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See right No. 33-0059

*superseded by Blaine
Co. Investment Co. Maps*

STATE OF IDAHO.

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

CERTIFICATE NO. 168, AUTHORIZING TRANSFER OF WATER RIGHT.

Permission is hereby granted John R. Rodgers, of Howe, County of Blaine and State of Idaho, to transfer the use of forty (40) inches of the waters of Little Lost River, in the County of Blaine, State of Idaho, from the lands upon which it is now used, i.e, the South half of Northeast quarter ($S\frac{1}{2} NE\frac{1}{4}$), the Southeast quarter ($SE\frac{1}{4}$), and the Southeast quarter of Southwest quarter ($SE\frac{1}{4} SW\frac{1}{4}$), Section 24, and the North half of Northeast quarter ($N\frac{1}{2} NE\frac{1}{4}$), of Section 25, in Township 6 North of Range 28 East of Boise Meridian, to the following described lands, to-wit: Southeast quarter of Northwest quarter ($SE\frac{1}{4} NW\frac{1}{4}$), Section 24, Township 6 North, Range 28 East of the Boise Meridian, said water to be diverted at a point in the Southwest quarter of the Northeast quarter ($SW\frac{1}{4} NE\frac{1}{4}$) of Section 24, Township 6 North of Range 28 East of Boise Meridian.

The water right appurtenant to the above described lands was adjudged by decree, dated July 6, 1907, of F.J. Cowen, Judge Pro Tem. of the Sixth Judicial District of the State of Idaho in and for the county of Blaine, in the matter of John W. Kyle, et al, plaintiffs, Vs. E.R. Hawley, et al, defendants.

IN WITNESS WHEREOF, I have hereunto set my hand and affixed the seal of my office at Boise, Idaho, this 10th day of November, 1915.

J.H. Smith,

State Engineer.

SEAL.

IN THE DISTRICT COURT OF THE SIXTH JUDICIAL DISTRICT
IN AND FOR THE COUNTY OF FREMONT, STATE OF
IDAHO.

John W. Kyle, Porter W. Porter, and
Hester Davis, co-partners, as Davis and Porter, Frank
Coffin, Michael Fallert, John R. Rogers, John E. Wyatt,
Miller Jensen,

Plaintiffs,

W. H. Jones, A. J. Knollin and Edward Swift, partners
under the firm name of A. J. Knollin & Company, as

Intervenor Plaintiffs,

VS.

E. R. Hawley, D. B. Hawley, Alfred Green, W. H.
Bartel, Jr., Henry Aldous, O. P. Williams, William Peck,
John McKinley, Frank J. Stevens, John Flohr, C. W. Stevens,
Gus Coulson, Perry Basinger, C. M. Mulkey, John Thomas,
William Thomas, Merton Hawley, Marion Hawley, wife of D. B.
Hawley, John Sheehe, Peter Lowe, O. L. Harmon, W. H. Bartel, Sr. and
James W. Perkins.

Defendants.

In this cause the parties hereto having heretofore by stipulation
agreed to submit the case to the Honorable F. J. Cowen, Judge Pro tem, and
the cause having come on regularly for trial before the said Judge, sitting
without a jury, in March 1906, G. F. Hansbrough Esq. and John W. Jones Esq.
appearing on behalf of the Plaintiffs, John W. Kyle, C. B. Thornton (Frank
Coffin) F. J. Stevens, Michael Fallert, Lorenzo Fallert, John R. Rogers, A.
L. Williams, Miller Jensen, O. P. Williams, A. J. Knollin & Co W. H. Aldous,
G. D. Little, and E. E. Little, Messrs Standred and Terrel and C. A.
Merriman, appearing on behalf of E. R. Hawley, D. B. Hawley, Marion Hawley,
Merton Hasley, W. H. Jones, William Clark (John Sheehe) Messrs Gray and
Boyd appearing on behalf of Perry Basinger J. Ed. Smith appeared on behalf

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AUG 9 1909

OFFICE OF STATE ENGINEER

MICROFILMED

thereto, to date from October 1st 1900.

10.

It is further adjudged and decreed that the defendant James W. Perkins is entitled to the uninterrupted use of 30 inches of water measured under a four inch pressure or its equivalent in cubic feet per second of time of the waters of South Creek for the irrigation of his lands, to date from the 1st day of June, 1905.

11.

It is further adjudged and decreed that the defendant W. H. Bartel Sr. is entitled to the uninterrupted use of 20 inches of water measured under a four inch pressure or its equivalent in cubic feet per second of time of the waters of South Creek a tributary of Little Lost River, for the irrigation of his said lands, to date from the 1st day of May 1889.

