

Name of Applicant

J. L. Adams

105

SEC.

SEC.

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SEC.

SEC.

SEC.

SEC.

SEC.

SEC.

SEC.

House of Assembly
Gardner Creek

point of diversion
proposed ditch

SEC. 21

SEC. 28

SEC. 32

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Hand to
Sec. 21

MICROFILMED

Name of Applicant

J. L. Adams

W.

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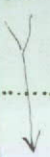
SEC.

SEC.

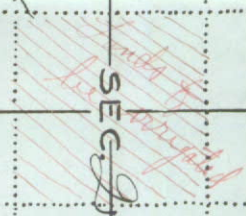
SEC.

SEC.

border of property
border ditch



point of diversion
proposed ditch



St. 14, 15, 16, 17, 18, 19, 20, 21, 22, 23, 24, 25, 26, 27, 28, 29, 30, 31, 32, 33, 34, 35, 36, 37, 38, 39, 40, 41, 42, 43, 44, 45, 46, 47, 48, 49, 50, 51, 52, 53, 54, 55, 56, 57, 58, 59, 60, 61, 62, 63, 64, 65, 66, 67, 68, 69, 70, 71, 72, 73, 74, 75, 76, 77, 78, 79, 80, 81, 82, 83, 84, 85, 86, 87, 88, 89, 90, 91, 92, 93, 94, 95, 96, 97, 98, 99, 100

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28

BAXTER DITCH

GARDEN

XCR

VILLAGE
PIPE LINE

32

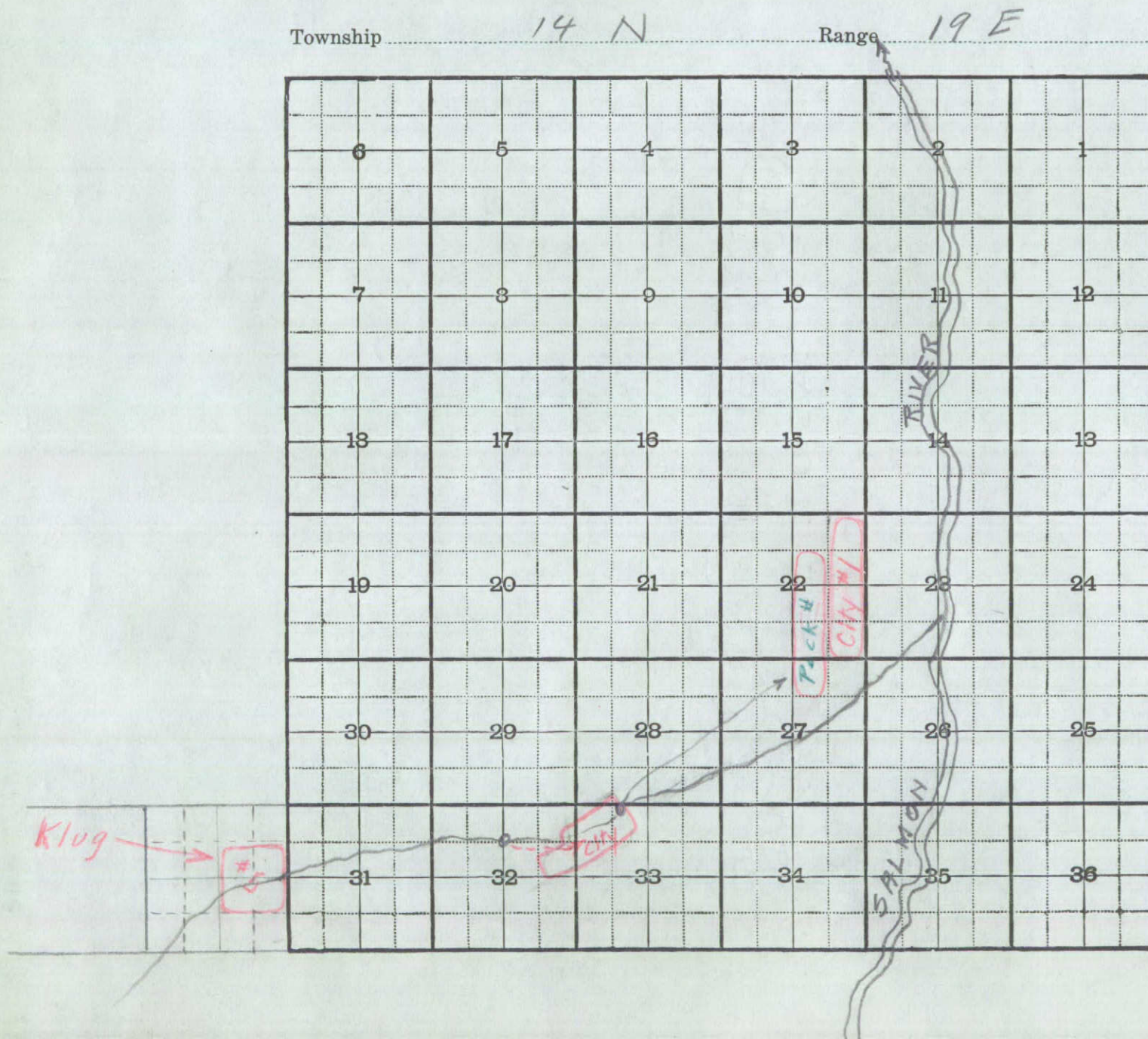
33

MICROFILMED

MAY 13 1987

$$\begin{array}{r} 7913 \\ 5280 \\ \hline 2733 \end{array}$$

Township 14 N Range 19 E



RECEIVED
MAR 23 1936
DEPARTMENT OF RECLAMATION

**NOTICE OF PROPOSED
TRANSFER OF WATER RIGHT**

Notice is hereby given that The Village of Challis, Idaho, has applied to the Commissioner of Reclamation of the State of Idaho for a certificate authorizing him to transfer the use of 2.04 cubic feet per second of the water of Garden Creek from the land upon which it is now used, i. e. SE $\frac{1}{4}$ NW $\frac{1}{4}$, SW $\frac{1}{4}$ NE $\frac{1}{4}$, NE $\frac{1}{4}$ SW $\frac{1}{4}$, NW $\frac{1}{4}$ SE $\frac{1}{4}$ of Section 21, Township 14 North, Range 19 East, B. M., Custer County to the following described tract E $\frac{1}{2}$ NE $\frac{1}{4}$ of Section 32; W $\frac{1}{2}$ NW $\frac{1}{4}$ of Section 33, all in Township 14 North, Range 19 East, B. M.

And that, on the 23rd day of March, A. D. 1936, at 10:00 A. M., at Boise, Idaho, before the Commissioner of Reclamation, or his authorized agent, the opportunity will be given to any and all persons to appear and present for his consideration any reason or reasons why a certificate should not be issued authorizing such transfer.

R. W. FARIS
50-2 Commissioner of Reclamation

AFFIDAVIT OF PUBLICATION

State of Idaho,
County of Custer, ss.

I, Halsey M. Gridley, manager of The Challis Messenger, a weekly newspaper, published at Challis, Idaho, do solemnly swear that the notice hereto attached and made a part hereof, was published in the regular and entire issue of The Challis

Messenger for 2
consecutive weeks commencing with the issue dated

March 11, 1936, and ending with the issue dated

March 18, 1936.

Halsey M. Gridley

Subscribed and sworn to
before me this 20th

day of March, 1936

W. L. Lister

Notary Public Residing at
Challis, Idaho

My Commission expires 1/27/38

RECORDED

Township 14 North, Range 19 East, Boise Meridian,

North

SEC. 36	SEC. 31	SEC. 32	SEC. 33	SEC. 34	SEC. 35	SEC. 36	SEC. 31
SEC. 1	SEC. 6	SEC. 5	SEC. 4	SEC. 3	SEC. 2	SEC. 1	SEC. 6
SEC. 12	SEC. 7	SEC. 8	SEC. 9	SEC. 10	SEC. 11	SEC. 12	SEC. 7
SEC. 13	SEC. 18	SEC. 17	SEC. 16	SEC. 15	SEC. 14	SEC. 13	SEC. 18
SEC. 24	SEC. 19	SEC. 20	SEC. 21	SEC. 22	SEC. 23	SEC. 24	SEC. 19
SEC. 25	SEC. 30	SEC. 29	SEC. 28	SEC. 27	SEC. 26	SEC. 25	SEC. 30
SEC. 36	SEC. 31	SEC. 32	SEC. 33	SEC. 34	SEC. 35	SEC. 36	SEC. 31
SEC. 1	SEC. 6	SEC. 5	SEC. 4	SEC. 3	SEC. 2	SEC. 1	SEC. 6

Present Ditch

Present place of use.

Garden Creek Present point of Diversion

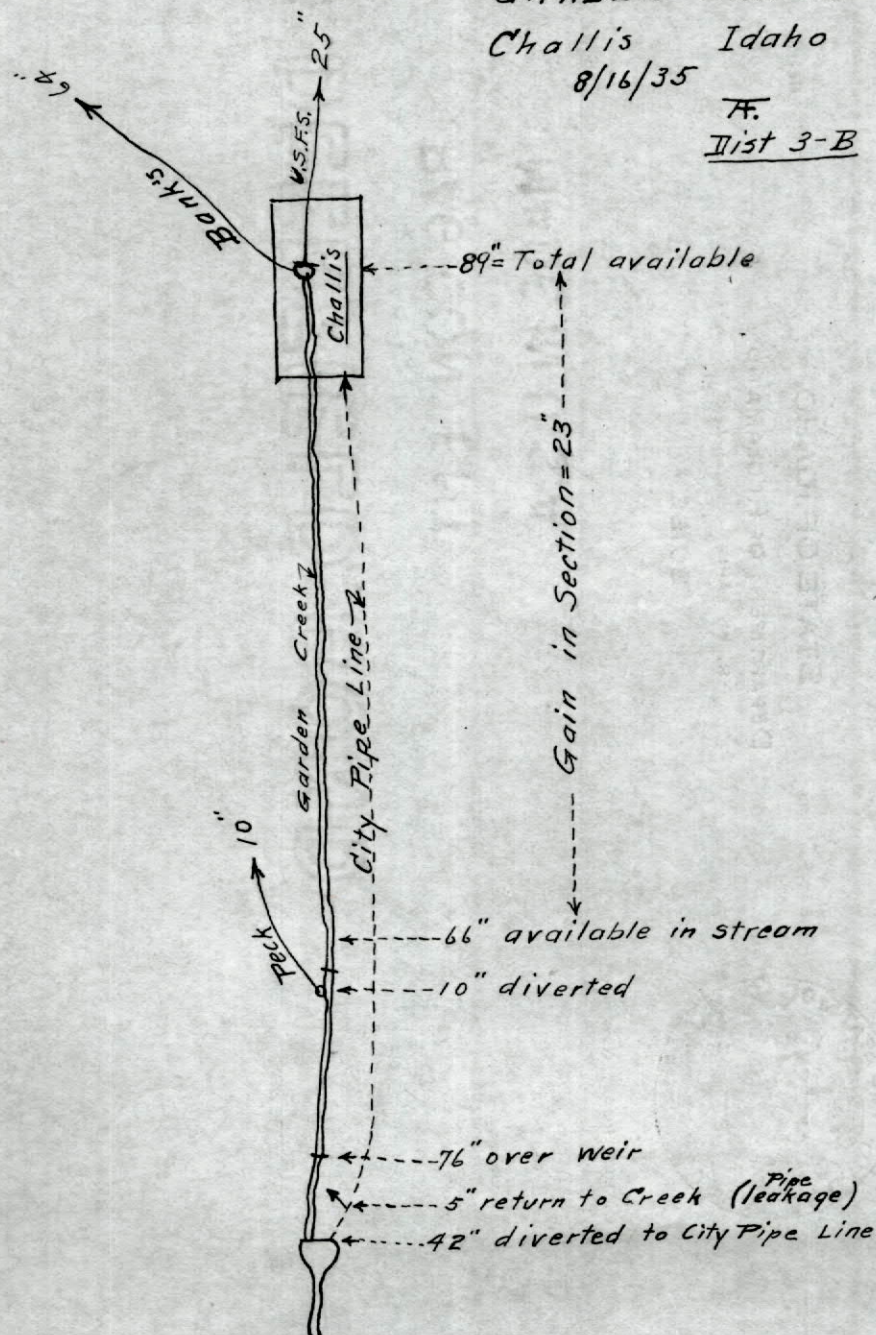
VILLAGE OF CHALLIS

Point of Diversion 19 inches

Point of Diversion 23 inches

SURVEY
of
GARDEN CREEK
Challis Idaho
8/16/35

W.
List 3-B



Notice of Proposed Transfer of
Water Right.

Notice is hereby that George L. Sim-
mons of Ch... Custer county, Idaho,
has applied to the State Engineer of
the State of Idaho for a certificate
authorizing him to transfer the use of
1 2 inches of water of Garden Creek,
from the land upon which it is now
used i. e., E $\frac{1}{2}$ of NE $\frac{1}{4}$ and S $\frac{1}{2}$ of SE $\frac{1}{4}$
Section 22, Tp. 14 N., R. 19 E., B. M.,
to the following described tract: SE $\frac{1}{4}$
NW $\frac{1}{4}$, SW $\frac{1}{4}$ of NE $\frac{1}{4}$, NE $\frac{1}{4}$ of SW $\frac{1}{4}$
and NW $\frac{1}{4}$ of SE $\frac{1}{4}$, Section 21, Tp. 14
N., R. 19 E., B. M.

And that, on the 18th day of Septem-
ber, A. D. 1915, at Challis, Idaho, be-
fore the State Engineer, or his auth-
orized 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.

J. H. SMITH, State Engineer.
First publication Aug. 10th, 1915.

Affidavit of Publication.

STATE OF IDAHO,

COUNTY OF CUSTER.

} ss.

M. A. Dillingham.....being first
duly sworn, deposes and says, that he is the Editor and Proprietor
of THE SILVER MESSENGER, a Weekly Newspaper, printed
and published in Challis in the said County and State; that the
annexed advertisement was published weekly for five.....suc-
cessive weeks in the said newspaper; that the date of the first
publication of the said advertisement was on the 10th....day
of....August.....190¹⁵...., and the date of the last publi-
cation was on the 14th....day of September.....190¹⁵....
That the said notice was published in the regular and entire issue
of every number of the paper during the period and time of publi-
cation and that the said notice was published in the newspaper
proper and not in a supplement.

