

Little Lost River

IN THE DISTRICT COURT OF THE FIFTH JUDICIAL DISTRICT OF IDAHO,

IN AND FOR BINGHAM COUNTY. ~~Blaine~~

x x x x x x x x x x x x x x x x x

Chas. Bunting, et. al. x

vs x

D E C R E E .

Gus Coulson, et. al. x

x x x x x x x x x x x x x x x x x

This cause having been heretofore tried, by the Court, without a jury, and the Court having filed its Findings of Fact and conclusions of law, it is now, ordered, adjudged and decreed that the following parties are entitled to divert from Little Lost River, the amount of water herein indicated and that their rights shall date from the times herein after stated, to-wit;

C. Bunting, Jr.,	160 inches,	June 15", 1885.
F. R. Hawley,	560 "	September 1", 1879.
C. O. Sands,	160 "	April 1", 1886.
Jno. Briggs,	160 "	April 1", 1881.
Peter Lowe,	160 "	April 1", 1883.
D. B. Hawley,	400 "	September 1", 1879.
✓ Geo. & Ed Sands,	240 "	July 15", 1884.
John Kyle,	120 "	March 25", 1885.
F. Ireland,	120 "	April 1", 1886.
F. McGovern,	30 "	April 1", 1886.
M. Talbott,	20 "	April 1", 1885.
O. P. & O. H. Williams,	80 "	April 1", 1887.
John H. & E Williams,	10 "	April 1", 1887.
J. R. Jones,	70 "	March 25", 1885.
John Wyatt,	30 "	April 1", 1889.
E. A. Readiker,	100 "	April 1", 1887.
A. J. Tenney,	25 "	April 1", 1888.
Neagle,	22 "	April 1", 1889.
W. Coffin,	20 "	April 1", 1889.
E. R. Jones,	30 "	April 1", 1889.

The the first Appropriation in point of time is first in point of

right and all appropriations of equal date are of equal right, it is further adjudged and decreed at its case of insufficiency of water to supply all parties the entire volume is devoted to and used by those appropriators who are first in point of time.

It is further adjudged and decreed that all water diverted from said stream by any party shall be diverted through a box or flume so constructed as to permit an accurate measurement of the depth and fall of said stream flowing out of said Little Lost River.

That when not used for the irrigation of lands all water shall be returned to the natural channel of said Little Lost River and no diversion thereof allowed.

It is further adjudged and decreed that the costs in this action shall be paid 1/20 part by each of the parties to whom rights are decreed herein. It is further adjudged and decreed that Gas Coulson, E. Boyce, Taylor Furrer, C. N. Matly, Werton Hawley and Wm. Bartell, be and they and each of them are hereby enjoined from diverting or using in any manner any part of the water of Little Lost River, for irrigating purposes, or any other than domestic purposes.

Done in Open Court this March 12th, 1891.

D. W. Standrod, Judge.

June 30th, 1891.

It appearing from an order filed herein this day that an error in the foregoing judgment has been made, whereby the claim of Chas. McDermitt on of the defendant herein was omitted from said judgment.

It is therefore ordered, adjudged and decreed that Chas McDermitt is entitled to one hundred and ten inches of water and the said amount is hereby decreed to him, said claim to date from Jan 3rd 1885.

D. W. Standrod, Judge.

Transcribed from Judgment Book 1, Page, of the records of Bingham County, Idaho.

Recorded in Book A of Judgments, page 10, Fremont Co., Idaho.

AFFIDAVIT OF PUBLICATION.—The Arco Advertiser.

STATE OF IDAHO,

COUNTY OF BLAINE,

ss.

I, C. A. Bottolfson, do solemnly swear that I am the manager in charge of THE ARCO ADVERTISER, a weekly newspaper of general circulation, published once each week at Arco, Blaine County, State of Idaho; that the notice attached hereto, and which is a part of this affidavit, and a part of the proof of publication, was published in the said newspaper for two consecutive weeks, first publication having been made on the 23rd day of Dec., 1910; that said notice was published in the regular and entire issue of every number of the said paper during the said period and time of publication, and that the said notice was published in the said newspaper and not in a supplement; and that said ARCO ADVERTISER has been published for over one year and is of legal age.

Subscribed and sworn to before me this 13 day of Jan., 1911.

