the other hand Chris says it is not enough. Ok that's fine.

Mr. Higginson: Fine. I wonder Mr. Panting, if you could move up to the other table it would help us with our record. Pull your chair over here so that -

Mr. Panting: Some what a court.

Mr. Higginson: No.

Mr. Panting: It does. A man got to be sworn in and everything.

Mr. Higginson: This is in effect what we do now under our new administrative procedures act that everything we do is subject to review by the court. We have to make a formal record of what we do. Go ahead Mr. Caldwell.

Mr. Caldwell: I would like to call the City Engineer, Mr. Hamilton.

(The witness was sworn in by Mr. Higginson)

Mr. Caldwell: Now, would you give us your name please.

Mr. Hamilton: R. S. Hamilton.

Mr. Caldwell: And, in what capacity do you serve to the City of Soda Springs.

Mr. Hamilton: As City Engineer and Consulting Engineer of the proposed project we are discussing.

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Mr. Caldwell: Now, have you examined the - or have you been studying recently the water system of the City of Soda Springs.

Mr. Hamilton: Yes, I have.

Mr. Caldwell: Have you recently studied various charts as to the use of the water in Soda Springs and also charts of the water available? Have you studied the situation.

Mr. Hamilton: That chartsof the water use of the present system? Yes. I haven't seen any on what's available from the other source.

Mr. Caldwell: Now, would you tell us in your own words what your findings have been as to the need for water in the City of Soda Springs, at the present time.

Mr. Hamilton: In the summer of 1964 and 1965 for which I had access to the charts from the main line meter, the peaks run up in excess of 5 second feet at this one, in the latter part of July, 1965, when the peak hourly flow was  $5\frac{1}{4}$  second feet. At that time the population was less than it is now. It has been growing in that year.

Mr. Caldwell: Then, in your opinion, does the City of Soda Springs need more water available for its system?

Mr. Hamilton: Yes, we do.

Mr. Caldwell: Now, have you examined the source of the water, what the Mayor has referred to as Finch Ranch water?

Mr. Hamilton: Yes

Mr. Caldwell: For what purpose have you been examining the water and where it comes from, etc.

Mr. Hamilton: For the purpose of preparing a preliminary report on the feasibility of bringing that water to the city's water distribution system and beyond that for the design of a pipeline to accomplish that.

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Mr. Caldwell: Now, in your study, what conclusions have you come to. Is it feasible to bring that water to the City of Soda Springs for culinary purposes?

Mr. Hamilton: Yes.

Mr. Caldwell: Now, in your studies of this have you made designs and proposals as to the best place of diverting - or the place where the water should be diverted, approximately where lines should be laid to bring it to the City.

Mr. Hamilton: Yes.

Mr. Caldwell: Now, I am handing you what has been titled on here as "The City of Soda Springs Proposed Water Supply Line, Formation Springs" and ask you if that drawing or design is familiar to you.

Mr. Hamilton: Yes.

Mr. Caldwell: And, does that show where the present, that is the existing diversion point, right where the Finch Ranch is and the proposed diversion point that the City would take, or that you would suggest if they were to divert this to the City of Soda Springs.

Mr. Hamilton: Yes, it shows both.

Mr. Caldwell: Now, could you describe - well, did you read in the petition we - that was read here - that was filed with the state - did you read the proposed new place of diversion and the old place, or were you listening at that time?

Mr. Hamilton: Yes. Oh, the existing diversion, the Finch diversion is on the longitudinal section line, approximately on the longitudinal half section line of Section 28, in Township 8 South, Range 42 E., B. M. The proposed diversion is at Formation Spring, which is just a short distance

east of the east line of Section 28.

Mr. Caldwell: Now, would you tell this Board in your own words as near as you can the reason that you have proposed the point of diversion that you have just indicated.

Mr. Hamilton: Simply stated, its purely for health reasons. The present diversion of the Finch ditch is somewhat over a half mile below the Spring, and throughout all of that half mile it is open to access by stock and consequently to contamination.

Mr. Caldwell: What type of conduit is there now between, the - is it just an open channel running down? What kind of land or territory? Is it within the city or out in the rural section?

Mr. Hamilton: It is a rural location and there is stock there, and it would be wholly impossible, I am certain, to ever obtain approval by the State Health Department to diverting water for domestic use at the point where the Finch ditch heads.

Mr. Caldwell: Have you taken the problem up or discussed this with Mr. Burkhart of the State Health Department.

Mr. Hamilton: I have and we have supplied him with preliminary drawings of what we propose to do and the Mayor has and we have a letter from Mr. Burkhart approving the proposed plan without exception.

Mr. Caldwell: And would you again describe the source of the way this water would come - how far it would flow up to the point of the proposed diversion - that is out in the open.

Mr. Hamilton: It would - we propose to lay a pipeline right to the source of the Spring, and of course, that is an open pool, but we also proposed to

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fence that pool so that no stock can reach it, and also to cut the ditches above the fence so that surface runoff cannot reach the pool from which the diversion is made. Of course, there will be an opening in that fence, I mean a pedestrian gate, a locked gate, and the property owners, the Mr. Pantings, would have access to the diversion.

Mr. Caldwell: Now these precautions, or these particular type of construction you have spoken of - is the purpose of that to protect the health of the people of the City of Soda Springs?

Mr. Hamilton: It is that and that alone.

Mr. Caldwell: And, in your opinion, would the health of the people of Soda Springs be protected more if the water were taken at the present diversion point or at the proposed diversion point.

Mr. Hamilton: Without question, it would be much worse if it were taken from the present point of diversion.

Mr. Caldwell: Now, what purpose would that water be used for, if and when it is used?

Mr. Hamilton: For, it would be for general culinary use within the City.

Mr. Caldwell: Would it be channeled into the main water system of the City of Soda Springs?

Mr. Hamilton: Yes, it would, and would be, of course, enclosed in a conduit from the intake to the present distribution system.

Mr. Caldwell: Now for the purpose of this Board would you describe the proposed system, explain to them how it would protect the water and where you plan on taking it and just what kind of intake you would have and how it would be protected.

**MICROFILMED**

Mr. Hamilton: At the intake the water would be led into a steel building containing a Parshall flume.

Mr. Caldwell: And would that building be right there at the source of the water as it come out of the ground.

Mr. Hamilton: Right at the source.

Mr. Caldwell: At the point where the pipeline enters the building there would be sluice gate which would be adjusted to admit not more than the City's right which would be measured over the Parshall flume. Then, after leaving the Parshall flume, it would enter the concrete pipe for roughly a half mile where the head is low and then go to a steel pipe, coated, dipped and wrapped steel pipe. That would extend to the north city limits where it would be split three ways into three different mains of the City's existing distribution system.

Mr. Caldwell: And do you feel that this would give the City of Soda Springs another and a good source of good pure water.

Mr. Hamilton: It would - in fact you feel that it is an excellent -

Mr. Caldwell: What is your feeling about this new source?

Mr. Hamilton: Just as you said, it is an excellent source.

Mr. Caldwell: And, do you feel if this plan is carried through that it would be able to adequately take care of the needs for a few years to come?

Mr. Hamilton: Yes, it would.

Mr. Caldwell: That's all

Mr. Higginson: Mr. Panting, do you have any questions of Mr. Hamilton?

Mr. Panting: I don't believe so.

**MICROFILMED**

Mr. Higginson: Fine. Go ahead Mr. Caldwell:

Mr. Caldwell: The, that's all we have.

Mr. Higginson: Fine. Mr. Panting do you wish to make a statement in connection with your protest?

Mr. Panting: Yes.

(Mr. Panting was sworn in by Mr. Higginson)

Mr. Higginson: Would you give us your name for the record. (Mr. Caldwell- You may proceed.)