M. A. Dillingham

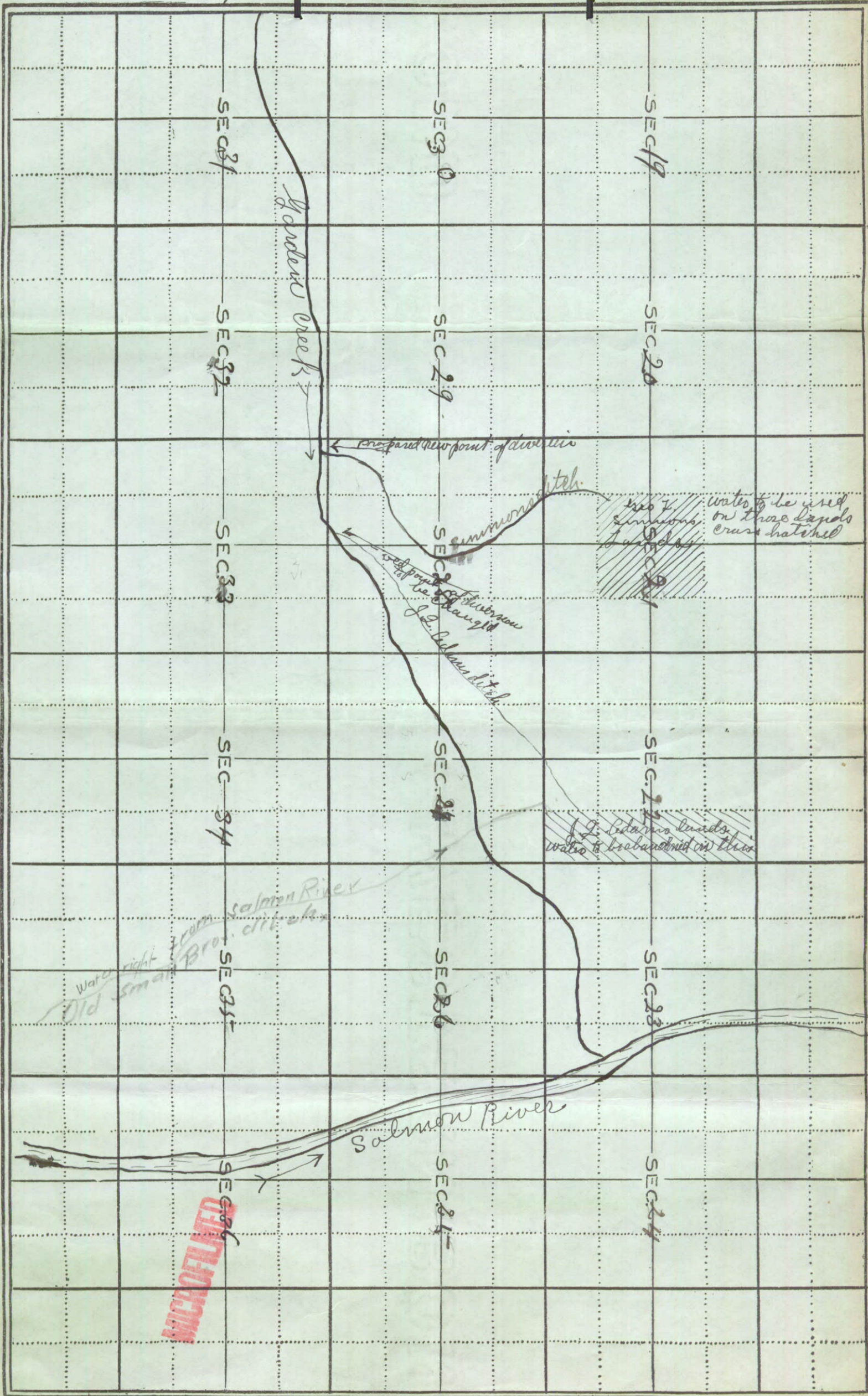
Subscribed and sworn to before me

this 18th....day of September.....190¹⁵....

B. B. Barnes
Notary Public.



SCALE: 2 INCHES=1 MILE DRAW PLAN IN INK.



TRANSFER NO.	NAME	AMOUNT C.F.S.	BALANCE C.F.S.	RIGHT NO.
	Adams, John Q.	2.04 0		72-0047
167	Simmons, George L.	(2.04)	0	72-0047A
561	Village of Challis	2.04		72-0047AA

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STATE OF IDAHO
DEPARTMENT OF RECLAMATION
Certificate of Water Right
Transferred Right No. 561.

THIS IS TO CERTIFY That THE VILLAGE OF CHALLIS is the owner of and using a certain water right, bearing date of priority of October 24, 1877, for 2.04 cubic feet per second of the waters of Garden Creek, in the County of Custer, State of Idaho, decreed to John Q. Adams, by decree of the Judge of the District Court, of the Sixth Judicial District of the State of Idaho, in and for the county of Custer, in the case of

JOHN Q. ADAMS, et al vs. R. B. VANDERVORT, et al

said decree bearing date of May 19, 1914, for the purpose of irrigating the following described lands, situate, lying and being in Water District No. 3-B, in the County of Custer, State of Idaho, to-wit:

SE $\frac{1}{4}$ NW $\frac{1}{4}$, SW $\frac{1}{4}$ NE $\frac{1}{4}$, NE $\frac{1}{4}$ SW $\frac{1}{4}$, NW $\frac{1}{4}$ SE $\frac{1}{4}$,
Section 21, Township 14 North, Range
19 East, B. M.;

THAT THE SAID Decree has been entered in the records of the Department of Reclamation of the State of Idaho, in Book 3 of Decrees, at Page 881; and

THAT THE SAID Applicant has become the owner of said lands and water right by mesne conveyances;

THAT NOW, UPON THE Application of the said VILLAGE OF CHALLIS for a Transfer of Water Right, made before the Commissioner of Reclamation of the State of Idaho, and the said application having been granted, the right to the use of 2.04 cubic feet per second of the waters of GARDEN CREEK, upon the lands above described, is Hereby Abandoned, and that 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, are described as follows:

NE $\frac{1}{4}$ NE $\frac{1}{4}$ of Section 32; NW $\frac{1}{4}$ NW $\frac{1}{4}$ of Section
33, all in Township 14 North, Range 19 East,
B. M.,

lying and being in the County of Custer, State of Idaho, said water to be limited at any time to an amount actually needed and beneficially used for such purposes, and shall not exceed the following amount, which shall be subject to the reservation hereinafter stated:

2.04 cubic feet per second of the waters of
the Garden Creek, with a date of priority as
of October 24, 1877.

THAT THE WATER RIGHT Hereby transferred has heretofore been diverted from the said GARDEN CREEK at a point in the

NW $\frac{1}{4}$ NW $\frac{1}{4}$ of Section 33, Township 14 North,
Range 19 East, Boise Meridian,

and conducted to the first above described lands through a private ditch known as the Baxter Ditch, and will hereafter be diverted from the same stream in the following manner:

An amount of said water equal to the difference between said 2.04 cubic feet per second (102 inches) and the amount of water found to raise between the present intake for the Village Reservoir and the present point of diversion for the Arthur Baxter Ditch, as per reservation hereinafter stated, to the tract of land last above described through the Village Pipe Line, with point of diversion in the NW $\frac{1}{4}$ NW $\frac{1}{4}$ of Section 32, Township 14 North, Range 19 East, B. M., and

An amount of said water equal to the amount of water found to raise between the present intake for the Village Reservoir and the present point of diversion for the Arthur Baxter ditch, as per reservation hereinafter stated, to the tract of land last above described through the ditch with point of diversion in the NE $\frac{1}{4}$ NE $\frac{1}{4}$ of Section 32, Township 14 North, Range 19 East, B. M.;

THAT THE ABOVE Division of the said 2.04 cubic feet per second of the waters of Garden Creek is based upon the following reservation, referred to above, and contained in a stipulation signed by said applicant and former protestants of said Transfer of Water Right:

"That from said 2.04 cubic feet per second of the water of Garden Creek, there shall be deducted at the village's point of diversion an amount of water equivalent to the number of miner's inches raising in the channel of said stream between the present intake for the village reservoir and the present point of diversion for the Arthur Baxter Ditch, providing the quantity of water raising can not be used to fill decreed or licensed rights below the said point of diversion for the Arthur Baxter ditch because of scarcity of water and in accordance with the decrees or licenses.

"IT IS FURTHER STIPULATED AND AGREED By and between said parties that the duly and regularly appointed water master shall determine the amount of water so raising between said points above mentioned and shall regulate the 2.04 cubic feet per second of the water as heretofore stated."

THAT THE LAST Above named lands have appurtenant to them an amount of 267 inches of the waters of Garden Creek, with various dates of priority.

THAT THE RIGHT To the water aforesaid, hereby confirmed, is restricted to the lands or place of use last above mentioned as provided by the Laws of the State of Idaho.

IN WITNESS WHEREOF, I have hereunto set my hand and caused the seal of the Department of Reclamation, of the State of Idaho, to be affixed at Boise, Idaho, this 16th day of June, 1936.

R. W. FARIS,
Commissioner of Reclamation

Frederick E. Drager,
Director of Water Resources

STATE OF IDAHO
DEPARTMENT OF RECLAMATION

561

In the matter of an application of

THE VILLAGE OF CHALLIS,
A Municipal Corporation

For a Transfer of Water Right, in
District No. 3-B, Custer County.

ORDER GRANTING TRANSFER

WHEREAS, On the 23rd day of March, 1936, at the Department of Reclamation of the State of Idaho, at Boise, Idaho, this matter of an application of the Village of Challis, a municipal corporation, organized and existing under and by virtue of the laws of the State of Idaho, for a Transfer of Water Right, came on regularly for hearing, pursuant to the published notice, in due and statutory form; and

WHEREAS, Written protests against the granting of this application were entered by Messrs. George Thompson, Alex Klug and Floyd Bradbury, prior to the date of hearing, said date of hearing was ordered to be continued to a later date and a formal hearing held in Challis, when and where all parties concerned might appear and be heard. Said continued hearing was held on May 21, 1936, at Challis, where all parties concerned reached a satisfactory agreement as to the said transfer of water right, subject to the approval of the Department of Reclamation of the State of Idaho and requested that the Commissioner of Reclamation disregard all the above mentioned written protests;

NOW, THEREFORE, All protests to the proposed transfer of water right having been withdrawn and the above mentioned agreement being satisfactory to the Department of Reclamation, It is HEREBY ORDERED that the said application be and the same is hereby GRANTED and that a Certificate of Transfer be issued 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 seal of the Department of Reclamation of the State of Idaho to be affixed at Boise, Idaho, this 16th day of June, 1936.

R. W. PARIS,
Commissioner of Reclamation

Frederick E. Drager,
Director of Water Resources

MICROFILMED

STATE OF IDAHO
DEPARTMENT OF RECLAMATION
Certificate of Water Right
Transferred Right No. 561.

THIS IS TO CERTIFY That THE VILLAGE OF CHALLIS is the owner of and using a certain water right, bearing date of priority of October 24, 1877, for 2.04 cubic feet per second of the waters of Garden Creek, in the County of Custer, State of Idaho, decreed to John Q. Adams, by decree of the Judge of the District Court, of the Sixth Judicial District of the State of Idaho, in and for the county of Custer, in the case of

JOHN Q. ADAMS, et al vs. R. B. VANDERVOORT, et al

said decree bearing date of May 19, 1914, for the purpose of irrigating the following described lands, situate, lying and being in Water District No. 3-B, in the County of Custer, State of Idaho, to-wit:

SW $\frac{1}{4}$ NE $\frac{1}{4}$, SW $\frac{1}{4}$ NE $\frac{1}{4}$, NW $\frac{1}{4}$ SE $\frac{1}{4}$, NE $\frac{1}{4}$ SE $\frac{1}{4}$,
Section 21, Township 14 North, Range
19 East, B. M.;

THAT THE SAID Decree has been entered in the records of the Department of Reclamation of the State of Idaho, in Book 3 of Decrees, at Page 881; and

THAT THE SAID Applicant has become the owner of said lands and water right by mesne conveyances;

THAT NOW, UPON THE Application of the said VILLAGE OF CHALLIS for a Transfer of Water Right, made before the Commissioner of Reclamation of the State of Idaho, and the said application having been granted, the right to the use of 2.04 cubic feet per second of the waters of GARDEN CREEK, upon the lands above described, is Hereby Abandoned, and that 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, are described as follows:

SW $\frac{1}{4}$ NE $\frac{1}{4}$ of Section 32; NW $\frac{1}{4}$ NE $\frac{1}{4}$ of Section
33, all in Township 14 North, Range 19 East,
B. M.,

lying and being in the County of Custer, State of Idaho, said water to be limited at any time to an amount actually needed and beneficially used for such purposes, and shall not exceed the following amount, which shall be subject to the reservation hereinafter stated:

2.04 cubic feet per second of the waters of
the Garden Creek, with a date of priority as
of October 24, 1877.

THAT THE WATER RIGHT Hereby transferred has heretofore been diverted from the said GARDEN CREEK at a point in the

NW $\frac{1}{4}$ NE $\frac{1}{4}$ of Section 33, Township 14 North,
Range 19 East, Boise Meridian,

and conducted to the first above described lands through a private ditch known as the Baxter Ditch, and will hereafter be diverted from the same stream in the following manner:

An amount of said water equal to the difference between said 2.04 cubic feet per second (132 inches) and the amount of water found to raise between the present intake for the Village Reservoir and the present point of diversion for the Arthur Baxter Ditch, as per reservation hereinafter stated, to the tract of land last above described through the Village Pipe Line, with point of diversion in the NW $\frac{1}{4}$ NW $\frac{1}{4}$ of Section 32, Township 14 North, Range 19 East, B. M., and

An amount of said water equal to the amount of water found to raise between the present intake for the Village Reservoir and the present point of diversion for the Arthur Baxter ditch, as per reservation hereinafter stated, to the tract of land last above described through the ditch with point of diversion in the NE $\frac{1}{4}$ NE $\frac{1}{4}$ of Section 32, Township 14 North, Range 19 East, B. M.;

THAT THE ABOVE Division of the said 2.04 cubic feet per second of the waters of Garden Creek is based upon the following reservation, referred to above, and contained in a stipulation signed by said applicant and former protestants of said Transfer of Water Right:

"That from said 2.04 cubic feet per second of the water of Garden Creek, there shall be deducted at the village's point of diversion an amount of water equivalent to the number of miner's inches raising in the channel of said stream between the present intake for the village reservoir and the present point of diversion for the Arthur Baxter Ditch, providing the quantity of water raising can not be used to fill decreed or licensed rights below the said point of diversion for the Arthur Baxter ditch because of scarcity of water and in accordance with the decrees or licenses.