Otto B. Fleischer
Notary Public

Notice of Proposed Transfer of
Water Right.

Notice is hereby given that Edward Ireland of Howe, 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., ne $\frac{1}{4}$ nw $\frac{1}{4}$ Sec. 24 Township 6 North Range 28 East B. M. to the following described tract: nw $\frac{1}{4}$ nw $\frac{1}{4}$ Section 24 Township 6 N. R. 28 E. B. M.

And that at 10 a. m. on the 13th day of January A. D. 1911 at Arco, Idaho, before O. B. Fleischer N. P. the authorized agent of the water commissioner of division No. 2 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.

Full details of the proposed transfer may be obtained from A. W. Clark, Watermaster of said stream.

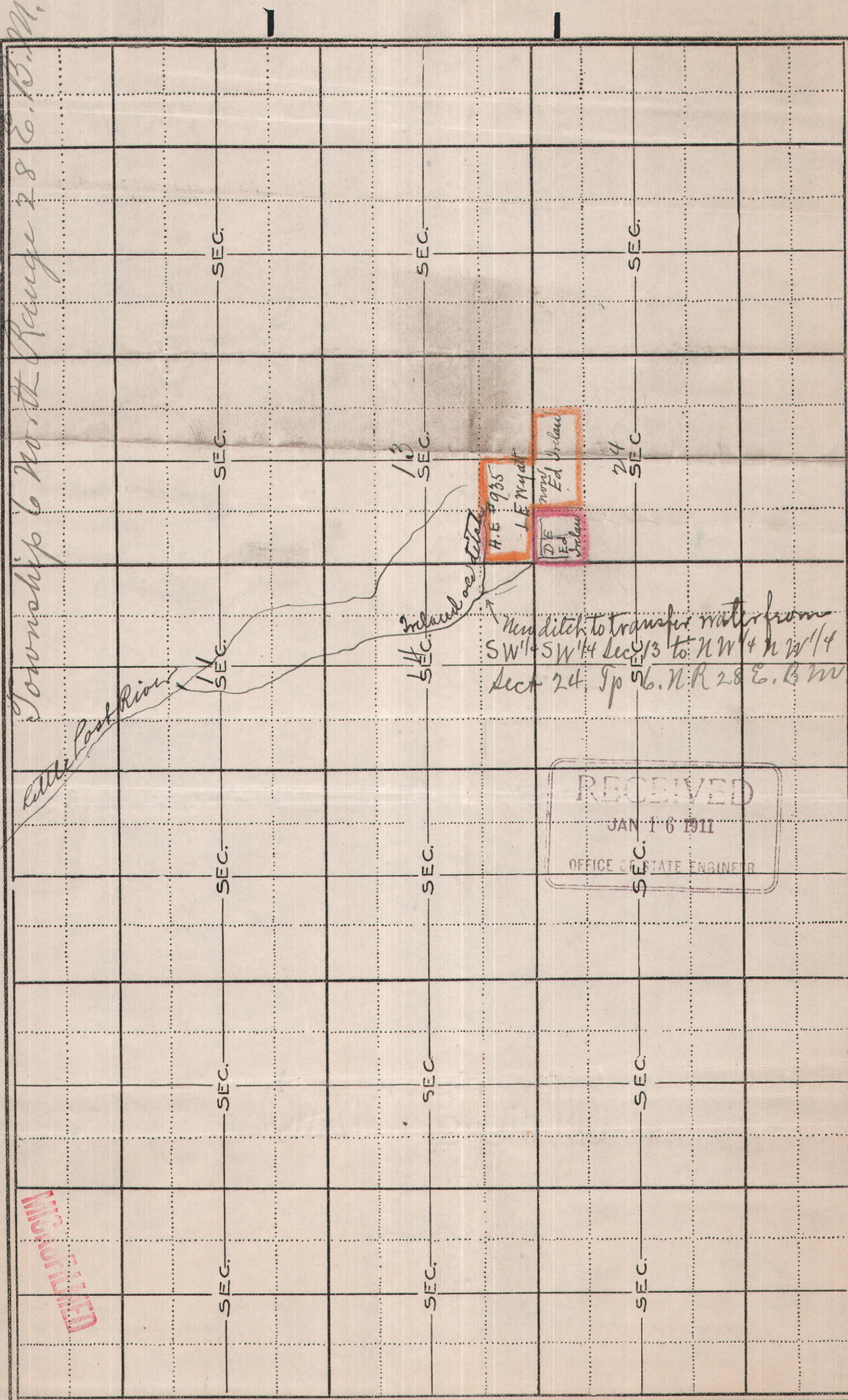
D. G. MARTIN,
State Engineer.