Mr. Panting: Don Panting - we are still going to protest this, that is I am, I am not represented, and I think this is wrong, and the fact that Blaine isn't here and Mr. Cellan isn't here and I know for a fact the City Mayor talked to Mr. Cellan about this at one time. I tried to call Mr. Cellan. He is quite an owner in this stream, and I tried to call him today, and he happened to be in Pocatello.

Mr. Higginson: What is his full name?

Mr. Panting: Thomas Cellan

Mr. Higginson: How do you spell Cellan?

Mr. Panting: C-e-l-l-a-n

Mr. Higginson: Thank you.

Mr. Panting: He isn't here, but I know that he has been contacted by our Mayor because Tom come and talked to me and asked me about it and we chatted about it, is about all we done, but I know there has been no effort to get, to really get him into this, which shouldn't be on my part to get him in here. It should be on the city's part because they know he - that's he.

Mr. Higginson: As far as we are concerned, it should be Mr. Cellan's part, if he has any objection, he should raise it, and if he has not

made and appearance either here or in Boise, then I think we would have to just proceed with your protest. That is all we have formally, before us, so if you will proceed and outline your protest.

Mr. Panting: OK I'll protest on the fact that everybody isn't here to begin with and I'll protest it on the fact that the City bought the Finch Ranch and the water and the present point of diversion, and if you will check it you can read that it says - "this shall be quieted forever." - and, if you back through the records, this is the law suit that come out in 1919 I believe, isn't it?

Mr. Higginson: Is it a statement in the original decree?

Mr. Panting: Yes - "all things are quieted forever" It is in there.

Mr. Higginson: All right. We will refer to it.

Mr. Panting: You want Number 2. We still do not have from the City any any written proposal as to what they are going to put in here, what they are going to pay for right of way. We still do not have that. Now, they give us one, and we refused it. We turned them down flat. It's not worth it. No. 3. I protest on the fact that they are starting on the north side of the spring, back at the source and are cutting right straight across the spring with their pipe line, which makes it very hard for us to get up there with our own pipe line, which we have the same right as they do. Now, this pipeline cuts diagonally right straight across the spring, just blocks everything off.

The City keeps referring to reason they want to divert is on account of pure water. That water has been chlorinated before. Ok Another reason I want to protest this is because by this fact they they want to divert this water has run through my place since - for God knows when, and is going to dry up part of that old creek bed which will devalue our

**MICROFILMED**

ground. If you want to check on this, they have a plan to put this house in here and cut right across this spring. If you want to check that, I would like you to.

There has been no written proposal on what they will pay for the right of way should they go ahead and run this pipe line through there. We still don't have that. This is what we based it on the first time. We still don't have it.

Mr. Higginson: Ok Anything else in connection with your protest?

Mr. Panting: Well, I hate to speak for Blaine and I know he would have something to say about it, and I can't, I know that. The need, the need these people talk about the need of this water. It is established. Sure they need the water, but the diversion is still there the same as always and you can go back through the records and it is quieted forever. It says right in there. Mr. Hamilton, he described the source, but nobody seemed to know where the diversion is on this thing. It is quite comical. In their purchase on this Finch Ranch, I don't know whether it would do any good to give figures or not?

Mr. Higginson: Certainly, we can make a record of anything you want.

Mr. Panting: I think they bought this for \$100,000 with the water and they refused and just kept advertising it back for 100,000, without the water. This has been advertised several times. Now, in some of our previous meetings with the City we talked about it and we tried to get it settled and they agreed to certain things, but we still do not have anything written. They agreed to provide outlets along that pipeline, they have agreed to carry our access water so that we could have pure water, but we still don't have a thing in our hand. I think that's all.

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Mr. Higginson: Mr. Caldwell, do you wish to ask any questions.

Mr. Caldwell: Yes - Mr. Panting, if something were agreed to as to the proper amount to be paid for the right of way across your property, then would you withdraw your objections to the change in point of diversion.

Mr. Panting: Callis, this seems to be the only thing you guys are grind on, just the right of way. This seems to be with Blaine, and seemed to be with me. You are grinding on it strictly as a right of way. You are not thinking of what the other things involved and this is what we are thinking, the right of way don't seem to amount to a lot, because so far as on the pipeline so many feet wide down through there you are not going to hurt a lot.

Mr. Caldwell: Then, that has nothing to do with it?

Mr. Panting: Well, yes. I would say yes it does have something to do with it.

Mr. Higginson: Mr. Panting, earlier I think you heard Mr. Snell testify that in his opinion the spring flow is approximately 20 second feet. Would you agree with that figure?

Mr. Panting: No, I don't believe it is quite that high.

Mr. Higginson: How high?

Mr. Panting: I believe you fellows took some of your own measurements.

Mr. Higginson: In your opinion, how much does it flow? Have you had any occasion to observe or measure it.

Mr. Panting: No, I haven't.

Mr. Higginson: Would it be more than 5 second feet.

Mr. Panting: Oh yes.

Mr. Higginson: The fact that the City's transfer is based upon a right

with a particular priority for 5.5 second feet. In your opinion would this take completely all the flow of the spring?

Mr. Panting: No sir. Not at the present time.

Mr. Higginson: Then the question I have is with regard to your concern that, if the city were to take this water into the pipeline that it would dry up the stream. I believe that is what you said. Will you explain that?

Mr. Panting: Well, start right here (pointing to map) at the head and go down - there is their existing diversion. They take that water out of there, its gone.

Mr. Higginson: But the question is, if there is more than 5. second feet of water in the creek, and they only take 5 out then there is still water in the creek is there not?

Mr. Panting: Yes, but this water goes the other direction.

Mr. Higginson: But the creek is dry?

Mr. Panting: Yes, it would be. For all facts and purposes - Yes.

Mr. Higginson: Then, how much is there in the creek?

Mr. Panting: Well, their water is in the creek and Ellen Lau has a small right in there and this is based on evaporation quite a bit and if they pull that out there it is going to nearly dry up.

Mr. Higginson: In your opinion, the entire flow of the spring amounts to about 5 second feet.

Mr. Panting: No, No, No, No. Not the entire flow of the spring.

Mr. Higginson: How much is the difference.

Mr. Panting: Because this is not the only direction this spring flows. That spring flows this way, this way and this way (pointing at map)

Mr. Higginson: You are pointing north and east on the map.

Mr. Panting: I am pointing north, northwest, and south, because they

MICROFILMED

are not the only ones that have a right in that spring, and this water goes other directions, besides down here.

Mr. Higginson: I believe that is all the questions I have.

Is there anything further from either parties, either the City or the protesting parties.

Mr. Caldwell: Yes, I would like to call Mr. Damer, if I could in rebuttal.

Mr. Higginson: Fine - I wonder if before we call Mr. Damer, that we might mark this map as referred to here, as an exhibit so that we may complete our record.

Mr. Caldwell: I will introduce that.

Mr. Panting: I will protest that. That doesn't show what is going on.

Mr. Higginson: For informational purposes, it shows the lay of the land and the location of the sources does it not?

Mr. Panting: No, it doesn't show where this water goes besides down there.

Mr. Higginson: Well, with that admitted, it is not intended to show that, but it does show the location of the Formation Spring and the location of the proposed facilities of the City of Soda Springs.

Mr. Panting: Yes, it does that. It sure doesn't show where the water goes.

Mr. Higginson: For that purpose, we would include it. Very fine. We ask that to be introduced. (Mr. Damer was then sworn in by Mr. Higginson)

Mr. Caldwell: Will you give us your name please?

Mr. Damer: Robert N. Damer.

Mr. Caldwell: And what is your profession or occupation at the present

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time?

Mr. Damer: I am a registered civil engineer in the State of Idaho employed by the firm of Hamilton and Voller.

Mr. Caldwell: And, do you happen to be working at this particular time with the City of Soda Springs.

Mr. Damer: Yes, our firm has contracted and retained as City Engineer and also as a consultant on this proposed water line.