12.

It is further adjudged and decreed that the following named parties are entitled to the uninterrupted use of the surplus or high water of Little Lost River, when there is a surplus over and above the amounts necessary to supply the rights of the decree of date March 13th. 1891, and also sufficient water to supply the 750 inches or 15 cubic feet per second of time that said Little Lost River has been increased by reason of the construction of the Saw Mill Ditch so-called, in the amounts and from the dates as follows to wit:

John W. Kyle	70 inches	June 1, 1891
Little Bros. a co-partnership composed of G. D. Little and		
E. E. Little	30 inches	June 1, 1891
C. B. Thornton	90 inches	June 1, 1891
Frank J. Stevens	80 inches	June 1, 1891
Michael Fallert	65 inches	June 1, 1891
Lorenzo Fallert	30 inches	June 1, 1891
John R. Rodgers	115 inches	June 1, 1891
Miller Jensen	55 inches	May 15, 1900
W. H. Aldous	90 inches	May 1, 1896
O. P. Williams	70 inches	June 1, 1891

MICROFILMED

November 13, 1915.

Re Transfer No. 168. Rodgers.

Thomas & Anderson, Attorneys,
Blackfoot, Idaho.

Gentlemen:--

Am enclosing herewith certificate of
transfer No. 168, favor of John E. Rodgers, with
receipt for fee.

Very truly yours,

J. H. SMITH,

State Engineer.

CT168-R7601

By _____

MICROFILMED

In the matter of application
for transfer for water right
of John R. Rogers, Howe, Idaho.

Report of
Examining Engineer.

After carefully examining the conditions in the above entitled case, I am unable to discover any injury being done to other parties than those interested in the transfer and while I doubt the propriety of allowing transfers for this purpose, there seems to be no provision for interfering with it and in cases where no injury is manifest it is probably better to allow than disallow such applications.

Fred A. Wilkie

Deputy State Engineer.

FAW.RB.

August 30, 1915.

Re transfer-

Messrs. Thomas & Anderson,
Attorneys at law,
Blackfoot, Idaho.

Gentlemen:-

We are in receipt of your letters enclosing application of John R. Rogers for transfer of water and check for \$1.00 fee. In reply would say that, an engineer from this office will be in Blackfoot September 13th, in regard to the transfer of the American Falls Canal & Power Co., and will make the examination on the ground before issuing the certificate of transfer.

Very truly yours,

J. H. SMITH,

State Engineer.

By _____

RECORDED

THOMAS & ANDERSEN
ATTORNEYS AND COUNSELLORS AT LAW
TELEPHONE 175 P. O. BOX 336
BLACKFOOT, IDAHO

OK 63
100

August
26th
1915

Hon. State Engineer,
Boise,
Idaho.

RECEIVED
AUG 30 1915
OFFICE OF STATE ENGINEER

Dear Sir:

In transmitting the John K. Rogers application yesterday for transfer of certain water right, we neglected to enclose our check for \$1.00 in payment of your certificate in this case.

We therefore take pleasure in handing you our check for \$1.00 at this time.

We trust this application of Mr. Rogers will have immediate attention and that the certificate will issue because a forty acre desert entry is involved and we must have this transfer in order to secure patent for the said desert entry; the final proof having been accepted by the Department about a year ago, and upon the filing of this proof of water right the patent will issue.

Mr. Rogers has considerable land and water and no other interests can in any way be jeopardized, involved or affected by this transfer.

Yours respectfully,

THOMAS & ANDERSEN,

By *L R Thomas*

LRT-JC
Encl.-1

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THOMAS & ANDERSEN
ATTORNEYS AND COUNSELLORS AT LAW
TELEPHONE 175 P. O. BOX 336
BLACKFOOT, IDAHO

August
25th
1915

Hon. J. H. Smith,
State Engineer,
Boise, Idaho.

Dear Sir:

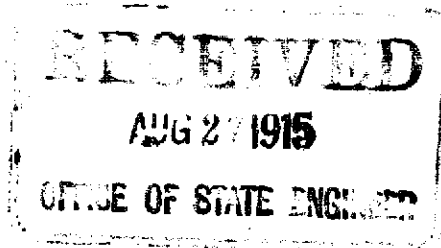
I have the honor to hand you herewith the affidavit of publication in connection with the proposed transfer of water right by John R. Rogers. The case to which this relates was set for hearing before me at my office in Blackfoot, July 8th, 1915. You will observe from my certificate enclosed herewith that there were no protests filed on that date, or subsequent or prior thereto; and that no person has consulted me in any manner with reference to the case.