42 45

OFFICE OF STATE ENGINEER

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JAN 16 1911
OFFICE OF STATE ENGINEER



S T A T E O F I D A H O
 ---OFFICE OF STATE ENGINEER---

33-055-1804
? superseded by
Blaine Co. Investment
Co. vs. Trays Lumber
dated 3-4-1927
See Right No. 33-0055

 CERTIFICATE NO. 67, AUTHORIZING TRANSFER OF WATER RIGHT.

Permission is hereby granted EDWARD IRELAND, of Howe, County of Fremont, State of Idaho, to transfer the use of forty (40) inches of the waters of LITTLE LOST RIVER, Blaine County, Idaho, from the lands for which it was originally decreed, i.e., the Northeast quarter of the Northwest quarter (NE4 NW4), Section 24, Township 6 North, Range 28 East of Boise Meridian, to the following described tract, to-wit: the Northwest quarter of the Northwest quarter (NW4 NW4) Section 24, Township 6 North, Range 28 East of Boise Meridian, said water to be diverted at the same place as originally intended.

The water appurtenant to the above described land was adjudged by decree, dated March 12, 1891, of D. W. Standrod, Judge of the Fifth Judicial District of the State of Idaho, in and for Bingham County, in the matter of Chas. Bunting, et al, plaintiffs, vs. Gus Colson, et al, defendants, in the following words:

" It is now ordered, adjudged and decreed that the following parties are entitled to divert from Little Lost River the amount of water indicated and that their rights date from the times hereinafter stated, to-wit: John Wyatt 80 inches from April 1, 1889."

John Wyatt transferred to Lorenzo Fallert, et al, 80 inches October 15, 1901. Lorenzo Fallert transferred to Edward Ireland 80 inches Feb. 28, 1907.

IN WITNESS WHEREOF; I have hereunto set my hand and affixed the seal of my office at Boise, Idaho, this seventh day of February, 1911.

D. G. Martin
 State Engineer.

(SEAL)

MICROFILMED

Further ^{it} is decreed and decreed that in case of insufficiency of water to supply ^{all} parties the entire volume is devoted to and used by those appropriators who are first in point of time.

It is further adjudged and decreed that all water diverted from said stream by any party shall be diverted through a box or flume so constructed as to permit an accurate measurement of the depth and fall of said stream from out of said Little Lost River.

That when not used for the irrigation of lands said water shall be returned to the natural channel of said Little Lost River and no diversion thereof allowed.

It is further adjudged and decreed that the costs in this action shall be paid 1/40 part by each of the parties to whom rights are decreed herein. It is further adjudged and decreed that Gus Coulson, E. Boyce, Taylor Faxon, C. M. Doty, Vernon Hawley and Wm. Bartell, be and they and each of them be hereby enjoined from diverting or using in any manner any part of the water of Little Lost River, for irrigating purposes, or any other than domestic purposes.

Done in Open Court this March 17", 1891.

D. W. Stoddard, Judge.

June 30th, 1991.

It appears from an order filed herein this day that an error in the foregoing judgment has been made, whereby the claim of Chas. Hubervitt as of the defendant herein was omitted from said judgment.

It is therefore ordered, adjudged and decreed that Chas McDermitt is entitled to one hundred and ten inches of water and the said amount is hereby decreed to him, said claim to date from Jan 3" 1895.

D. W. Standrod, Judge.

The ... from Judgment Book 1, Page, of the records of Bingham County, N. M.

Report of L. Paul A. of Judgments, page 10, Fremont Co. Idaho.

MICROFILMED

February 9, 1911

Re transfer

Edward Ireland,
Howe, Idaho

Sir:-

I am inclosing herewith certificate of transfer No.67,
together with receipt for fee.

Very truly yours,

State Engineer.

OT-R3282

By...