Mr. Caldwell: And, have you working on this proposed water line.

Mr. Damer: Yes, I have

Mr. Caldwell: Now, the point that you now have on your plans for taking water, that is the pipeline across the springs, itself. Was it originally the way it is now.

Mr. Damer: No, originally it was not.

Mr. Caldwell: How was it originally?

Mr. Damer: Originally, it was as this, as you can see at this dotted line following the edge of the Spring, and on a previous drawing in the lower corner here you can see it, a reduced scale of this spring. Originally we proposed to go down the North bank of the stream, came right out of the intake house, go down the north bank of the stream, cross the stream below where the Pantings have their pump and small head wall.

Mr. Caldwell: Now, where did you change?

Mr. Damer: Because it was requested by the Pantings and as an attempt to try to cooperate with their wishes and feelings. Mr. Blaine Panting requested and insisted that we lay the line down the middle of the creek because he felt that laying the line on the north bank we would start erosion problems that would become unsightly and he would not accept. This alternate plan is definitely not the best way in our estimation engineering

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wise but was proposed just as an attempt to reach an agreement on the right to use this water.

Mr. Caldwell: And if this were a problem, of course later, a matter of condemnation, would you advocate the position of the line in the middle of that creek.

Mr. Damer: I would not.

Mr. Caldwell: So it would be altered somewhat there, would it not?

Mr. Damer: It would be in my opinion. It would be altered to the outside of the water. It would be much more economical to lay if you are not laying in the water.

Mr. Caldwell: Now, have you been up and examined the creek and waters flowing in the ditch?

Mr. Damer: Yes, I have.

Mr. Caldwell: In your opinion, when the city took the water they have the right to, would it leave any water running down the creek?

Mr. Damer: Yes, in my opinion, there would be quite a stream of water left running down the creek.

Mr. Caldwell: And, does the arrangement that has been designed here have methods and means by which the city would only be taking out the water they have a right to.

Mr. Damer: Yes, as it was explained by Mr. Hamilton, and we have some preliminary plans within this control house, it would be a Parshall flume and sluice gate by which the amount of water could be controlled if the city would take down the pipe line.

Mr. Caldwell: Now, are precautions being taken and plans being drawn in order to disturb the spring itself the least, and would you tell what is being done and if that is being taken into consideration.

**MICROFILMED**

Mr. Damer: Yes, that has been taken into consideration, due to the strata that underlies this area, etc., we feel that, and I believe the Pantings agree with us on this point, that the least we disturb the bottom of this spring, the better off we are going to be, so the control house and everything will be constructed on the edge of the spring and there will just be a small intake device that will actually be in the spring, and should in no way effect the flow of the spring.

Mr. Caldwell: This is all I have.

Mr. Higginson: Mr. Panting, do you have any questions of Mr. Damer?

Mr. Panting: You say you would like to put that right down the middle of the stream.

Mr. Damer: No. I say we would advise it be placed on the north bank of the stream down this far.

Mr. Panting: Down how far?

Mr. Damer: Come down past where the diversion is - Blaine Panting's pump. It was at the request of Blaine Panting that we show an alternate location of going down the middle of the present water course.

Mr. Panting: O K, now you said, if condemned, you would not put in the middle of the stream you would go another course, now you say - if condemned, is this a condemnation proceedings?

Mr. Damer: No, I didn't say, if condemned, I was - -

Mr. Panting: Yes, you did. I wrote it right down.

Mr. Damer: I believe you misunderstood.

Mr. Caldwell: I believe if I may come in my question was - if it were necessary for such a procedure, would you propose the same place for the line that he has when it was contingent on the agreement of the parties.

**MICROFILMED**

Mr. Panting: If condemnation proceedings -

Mr. Caldwell: Yes, in other words, whether or not it was the best engineered, if it would be the best engineered down the stream bed, or some other place, and then I ask him the other question why he engineered it down the bed, if that were not the best way.

Mr. Panting: O K - Now in some of our previous meetings, you said the City would probably not take all this water right now? Is that what you are basing the fact on that there will still be plenty of water going down the creek.

Mr. Damer: No, there would still, in my estimation, if the City takes their full right of 5.5 second feet, as I understand it, there still would be considerable water running down the creek. I believe there is a prior right of 11 second feet and I still feel that there would be adequate water.

Mr. Panting: This right is a winter right. You know it and I know it, and it has been abandoned.

Mr. Damer: I was speaking of the Panting right.

Mr. Caldwell: Of course this witness can't testify as to legal documents or rights. It would be a matter of law.

Mr. Higginson: Certainly. Mr. Panting - any more questions?

Mr. Damer: you have been to the spring on a number of occasions have you not?

Mr. Damer: Yes, I have.

Mr. Higginson: In your opinion what does the spring flow.

Mr. Damer: I am no expert in this by any means, but I would say it would flow from 18 to 20 second feet of water.

Mr. Higginson: Thank you. In connection with all these maps and drawings.

**MICROFILMED**

Mr. Caldwell, do you wish to submit them so we can complete our record.

They have been referred to in the testimony.

Mr. Caldwell: Do you have an extra.

Mr. Damer: We have the tracings, so we can furnish as many as they need.

Mr. Caldwell: Yes, I will introduce them.

Mr. Higginson: Let them mark the first map you referred to which is entitled "Proposed Water Supply Line, Formation Spring," as Exhibit I and what are the others, Mr. Caldwell?

Mr. Caldwell: Mr. Damer would you tell him?

Mr. Damer: This drawing here which was referred to, this is Alternate Proposal of Laying the Pipeline down the middle of the existing water course, at the request of Mr. Blaine Panting.

Mr. Higginson: We will label that Exhibit II

Mr. Damer: This third drawing is a similar drawing showing our original proposal of laying our pipeline on the north bank of this water course.

Mr. Higginson: Label that Exhibit III. Now do you have any others you wish to supply.

Mr. Damer: Now this one was briefly referred to. It is just some preliminary drawings on the apparatus that will be contained in the control house, the Parshall flume and the intake device.

Mr. Higginson: You wish to submit that.

Mr. Damer: It has been briefly referred to.

Mr. Higginson: But hasn't been discussed.

Mr. Damer: No, we haven't gone into that yet.

**MICROFILMED**

Mr. Higginson: Fine. Is there anything further from either party?  
If not this will conclude our hearing and we will take the matter under advisement, and you will be notified of the decision of the Department on the proposed transfer. Thank you very much.

This hearing was transcribed by myself, Eleanor  
Williamson, Secretary, Idaho Department of Reclamation.

Eleanor Williamson

**MICROFILMED**

November 25, 1966

Re: Transfer of Water Right  
City of Soda Springs

Honorable Chris Phelps,  
Mayor of Soda Springs,  
Soda Springs, Idaho.

Dear Mayor Phelps:

The Certificate of Transfer of Water Right  
in connection with the captioned matter will be for-  
warded to you upon receipt of the \$1.00 recording fee,  
and the Affidavit of Publication which the Caribou  
County Sun will furnish you upon request.

Very truly yours,

ROBERT W. HAMILTON  
Supervisor of Water Distribution

RWH:pmk

COPY  
MICROFILMED

# Affidavit of Publication

County of Caribou } ss.  
State of Idaho

...V. F. Lansberry...  
being first duly sworn on his  
oath, states:

That he is Publisher  
of the Caribou County Sun, a  
newspaper of general circulation  
in Caribou County, Idaho pub-  
lished weekly at Soda Springs in  
said County, that said newspaper  
has been published in said county  
uninterruptedly and continuously  
for over seventy-eight consecu-  
tive weeks, prior to the first pub-  
lication of the annexed notice or  
advertisement:

That the annexed notice was  
published as per clipping at-  
tached in the regular and entire  
edition of said newspaper and  
not in any supplement thereof

for Two  
successive weekly issues thereof,  
the date of the first publication

being the 21st day

of April, 1966.