"IT IS FURTHER STIPULATED AND AGREED By and between said parties that the duly and regularly appointed water master shall determine the amount of water so raising between said points above mentioned and shall regulate the 2.04 cubic feet per second of the water as heretofore stated."

THAT THE LAST Above named lands have appurtenant to them an amount of 267 inches of the waters of Garden Creek, with various dates of priority.

THAT THE RIGHT To the water aforesaid, hereby confirmed, is restricted to the lands or place of use last above mentioned as provided by the Laws of the State of Idaho.

IN WITNESS WHEREOF, I have hereunto set my hand and caused the seal of the Department of Reclamation, of the State of Idaho, to be affixed at Boise, Idaho, this 16th day of June, 1936.

R. F. FARIS,
Commissioner of Reclamation

Frederick E. Drager,
Director of Water Resources

STATE OF IDAHO
DEPARTMENT OF RECLAMATION

In the matter of an application of

THE VILLAGE OF CHALLIS,
A Municipal Corporation

For a Transfer of Water Right, in
District No. 3-B, Custer County.

ORDER GRANTING TRANSFER

WHEREAS, On the 23rd day of March, 1936, at the Department of Reclamation of the State of Idaho, at Boise, Idaho, this matter of an application of the Village of Challis, a municipal corporation, organized and existing under and by virtue of the laws of the State of Idaho, for a Transfer of Water Right, came on regularly for hearing, pursuant to the published notice, in due and statutory form; and

WHEREAS, Written protests against the granting of this application were entered by Messrs. George Thompson, Alex Klug and Floyd Bradbury, prior to the date of hearing, said date of hearing was ordered to be continued to a later date and a formal hearing held in Challis, when and where all parties concerned might appear and be heard. Said continued hearing was held on May 21, 1936, at Challis, where all parties concerned reached a satisfactory agreement as to the said transfer of water right, subject to the approval of the Department of Reclamation of the State of Idaho and requested that the Commissioner of Reclamation disregard all the above mentioned written protests;

NOW, THEREFORE, All protests to the proposed transfer of water right having been withdrawn and the above mentioned agreement being satisfactory to the Department of Reclamation, It is HEREBY ORDERED that the said application be and the same is hereby GRANTED and that a Certificate of Transfer be issued 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 seal of the Department of Reclamation of the State of Idaho to be affixed at Boise, Idaho, this 16th day of June, 1936.

R. W. PARIS,
Commissioner of Reclamation

Frederick E. Drager,
Director of Water Resources

S T A T E O F I D A H O
DEPARTMENT OF RECLAMATION
Certificate of Water Right
Transferred Right No. 561.

THIS IS TO CERTIFY That THE VILLAGE OF CHALLIS is the owner of and using a certain water right, bearing date of priority of October 24, 1877, for 2.04 cubic feet per second of the waters of Garden Creek, in the County of Custer, State of Idaho, decreed to John Q. Adams, by decree of the Judge of the District Court, of the Sixth Judicial District of the State of Idaho, in and for the county of Custer, in the case of

JOHN Q. ADAMS, et al vs. R. B. VANDERVORT, et al

said decree bearing date of May 19, 1914, for the purpose of irrigating the following described lands, situate, lying and being in Water District No. 3-B, in the County of Custer, State of Idaho, to-wit:

SE $\frac{1}{4}$ NW $\frac{1}{4}$, SW $\frac{1}{4}$ NE $\frac{1}{4}$, NE $\frac{1}{4}$ SW $\frac{1}{4}$, NW $\frac{1}{4}$ SE $\frac{1}{4}$,
Section 21, Township 14 North, Range
19 East, B. M.;

THAT THE SAID Decree has been entered in the records of the Department of Reclamation of the State of Idaho, in Book 3 of Decrees, at Page 881; and

THAT THE SAID Applicant has become the owner of said lands and water right by mesne conveyances;

THAT NOW, UPON THE Application of the said VILLAGE OF CHALLIS for a Transfer of Water Right, made before the Commissioner of Reclamation of the State of Idaho, and the said application having been granted, the right to the use of 2.04 cubic feet per second of the waters of GARDEN CREEK, upon the lands above described, is Hereby Abandoned, and that 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, are described as follows:

E $\frac{1}{2}$ NE $\frac{1}{4}$ of Section 32; W $\frac{1}{2}$ NW $\frac{1}{4}$ of Section
33, all in Township 14 North, Range 19 East,
B. M.,

lying and being in the County of Custer, State of Idaho, said water to be limited at any time to an amount actually needed and beneficially used for such purposes, and shall not exceed the following amount, which shall be subject to the reservation hereinafter stated:

2.04 cubic feet per second of the waters of
the Garden Creek, with a date of priority as
of October 24, 1877.

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NW $\frac{1}{4}$ NW $\frac{1}{4}$ of Section 33, Township 14 North,
Range 19 East, Boise Meridian,

and conducted to the first above described lands through a private ditch known as the Baxter Ditch, and will hereafter be diverted from the same stream in the following manner:

An amount of said water equal to the difference between said 2.04 cubic feet per second (102 inches) and the amount of water found to raise between the present intake for the Village Reservoir and the present point of diversion for the Arthur Baxter Ditch, as per reservation hereinafter stated, to the tract of land last above described through the Village Pipe Line, with point of diversion in the NW¹₄ NW¹₄ of Section 32, Township 14 North, Range 19 East, B. M., and

An amount of said water equal to the amount of water found to raise between the present intake for the Village Reservoir and the present point of diversion for the Arthur Baxter ditch, as per reservation hereinafter stated, to the tract of land last above described through the ditch with point of diversion in the NE¹₄ NE¹₄ of Section 32, Township 14 North, Range 19 East, B. M.;

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"That from said 2.04 cubic feet per second of the water of Garden Creek, there shall be deducted at the village's point of diversion an amount of water equivalent to the number of miner's inches raising in the channel of said stream between the present intake for the village reservoir and the present point of diversion for the Arthur Baxter Ditch, providing the quantity of water raising can not be used to fill decreed or licensed rights below the said point of diversion for the Arthur Baxter ditch because of scarcity of water and in accordance with the decree or licenses.

"IT IS FURTHER STIPULATED AND AGREED By and between said parties that the duly and regularly appointed water master shall determine the amount of water so raising between said points above mentioned and shall regulate the 2.04 cubic feet per second of the water as heretofore stated."

THAT THE LAST Above named lands have appurtenant to them an amount of 267 inches of the waters of Garden Creek, with various dates of priority.

THAT THE RIGHT To the water aforesaid, hereby confirmed, is restricted to the lands or place of use last above mentioned as provided by the Laws of the State of Idaho.

IN WITNESS WHEREOF, I have hereunto set my hand and caused the seal of the Department of Reclamation, of the State of Idaho, to be affixed at Boise, Idaho, this 16th day of June, 1936.

R. W. FARIS,
Commissioner of Reclamation

Frederick E. Drager
Frederick E. Drager,
Director of Water Resources

STATE OF IDAHO
DEPARTMENT OF RECLAMATION

In the matter of an application of

THE VILLAGE OF CHALLIS,
A Municipal Corporation

For a Transfer of Water Right, in
District No. 3-B, Custer County.

ORDER GRANTING TRANSFER

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WHEREAS, Written protests against the granting of this application were entered by Messrs. George Thompson, Alex Klug and Floyd Bradbury, prior to the date of hearing, said date of hearing was ordered to be continued to a later date and a formal hearing held in Challis, when and where all parties concerned might appear and be heard. Said continued hearing was held on May 21, 1936, at Challis, where all parties concerned reached a satisfactory agreement as to the said transfer of water right, subject to the approval of the Department of Reclamation of the State of Idaho and requested that the Commissioner of Reclamation disregard all the above mentioned written protests;

NOW, THEREFORE, All protests to the proposed transfer of water right having been withdrawn and the above mentioned agreement being satisfactory to the Department of Reclamation, It is HEREBY ORDERED that the said application be and the same is hereby GRANTED and that a Certificate of Transfer be issued 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 seal of the Department of Reclamation of the State of Idaho to be affixed at Boise, Idaho, this 16th day of June, 1936.

R. W. FARIS,
Commissioner of Reclamation

Frederick E. Drager
Frederick E. Drager,
Director of Water Resources

STATE OF IDAHO
DEPARTMENT OF RECLAMATION

In the matter of the application of	)	
	)	
THE VILLAGE OF CHALLIS	:	ORDER CONTINUING
	)	HEARING
For a transfer of water right in	)	
Water District No. 3-B, Custer County.	)	

WHEREAS On the 23rd day of March, 1936, at the Department of Reclamation, of the State of Idaho, at Boise, Idaho, the matter of the application of THE VILLAGE OF CHALLIS, for a Transfer of Water Right, came on regularly for hearing, pursuant to the published notice; and

WHEREAS, Several protests were lodged with the Commissioner of Reclamation, prior to the time set for the hearing; and

WHEREAS All protestants and the attorney for the Applicant had been notified that their appearance on the day set for the hearing would not be necessary but that the hearing would be continued to a later date and held in Challis, where all might appear and be heard;

THEREFORE, IT IS HEREBY ORDERED That this hearing be continued and the applicant and protestants notified of the time when and the place at which the matter is again to be considered;

IN WITNESS WHEREOF, I have hereunto set my hand and caused the seal of the Department of Reclamation of the State of Idaho to be affixed, at Boise, Idaho, this 23rd day of March, 1936.

R. W. FARIS,
Commissioner of Reclamation


Lester C. Walker, Director
Bureau of Water Resources

MICROFILMED

STATE OF IDAHO
DEPARTMENT OF RECLAMATION

In the matter of the application of	)	
	)	
THE VILLAGE OF CHALLIS	:	ORDER CONTINUING
	)	HEARING
For a transfer of water right in	)	
Water District No. 3-B, Custer County.	)	

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R. W. FARIS,
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Lester C. Walker, Director
Bureau of Water Resources

MICROFILMED

STATE OF IDAHO
DEPARTMENT OF RECLAMATION

In the matter of the application of

THE VILLAGE OF CHALLIS

For a transfer of water right in
Water District No. 3-B, Custer County.

ORDER CONTINUING
HEARING

WHEREAS On the 23rd day of March, 1936, at the Department of Reclamation, of the State of Idaho, at Boise, Idaho, the matter of the application of THE VILLAGE OF CHALLIS, for a Transfer of Water Right, came on regularly for hearing, pursuant to the published notice; and

WHEREAS, Several protests were lodged with the Commissioner of Reclamation, prior to the time set for the hearing; and

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MICROFILMED

STATE OF IDAHO
DEPARTMENT OF RECLAMATION

In the matter of the application of	)	
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THE VILLAGE OF CHALLIS	:	ORDER CONTINUING
	)	HEARING
For a transfer of water right in	)	
Water District No. 3-B, Custer County.	)	

WHEREAS On the 23rd day of March, 1936, at the Department of Reclamation, of the State of Idaho, at Boise, Idaho, the matter of the application of THE VILLAGE OF CHALLIS, for a Transfer of Water Right, came on regularly for hearing, pursuant to the published notice; and

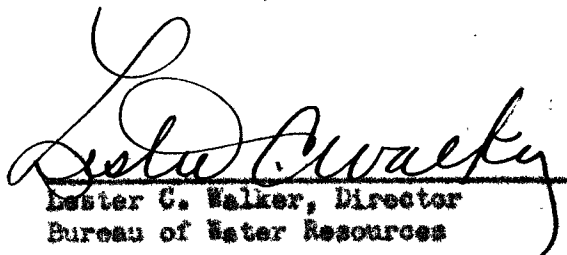
WHEREAS, Several protests were lodged with the Commissioner of Reclamation, prior to the time set for the hearing; and

WHEREAS All protestants and the attorney for the Applicant had been notified that their appearance on the day set for the hearing would not be necessary but that the hearing would be continued to a later date and held in Challis, where all might appear and be heard;

THEREFORE, IT IS HEREBY ORDERED That this hearing be continued and the applicant and protestants notified of the time when and the place at which the matter is again to be considered;

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R. W. FARIS,
Commissioner of Reclamation


Lester C. Walker, Director
Bureau of Water Resources

MICROFILMED

STATE OF IDAHO
DEPARTMENT OF RECLAMATION

In the matter of the application of	)	
	)	
THE VILLAGE OF CHALLIS	:	ORDER CONTINUING
	)	HEARING
For a transfer of water right in	)	
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WHEREAS All protestants and the attorney for the Applicant had been notified that their appearance on the day set for the hearing would not be necessary but that the hearing would be continued to a later date and held in Challis, where all might appear and be heard;

THEREFORE, IT IS HEREBY ORDERED That this hearing be continued and the applicant and protestants notified of the time when and the place at which the matter is again to be considered;

IN WITNESS WHEREOF, I have hereunto set my hand and caused the seal of the Department of Reclamation of the State of Idaho to be affixed, at Boise, Idaho, this 23rd day of March, 1936.