The matter should have had earlier attention but we have just received the affidavit of publication as you will observe by the date of the jurat attached thereto.

Yours very truly,

Lorenzo R. Thomas

LRT-JC
Encl.



RECEIVED
AUG 27 1915

Affidavit of Publication

I, C. A. Bottolfsen, publisher of **THE ARCO ADVERTISER**, published weekly at Arco, Idaho, do solemnly swear that a copy of the notice, as per clipping attached, was published weekly in the regular and entire issue of said newspaper, and not in any supplement thereof, for Four consecutive weeks, commencing with the issue dated June 11, 1915, and ending with the issue dated July 2, 1915.

Subscribed and sworn to before me this 23 day of Aug, 1915.

C. A. Bottolfsen

J. H. Smith

Notary Public.

NOTICE OF PROPOSED TRANSFER OF WATER RIGHT.

Notice is hereby given that John R. Rodgers of Blackfoot, Idaho, has applied to the State Engineer of the State of Idaho for a certificate authorizing him to transfer the use of forty inches of the water of Little Lost River, from the land upon which it is now used, i. e. S $\frac{1}{2}$ NE $\frac{1}{4}$, SE $\frac{1}{4}$, SE $\frac{1}{4}$ SW $\frac{1}{4}$ Section 24, N $\frac{1}{2}$ NE $\frac{1}{4}$, Section 25, Township 6 North, Range 28 E. B. M., to the following described tract: SE $\frac{1}{4}$ of NW $\frac{1}{4}$ Section 24, Township 6 North, Range 28 E. B. M.

And that, on the 8th day of July, A. D. 1915, at Blackfoot, Idaho, before J. R. Thomas, Notary Public, 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.

J. H. SMITH,
State Engineer.

15-18

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AUG 27 1915

OFFICE OF STATE ENGINEER

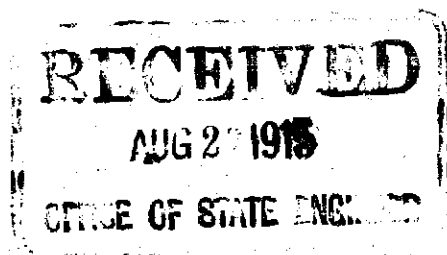
C E R T I F I C A T E.

I HEREBY CERTIFY that a notice of the proposed transfer of water right, stating that John R. Rogers, of Blackfoot, Idaho, had applied to the State Engineer, of the State of Idaho, for certificate authorizing him to transfer the use of forty inches of water of Little Lost River from the S $\frac{1}{2}$ NE $\frac{1}{4}$, SE $\frac{1}{4}$, SE $\frac{1}{4}$ SW $\frac{1}{4}$, Section 24, N $\frac{1}{2}$ NE $\frac{1}{4}$, Section 25, Township 6 North, Range 20 East, and the SE $\frac{1}{4}$ NW $\frac{1}{4}$, Section 24, Township 6 North, Range 28 East, B. M. was published in the Arco Advertiser for four consecutive weeks, commencing with the issue dated June 11, 1915, and ending with the issue dated July 2nd, 1915; and that the said notice directed that on the 8th day of July, A. D. 1915, at Blackfoot, Idaho, before L. R. Thomas, a notary public, the opportunity would be given to any and all persons to appear and present for his consideration any reason, or reasons why a certificate should not issue, authorizing such transfer.

That I, the said L. R. Thomas was at my office in Blackfoot, Idaho, from 8 o'clock A. M. to 6 o'clock P. M. on the said 8th day of July, 1915, and that no person or persons appeared upon that day, nor subsequent or prior thereto for the purpose of filing protest or taking any other action whatever in connection with the transfer of the said water right; That no papers have been filed in connection with the case; neither has any person at any time consulted me with reference to the matter.

Dated at Blackfoot, Idaho, this 25th day of August, 1915.

L. R. Thomas
Notary Public.



Notice of Proposed Transfer of Water Right

Notice is hereby given that John R. Rodgers of Blackfoot
Idaho, has applied to the State Engineer of the State of Idaho for a certificate
 authorizing him to transfer the use of forty inches of the water of
Little Lost River
 from the land upon which it is now used, i. e. S $\frac{1}{2}$ NE $\frac{1}{4}$, SE $\frac{1}{4}$, SE $\frac{1}{4}$ SW $\frac{1}{4}$ Section 24, N $\frac{1}{2}$ NE $\frac{1}{4}$,
 Section 25, Township 6 North, Range 28 E. B. M.

to the following described tract: SE $\frac{1}{4}$ NW $\frac{1}{4}$ Section 24, Township 6 North, Range 28
E. B. M.