The date of the last publication

being the 28th day of

April, 1966.

x V. F. Lansberry

Subscribed and sworn to be-

fore me this 30th day

of November, 1966

Notary Public, residing at  
Soda Springs, Idaho.

(SEAL)

My Commission expires the

27 day of Oct...

1970..

## NOTICE OF PROPOSED TRANSFER OF WATER RIGHT

Notice is hereby given that  
Chris Phelps, Mayor of Soda  
Springs, of Soda Springs, Idaho,  
has applied to the State Recla-  
mation Engineer of the State of  
Idaho for a certificate authoriz-  
ing him to change the point of  
diversion and/or place of use of  
the waters of Formation Springs  
as follows: Amount: 5.5 cubic  
feet per second. Priority: May 1,  
1899. Point of diversion: NE $\frac{1}{4}$ -  
SW $\frac{1}{4}$ , Section 28, Township 8S,  
Range 42 E., B. M. Place of use:  
W $\frac{1}{2}$ SW $\frac{1}{4}$ , SW $\frac{1}{4}$ NW $\frac{1}{4}$ , Lot 4,  
Sec. 5, Twp. 9 S., Range 42 E.,  
B. M.

To Be Transferred To  
Point of Diversion: NW $\frac{1}{4}$ -  
SW $\frac{1}{4}$ , Section 27, Township 8S,  
Range 42 E., B. M. Place of Use:  
City of Soda Springs and adja-  
cent territory (domestic and cul-  
inary use).

And that on the 5th day of  
May, 1966, at 2:00 o'clock P.M.  
at Room 107 Statehouse, Boise,  
Idaho, before the State Reclama-  
tion Engineer, or his authorized  
agent, the opportunity will be  
given to any and all persons to  
appear and present, for his con-  
sideration any reason or reasons  
why a certificate should not be  
issued authorizing such transfer.

CARL E. TAPPAN,  
State Reclamation Engineer  
Pub. A-21-28, 1966.

RECEIVED  
DEC 7 1966

Department of Reclamation

RECEIVED

RECEIVED  
DEC 7 1966

DEC 7 1986

Department of Reclamation

|  |  |                                           |  |  |  |   |    |
|--|--|-------------------------------------------|--|--|--|---|----|
|  |  | Recording fee for Certificate of Transfer |  |  |  |   |    |
|  |  | of Water                                  |  |  |  | 1 | 00 |
|  |  |                                           |  |  |  |   |    |
|  |  |                                           |  |  |  |   |    |
|  |  |                                           |  |  |  |   |    |

[illegible]

State of Idaho-Dept. of Reclamation Being  
first duly sworn, deposes and says, that this claim is  
correct, reasonable and just, and that no part of the  
same has been allowed or paid.

Subscribed and sworn to before me this 1

John J. Hammers

**Claims Examined and Allowed by City Council,**

12/7 1966

| Warrant No. | Fund    | Amount |
|-------------|---------|--------|
| 1946        | General | 1.00   |

**The City Council meets the first Wednesday of each month.**

L. P. Carmussen, Clerk

MICROFILMED

ROBERT E. SMYLLIE  
Governor



STATE OF IDAHO

DEPARTMENT OF RECLAMATION  
107 STATE HOUSE  
BOISE, IDAHO 83701

R. KEITH HIGGINSON  
State Reclamation Engineer

RESERVED  
DEC 7 1966

Department of Reclamation

November 25, 1966

Re: Transfer of Water Right  
City of Soda Springs

Honorable Chris Phelps,  
Mayor of Soda Springs,  
Soda Springs, Idaho.

Dear Mayor Phelps:

The Certificate of Transfer of Water Right in connection with the captioned matter will be forwarded to you upon receipt of the \$1.00 recording fee, and the Affidavit of Publication which the Caribou County Sun will furnish you upon request.

Very truly yours,

*Robert W. Hamilton*

ROBERT W. HAMILTON  
Supervisor of Water Distribution

RWH:pmk

MICROFILMED

November 25, 1966

Re: Transfer of Water Right  
No. 1076

Mr. Farrell & Don Panting  
Soda Springs, Idaho

Gentlemen:

Enclosed is a "Memorandum Decision" in the matter  
of your protests to the transfer of the point of diversion  
and the place of use to the waters of Formation Springs.

Very truly yours,

R. KEITH HIGGINSON  
State Reclamation Engineer

RKH:ew

MICROFILMED

S T A T E   O F   I D A H O  
D E P A R T M E N T   O F   R E C L A M A T I O N

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IN THE MATTER OF THE APPLICATION    )  
                                          )  
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MEMORANDUM DECISION

The City of Soda Springs filed an application on April 11, 1966 to transfer the point of diversion and place of use of 5.5 second feet of water from Formation Springs and Creek in Caribou County. The water has previously been diverted and used for irrigation purposes on the so-called Finch Ranch, and the City now proposes to divert the same quantity at its source in Formation Springs for use for domestic and culinary purposes in the City of Soda Springs.

Notice of this proposed transfer was published, as required by law, and was protested by Don and Farrell Panting. The protestants are the owners of the property on which the springs arise and across which the City needs to convey water in its proposed pipeline. Their protests is based upon the fact that the City has not yet made a satisfactory arrangement with them with regard to the necessary rights of way. They further contend that if the 5.5 second feet of water is diverted at the springs it will dry the channel up below that point thereby depriving them of water for livestock to which they feel they have a vested right.

From our examination in this matter it would appear that the

water can be diverted as proposed by the City under its priority without interference with other vested water rights. Problems with regard to rights of way apparently must be determined through condemnation action which the city now proposes to file.

It is, therefore, ordered that a certificate of transfer be issued to the City of Soda Springs under this application.

Dated this 25th day of November, 1966.

s/ R. Keith Higginson

---

State Reclamation Engineer

November 25, 1966

Re: Transfer of Water Right 1076

City of Soda Springs  
Soda Springs, Idaho

Gentlemen:

Enclosed is a "Memorandum Decision" in regard to transfer of water right.

The certificate of transfer of water right will be mailed to you shortly.

Very truly yours,

R. KEITH HIGGINSON  
State Reclamation Engineer

RKH:ew

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P  
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MICROFILMED

S T A T E   O F   I D A H O  
D E P A R T M E N T   O F   R E C L A M A T I O N

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|                                      |   |                         |
|--------------------------------------|---|-------------------------|
| In the Matter of the Application of  | ) |                         |
|                                      | ) |                         |
| City of Soda Springs                 | ) |                         |
| Soda Springs, Idaho                  | ) | ORDER GRANTING TRANSFER |
|                                      | ) |                         |
| For a Transfer of Water Right in the | ) | NO. 1076                |
| County of Caribou County, State of   | ) |                         |
| Idaho                                | ) |                         |

WHEREAS, On the 5th day of May, 1966, at the Department of Reclamation of the State of Idaho at Boise, Idaho, this matter of the application of the City of Soda Springs, Soda Springs, Idaho, for a transfer of water right came on regularly for hearing, pursuant to the published notice in due and statutory form, and,

WHEREAS, a protest was made in person by Don Panting and Farrell Panting against the approval of said application, and,

WHEREAS, a decision was rendered on November 22, 1966, authorizing the issuance of a certificate authorizing the transfer of water right and change in point of diversion;

NOW, THEREFORE, IT IS HEREBY ORDERED, That the said application be, and the same is, HEREBY GRANTED, and that a Certificate of Transfer of Water Right be issued to the applicant herein, as provided by the laws of the State of Idaho.

IN WITNESS WHEREOF, I have hereunto set my hand and caused the official seal of the Department of Reclamation of the State of Idaho to be hereunto affixed at Boise, Idaho, this 23rd day of November, 1966.