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FEB 6 - 1911

OFFICE OF STATE ENGINEER

Howe Feb. 1, 1911

Mr. D. H. Mortimer
State Engineer

Enclosed find \$1.00
for transfer of water
right which please
send to Otto B.
Fleischer, Arco
Blaine Co Idaho

Yours Truly

Edw Ireland

Please send it as
soon as possible

RECEIVED

OFFICE OF
JAMES MC MILLAN
STATE WATER COMMISSIONER
SECOND DIVISION

TWIN FALLS, IDAHO Jan, 15th, 1911.

Hon. D. C. Martin,
State Engineer, Boise, Idaho.

Dear Sir:-

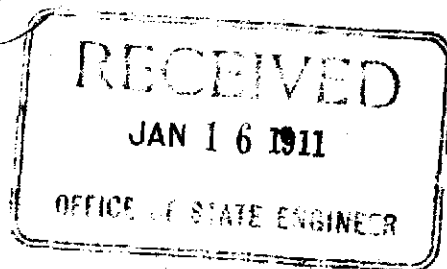
Enclosed find all papers in re transfer of water right of
Edward Ireland, save the check for \$1.00 which has not been sent to you
please take the matter up with him direct and oblige,

Yours truly,

James McMillan
Water Commissioner 2nd Div.,

Clark has found the Hunter papers.

RECEIVED
JAN 16 1911



November 12, 1910.

Re transfer

Mr. Jas. McMillan,
Water Com. 2nd Div.,
Caldwell, Idaho.

Sir:-

I am inclosing you herewith application of Edward Ireland for transfer of water right. I have written Mr. Ireland to send you a map showing the change desired and also an abstract of title to the water.

Very truly yours,

State Engineer.

Tr-

By...

RECEIVED

November 12, 1910.

Re transfer

Edward Ireland,
Howe, Idaho.

Sir:-

I am today in receipt of application for transfer of water right, together with publication notice. These have been forwarded to Mr. Jas. McMillan, of Twin Falls, water commissioner of the 2nd Division, who will attend to the matter.

You should forward to Mr. McMillan, at your earliest convenience, a map showing the change desired, also, an abstract of title to the water.

Very truly yours,

State Engineer.

MP

By...

MICROFILMED

Application for Transfer of Water Right.

RECEIVED

JAN 16 1911

OFFICE OF STATE ENGINEER

State of Idaho, }
County of Blaine } ss.

Edward Ireland, being first duly sworn, deposes and says:

That his name is Edward Ireland; 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 Forty inches of the waters of Little Lost River

County of Blaine, State of Idaho, decreed to John Wyatt by decree of Judge S. W. Staudrod, of the

Fifth Judicial District of the State of Idaho, in and for the County of

Bingham, in the case of Chas Bunting et al vs. Gus Colson, et al, said decree bearing date of March 12th

1891 (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: NE 1/4 NW 1/4 Sec 24 Tp 6 N

Range 28 E. B. M.

and is the person (or the representative of the corporation) to whom such right so issued, or has become the owner thereof in the following manner, i. e.

by purchase

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 or near center of Section 11 Tp 6 N R 28 E B. M.

and conducted to the above described lands through SE 1/4 Sec 11. NE 1/4 Sec 14 NE 1/4 SE 1/4 Sec 14 Tp 6 N R 28 E. B. M.

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: NW 1/4 NW 1/4 Section 24 Tp 6 N R 28 E. B. M.

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

On account of the land being gravelly and cut up by river and slough and not profitable for cultivation

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 using same

ditch and same point of diversion
extending ditch in a southerly
direction to convey it to the land
last mentioned

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 this 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

A. D. 1900

Edward Ireland

7th day of Nov

Otto B. Fischer
Notary Public

State of Idaho,

County of

Blaine } ss.

Will Rodgers and

John R. Rodgers

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

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 Edward

Ireland, 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 pe-

titioned;

Subscribed and sworn to before me this

A. D. 1900

Will Rodgers

John R. Rodgers

7th day of November

James Chandler
Notary Public

AFFIDAVIT OF PUBLICATION.—The Arco Advertiser.

STATE OF IDAHO,

COUNTY OF BLAINE,

I, C. A. Bottolfsen do solemnly swear that I am the manager in charge of THE ARCO ADVERTISER, a weekly newspaper of general circulation, published once each week at Arco, Blaine County, State of Idaho; that the notice attached hereto, and which is a part of this affidavit, and a part of the proof of publication, was published in the said newspaper for 7 consecutive weeks, first publication having been made on the 23rd day of Dec. 1910; that said notice was published in the regular and entire issue of every number of the said paper during the said period and time of publication, and that the said notice was published in the said newspaper and not in a supplement; and that said ARCO ADVERTISER has been published for over one year and is of legal age.