And that, on the 8th day of July, A. D.
 1915, at Blackfoot, Idaho, before L. R. Thomas, Notary Public,
~~before the Water Commissioner of this Division, 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 certifi-
 cate should not be issued authorizing such transfer.

~~Full details of the proposed transfer may be obtained from~~

Watermaster of said stream.

J. H. Smith,
 Notary Public.

June 8, 1915.

Re Transfer - Rodgers.

L. R. Thomas, Attorney,
Blackfoot, Idaho.

Sir:

Replying to your letter in which you enclose application of John R. Rodgers for transfer of water right, would say that notice of said transfer has today been mailed to the Arco Advertiser for publication. I have set the hearing before you, at Blackfoot, on July 8th. I am, therefore, returning the application to be completed by you on the date of the hearing.

Very truly yours,

J. H. SMITH,

State Engineer.

App.

By _____

RECORDED

June 8, 1915.

Re transfer of water right.

Publisher Advertiser,
Arco, Idaho.

Sir:

Enclosed find notice for publication for transfer of water right, which please publish once a week for four consecutive weeks in your paper. The expense will be paid by John R. Rodgers, of Blackfoot, by his attorneys Thomas & Anderson, of Blackfoot, to whom you will please furnish proof of publication of this notice on or before the date set for hearing, July 8th.

Please promptly acknowledge receipt of this notice and mail me your first issue containing its publication that I may compare it with my records.

Yours truly,

J. H. SMITH.

State Engineer.

H

By _____

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THOMAS & ANDERSEN
ATTORNEYS AND COUNSELLORS AT LAW
TELEPHONE 175 P. O. BOX 336
BLACKFOOT, IDAHO

May
Twenty-eight
1915.

Hon. State Engineer,
Boise,
Idaho.

Dear Sir:

Respectfully referring to your favor of the 12th ult., re: application of John W. Rodgers for transfer of certain water right, we hand you herewith Mr. Rodger's application to supplement the notice for publication transmitted with our letter of the 8th ult.

We trust that you will find this application in proper form and perfectly satisfactory, and that in due time the transfer will be approved. If you will have the notice published and request the publisher to forward the bill to us and we will see that the same is paid.

If you desire the proof taken in our office before either of us as a notary public, it will be perfectly satisfactory.

Yours very truly,

THOMAS & ANDERSEN,

BY *L. R. Thomas*

LRT-KC
Encl.

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JUN 1 - 1915
OFFICE OF STATE ENGINEER

MICROFILMED

April 12, 1915.

ReApplication for transfer.

Thomas & Anderson, Attorneys,
Blackfoot, Idaho.

Gentlemen:

Replying to your letter of the 8th relative application for transfer of John R. Rodgers water right, would say that the hearing will be taken before the State Engineer, or his authorized agent, at Blackfoot, at your office, if convenient to you. The notice for publication will be held pending receipt of the application.

Very truly yours,

J. H. SMITH,

State Engineer.

By _____

MICROFILMED

THOMAS & ANDERSEN
ATTORNEYS AND COUNSELLORS AT LAW
TELEPHONE 175 P. O. BOX 336
BLACKFOOT, IDAHO

April
Sixth
1915.

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APR 8 - 1915

OFFICE OF STATE ENGINEER

Hon. State Engineer,
Boise, Idaho.

Dear Sir:

We desire to advertise the transfer of forty inches of water right belonging to John R. Rogers, as shown by the enclosed notice. We wish you would please have the necessary publication made, instructing the newspaper to send their bill to John R. Rogers, Blackfoot, Idaho.

We observe that this old form fixes the date for a hearing before the water commissioner of the district in which this land is located, but inasmuch as the last session of the legislature changed the law, we wish you would advise us as to the procedure at this time.

Yours very respectfully,

THOMAS & ANDERSEN,

By *J. H. Andersen*

LRT-JC

We will transmit application for transfer in few days.

MICROFILMED

Application for Transfer of Water Right

STATE OF IDAHO.

County of BINGHAM

} ss.