(SEAL)

s/

R. KEITH HIGGINSON

R. KEITH HIGGINSON  
State Reclamation Engineer

STATE OF IDAHO  
DEPARTMENT OF RECLAMATION

---

CERTIFICATE OF DECREED WATER RIGHT  
TRANSFERRED RIGHT NO. 1076

THIS IS TO CERTIFY, That the City of Soda Springs, through Chris Phelps, Mayor, Soda Springs, Idaho, is the owner of and using a certain water right of 5.5 cubic feet per second of the waters of Formation Spring and Creek, with priority of May 1, 1889, decreed to Henry L. Finch, by decree of Judge B. S. Varian of the Fifth Judicial District of the State of Idaho, in and for the County of Caribou, in the case of

DANIEL J. LAU, et al

Plaintiffs

vs.

CHRIS PANTING, et al

Defendants

said decree bearing date of November 6, 1919, and being appurtenant to the following described lands, to-wit:

W $\frac{1}{2}$ SW $\frac{1}{4}$ , SW $\frac{1}{4}$ NW $\frac{1}{4}$ , Lot 4, Section 5,  
Township 9 South, Range 42 E.B.M.,

That said decree has been entered in the records of the Department of Reclamation of the State of Idaho, in Volume No. 4, at Page 206 thereof;

That said City of Soda Springs has become the owner of said water right by purchase;

And that now, upon the application of the City of Soda Springs for a Certificate of Transfer of Water Right, made before the State Reclamation Engineer of the State of Idaho, and the said application having been granted, the right to the use of 5.5 cubic feet per second of the waters of Formation Spring and Creek upon the above described lands is hereby abandoned, and the lands to be irrigated under such right and to which the water right HEREBY CONFIRMED shall become appurtenant by this Certificate for irrigation and domestic purposes, is described as follows, to-wit:

City of Soda Springs and  
adjacent territory;  
(domestic and culinary use)

That said water is to be limited at any given time to an amount actually needed and beneficially used for such purposes and shall not exceed the following amount, to-wit:

5.5 cubic feet per second of

the waters of Formation Spring  
and Creek, with priority of  
May 1, 1889;

That the water right hereby transferred has heretofore been  
conducted to the first described lands through Finch Ditch with  
point of diversion in the NE $\frac{1}{4}$ SW $\frac{1}{4}$ , Section 28, Township 8 South,  
Range 42 E. B. M.,

That the water right hereby transferred will hereafter be  
conducted through the pipeline with point of diversion in the NW $\frac{1}{4}$ SW $\frac{1}{4}$ ,  
Section 27, Township 8 South, Range 42 E. B. M.,

That the right to the use of the water aforesaid, hereby con-  
firmed, is restricted to the lands or place of use last above de-  
scribed, as provided by the laws of the State of Idaho;

IN WITNESS WHEREOF, I have hereunto set my hand and caused  
the official seal of the Department of Reclamation of the State of  
Idaho to be hereunto affixed at Boise, Idaho, this 23rd day of  
November, 1966.

(SEAL)

s/ R. KEITH HIGGINSON

R. KEITH HIGGINSON  
State Reclamation Engineer

S T A T E   O F   I D A H O  
D E P A R T M E N T   O F   R E C L A M A T I O N

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|                                      |   |                         |
|--------------------------------------|---|-------------------------|
| In the Matter of the Application of  | ) |                         |
|                                      | ) |                         |
| City of Soda Springs                 | ) |                         |
| Soda Springs, Idaho                  | ) | ORDER GRANTING TRANSFER |
|                                      | ) |                         |
| For a Transfer of Water Right in the | ) | NO. 1076                |
| County of Caribou County, State of   | ) |                         |
| Idaho                                | ) |                         |

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WHEREAS, a protest was made in person by Don Panting and Farrell Panting against the approval of said application, and,

WHEREAS, a decision was rendered on November 22, 1966, authorizing the issuance of a certificate authorizing the transfer of water right and change in point of diversion;

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(SEAL)

s/

R. KEITH HIGGINSON

R. KEITH HIGGINSON  
State Reclamation Engineer

STATE OF IDAHO  
DEPARTMENT OF RECLAMATION

---

CERTIFICATE OF DECREED WATER RIGHT  
TRANSFERRED RIGHT NO. 1076

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DANIEL J. LAU, et al

Plaintiffs

vs.

CHRIS PANTING, et al

Defendants

said decree bearing date of November 6, 1919, and being appurtenant to the following described lands, to-wit:

W $\frac{1}{2}$ SW $\frac{1}{4}$ , SW $\frac{1}{4}$ NW $\frac{1}{4}$ , Lot 4, Section 5,  
Township 9 South, Range 42 E.B.M.,

That said decree has been entered in the records of the Department of Reclamation of the State of Idaho, in Volume No. 4, at Page 206 thereof;

That said City of Soda Springs has become the owner of said water right by purchase;

And that now, upon the application of the City of Soda Springs for a Certificate of Transfer of Water Right, made before the State Reclamation Engineer of the State of Idaho, and the said application having been granted, the right to the use of 5.5 cubic feet per second of the waters of Formation Spring and Creek upon the above described lands is hereby abandoned, and the lands to be irrigated under such right and to which the water right HEREBY CONFIRMED shall become appurtenant by this Certificate for irrigation and domestic purposes, is described as follows, to-wit:

City of Soda Springs and  
adjacent territory;  
(domestic and culinary use)

That said water is to be limited at any given time to an amount actually needed and beneficially used for such purposes and shall not exceed the following amount, to-wit:

5.5 cubic feet per second of

the waters of Formation Spring  
and Creek, with priority of  
May 1, 1889;

That the water right hereby transferred has heretofore been  
conducted to the first described lands through Finch Ditch with  
point of diversion in the NE¼SW¼, Section 28, Township 8 South,  
Range 42 E. B. M.,

That the water right hereby transferred will hereafter be  
conducted through the pipeline with point of diversion in the NW¼SW¼,  
Section 27, Township 8 South, Range 42 E. B. M.,

That the right to the use of the water aforesaid, hereby con-  
firmed, is restricted to the lands or place of use last above de-  
scribed, as provided by the laws of the State of Idaho;

IN WITNESS WHEREOF, I have hereunto set my hand and caused  
the official seal of the Department of Reclamation of the State of  
Idaho to be hereunto affixed at Boise, Idaho, this 23rd day of  
November, 1966.

(SEAL)

s/

R. KEITH HIGGINSON

R. KEITH HIGGINSON  
State Reclamation Engineer

RECEIVED

HEARING IN SODA SPRINGS - NOVEMBER 22, 1966

CHRIS PHELPS - Mayor

CITY PURCHASED FINCH RANCH FOR WATER RIGHTS FOR USE BY CITY. WATER IS NECESSARY FOR CONTINUED GROWTH. LAST CENSUS 2424 - ESTIMATE NOW 4000+. THIS HAS TAXED WATER SUPPLY - CITY HAS EXTENSIVE PROGRAM OF EXPANDING

MAX SWEET - CITY SUPERINTENDENT OF POWER & WATER.

CITY SYSTEM HAS GROWN WITH POPULATION WATER FROM LEDGE CREEK - BARELY GOT BY THIS LAST YEAR. ANOTHER PLANT MAY WISH TO LOCATE IN AREA. CITY DEFINITELY NEEDS WATER FROM THIS SOURCE BY NEXT YEAR. WATER FROM FINCH RANCH PROPERTY WOULD BE USED. SPRING FLOWS ABOUT 20 CPS FLOWS ABOUT 2 MILES THEN SINKS.

R. F.

BOB HAMILTON - CITY ENGINEER - CONSULTANT  
HAS STUDIED CHARTS ON USE OF PRESENT SYSTEM. IN 1964-1965 - PEAKS RAN IN EXCESS OF 5 CPS - 5.75 IN LATE JULY 1965. HAS DESIGNED SYSTEM TO BRING FORMATION SPRING WATER TO CITY. MAP PREPARED BY HAMILTON. POINT OF DIVERSION SELECTED FOR HEALTH REASONS. SPRING WOULD BE FENCED TO PREVENT CONTAMINATION.