R. W. FARIS,
Commissioner of Reclamation


Lester C. Walker, Director
Bureau of Water Resources

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✓ 72-£3



Trans. Notes

MICROFILMED

Now, it is therefore ordered, adjudged and decreed that the waters of Garden Creek, and its tributaries, situated in the County of Custer, State of Idaho, be, and the same are hereby distributed, awarded and decreed to the several parties to this suit, for beneficial purposes and uses, in accordance with said dates, and for the lands, with priority of rights in accordance with said dates, as follows, to-wit:-

72 6047. To the plaintiff, John Q. Adams, One Hundred and Two (102) inches, or Two and four (2.64) cubic feet per second of time, for the irrigation of

West Half of the Northeast Quarter (E. NW 1/4), East Half of the Southeast Quarter (E. SE 1/4), Section Twenty-two (22), Township fourteen (14) North, Range Nineteen (19) East of the Boise Meridian, containing one Hundred and sixty (160) acres

his right to date from October 24, 1877.

72 6048. To the plaintiff, John Q. Adams, 160 inches, or 5.2 cubic feet per second of time for the irrigation of

SW 1/4, NW 1/4, Sec. 22; NE 1/4, Sec. 27, T. 14 N., R. 19 E., containing 160 acres

his right to date from May 15, 1901.

72 6049. To the plaintiff, J. A. Harrington, ~~160 inches, or 5.2 cubic feet per second of time~~ and the waters of a slough known as the Towalt Slough on 1/2 of about 20 inches, or .4 cubic feet, for the irrigation of

NE 1/4, NW 1/4, Lot 5, Sec. 23, T. 14 N., R. 19 E., containing 171.9 acres

his right to date from March 22, 1879.

72 6050. To the plaintiff, J. A. Harrington, 60 inches, or 1.8 cubic feet for the irrigation of

NE 1/4, Sec. 27; NW 1/4, Sec. 28, T. 14 N., R. 19 E., containing 160 acres,

his right to date from June 21, 1908.

72 6051. To the plaintiff, Charles F. Milkey, 160 inches, or 5.2 cubic feet per second of time for the irrigation of

SW 1/4, NW 1/4, Sec. 27, T. 14 N., R. 19 E., containing 160 acres

his right to date from May 11, 1880.

72 6052. To the plaintiff, Charles F. Milkey, 160 inches, or 5.2 cubic feet per second of time for the irrigation of a tract of land described as follows:-

Commencing at the corner of Sec. 22, 29, 32 and 33, T. 14 N., R. 19 E., running thence North 1/2 rods and 8 inches, thence East 20 rods, thence North 4 rods, thence East 1/2 rods, thence South 22 rods and 8 inches, thence East 20 rods and 8 inches, and thence 10.3 acres

S T A T E O F I D A H O

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

CERTIFICATE NO. 167, AUTHORIZING TRANSFER OF WATER RIGHT.

Permission is hereby granted George L. Simmons, of Challis, County of Custer and State of Idaho, to transfer the use of one hundred and two (102) inches of the waters of Garden Creek, County of Custer and State of Idaho, from the lands upon which it is now used, i. e., the E2 of NE4 and the S2 of SE4 of Section 22, Township 14 North of Range 19 East of the Boise Meridian, to the following described lands, to-wit: SE4 of NW4, SW4 of NE4, NE4 of SW4 and NW4 of SE4, Section 21, Township 14 North, Range 19 East of the Boise Meridian, said water to be diverted at a point in the NW4 of the NW4 of Section 33, Township 14 North of Range 19 East of the Boise Meridian.

The water right appurtenant to the above described lands was adjudged by decree, dated May 19, 1914, of James M. Stevens, Judge of the District Court of the Sixth Judicial District of the State of Idaho in and for the County of Custer, in the matter of J. Q. Adams, et al, plaintiffs, vs. R. B. Vandervort, et al., defendants, title to the use of said water having been heretofore vested in the above named party by proper deeds and conveyances.

WITNESS, My hand and the seal of my office at Boise, Idaho, this 28th day of October, A. D. 1915.

State Engineer.

Map & app
shows
E2 of NE4
NE4 of SW4
4-17-15

File 72-B

72-0047

STATE OF IDAHO.

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

CERTIFICATE NO. 167, AUTHORIZING TRANSFER OF WATER RIGHT.

Permission is hereby granted George L. Simmons, of Challis, County of Custer and State of Idaho, to transfer the use of one hundred and two (102) inches of the waters of Garden Creek, County of Custer and State of Idaho, from the lands upon which it is now used, i.e., the E2 of NE4 and the S2 of SE4 of Section 22, Township 14 North of Range 19 East of the Boise Meridian, to the following described lands, to-wit: SE4 of NW4, SW4 of NE4, NE4 of SW4 and NW4 of SE4, Section 21, Township 14 North, Range 19 East of the Boise Meridian, said water to be diverted at a point in the NW4 of the NW4 of Section 33, Township 14 North of Range 19 East of the Boise Meridian.

*map on appl
shows E2SE
also Decree to
Adams.*

The water right appurtenant to the above described lands was adjudged by decree, dated May 19, 1914, of James M. Stevens, Judge of the District Court of the Sixth Judicial District of the State of Idaho, in and for the county of Custer, in the matter of J.Q. Adams, et al, plaintiffs, vs. R.B. Vandervort, et al., defendants, title to the use of said water having been heretofore vested in the above named party by proper deeds and conveyances.

WITNESS, My hand and the seal of my office at Boise, Idaho, this 28th day of October, A.D. 1915.

J.H. Smith,

State Engineer.

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STATE OF IDAHO,
County ofCuster..... } ss.

...J.Q. Adams.....being first duly sworn, upon his
oath deposes and says:

That he is the owner of a decreed water right appurtenant to the following described land to-wit:
..E. 1/2. of..NE. 1/4. and. E. 1/2. of. SE. 1/4. Sec. 22. Tp. 14. :. N. R. 19. E. B. M.
..102. inches. dated. from Oct. 24, 1877.....
as evidenced by the decree dated..... 23. rd,..... day of May, 1914, ..
in the cause entitled...J. Q. Adams...et. al..... Plaintiff,
vs. R. B. Vandervort, ..et. al....., Defendant, brought
in the District Court of the.....Sixth.....Judicial District of the State of Idaho; or,

That he is the owner and holder of Permit to appropriate the Public Waters of the State of
Idaho No.....

That he intends to change the point of diversion, as described in said decree or permit, to the
following described point:

..about. one. mile. up. Garden. Creek.. in. the.. NW. 1/4. of... S. E. 1/4. Sec. 33.....
Tp. 14 N. R. 19 E. B. M. ..as. shown. by. maps. filed. herewith.. ..

That such change will be made for the following reasons, to-wit: ..That. I. have. sold. said
water. to. George L. Simmons. in. exchange. for. water. from. Salmon. River.....
and other considerations ..and desire the point of diversion changed...
further. up. the. stream. as. shown. in. maps. herewith. filed. so. the. same.....
..will. irrigate. the. lands. of. said.. George L. Simmons. shown. by. cross-....
hatching. on. map.....
.....
.....
.....

That no one will be injured by such change and that deponent will make such change at his own
risk.

And further deponent saith not.

Subscribed and sworn to before me this..... 12. th..... day of ~~February~~ ^{March} 1915.....

.....John Q. Adams.....
.....W. W. Adams.....
Notary Public.

My commission expires....Sept. 15-1917.
(Over.)

Received and filed for record
of the State Engineer at Boise

Geo M. MAR 17 1915
John Q. Adams

STATE ENGINEER'S OFFICE

*Regulations as to Change of
Point of Diversion.*

Section 3247 of the Revised Codes provides that a person entitled to the use of water, may change the place of diversion if others are not injured by such change. The Board of Irrigation has adopted the following regulations as to procedure under said section.

The person desiring to change point of diversion must file with the State Engineer an affidavit describing his water right, setting forth his intent to change point of diversion and the reasons for such change, together with an averment that no one will be injured thereby and that deponent will make such change at his own risk.

The point to which it is desired to change the place of diversion must be described as follows:

When the amount claimed does not exceed 25 cubic feet per second and point of diversion will be on surveyed land, locate same by giving the legal description of the 40 acre tract in which it will be situated. If upon unsurveyed land, give approximate distance to mouth of stream from which water is claimed or to the mouth of some creek flowing into said stream. Where there is more than one point of diversion, describe each separately and specify the amount claimed from each.

Where the water claimed exceeds 25 cubic feet per second, locate the point to which it is desired to change the place of diversion as follows:

If upon or near surveyed land, tie point of diversion by course and distance to section or quarter section corner. If said point will be more than two miles from the corner of a public survey, the tie may be made to the mouth of the stream from which the water is claimed or to the mouth of some creek flowing into said stream.

The affidavit must be accompanied by maps in duplicate, showing the following details:

1. If for irrigation and domestic use:
 - (a) Name of applicant.
 - (b) Section, town and range numbers, where public survey has been made.
 - (c) Source or sources of supply.
 - (d) Point or points of diversion.
 - (e) Route of ditch or ditches, including laterals delivering water within one mile of each 160 acre tract of the land to be irrigated.
 - (f) Lands to be irrigated to be shown by cross-hatching, outlining, or coloring.
2. If for other than irrigation and domestic purposes:
 - (a) Name of applicant.
 - (b) Section, town and range numbers, where public survey has been made.
 - (c) Source or sources of supply.
 - (d) Point or points of diversion.
 - (e) Route of ditch or ditches.
 - (f) Point or points of use.
 - (g) Point or points of return to stream after use.

If application is for more than 25 cubic feet per second, the maps must be prepared from actual survey and must be certified to by the engineer in charge of survey, in the following form:

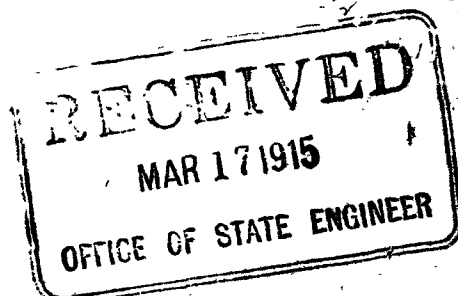
I hereby certify that this map was prepared from an actual survey made by me.....191..., and correctly shows position of points indicated thereon.

.....
Engineer.

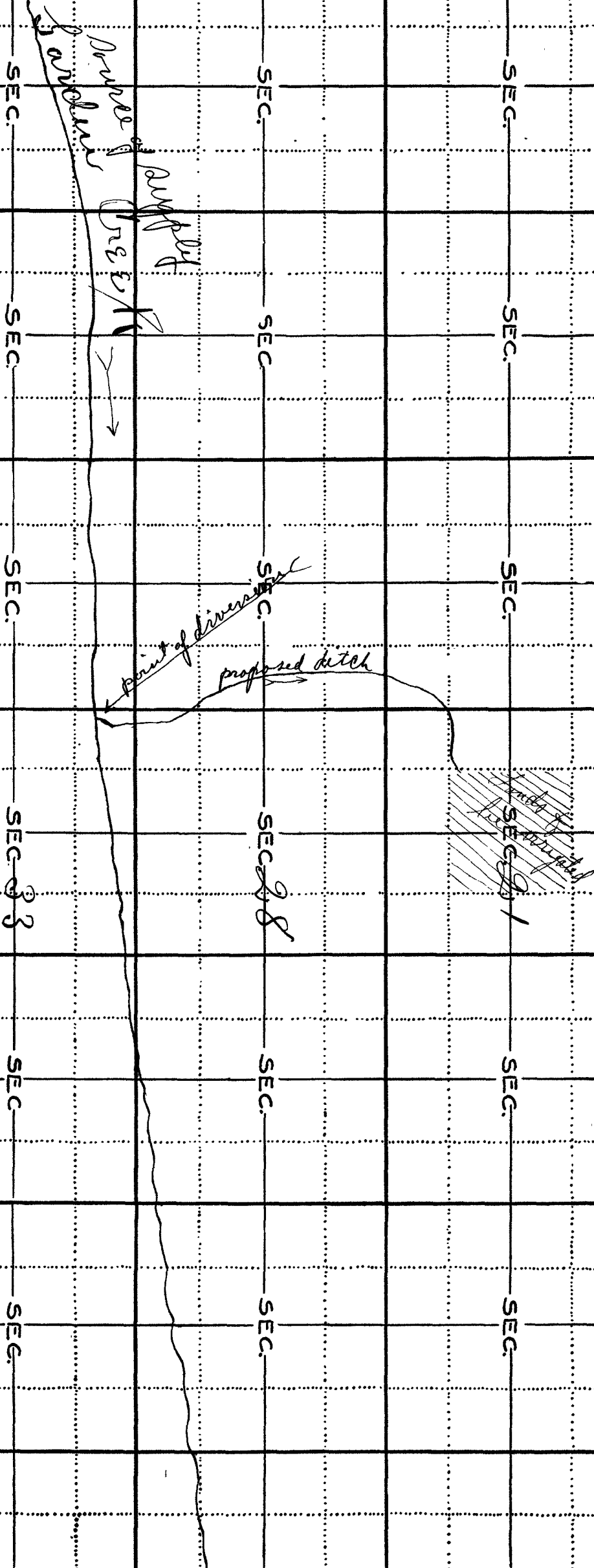
P. O.

Date.....191...

(Over.)