AUG 27 1915

OFFICE OF STATE ENGINEER

John R. Rodgers

, being first duly sworn, deposes and says:

That his name is John R. Rodgers; that he is of lawful age, a citizen of the United States and of the State of Idaho, and that his postoffice address is Howe, Idaho

That he is the owner and using a certain water right of fifty inches of the waters of Little Lost River

County of Blaine, State of Idaho, decreed to John R. Rodgers

by decree of Judge Pro Tem. F. J. Cowen, of the

Sixth Judicial District of the State of Idaho, in and for the County of Fremont

, in the case of John W. Kyle et. al.

vs. E. R. Hawley et. al., said decree bearing date of July 6, 1907,

(or obtained by virtue of License No. _____, issued by the State Engineer of the State of Idaho, dated _____), for the purpose of irrigating the

following described lands situate, lying and being in the County of Blaine and

State of Idaho, to-wit: S $\frac{1}{2}$ NE $\frac{1}{4}$, SE $\frac{1}{4}$, SE $\frac{1}{4}$ SW $\frac{1}{4}$, Section 24, N $\frac{1}{2}$ NE $\frac{1}{4}$ Section 25,

Township 6 North, Range 28 E. B. M. (besides the above decreed water

right, applicant has decreed water right to the amount of 310 inches

of the water of Little Lost River for said land) and is the person (or the representative of the cor-

poration) to whom such right so issued, or has become the owner thereof in the following manner, i. e.

by decree of the Court

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 at SE $\frac{1}{4}$ NW $\frac{1}{4}$ Section 13, Township 6 North, Range 28 E. B. M.

and conducted to the above described lands through owner's private ditch

as per map hereto attached and of this affidavit made a part;

That affiant and petitioner desires to abandon the use of forty inches

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 Blaine and State of Idaho,

to-wit: SE $\frac{1}{4}$ NW $\frac{1}{4}$ Section 24, Township 6 North, Range 28 E. B. M.

That his reasons for desiring to make such transfer are as follows: For the purpose of
of furnishing record title or making water appurtenant to the SE $\frac{1}{4}$ NW $\frac{1}{4}$,
of said Section 24, so that the final proof under desert land entry
may be made thereon under the laws of the United States.

That he intends to divert and convey said forty inches of water to the tract of land last above described in the following manner, to-wit: by lateral canal diverted from the owner's private lateral in the SW 1/4 NE 1/4 of Section 24, Township 6 North, Range 28 E. B. M.

as set forth upon the map hereto attached; and

That no one will be injured by such transfer.

WHEREFORE, Affiant and Petitioner prays that the State Engineer of the State of Idaho issue to him the proper certificate authorizing such transfer, and give proper notice of the same to the Water Commissioner of the Division, in accordance with the provisions of Section 11, House Bill No. 146, of the Laws of the Seventh Session of the Legislature of the State of Idaho.

Subscribed and sworn to before me this 27th day of May
A. D. 1915

John R. Rodgers
J. H. Andersen
Notary Public

STATE OF IDAHO,

County of _____

} ss.

and _____

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

Subscribed and sworn to before me this _____ day of _____

A. D.

Notary Public

RECORDED

Name of Applicant

John P. Rodgers - Inquis

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AUG 2 1915

STATE ENG.

Township 6 North, Range 28E 10m

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*Proposed road
to
S. P. Rodgers
Sec. 24*

24

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RECEIVED

STATE OF IDAHO.

County of

} ss.

I,, Watermaster of Little Lost River

County of Blaine, State of Idaho, whose postoffice address is Howe, Idaho

....., have read or heard read the foregoing affidavit and petition of

John R. Rodgers, 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 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.

Notice having been duly published for thirty days of the intention of the above named

John R. Rodgers to apply to the State Engineer of the State of Idaho for a certificate

authorizing the transfer of water as set forth in this affidavit and petition herein, and an opportunity having

been given to any and all persons opposing said transfer to present their objections in a public hearing before

me at Blainefoot Idaho, on July 8*1915, according to

the terms of said notice;

And it not appearing at said hearing that anyone would be materially injured by such transfer:

I hereby recommend that the said State Engineer of the State of Idaho issue his certificate to said appli-

cant, authorizing the transfer as prayed for in his petition; ~~or (and it appearing at said hearing that the fol-~~

~~lowing injuries would be sustained by others if such transfer is permitted.~~

~~I hereby recommend that the State Engineer do not issue the certificate authorizing the transfer sought~~

~~hereinabove.~~

L. R. Thomas

Notary Public

Commissioner of Water Division No.

By

WIDENED