DON PANTING - PROTESTANT

THOMAS CELIAN WOULD ALSO PROTEST BUT NOT PRESENT

STILL HAVE NO WRITTEN PROPOSAL ON RIGHT OF WAY, ETC,

PROPOSED PIPELINE WOULD CUT DIAGONALLY  
ACROSS SPRING - WOULD BLOCK PANTING

→ ~~COULD CHLORINATE~~

WATER THROUGH PUMP FOR YEARS WOULD  
DE-VALUE PROPERTY.

ROBERT M. DAMER

PLANS HAVE BEEN CHANGED TO MEET  
NEEDS OF PANTINGS. WOULD LAY PIPE DOWN  
CREEK TO MEET OBJECTION OF INSTALLATION  
ON NORTH BANK. SMALL INTAKE ONLY INTO  
SPRING

MICROFILMED

November 15, 1966

Re: Application for Transfer  
of Water Right  
City of Soda Springs

Mr. Callis A. Caldwell,  
Attorney at Law,  
Spaulding Building,  
Pocatello, Idaho.

Dear Mr. Caldwell:

A hearing in connection with the City of Soda  
Springs' Application for Transfer of Water Right will be  
held November 22, 1966 at 3:00 P.M. at the City Hall in  
Soda Springs.

Very truly yours,

ROBERT W. HAMILTON  
Supervisor of Water Distribution

RWH:pmk

CO  
P  
Y  
MICROFILMED

November 14, 1966

Re: Application for Transfer  
of Water Right  
City of Soda Springs

Mr. Farrell Panting,  
Soda Springs, Idaho.

Dear Mr. Panting:

A hearing in connection with the City of Soda Springs Application for Transfer of Water Right will be held November 22, 1966 at 3:00 P.M. at the City Hall in Soda Springs.

If you wish to have legal counsel present, we have no objections.

Very truly yours,

ROBERT M. HAMILTON  
Supervisor of Water Distribution

RWH:pmk

CO  
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MICROFILMED

November 14, 1966

Re: Transfer of Water Right  
City of Soda Springs

Honorable Chris Phelps,  
Mayor of Soda Springs,  
Soda Springs, Idaho..

Dear Mayor Phelps:

A hearing in connection with the city's application for transfer of water right will be held November 22, 1966, at 3:00 P.M. at the City Hall, Soda Springs, Idaho.

Very truly yours,

ROBERT W. HAMILTON  
Supervisor of Water Distribution

RWH:pmk

C  
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Y  
  
MICROFILMED

November 14, 1966

Re: Application for Transfer  
of Water Right  
City of Soda Springs

Mr. Don Panting,  
Soda Springs, Idaho.

Dear Mr. Panting:

A hearing in connection with the City of Soda Springs Application for Transfer of Water Right will be held November 22, 1966, at 3:00 P.M. at the City Hall in Soda Springs, Idaho.

If you wish to have legal counsel attend this hearing, we have no objections.

Very truly yours,

ROBERT W. HAMILTON  
Supervisor of Water Distribution

RWH:pmk

NOT RECORDED

November 1, 1966

Re: Transfer of Water Right

C  
O  
P  
Y  
  
Honorable Chris Phelps,  
Mayor of Soda Springs,  
Soda Springs, Idaho.

Dear Mayor Phelps:

With regard to the hearing on your application for transfer of water right, we will hold the hearing at Soda Springs on November 15, or before noon on the 16th, if this date is satisfactory with you. If you can let me know as soon as possible, I will notify other interested parties.

If it is possible, we would appreciate the use of the City Hall for this hearing.

Very truly yours,

ROBERT W. HAMILTON  
Supervisor of Water Distribution

RWH:pmk

MICROFILMED

## City of Soda Springs

CHRIS PHELPS  
Mayor

ARTHUR KELLY  
Chairman

DELLA BRITENBEKER  
Clerk-Treasurer

MAX SNELL  
Supt. Light and Water Dept.

County Seat and Commercial Center of  
Caribou County

Founded May 20, 1863

109 South Main Street - Phone 547-3465

SODA SPRINGS, IDAHO

Councilmen

R. V. BITTON  
EARL GUNNELL  
MAX HUGHES  
ARTHUR KELLY

Re: Application for Transfer  
of water right

RECEIVED  
OCT 31 1966

Department of Reclamation

Mr Robert W. Hamilton  
Supervisor of Water Distribution  
Dept. of Reclamation  
Boise, Idaho.

Dear Mr. Hamilton:

We have worked diligently with the Panting Brothers,  
to come up with a workable solution regarding  
the needed right of way for our proposed water  
project.

We hired a professional appraiser to go over the  
entire disputed property.  
He said our proposal was a fair and generous one.

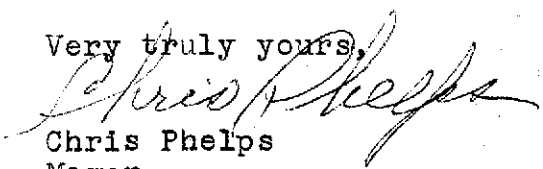
We then chose one local man, the Pantings chose  
one, and these two chose a third man.

These men studied the situation and could not  
come up with anything agreeable.

So I have instructed our attorney to start condemnation proceedings.

I would appreciate another hearing or what ever  
the proper procedure may be.

Very truly yours,

  
Chris Phelps  
Mayor

RECEIVED

October 20, 1966

Re: Application for Transfer  
of Water Right

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Y

Honorable Chris Phelps,  
Mayor of Soda Springs,  
Soda Springs, Idaho.

Dear Mayor Phelps:

To date we have had no word regarding an Agreement between the City of Soda Springs and the Panting Brothers regarding the city's application for transfer of water right.

If you have any information regarding such an agreement or the failure to agree on problems presented at the meeting in Soda Springs, we would appreciate hearing from you.

We must either allow your application or deny it, but as I remember, both parties were to try to work out terms agreeable to everyone.

Very truly yours,

ROBERT W. HAMILTON  
Supervisor of Water Distribution

RWH:pmk

RECORDED

May 13, 1966

Re: Conference on Protest  
Application for Change in  
Point of Diversion

Honorable Chris Phelps,  
Mayor of Soda Springs,  
Soda Springs, Idaho.

Dear Mayor Phelps:

We have informed the Panting Brothers of the conference to be held at 7:00 P.M., at City Hall, in connection with their protest to the city's application for change in point of diversion of waters of Formation Springs and Creek.

Very truly yours,

ROBERT W. HAMILTON  
Supervisor of Water Distribution

RWH:pmk

MICROFILMED

Soda

Pocahontas

Mervil Gee

Don

Pantings

547-3077

Panting

Farrell

547-3026

~~City Hall~~

~~547-3465~~

Mayor Chris Phelps

547-3472

Pocahontas

Gallis Caldwell Atty.

232-7926

Res 233-1097

3pm

22nd

**MICROFILMED**

May 13, 1966

Re: Conference on Protest  
Application for Change in  
Point of Diversion

Mr. Farrell Panting,  
Soda Springs, Idaho.

Dear Mr. Panting:

This is to inform you that a conference will be held at 7:00 P.M., May 20, 1966, at City Hall, Soda Springs, in connection with your protest to the City of Soda Springs application for change in point of diversion of waters of Formation Springs and Creek.

Very truly yours,

ROBERT W. HAMILTON  
Supervisor of Water Distribution

RWH:pmk

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MICROFILMED

May 13, 1966

Re: Conference on Protest  
Application for Change in  
Point of Diversion

Mr. Don Panting,  
Soda Springs, Idaho.

Dear Mr. Panting:

This is to inform you that a conference will be held at 7:00 P.M., May 20, 1966, at City Hall, Soda Springs, in connection with your protest to the City of Soda Springs application for change in point of diversion of waters of Formation Springs and Creek.