J. L. Adams ^{Dr.}

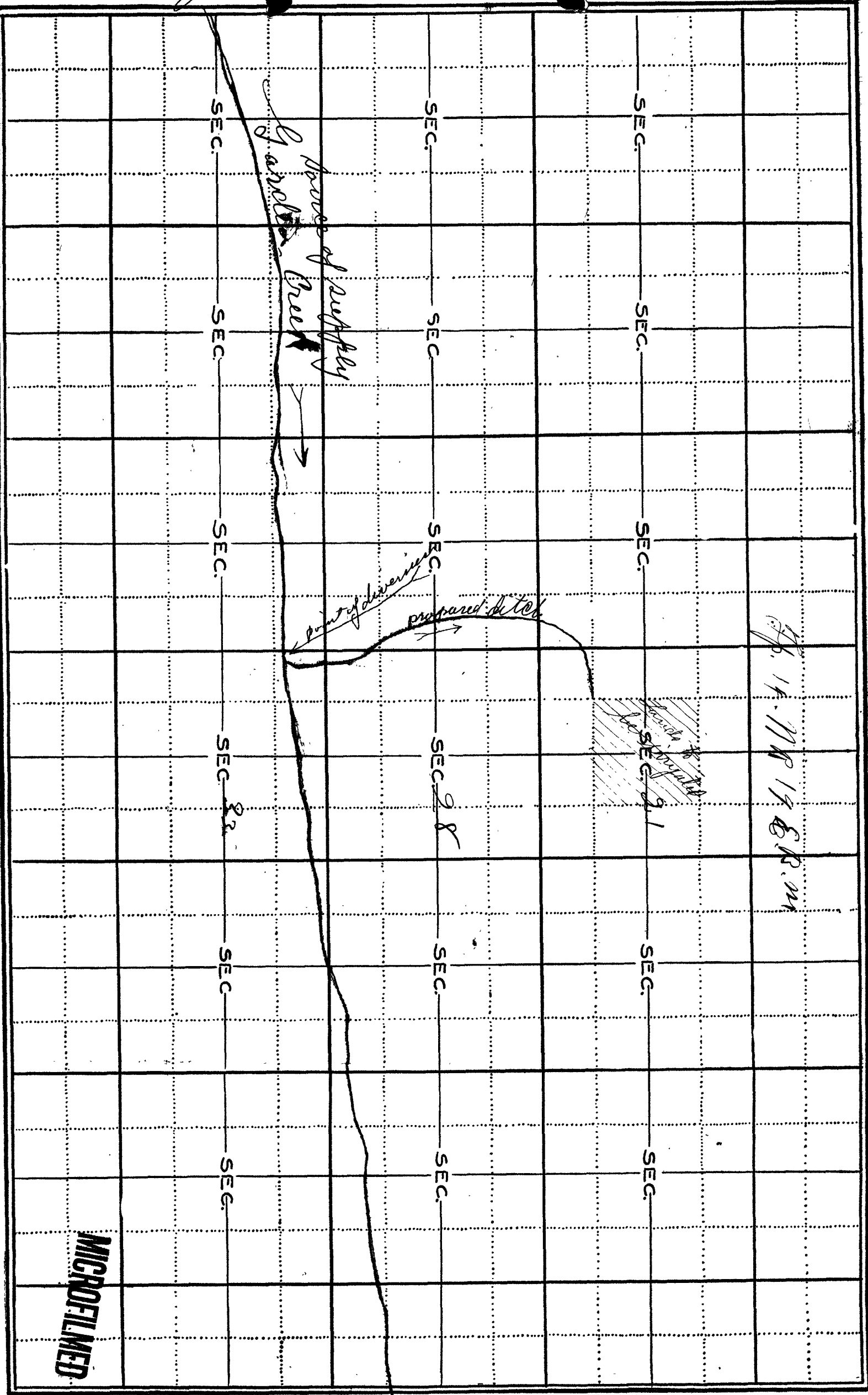


UNPROFILING

Name of Applicant

J. L. Adams

W.



Ap. 14. 11. 19 6. 8. m.

MICROFILMED

THE UNITED STATES DEPARTMENT OF THE INTERIOR

THEO. H. ... 3/2/84

72-B

[illegible][illegible]

0 0 0 0 0 0

1. I arrived during late afternoon hours for landing before
2. 1 hour 15 minutes, a reference to an hour regularly indicated by the
3. 1 hour 15 minutes, and 1 hour 15 minutes before landing without a
4. 1 hour 15 minutes

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... influence on ... respective ... having
... all reforms for his own information, ... having
... constitution of ... conditions of law, in this
... and conclusions of law,
... by reason of ... and the findings on con-

Page 1.

... it is therefore ordered, adjudged and decreed that the
 ... on Crook, and its subsidiaries, situated in the County of
 ... State of Idaho, be and the same are hereby distributed, awarded
 and decreed to the several parties to this suit, for beneficial purposes
 ... for the first, with priority
 of right to commence with a date, as follows, to-wit:-

72 00472. To the plaintiff, John G. Adams, no Hundred and Two (102)
 inches, or 1.0 cubic feet, for the
 irrigation of

East Half of the Northeast Quarter (E 1/2 NW 1/4), East Half
 of the Southwest Quarter (E 1/2 SW 1/4), Section Twenty-two (22),
 Township Fourteen (14) North, Range Nineteen (19) East of the
 Boise Meridian, as shown on the hundred and sixty (160) acres

to right to use from October 14, 1907.

72 00481. To the plaintiff, John G. Adams, 160 inches, or 0.8 cubic
 feet per second of time for the irrigation of the 160 acres

SW 1/4, NW 1/4, Sec. 22, T. 14 N., R. 19 E.,
 S. 1. 160 acres

to right to use from May 11, 1901.

72 00481. To the plaintiff, J. A. Harrison, 160 inches, or 1.0 cubic
 feet per second of time for the irrigation of the 160 acres
 and the waters of a slough known as the Lowell
 Slough, for the irrigation of the 160 acres, or 1.0 cubic feet, for the
 irrigation of

SW 1/4, NW 1/4, Sec. 22, T. 14 N., R. 19 E.,
 S. 1. 160 acres

to right to use from March 22, 1874.

72 00501. To the plaintiff, J. A. Harrison, 160 inches, or 1.0 cubic
 feet per second of time for the irrigation of the 160 acres

SW 1/4, NW 1/4, Sec. 22, T. 14 N., R. 19 E.,
 S. 1. 160 acres

to right to use from May 11, 1901.

72 00511. To the plaintiff, Charles A. May, 160 inches, or 1.0 cubic
 feet per second of time for the irrigation of the 160 acres

SW 1/4, NW 1/4, Sec. 22, T. 14 N., R. 19 E.,
 S. 1. 160 acres

to right to use from May 11, 1901.

72 00521. To the plaintiff, Freda Wilson, 160 inches, or 1.0 cubic
 feet per second of time for the irrigation of the 160 acres

Commencing at the corner of Secs. 22, 23, 24 and 25,
 T. 14 N., R. 19 E., S. 1., running thence North 1/4 Sec. 22 and 23
 thence East 1/4 Sec. 22 and 23 thence South 1/4 Sec. 22 and 23
 thence West 1/4 Sec. 22 and 23 thence North 1/4 Sec. 22 and 23
 to the corner of Sec. 22 and 23, S. 1. 160 acres

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Trans #161
 #561
 Trans #192

Trans #353-354-362-372
 #358, #357-776

APR 27 1987

72-0047

4-22-87

1:00 P.M.

Department of Water Resources

Kent W. Foster, Esq.
HOLDEN, KIDWELL, HAHN & CRAPO
P.O. Box 129
Idaho Falls, Idaho 83402
Telephone: (208) 523-0620

Barbara Breedlove
Deputy

Attorneys for Defendants

IN THE DISTRICT COURT OF THE SEVENTH JUDICIAL DISTRICT OF THE
STATE OF IDAHO, IN AND FOR THE COUNTY OF CUSTER

RAY KEPPNER and ESTHER	)	Case No. 2690
KEPPNER, husband and wife,	)	
	)	
Plaintiffs,	)	DECLARATORY JUDGMENT
	)	
vs.	)	
	)	
DEPARTMENT OF WATER RESOURCES,	)	
State of Idaho and KENNETH	)	
DUNN, Director of the	)	
Department of Water Resources,	)	
State of Idaho, and the CITY	)	
of CHALLIS, IDAHO,	)	
	)	
Defendants.	)	

The original plaintiffs herein, Ray Keppner and Esther Keppner, husband and wife, Joseph Peck and Ethel Peck, husband and wife, Kenneth Stark and Frances Stark, husband and wife, and DeRay Keppner, watermaster of Garden Creek Water District #72B, filed their verified Complaint with attached exhibits "A" through "F" on September 18, 1981, naming the DEPARTMENT OF WATER RESOURCES, State of Idaho and KENNETH DUNN, Director of the Department of Water Resources, State of Idaho, as defendants.

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JUL 09 1987

The Complaint sought a writ prohibiting defendants from discharging DeRay Keppner as watermaster or interfering with his distribution of water from Garden Creek, together with attorneys' fees and costs. On September 29, 1981, the parties stipulated to the entry of an order reinstating DeRay Keppner as watermaster on condition he deliver water in accordance with the stipulated schedule and that plaintiffs would amend their Complaint to join the City of Challis as a party-defendant and to seek a Declaratory Judgment determining the respective water rights of the parties. The Order was signed October 9, 1981, and filed October 13, 1981.

The plaintiffs filed an Amended Complaint January 15, 1982, omitting Kenneth Dunn as a defendant and naming the CITY OF CHALLIS, IDAHO, as a defendant. The Amended Complaint sought a Declaratory Judgment that the amount of water to be delivered to the City of Challis be reduced by the amount of stream gain in Garden Creek between the present point of diversion and the original point of diversion as regularly measured and determined by the watermaster. The defendant, City of Challis, filed its Answer to the Amended Complaint on February 5, 1982, alleging certain factual information and seeking a Declaratory Judgment that the City of Challis is entitled to the delivery of 79 miner's inches at the present upper point of diversion at the intake for the city pipeline,

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JUL 09 1981

and 23 miner's inches at the original lower point of diversion with a priority date of 1877, and to 25 miner's inches at the present or upper diversion with a priority of May 15, 1880, and also for the appointment of a disinterested watermaster.

The defendants, Department of Water Resources (hereafter IDWR) and Dunn filed their Answer to plaintiffs' Amended Complaint on February 17, 1982, alleging affirmative facts and defenses and seeking a declaration by the Court that the City of Challis is entitled to at least 75 miner's inches without a determination by the watermaster of stream gains and that the watermaster is subject to the authority of IDWR and cannot be adverse to IDWR in litigation concerning the distribution of water.

Pursuant to a subsequent stipulation of all parties, the Court entered an Order dated August 16, 1982, that the plaintiff, DeRay Keppner, watermaster of Garden Creek Water District #72B, be dropped as a plaintiff from the action. On January 27, 1983, the Court entered an Order, again pursuant to stipulation, that Kenneth Stark and Frances Stark be dropped as plaintiffs to the action. From about that time on, the names of Joseph Peck and Ethel Peck, also appear to have been omitted as plaintiffs on most of the documents filed with this Court.

A Stipulation of Facts with attached exhibits "A" through "O" was signed by counsel for all parties on January 16, 1984,

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JUL 09 1984

and filed herein. Pursuant to motion, the Court entered its Minute Entry and Order, filed September 27, 1985, permitting the defendant, City of Challis, to file its Amended Answer, which alleged, inter alia, as an affirmative defense, facts supporting application of the doctrine of estoppel by laches against the plaintiffs.

Defendant City of Challis then filed a Motion For Summary Judgment supported by various affidavits setting out additional alleged facts pertinent to the issue of estoppel by laches. On January 29, 1986, plaintiffs, Ray and Esther Keppner filed their Motion For Partial Summary Judgment. No counter affidavits were filed by plaintiffs and the factual information in the record relating to long and knowing acquiescence by plaintiffs and their predecessors in interest in the delivery of 79 miner's inches of the waters of Garden Creek at the present or upper point of diversion to the defendant City of Challis, and the detrimental reliance by the defendant City of Challis thereon, is uncontroverted.

The respective motions of the parties for summary judgment were noticed up for hearing, but before the hearing could be scheduled and held, the parties stipulated to submit the matter to the Court for decision on the motions for summary judgment, without oral argument, on the briefs and the record. The Court has reviewed the record and the briefs and has entered its

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JUL 09 1987

Memorandum Decision herein, dated March 19, 1987, and its Amended Memorandum Decision, dated April 8, 1987, concluding that the City of Challis is entitled to a Declaratory Judgment establishing its right to the continued diversion of 79 miner's inches at the present point of diversion:

NOW, THEREFORE, the Court hereby declares, adjudges and decrees as follows:

1. Defendant City of Challis, Idaho, is the owner and holder of water right No. 72-0074, for 2.04 cfs (102 miner's inches) of the waters of Garden Creek, with a priority date of October 24, 1877, for beneficial purposes and uses, which right was originally decreed to one John Q. Adams in the case of John Q. Adams vs. R. B. Vandervoort, et al, by the District Court of the Sixth Judicial District of the State of Idaho, in and for the County of Custer, J. M. Stevens, District Judge, on May 23, 1914. The point of diversion for said water right was at the Baxter Ditch headgate in the NW1/4 NW1/4, S33, T14N, R19, EBM, and water under said right was used for irrigation and domestic purposes upon approximately 160 acres in the SE1/4 NW1/4, SW1/4 NE1/4, NE1/4 SW1/4, NW1/4 SE1/4, S21, T14N, R19, EBM.

2. Said right No. 72-0047 was acquired by the City of Challis by purchase in 1935, and by virtue of a transfer proceeding before the State of Idaho Department of Reclamation (a predecessor agency of the Idaho Department of Water

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JUL 09 1987

Resources) which was completed in 1936, said right was transferred for use for irrigation and domestic purposes from the former place of use to the E1/2 NE1/4, S32 and the W1/2 NW1/4, S33, all in T14N, R19, EBM. The point of diversion was changed so that 1.58 cfs (79 miner's inches) was to be diverted at the intake for the city pipeline in the NW1/4 NW1/4, S32, T14N, R19, EBM, and the balance of .46 cfs (23 miner's inches) was to be diverted into a ditch with its headgate on Garden Creek in the NE1/4 NE1/4, S32, T14N, R19, EBM.

3. The Certificate of Transfer documenting the above described transfer of the place of use and point of diversion for water right No. 72-0047 contained a provision to the effect that an amount of water was to be deducted from the 79 miner's inches diverted at the new upper diversion (city pipeline intake) equal to the stream gain between that point and the old point of diversion downstream. However, no amount was in fact ever deducted from the 79 miner's inches which was delivered at said new point of diversion to the City of Challis at all times during each irrigation season when water was available from Garden Creek under right No. 72-0047.

4. Plaintiffs and plaintiffs' predecessors in interest are estopped by laches from taking any action to prevent or reduce diversions under said right to the City of Challis at said upper point of diversion (the intake to the city pipeline)

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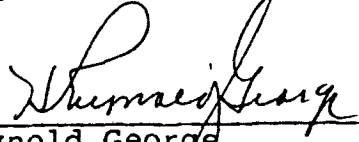
JUL 09 1961

because there has in fact been (1) long and knowing acquiescence for some 40-50 years by plaintiffs and their predecessors in interest in the practice of the watermasters of delivering the full 79 miner's inches to the City of Challis at its pipeline intake and (2) the City of Challis has relied to its detriment upon such practice by expanding its water service to an increasing population during the same period of time.