Subscribed and sworn to before me this 13 day of Jan. 1911.

O. B. Fleischer
Notary Public

Notice of Proposed Transfer of Water Right.

Notice is hereby given that Edward Ireland of Howe, 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., ne $\frac{1}{4}$ nw $\frac{1}{4}$ Sec. 24 Township 6 North Range 28 East B. M. to the following described tract: nw $\frac{1}{4}$ nw $\frac{1}{4}$ Section 24 Township 6 N. R. 28 E. B. M.

And that at 10 a. m. on the 13th day of January A. D. 1911 at Arco, Idaho, before O. B. Fleischer N. P. the authorized agent of the water commissioner of division No. 3 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.

Full details of the proposed transfer may be obtained from A. W. Clark, Watermaster of said stream.

D. G. MARTIN,
State Engineer.

OFFICE OF STATE ENGINEER

Township 6 N., Range 28 E., B. 28 N.

Little Pool River

Inland as ditch

New ditch to transfer water from
SW 1/4 SW 1/4 Sec 13 to NW 1/4 NW 1/4
Sec 24. Twp 6 N. R. 28 E. B. 28 N.

H. E. 4935
L. E. 1944
D. E. 1944
Ed. Ireland

RECEIVED
JAN 16 1911
OFFICE OF STATE ENGINEER

Arco, Idaho January 13th 1911.

I hereby certify that at 10 a. m. on the 13th day of January A. D. 1911 at Arco, Idaho, before me, Otto B. Fleischer N. P. the authorized agent of the water commissioner of division No. 2, Edward Ireland of Howe, Idaho appeared in compliance with Exhibit A, and I also further certify that no person or persons appeared or no reasons presented why a certificate should not be issued authorizing the transfer of fourty inches of the water of Little Lost river from the NE $\frac{1}{4}$ NW $\frac{1}{4}$ Sec. 24 Township 6 North Range 28 East B. M. to the following described tract: NW $\frac{1}{4}$ NW $\frac{1}{4}$ Sec. 24 Township 6 North Range 28 East B. M.

Otto B. Fleischer

Notary Public.

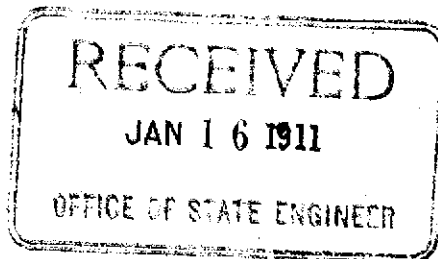
Hon. James McMillan,
State Water Commissioner,
Second Division,
Twin Falls, Idaho.

Dear sir;-

Above is a copy of which I had to send in to the Land Office, as evidence in final proof on the NW $\frac{1}{4}$ NW $\frac{1}{4}$ Sec. 24 Township 6 North Range 28 East B. M. which is the facts in the case and shows that the proposed transfer was objected to in no way.

Yours truly,

Otto B. Fleischer
Notary Public



State of Idaho,

County of

Blaine

ss.

I,

Alverson Clark

Watermaster of

Little Lost River

County of

Blaine, Teton & Eagle

State of Idaho, whose postoffice address is

Home Box 11

have read or heard read the foregoing affidavit and petition of

Edward Ireland

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 au-

thorized; 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:

As requested described

Alverson Clark

Watermaster.

Twin Falls, Idaho.

Jan. 14th, 1911.

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

Edward Ireland, to apply to the State Engineer of the State of Idaho for a certificate

authorizing the transfer of water as set forth in his 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

Otto B. Fleischer, my agent

hearing before me at Arco Idaho, on Jan. 12th, 1911, according to

the terms of said notice;

And it not appearing at said hearing that any one 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 applicant, authorizing the transfer as prayed for in his petition; or (~~and it appearing at said hearing~~

~~that the following 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.

Commissioner of Water Division No. 2.

By

No.

APPLICATION FOR TRANSFER
OF WATER RIGHT.

From

To

Stream

County

Applicant.

Received

Approved

Certificate No. issued.

and recorded in

Book of Transfers, at page