Very truly yours,

ROBERT W. HAMILTON  
Supervisor of Water Distribution

RWH:pmk

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RECORDED

May 9, 1966

Re: Application for Transfer  
of Water Right

Hon. Chris Phelps,  
Mayor of Soda Springs,  
Soda Springs, Idaho.

Dear Mayor Phelps:

A protest has been received against the change in  
point of diversion which the City of Soda Springs has applied  
for.

A copy of the Minutes taken at the hearing is en-  
closed.

We feel that a satisfactory agreement can probably  
be made whereby all water rights will be protected. A hearing  
can be set up in your city as we must examine the proposed  
change in point of diversion. If you care to suggest a time  
and place of hearing, we will try to arrange our schedule so  
that we may attend.

Very truly yours,

ROBERT W. HAMILTON  
Supervisor of Water Distribution

RWH:pmk  
cc: Photo copy of Minutes

COPIED

HEARING - TRANSFER OF WATER RIGHT - City of Soda Springs  
(point of diversion) 2 o'clock P. M., May 5, 1966

R. Keith Higginson, Deputy State Reclamation Engineer opened the hearing by reading the Notice of Publication from the Caribou Sun, advertising the application for tranfer of point of diversion by the City of Soda Springs.

Protestants present were Farrell and Don Panting. Don Panting representing Grace Rutledge .

Don Panting shows a map pointing out the point of diversion directly from the spring. Mr. Panting stated they were protesting this point of diversion because they had been unable to find out from the City of Soda Springs the size of pipe to be used or any specifications or information regarding this transfer, so that they could come to any agreement with them.

Mr. Farrell Panting stated their decreed right dated 1887 was a prior right, as the City of Soda Springs right is dated 1889 for 5½ c.f.s.

Mr. Higginson ask if the City had given them any plans for by-passing their land and water right.

They stated a meeting was held on about the 11th, but they had not been given any information.

Mr. Higginson ask if they would object to this transfer if there was adequate provision to by-pass your water.

Mr. Don Panting stated the water run through their pasture and was also used for stock water and to shut off this water by diverting directly from the spring would interfere with their water for stock and dry up their pasture.

Mr. Higginson pointed out to them that the City could acquire the property by condemnation to build the box at the spring, but they would have to compensate for any damage to any of their property.

Farrell Panting felt that the water loss to the land, as they keep it on the year around, would not be compensable as it helped to keep up the water table. He said they could be wrong on this and he also stated that the Finch water had also run the year around. He stated that the Finch property had been purchased by the City and the point of diversion was on that property below their point of diversion and they objected to having the City of Soda Springs go above them, as they had the prior water right.

Mr. Higginson pointed out to them that a meeting could be held to negotiate on this water, and would be better for them perhaps, and the City would have to compensate for any damage to their property. He stated the City of Soda Springs reason for this transfer was to obtain water that would not be contaminated.

Mr. Panting stated that they had purchased the ranch and obtained the right but it was for irrigation and not for domestic use.

Mr. Higginson stated that he believed another hearing should be held at a future date at Soda Springs with the Pantings and the City Council and perhaps an agreement could be reached, which would be much better than fighting it through the Courts.

Mr. Don Panting - Then this transfer will not be granted until after another hearing?

Mr. Higginson agreed that it would not be granted and that this office will schedule another hearing in the near future and notify all concerned.

**FIRST TIME  
PUBLISHED**

**NOTICE OF PROPOSED  
TRANSFER OF WATER RIGHT**

Notice is hereby given that Chris Phelps, Mayor of Soda Springs, of Soda Springs, Idaho, has applied to the State Reclamation Engineer of the State of Idaho for a certificate authorizing him to change the point of diversion and/or place of use of the waters of Formation Springs as follows: Amount ~~5.5~~ cubic feet per second. Priority: May 1, 1899. Point of diversion: NE $\frac{1}{4}$ -SW $\frac{1}{4}$ , Section 28, Township 8S, Range 42 E., B. M. Place of use: W $\frac{1}{2}$ SW $\frac{1}{4}$ , SW $\frac{1}{4}$ NW $\frac{1}{4}$ , Lot 4, Sec. 5, Twp. 9 S., Range 42 E., B. M.

To Be Transferred To  
Point of Diversion: NW $\frac{1}{4}$ -SW $\frac{1}{4}$ , Section 27, Township 8S, Range 42 E., B. M. Place of Use: City of Soda Springs and adjacent territory (domestic and culinary use).

And that on the 5th day of May, 1966, at 2:00 o'clock P.M. at Room 107 Statehouse, Boise, Idaho, before the State Reclamation Engineer, or his authorized agent, the opportunity will be given to any and all persons to appear and present for his consideration any reason or reasons why a certificate should not be issued authorizing such transfer.

**CARL E. TAPPAN,**  
State Reclamation Engineer  
Pub. A-21-28, 1966.

STATE OF IDAHO

DEPARTMENT OF RECLAMATION

Boise, Idaho

April 11, 1966

Re: Transfer of Water Right  
City of Soda Springs

Caribou County Sun,  
Soda Springs, Idaho.

Gentlemen:

Enclosed you will find notice for publication, once a week for two consecutive weeks prior to <sup>May 5,</sup> ~~April 28,~~ 1966 the date set for hearing; the expense of the publication is to be paid by the applicant City of Soda Springs of Soda Springs, Idaho to whom you should furnish proof of publication on or prior to the date set for hearing.

Please acknowledge receipt of this notice and furnish this office with a copy or tear-sheet of the first publication.\*\*

Very truly yours,

CARL E. TAPPAN  
State Reclamation Engineer  
By

ROBERT W. HAMILTON  
Supervisor of Water Distribution

\*\* If the first copy is not received in this office for checking purposes and errors appear in subsequent issues, it is possible that re-publication of corrected copy will be at your own expense.

Encl.

RWH:pmk

MICROFILMED

NOTICE OF PROPOSED TRANSFER OF WATER RIGHT

Notice is hereby given that Chris Phelps, Mayor of Soda Springs of Soda Springs, Idaho has applied to the State Reclamation Engineer of the State of Idaho for a certificate authorizing him to change the point of diversion and/or place of use of the waters of Formation Springs as follows:  
Amount: 5.5 cubic feet per second. Priority: May 1, 1899  
Point of diversion: NE  $\frac{1}{4}$  SW  $\frac{1}{4}$ , Section 28, Township 8 S, Range 42 E., B.M.  
Place of Use: W $\frac{1}{2}$ SW $\frac{1}{4}$ , SW $\frac{1}{4}$ NW $\frac{1}{4}$ , Lot 4, Sec. 5, Twp. 9 S., Rge. 42 E.B.M.

To Be Transferred To

Point of Diversion: NW  $\frac{1}{4}$  SW  $\frac{1}{4}$ , Section 27, Township 8 S., Range 42 E., B.M.  
Place of Use: City of Soda Springs & adjacent territory  
(domestic & culinary use)

And that on the <sup>5th</sup>~~28th~~ day of <sup>May</sup>~~April~~, 1966, at 2:00 o'clock P. M. at Room 107 Statehouse, Boise, Idaho, before the State Reclamation Engineer, or his authorized agent, the opportunity will be given to any and all persons to appear and present, for his consideration any reason or reasons why a certificate should not be issued authorizing such transfer.

CARL E. TAPPAN

State Reclamation Engineer

MICROFILMED

NOTICE OF PROPOSED TRANSFER OF WATER RIGHT

Notice is hereby given that Chris Phelps, Mayor  
of Soda Springs, Idaho of

Soda Springs has applied to the State Reclamation Engineer of the  
State of Idaho for a certificate authorizing him to change the point of diversion  
and/or place of use of the waters of Formation Springs as follows:  
Amount: 5.5 cubic feet per second. Priority: 5-1-1889

Point of diversion: NE  $\frac{1}{4}$  SW  $\frac{1}{4}$ , Section 28, Township 8S Range 42E, B.M.