5. The defendant City of Challis is entitled to continue to divert and use 1.58 cfs (79 miner's inches) of the waters of Garden Creek under right No. 72-0047 with a priority of October 24, 1877, through its upper diversion at the intake to the city pipeline in the NW1/4 NW1/4, S32, T14N, R19, EBM, at all times during each irrigation season when water is available under such right.

6. Plaintiffs are not entitled to relief on their Complaint herein.

Rendered and entered this 15th day of April, 1987.



H. Reynold George
District Judge

7879e/sam

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JUL 09 1987

CLERK'S CERTIFICATE OF MAILING

I certify that I am the duly elected and qualified Clerk of the District Court of the Seventh Judicial District of the State of Idaho, in and for the County of Custer; that I mailed a copy of the foregoing Declaratory Judgment to the following attorneys this 22 day of April, 1987.

Barbara Breedlove
Clerk deputy

Myrna South, Esq.
MARCUS, MERRICK & MONTGOMERY
737 North 7th Street
Boise, Idaho 83702

Phillip J. Rassier, Esq.
Deputy Attorney General
Department of Water Resources
Statehouse
Boise, Idaho 83720

John S. McKinney, Esq.
P.O. Box 1442
Salmon, Idaho 83467

Kent W. Foster, Esq.
HOLDEN, KIDWELL, HAHN & CRAPO
P.O. Box 129
Idaho Falls, Idaho 83402

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JUL 09 1987

RECEIVED

APR 10 1987

Department of Water Resources

IN THE DISTRICT COURT OF THE SEVENTH JUDICIAL DISTRICT
OF THE STATE OF IDAHO, IN AND FOR THE COUNTY OF CUSTER

72-0047

T.#561

RAY KEPPNER and ESTHER
KEPPNER, husband and
wife,

Plaintiffs,

-vs-

DEPARTMENT OF WATER RESOURCES,
State of Idaho and KENNETH
DUNN, Director of the
Department of Water Resources,
State of Idaho; and the CITY
OF CHALLIS, IDAHO,

Defendants.

AMENDED

MEMORANDUM DECISION

Case No. 2690

In 1936 the Village of Challis owned a water right of 2.04 cubic feet per second or 102 Miner's inches with a priority date of October 24, 1877. In 1936 the Village set out to seek a change in point of diversion for a portion of this water right moving it upstream. It was apparently a known fact that in between the proposed upper diversion point and the lower diversion point water entered and supplemented the stream flow by virtue of springs and percolating waters. The formal application to the then Department of Water Resources for a change in point of diversion was filed on May 13, 1936.

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MAY 13 1987

sought a transfer of 79 inches to an upper diversion point connecting to the Village pipeline and 23 inches at a lower diversion point. Certain water right holders above the upper diversion including predecessors of plaintiffs Keppners protested this transfer. Apparently the 23 inches was the rise asserted between the two points of diversion and the protestors did not agree that this represented a correct figure. A statement was made that this rise was measured during a low water year. A hearing was held May 21, 1936, attended by affected water users and one Fred Tolman, a field engineer for the Department of Reclamation. At the conclusion of the meeting a stipulation was signed by all the protestants and the language of the stipulation was incorporated in the "Certificate of Water Right, Transferred Right No. 561." That language included the following statement:

. . .the water right hereby transferred. . .will be diverted. . .in the following manner:

An amount of said water equal to the difference between said 2.04 cubic feet per second (102 inches) and the amount of water found to raise between the present intake for the Village reservoir and the present point of diversion for the Arthur Baxter ditch. . .

. . .it is further stipulated and agreed by and between said parties that the duly and legally

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MAY 13 1987

appointed watermaster shall determine the amount of water so raising between said point above mentioned and shall regulate the 2.04 cubic feet per second of the water as heretofore stated.

It is apparent that a measurement of the rise was made on or about August 19, 1935, and was measured as 23 inches and this is the figure that the protestors disagreed with. The full record of this case can be examined and it appears that there was no attempt by any watermaster to reduce the intake at the upper diversion by virtue of any measurement of the rise. Whatever recordings of the amount of intake have been made up to 1980 show that the Village received at least 75 inches. After Ray Keppner's son became watermaster measurements were taken of the rise and based on these measurements, and for the first time in over 40 years, the diverted amount at the upper diversion was reduced.

It is significant that the predecessor protestors stipulated the delegation to the watermaster to measure the rise and consequently make any reduction in the flow at the upper diversion. The Village was not in a position to regulate the flow leaving it up to the watermaster, as the protestors and stipulators left it up to the watermaster to deliver the water. If any watermaster serving prior to

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MAY 13 1987

Mr. Keppner had made a measurement of the rise and had then adjusted the flow accordingly there would have been much less of a case to claim that flow could not be reduced because of laches, forfeiture, or adverse possession. Mr. Ray Keppner is bound by the action or non-action of his predecessors.

The City of Challis urged the Court to hold that plaintiff be estopped by laches from questioning the historic delivery of 79 inches of water at the upper diversion. The case of Hillcrest Irrigation District v Nampa and Meridian Irrigation District, 57 Idaho 403, 66 P.2d 115 (1937), is cited as good authority to hold that the Keppners be estopped because of laches. In Hillcrest there was an application in 1913 to change the point of diversion of 1077 inches of water much further upstream. The change was granted and water diverted upstream for a period of more than 20 years and only after that passage of time was any question raised as to the transfer. The Court stated:

It satisfactorily and conclusively appears that even the (Hillcrest's) title may have been originally questionable or uncertain, nevertheless respondents have stood by, with full knowledge of all the facts, and for more than 20 years, have allowed (Hillcrest) to proceed on the theory that it had valid title to these water rights (and). . . respondents are and should be estopped from questioning (Hillcrest's) title.

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MAY 13 1987

The Court further said:

. . .the description has for more than 20 years proven sufficient in practical application to enable the various watermasters to identify it and made diversion from year to year so that in practice there has been no controversy or dispute over the particular water rights or appropriations that were intended to be, and in fact, were transferred. . .

The Hillcrest case is certainly good authority for support of the position taken by the City of Challis if it can be satisfactorily shown that the protestants and their successors stood by with full knowledge of all the facts. What knowledge can we assess against these protestants and their successors:

(1) Full knowledge that by agreement the Village was not to receive all of the 102 inches at their upper diversion, but was to be reduced by the rise generated between the two points of diversion;

(2) Full knowledge that the duly and regularly appointed watermaster was to determine the amount of water so raising and regulate the flow at the upper diversion accordingly;

(3) Constructive knowledge of the delivery of 79 inches at the upper diversion over a period of many years. To bear this out we have the affidavit of Lawrence Bradbury, who served

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MAY 13 1987

as secretary of the Water District for almost 25 years, from 1948 to 1973. He states that it was the practice all these 25 years to deliver 79 inches to the City of Challis at the upper diversion. He further states in his affidavit that the City paid its annual assessment on the basis of having received 79 inches of water each year. The diversion of the water to the City was open and visible to all the upper water users.

From such constructive notice it can be concluded that the protestants and their successors knew or should have known the amount of water being diverted and thus it should be held that they had knowledge of such fact. See Pflueger v Hopple, 66 Idaho 152, 150 P.2d 315 (1945). Also Fred Green, who was watermaster at the time of this 1936 stipulation and transfer, remained as watermaster through 1945. He, in a sense through the stipulation, became the agent of the protestors to make any adjustment that would vary the 79 inch delivery. He carried out his duties as Watermaster openly and obviously under such circumstances that the protestors as prudent men were put on inquiry as to the particular fact of the amount of water being diverted. (See Pflueger, *ibid.*)

The plaintiffs contend that the protestors and successors had the right to believe that the watermaster was distributing

RECORDED

MAY 13 1981

the water according to the decrees. That contention is basically true, but it is also true that there is no evidence that the watermaster in delivering 79 inches was doing anything but delivering according to the decree.

In Mr. Keppner's affidavit he states that in 1979 Gary Funderburg of Water Resources had measurements taken to determine the rise between the City's old and new points of diversion and that this was the first Mr. Keppner realized the City was taking more water than it was entitled to. First Mr. Keppner's possible acquiescence is not material. If there be a sound basis for laches it had taken place long before 1979. Secondly Mr. Keppner is bound by that which was done or not done by his predecessors. Next, there is no evidence that at any time prior to 1979 by measurement was it established that the City was receiving more water than it was entitled to.

The doctrine of laches is a creation of equity and applies where there is a long and continuous knowing acquiescence in another's use and enjoyment of a property right. There may be an estoppel to prevent a continued use and enjoyment of that property right if the rightholder has failed to assert his right at an earlier time and there has resulted a substantial reliance on the part of the claimant. If we can find the long

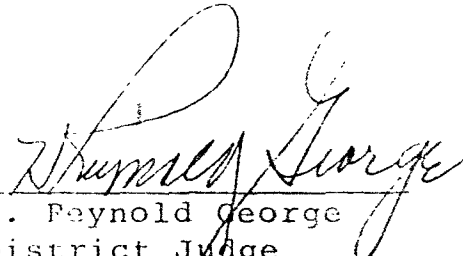
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MAY 13 1987

and continuous acquiescence can we also find detrimental reliance? That comes through the City's claim that they have expanded their water service to an increased population depending upon the water flow at the upper diversion. The Court gives credence to that claim and finds there is detrimental reliance over this 40-year period.

Based on the findings found in the foregoing language the Court concludes as a matter of law that the plaintiffs through their predecessors are guilty of laches and these predecessors having acquiesced in the continual diversion of approximately 79 inches of water at the upper diversion and the City of Challis is entitled to a declaratory judgment establishing that the City is entitled to the continued diversion of 79 inches.

Dated this 8th day of April, 1987.


H. Reynold George
District Judge

MICROFILMED

MAY 13 1987

M E M O R A N D U M

TO: 72-0047

FROM: D. Tuthill *DRT*

DATE: January 14, 1980

RE: Meeting on January 10, 1980

On the above date I attended a meeting in the Morrisen-Knudsen building regarding the expansion of Challis, Idaho. The construction of a molybdenum mine in the Challis Area will necessitate a substantial increase in the size of the city, and problems such as water supply are now being addressed.

The meeting was chaired by representatives from a group called Resource Assessment, Inc. Also in attendance were representatives from M-K, CH2MHill, and the Challis city council. I reported to them our initial findings on an investigation into the quantity of water available to the city under decreed right 72-0047, as follows:

1. Transfer 561 moved the point of diversion for water right 72-0047 from its original position in NWNW S.33,T14N,R19E to the point of diversion for the city in NWNW S.32,T14N,R19E.
2. A stipulation signed by the city fathers and local waterusers prior the approval of the transfer stated in essence that the amount of water diverted at the new point of diversion would be 102 inches minus the amount of inflow occurring between the original point of diversion and the city's point of diversion.
3. The amount of inflow in ^{the} reach between the new point of diversion and the old point of diversion has been measured as follows:

8-19-1935	23inches	(see memo in file)
5-8 -1979	- 75 inches average (per telecon w/Gary Funderburg)	
5-9 -1979		
7-6 -1979		
7-7 -1979		
9-27-1979		
11-19-1979		

4. One option available to the city may^{be} to pump the inflow from from its point of availablility at the old point of diversion, to the place of use. However, there is a question of forfeiture which must be addressed if this action is attempted through a new transfer.

Representatives from the Challis city council may contact us in the future about this matter.

c.c. Gary Funderburg

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MAY 13 1981

R 19E

T 14N

BAXTER DITCH

21

28

GARDEN

TR

VILLAGE
PIPE LINE

32

33

MICROFILMED

MAY 13 1987

MERLE L. DRAKE
ATTORNEY AT LAW
CHALLIS, IDAHO

File

June 20, 1936

Frederick A. Drager
Director of Water Resources
Department of Reclamation
Boise, Idaho

Dear Sir:

This is to acknowledge receipt of your letter of June 17,
together with Order granting transfer and a certificate
of transfer of water right as issued to the Village of
Challis.

I have checked over the certificate of transfer and find
that the contents thereof expresses the wishes of all
parties concerned as per stipulation submitted for your
consideration.

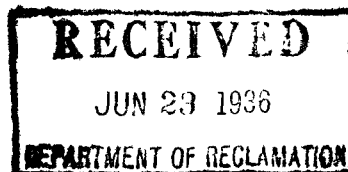
In behalf of the Village of Challis, I wish to thank
the Department for the consideration given this matter.

Yours very truly,

Merle L. Drake

Merle L. Drake

MLD:ew



MICROFILMED

MAY 13 1987

Draw. 561

June 17, 1936

Mr. MERLE L. DRAKE
Challis, Idaho

Dear Sir:

I am enclosing herewith an Order Granting Transfer, and a Certificate of Transfer of Water Right as issued to the Village of Challis. Also a receipt for one dollar (\$1.00) covering the fee of this transfer and the Abstract of Title to the water right contained in this transfer.

Will you kindly check over the certificate of Transfer and note if the division of the water contained therein is as you intended it to be in the stipulation which you sent to this office sometime ago. If this division is not as you intended kindly let this office know at once.

Yours very truly,

Frederick E. Drager,
Director of Water Resources.

FED/ci
Encl.

RECORDED

Trans. 561

June 17, 1936

Mr. FRED GREEN
Challis, Idaho

Dear Sir:

We are enclosing herewith a copy of an Order Granting Transfer and a Certificate of Transfer of Water Right, as issued to the Village of Challis, in the amount of 2.04 cubic feet per second of the waters of Garden Creek.

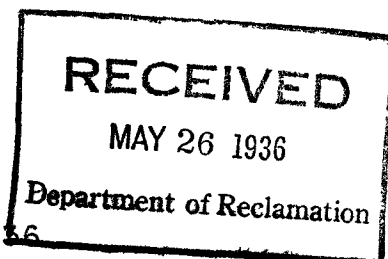
Yours very truly,

Frederick E. Drager,
Director of Water Resources

FED/ci

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MERLE L. DRAKE
ATTORNEY AT LAW
CHALLIS, IDAHO



May 22, 1936

R. W. Faris
Commissioner of Reclamation
State of Idaho
Boise, Idaho

Dear Mr. Faris:

Replying to your letter of May 18th, I wish to state that a meeting was had on May 21st by certain water users of Garden Creek, officials of the Village of Challis and a representative from your department by the name of Mr. Toleman, for the purpose of ascertaining if some kind of an agreement could not be reached as to the application of the Village of Challis to transfer the waters from the Arthur Baxter ranch. At this meeting all parties present agreed that the transfer may be made subject to a certain reservation. This agreement, etc., has been reduced to writing in the form of a stipulation; signed by the respective parties, and I enclose the same for your consideration.

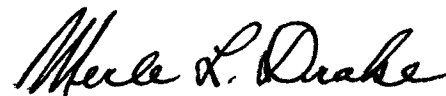
Messrs. Klug, Bradbury and Thompson, the gentlemen who filed objections to the transfer, were present at the meeting and agreed to the transfer. They have also signed the stipulation.

In the event you do not understand any of the provisions of the stipulation, I suggest you consult Mr. Toleman.

Your immediate consideration of this matter will be greatly appreciated by the Village of Challis. When the transfer is issued, please forward same to me.

Yours very truly,

MLD:ew
enc. 1


Merle L. Drake

MICROFILMED

IN THE MATTER OF THE APPLICATION
OF THE VILLAGE OF CHALLIS FOR
TRANSFER OF WATER RIGHT

)
)
) STIPULATION

RECEIVED

MAY 26 1936

Department of Reclamation

TO HONORABLE R. W. FARIS, COMMISSIONER OF RECLAMATION STATE OF IDAHO:

WHEREAS, On or about the 1st day of March, 1936, an application was made by the Village of Challis, a municipal corporation organized and existing under and by virtue of the laws of the State of Idaho, to transfer 2.04 cubic feet per second of time of the waters of Garden Creek, County of Custer, State of Idaho, with date of priority October 24, 1877, decreed to John Q. Adams, by decree of the District Court of the Sixth Judicial District of the State of Idaho, in and for the County of Custer, in the case of John Q. Adams, et al, vs. R. B. Vandervort, et al, from the SE $\frac{1}{4}$ NW $\frac{1}{4}$, SW $\frac{1}{4}$ NE $\frac{1}{4}$, NE $\frac{1}{4}$ SW $\frac{1}{4}$, NW $\frac{1}{4}$ SE $\frac{1}{4}$, Section 21, Township 14, N. R. 19, E. B. M., with point of diversion in the NW $\frac{1}{4}$ NW $\frac{1}{4}$, Section 33, Township 14, N. R. 19, E. B. M. to and upon the E $\frac{1}{2}$ NE $\frac{1}{4}$, Section 32; W $\frac{1}{2}$ NW $\frac{1}{4}$, Section 33, all in Township 14, N. R. 19, E. B. M., and

WHEREAS, George Thompson, Alex Klug and Floyd Bradbury, all of Challis, Idaho, and users of decreed waters out of said Garden Creek filed written protests to said application to transfer said waters, and

WHEREAS, On the 21st day of May, 1936, at Challis, Idaho a meeting was held by the undersigned water users of said Garden Creek and the officials of the Village of Challis for the purpose of ascertaining if an amicable settlement could not be reached in the matter of said application to transfer said water, and

WHEREAS, All parties present having reached a satisfactory agreement as to the transfer of said water, subject to the approval of the Department of Reclamation.

NOW, WHEREFORE IT IS HEREBY STIPULATED AND AGREED By and

MICROFILMED

between the undersigned water users of said Garden Creek, Custer County, State of Idaho, and the Village of Challis, a municipal corporation, by and through its Chairman of the Village Board, that the Department of Reclamation may make and enter a transfer of said 2.04 cubic feet per second of the waters of Garden Creek, County of Custer, State of Idaho, with date of priority October 24, 1877, decreed to John Q. Adams, by decree of the District Court of the Sixth Judicial District of the State of Idaho, in and for the County of Custer, in the case of John Q. Adams, et al, vs. R. B. Vandervort, et al, from the following lands, situate, lying and being in Water District 3-B, County of Custer, State of Idaho, to-wit: SE $\frac{1}{4}$ NW $\frac{1}{4}$, SW $\frac{1}{4}$ NE $\frac{1}{4}$, NE $\frac{1}{4}$ SW $\frac{1}{4}$, NW $\frac{1}{4}$ SE $\frac{1}{4}$, Section 21, Township 14, N. R. 19, E. B. M., with point of diversion in the NW $\frac{1}{4}$ NW $\frac{1}{4}$, Section 33, Township 14, N. R. 19, E. B. M., to and upon the following described lands situate, lying and being in Water District 3-B, County of Custer, State of Idaho, to-wit: E $\frac{1}{2}$ NE $\frac{1}{4}$, Section 32; W $\frac{1}{2}$ W $\frac{1}{2}$, Section 33, all in Township 14, N. R. 19, E. B. M., with point of diversion in the NW $\frac{1}{4}$ NW $\frac{1}{4}$, Section 32, Township, 14, N. R. 19, E. B. M., or what is commonly known as the intake for the present Village reservoir, subject to the following reservation: That from said 2.04 cubic feet per second of the water of Garden Creek, there shall be deducted at the village's point of diversion an amount of water equivalent to the number of miner's inches raising in the channel of said stream between the present intake for the village reservoir and the present point of diversion for the Arthur Baxter ditch, providing the quantity of water raising can not be used to fill decreed or licensed rights below the said point of diversion for the Arthur Baxter ditch because of scarcity of water and in accordance with the decree or licenses.

IT IS FURTHER STIPULATED AND AGREED By and between said parties

MICROFILMED

that the duly and regularly appointed water master shall determining the amount of water so raising between said points above mentioned and shall regulate the 2.04 cubic feet per second of water as heretofore stated.

IT IS FURTHER STIPULATED AND AGREED: That providing a transfer is made in accordance with the terms above stated, that the Commissioner of Reclamation may disregard all protests or objections filed against said application to transfer said water.

Floyd M. Bradbury
Water user

J. E. Bradbury
Water user

L. W. Bradbury
Water user

Geo. Thompson
Water user

W. H. Klug
Water user

VILLAGE OF CHALLIS, A MUNICIPAL
CORPORATION

BY Donald Rowles
Chairman of the Village Board

Challis, Idaho

May 21, 1936

At a meeting in the Custer County Court House upon this date the following named gentlemen were present:

Water Users

Floyd Bradbury
J. E. Bradbury
Alex Klug
George Thompson
Guy Bradbury

Officials of the Village of Challis

Donald Rowles
John Kirk
J. Jarvis
John Boyd - Clerk
Merle L. Drake - Attorney

The proposed transfer of water known as the Bradbury right, now owned by the Village of Challis, was discussed and all present agreed that the village should transfer all of the Bradbury 102" of water except creek gain below the village point of diversion, the said gain to be determined by the watermaster and administered as stream flow in accordance with provisions of the decree. It was explained that regardless of amount named in transfer of point of diversion, all decreed rights would have to be respected. None objected, and all agreed.

The disposal of water which raises below the proposed new point of diversion and above the original Bradbury diversion point was discussed and the proposal of the Village Board that this item of creek gain might be exchanged with the U. S. Forest Service for an equal amount of water from their storage reservoir situated above the village pipe line was also discussed and no objections raised.


Field Engineer

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Challis, Idaho
May 21, 1936

At a meeting in the Custer County Court House upon this date the following named gentlemen were present:

Water Users

Floyd Bradbury
J. E. Bradbury
Alex Klug
George Thompson
Guy Bradbury

Officials of the Village of Challis

Donald Rowles
John Kirk
J. Jarvis
John Boyd - Clerk
Merle L. Drake - Attorney

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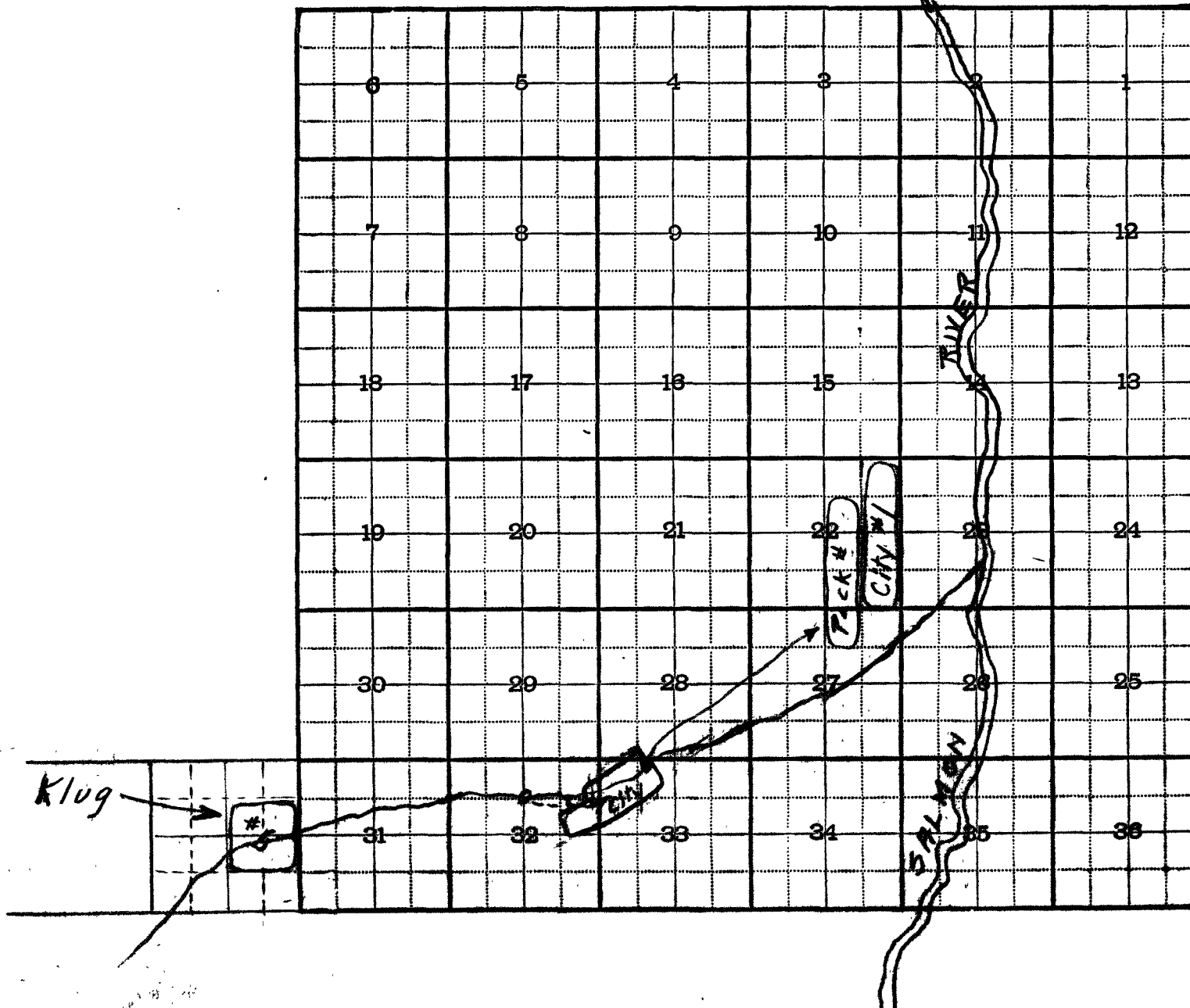
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Field Engineer

MICROFILMED

7913
5280
2733

SCALE: ONE INCH TO ONE MILE

Township 14 N Range 19 E

MICROFILMED

561
May 18, 1936

Mr. Merle L. Drake
Attorney at Law
Challis, Idaho

Dear Mr. Drake:

We have your letter dated May 14, 1936 in which you request information as to the date for holding a hearing on the application of the Village of Challis to transfer the waters from the Arthur Baxter ranch, with reference to which you are advised that we have deferred action in this matter hoping that some representative from this Department might be in your vicinity in the near future to conduct such hearing and avoid the expense of a trip from this office to Challis or from Challis to this office.

However, if the matter is urgent and you will so advise us, we will make some arrangement to take care of it in the near future.

Very truly yours,

Commissioner of Reclamation

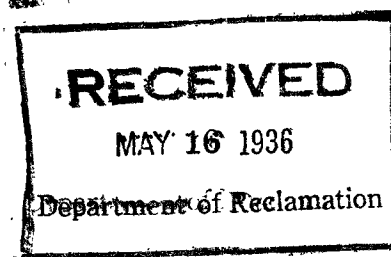
RWF/jh



MERLE L. DRAKE
ATTORNEY AT LAW
CHALLIS, IDAHO

May 14, 1936

Lester C. Walker
Director of Water Resources
Department of Reclamation
Boise, Idaho



Dear Mr. Walker:

What decision, if any, has been made with reference to a date for holding a hearing on the application of the Village of Challis to transfer the waters from the Arthur Baxter ranch?

I will be in Court at Blackfoot, Idaho on the 27th, 28th and 29th of this month. I plan to be away from my office from about June 1st to June 10th. If it is possible for you to set the hearing on dates which will not conflict with those mentioned, I will appreciate it very much.

Yours very truly,

Merle L. Drake
Merle L. Drake

MLD:ew

From Mr.

April 2, 1936

Mr. MERLE L. DRAKE
Challis, Idaho

Dear Mr. Drake:

We enclose herewith receipt for one dollar (\$1.00), which you transmitted with your letter of March 30, in payment of fee for certified copy of Certificate of Completion of Works, under Permit No. R-537.

We note that it is the desire of the Village of Challis to have a hearing on the application to transfer water from the Arthur Baxter place sometime during the month of April. For several reasons, it would be impossible for us to set a date for this hearing right at present. As soon as we are able to set a date, we will advise you and the protestants, as long in advance of the date finally set as possible.

Yours very truly,

Lester C. Walker,
Director of Water Resources

LCW/ci
Encl.