Place of Use: W<sup>2</sup>SW<sup>4</sup>, SW<sup>4</sup>NW<sup>4</sup>, Lot 4 - S. 5., T. 9S. - R. 42E B.M.

To Be Transferred To

Point of Diversion: NW  $\frac{1}{4}$  SW  $\frac{1}{4}$ , Section 27, Township 8S, Range 42E, B.M.

Place of Use: City of Soda Springs + adjacent Territory.  
(domestic & culinary use)

And that on the 28 day of April, 1966, at 2:00 o'clock P. M.  
at Room 107 Statehouse Boise, Idaho, before the State Reclamation Engineer,  
or his authorized agent, the opportunity will be given to any and all persons to  
appear and present, for his consideration any reason or reasons why a certificate  
should not be issued authorizing such transfer.

\_\_\_\_\_  
State Reclamation Engineer

**RECEIVED**  
APR 11 1966

# Application For Transfer of Water Right Reclamation

STATE OF IDAHO

County of Caribou

} ss.

Chris Phelps, being first duly sworn, deposes and says:  
he is  
That ~~he is~~ the Mayor of the City of Soda Springs; that he is of lawful age, a citizen  
of the United States and of the State of Idaho, and that his postoffice address is

Soda Springs, Idaho

the City of Soda Springs  
That ~~he is~~ the owner and using a certain water right, bearing date of priority of May 1, 1889  
for 5  $\frac{1}{2}$  cubic feet per second of the waters of Formation Spring and Creek  
County of Caribou, State of Idaho, decreed to Henry L. Finch  
by decree of Judge B.S. Varian of the 5th Judicial District of the State of  
Idaho, in and for the county of Caribou, in the case of Daniel J. Lau et al  
vs. Chris Panting et al, said decree bearing date of November 16, 1919.

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

for the purpose of irrigating the following described lands situate, lying and being in Water District  
No. in the County of Caribou and State of Idaho, to-wit: W $\frac{1}{2}$  SW $\frac{1}{4}$  and SW $\frac{1}{4}$  NW $\frac{1}{4}$   
and Lot 4 of Section 5, T.9S., R.42E., B.M.

and is the person (or representative of  
the municipal corporation) to whom such right so issued, or has become the owner thereof in the following man-  
ner, i.e. through purchase of the land described above, together with the water right,  
as per abstract of title of said water right hereto attached and made a part of this statement;

That said waters are now diverted from said stream in the NE $\frac{1}{4}$  SW $\frac{1}{4}$  of  
Section 28, Township 8S, Range 42E, B. M., and con-  
ducted to the above described lands through Finch Ditch  
as per map herewith and of this affidavit made a part.

## CHANGE IN PLACE OF USE

That affiant and petitioner desires to abandon the use of 5  $\frac{1}{2}$  cubic feet per second  
of said water upon the above described land, and to convey and use same upon the following tract,  
situate, lying and being in the County of Caribou and State of Idaho, to-wit:  
throughout the City of Soda Springs and adjacent territory.

That reasons for desiring to make such transfer are as follows: The land to which the water  
right is appurtenant is no longer farmed and it is planned to put same to other  
uses. The water is needed for domestic and culinary use in the City of Soda  
Springs and adjacent territory.

**MICROFILMED**

the City of Soda Springs  
That ~~he~~ intends to divert and convey said 5 $\frac{1}{2}$  second feet of water to the tract

of land last above described in the following manner and as per map accompanying this application:

By means of a 20-inch steel pipe line from Formation Spring to the existing  
water distribution system of the City of Soda Springs.

Note—If this water right has heretofore been carried jointly in a ditch with other water, affiant should secure written consent of other owners or users to removal from its original carrier and file such consent with this affidavit.

#### CHANGE IN POINT OF DIVERSION

That affiant desires to change the point of diversion of said waters from the point above described to a point located in NW  $\frac{1}{4}$  of SW  $\frac{1}{4}$  of Section 27, Township 8S., Range 42E., and thereafter conduct same to the above described land through the pipe line ~~ditch~~ as per map appended.

the City's  
That ~~his~~ reasons for desiring to make such change are as follows: In order to protect the water from contamination it is proposed to divert it to the pipeline at the source spring where provisions can be made to prevent contamination. This is necessary because the water is to be used for culinary purposes.

Petitioner asserts that no one will be injured by such transfer, or change in point of diversion, and that the change will be made at petitioner's own risk.

WHEREFORE, Affiant and Petitioner prays that the State Reclamation Engineer of the State of Idaho issue to him the proper certificate authorizing such change in point of diversion and/or place of use, in accordance with the provisions of Sections 42-108 and 42-222 of the Idaho Code.

City of Soda Springs  
by Chris Phelps  
Mayor Applicant.

Subscribed and sworn to before me this 7<sup>th</sup> day of April, 1966.

Helen B. Kingsford  
Notary Public.

#### APPLICANT WILL ANSWER THE FOLLOWING QUESTIONS:

From what stream is the water diverted? Formation Creek

Where is the diversion point located? NE $\frac{1}{4}$  SW $\frac{1}{4}$  Section 28, T.8S., R.42E., B.M.

Through what ditch is it now conducted? Finch Ditch

How much land is now irrigated by the water sought to be transferred?(formerly) approx. 160 acres.

Give the description: W $\frac{1}{2}$  SW $\frac{1}{4}$  SW $\frac{1}{4}$  NW $\frac{1}{4}$  and Lot 4 of Section 5, T.8S., R.42E., B.M.

**MICROFILMED**

What is the total amount of water in inches, or second feet, dedicated to said land? 5½ Sec. ft.  
What kind of crops are being raised? None since purchase of the ranch by the City of Soda Springs.  
How much water per acre is now required to irrigate said land? Not now irrigated  
What will be the effect on the land now irrigated, if the use of water on it is discontinued?  
It will be put to non-agricultural use.

Give location of new point of diversion, if change is to be made At Formation Spring in NW¼ SW¼  
Section 27, T.8S., R.42E., B.M.

Through what ditch will it be conducted after transfer? 20-inch pipe line

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

Water is to be used for culinary purposes in the City of Soda Springs.

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

If so, give amount, date and source 1.2 cfs from Willow Spring per license No. 937, priority  
date November 12, 1904.

Is there any other water right for the land to which you seek to make this transfer? If so, give amount,

date and source 4½ sec. ft. from Ledger Creek and Springs; also 1.2 cfs referred to above.

City of Soda Springs

Signed by

Chris Phelps  
Mayor of the City of  
Soda Springs

Applicant.

STATE OF IDAHO,

County of \_\_\_\_\_

ss.

I, \_\_\_\_\_, Watermaster of NONE

Water District No. \_\_\_\_\_, County of \_\_\_\_\_, State of Idaho, whose postoffice address

is \_\_\_\_\_, have read or heard read the foregoing affidavit and petition

of \_\_\_\_\_, and, of my own knowledge, believe the same to be true

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

and I hereby endorse my approval of said petition, and request that the State Reclamation Engineer

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

transfer prayed for) for the following reasons: \_\_\_\_\_

Watermaster, District No. \_\_\_\_\_

Dated at \_\_\_\_\_, Idaho, this \_\_\_\_\_ day of \_\_\_\_\_, 19\_\_\_\_\_.

MICROFILMED

Name of Applicant. **City of Soda Springs, Idaho**

SEC.

SEC.

SEC.

See accompanying map

SEC.

SEC.

SEC.

SEC.

SEC.

SEC.

SEC.

SEC.

SEC.

SEC.

SEC.

SEC.

SEC.

SEC.

SEC.

NOTED

Scale: 2 Inches—1 Mile. Draw Map in Ink.