MERLE L. DRAKE
ATTORNEY AT LAW
CHALLIS, IDAHO

March 30th, 1936.

Lester C. Walker
Director of Water Resources
Boise, Idaho.

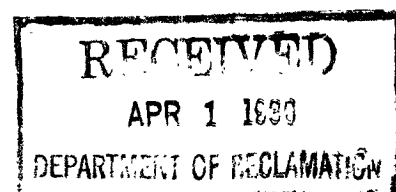
Dear Mr. Walker:

Enclosed find check for \$1.00., to cover fee for certified copy of Certificate of Completion of Works, etc., under Permit #R-537, issued to the Challis National Forest.

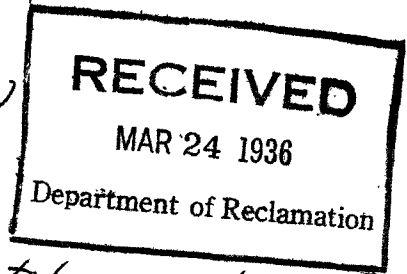
In the matter of the hearing on the application of the Village of Challis to transfer the water from the Arthur Baxter place, it is the desire of the Village to have the hearing some time during the month of April. As soon as you fix a definite date for this purpose, I will appreciate you advising me of same. I would like to know the date you set for the hearing as far in advance as it is possible for you give me.

Yours very truly,

Merle L. Drake



Idaho Mar 22 1936
State Engineer Boise Idaho



Dear Sir:-

I met the city
dads about transferring the Arthur Boyter
water right to the city of Elko
but could not come to any agreement
as to the seepage water and waste water
that drains from the Bradbery ranch below
the city weir and this water was
measured at the head of the Boyter ditch
and was a part of his water right
But the city dads do not want to consider
this seepage and waste water as a part
of their water right but want to take
out the full 102 inches out of the creek
1 mile above the Boyter weir
If this is allowed there is apt to be serious
trouble and I think can be avoided if
we can come to some reasonable agreement
Thanking you for your future recommendations
I am, very truly, O. L. Klug

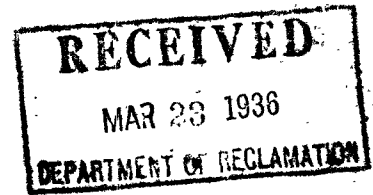
THE CHALLIS MESSENGER

HALSEY M. GRIDLEY, PUBLISHER

PRINTING, PUBLISHING, ADVERTISING

CHALLIS, IDAHO

March 20, 1936



Mr. R. W. Faris,
Commissioner of Reclamation,
Boise, Idaho.

Dear Sir:

Enclosed you will find an affidavit of publication for the "Notice of Proposed Transfer of Water Right" of the Village of Challis, which has just been completed in The Challis Messenger.

I am also giving Attorney M. L. Drake an affidavit of publication, in case he should need it at any
ti

Yours truly,

Halsey M. Gridley
HALSEY M. GRIDLEY

MICROFILMED

AFFIDAVIT OF PUBLICATION

State of Idaho,
County of Custer, ss.

**NOTICE OF PROPOSED
TRANSFER OF WATER RIGHT**

Notice is hereby given that The Village of Challis, Idaho, has applied to the Commissioner of Reclamation of the State of Idaho for a certificate authorizing him to transfer the use of 2.04 cubic feet per second of the water of Garden Creek from the land upon which it is now used, i. e. SE $\frac{1}{4}$ NW $\frac{1}{4}$, SW $\frac{1}{4}$ NE $\frac{1}{4}$, NE $\frac{1}{4}$ SW $\frac{1}{4}$, NW $\frac{1}{4}$ SE $\frac{1}{4}$ of Section 21, Township 14 North, Range 19 East, B. M., Custer County to the following described tract E $\frac{1}{2}$ NE $\frac{1}{4}$ of Section 32; W $\frac{1}{2}$ NW $\frac{1}{4}$ of Section 33, all in Township 14 North, Range 19 East, B. M.

And that, on the 23rd day of March, A. D. 1936, at 10:00 A. M., at Boise, Idaho, before the Commissioner of Reclamation, or his authorized agent, the opportunity will be given to any and all persons to appear and present for his consideration any reason or reasons why a certificate should not be issued authorizing such transfer.

R. W. FARIS
50-2 Commissioner of Reclamation

I, Halsey M. Gridley, manager of The Challis Messenger, a weekly newspaper, published at Challis, Idaho, do solemnly swear that the notice hereto attached and made a part hereof, was published in the regular and entire issue of The Challis

Messenger for 2
consecutive weeks commencing with the issue dated

March 11, 1936, and

ending with the issue dated
March 18, 1936

Halsey M. Gridley

Subscribed and sworn to
before me this 20th
day of March, 1936

W. L. Lister

Notary Public Residing at
Challis, Idaho

My Commission expires 1/27/38

2nd

March 17, 1936

Mr. FLOYD M. BRADBURY
Challis, Idaho

Dear Sir:

We have your letter of March 12, relative to the notice appearing in the Challis Messenger, wherein the Village has applied for a transfer of 2.04 second feet of the waters of Garden Creek.

For your information, the application provides for diverting 79 inches of the right at the in-take of the Village pipe line and 23 inches to be diverted at a point near the Village.

We assume that you wish your letter to be considered as a protest against this transfer. We have already received other protests so that it appears it will be necessary for us to hold a formal hearing on the application. In this case, the hearing which has been set for March 23, at Boise, will be continued and an actual hearing held in Challis at a later date. It will not be necessary for you or any other protestant to appear before us, in Boise, on March 23, but you will be notified of the date finally set for the hearing to be held in Challis.

Possibly, with the information which we have given you, to the effect that the Village proposes to divert only 79 inches at the head of their pipe line, you may desire to withdraw your protest. If so, please advise us, because if all protests are withdrawn, it would enable us to avoid the expense of a hearing at Challis.

Yours very truly,

Lester C. Walker,
Director of Water Resources

LCW/ci

March 17, 1936

Drake

Mr. MERLE L. DRAKE
Challis, Idaho

Dear Mr. Drake:

We are in receipt of your letter of March 12, relative to the application of the Village of Challis to transfer the water from the AMELIA BAXTER place.

As per your request, we enclose herewith certified copy of the certificate of Completion of Works of the reservoir and right to store water, under Permit No. R-537, issued to the Challis National Forest.

We have the report made by Mr. Fred Tolman last summer and have also discussed the situation with him.

In the same mail in which we received your letter, we received another protest from a man named FLOYD M. BRADBURY, whom we assume to be a water user from Garden Creek.

Apparently, there will be no way to obviate a hearing on this application, in which case the matter will be continued on March 23, to a later date and the actual hearing held at Challis. Under these conditions, it will not be necessary for the Village to be represented at Boise on March 23.

It will be our desire to set the hearing at such a time that we will be able to handle other matters on the same trip. For this reason, we would not, at the present time, want to set a date. Is there any reason why you will be particularly anxious for a hearing to be held at an early date? If the hearing could be held well along in April, we probably would have a better opportunity to arrange our plans so that we would take in more work on that trip. We would appreciate it if you would advise us on this particular point. It is not anticipated that it would be desirable to delay the hearing later than the latter part of April.

Yours very truly,

Lester C. Walker,
Director of Water Resources

LCW/e1

Challis, Idaho
March 12, 1936

RECEIVED

MAR 14 1936

Department of Reclamation

Mr. Lester C. Walker
Department of Reclamation
Boise, Idaho

Dear Sir:

In the Challis Messenger I notice that the Village of Challis, has applied to the Commissioner of Reclamation of the State of Idaho for a certificate authorizing him to transfer the use of 2.04 cubic feet per second of the water of Garden Creek which was known as the Arthur Baxter water right.

They want to transfer this water about a mile up Garden Creek. They claimed they measured it last year and there was 23 inches of water raised between the place where the city takes their water out and where the old Arthur Baxter water right was measured, but it has been measured several different years before and it generally runs between sixty and seventy inches that raises in the creek between the two points of diversion.

The City Council told us that they would take off those 23 inches and just transfer the 79 but from the paper it looks as if they are trying to transfer the whole right or the 102 inches, which if they do will work a hardship on the water users of Garden Creek because the water users in low water will lose that water that raises in Garden Creek between the two points of diversion if they are allowed to transfer the whole 102 inches.

I think they should be required to measure the water for three years and take an average on it, and then deduct it from the 102 inches and transfer the balance.

Several water users went to the City Council and asked them if we couldn't meet with them and talk things over. They set a night on which we were to meet but on that night none of the council

appeared. Afterwards we told some of the members of the Council we would be glad to meet with them any time they saw fit, and they said that would be fine but they failed to notify us of the meeting.

We want nothing but what is fair but we certainly don't think it is fair for them to transfer that much water.

At the water meeting on March 2 when we elected the water master all the water users were very much opposed to the transfer. The water master who has held that position for the last five years also thought it very unfair to the water users.

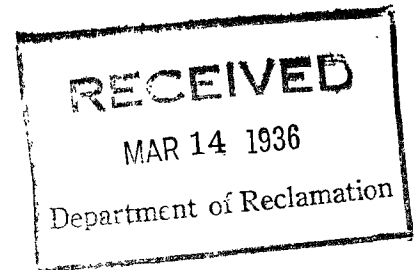
I would appreciate an early reply.

Respectfully yours,

Floyd M. Bradbury

Floyd M. Bradbury

MERLE L. DRAKE
ATTORNEY AT LAW
CHALLIS, IDAHO



March 12th, 1936.

Lester C. Walker
Director of Water Resources
Boise, Idaho.

Dear Mr. Walker:

This is to acknowledge receipt of your letter of March 6th, pertaining to the application of the Village of Challis to transfer the water from the Arthur Baxter Ranch, and the contents is very carefully noted.

In lieu of the points of diversion requested in the application which were designated for the purpose of taking care of the seepage water between the intake of the Village pipe line and the Village limits, I feel that there is no merit to either of the protests filed. As a matter of fact, the Village has very positive proof in this connection as weirs have been constructed and the water actually measured. It has been definitely determined that the amount of water raising in the creek between these two points is 23 inches. Hence the Village has only asked that 79 inches be diverted at the present intake of the pipe line.

There are also several points of diversion below the one now used by the Arthur Baxter ranch. I refer you in particular to Application No. R - 24949, etc., held by the Challis National Forest, which provides a constant flow of water down the creek from the Baxter point of diversion. If a license has been issued under this application, I would like to have a certified copy of same. If not, please send me a certified copy of Certificate of Completion of Reservoir and Right to Store Water which was issued September 27th, 1934 and appears in Volume R-2 of Permits *etc.* at Page 537.

Mr. Tolman, who is associated with the Department of Reclamation, has personal knowledge of the facts as above set forth. He can probably be of assistance to you in making a decision in this matter.

Since protests have been filed, will it be necessary for the Village to be represented at Boise on the date set for the hearing? As heretofore stated in another letter, if a formal hearing is necessary, the Village would like to have have it continued and the continued hearing had at

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MERLE L. DRAKE
ATTORNEY AT LAW
CHALLIS, IDAHO

Challis, Idaho.

Neither Mr. Klug nor Mr. Thompson have interviewed me relative to this matter and the Village Officials feel that they have gone over half way on the proposition.

Yours very truly,

Merle L. Drake

MICROFILMED

Trans.

March 6, 1936

Mr. MERLE L. DRAKE
Challis, Idaho

Dear Mr. Drake:

We are in receipt of a letter from Mr. ALEX KLUG, of Challis, in which he states that it had come to his attention that the Village had started to transfer the water from the Arthur Baxter Ranch. This letter was written prior to the time when notice could have been published so Mr. Klug must have secured his information from some other source than the published notice. In his letter he states that there is a considerable amount of seepage water in the section of Garden Creek, between the intake of the Village pipe line and the present point of diversion of the Baxter water and seems to think that on account of this seepage, the proposed transfer would work a hardship on other water users from the Creek.

Probably we will have to consider Mr. Klug's letter as a protest against the transfer. We have today written to him advising him that you have filed a formal application for transfer and suggested to him that he try to get together with the officers of the Village and come to a common understanding so that his protest could be withdrawn, if his present apprehension is based on misunderstanding of the situation.

We would like very much to avoid the necessity of holding a formal hearing on this application. We will appreciate hearing from you after the matter has been discussed between Mr. Klug and the Village officers. Of course, we do not have such knowledge of the situation at the present time as to express any opinion as to whether the transfer would injure him, or as to whether there is any justification in his making apposition to the transfer.

Yours very truly,

Lester C. Walker,
Director of Water Resources

LCW:ci

P. S. Since dictating this letter, we have received a protest from Mr. Geo. Thompson, so assume that it will probably be necessary to hold a formal hearing. We will advise you later definitely concerning this.

april 2nd

March 6, 1936

Mr. GEO. THOMPSON
Challis, Idaho

Dear Sir:

We have your letter of March 4, which we assume is to be considered as a protest against the proposed transfer of the old Arthur Baxter water right by the Village of Challis. The Village has filed with this Department a formal application for a transfer and notice is being published in the Challis Messenger. That notice states that a hearing will be had on the matter in Boise, on March 23.

Before receipt of your letter, we had received a letter from another water user from Garden Creek, who was also objecting to the proposed transfer. It would now appear that there will be protests against this transfer to such an extent that a formal hearing will be required. It is now anticipated that we will arrange to hold a hearing at Challis sometime later than March 23, at which time all interested parties will be heard. We were in hopes that an agreement might be reached between the Village of Challis and the other water users so that the necessity of a hearing might be avoided.

We shall consider your letter a formal protest unless we hear further from you to the effect that you wish to withdraw. It will not be necessary for you or anyone else to appear in Boise on March 23 unless we later advise you to that effect. Our present plan will be to set a later date for the hearing and hold it at Challis and notify everyone interested before hand so that they may be heard.

Yours very truly,

Lester C. Walker,
Director of Water Resources

LCW/ci

Done

March 6, 1936

Mr. ALEX KLUG
Challis, Idaho

Dear Sir:

We have your letter of March 2, relative to a proposed transfer of water and change of point of diversion on the part of the City of Challis. For your information, the Village of Challis has made application to this Department to transfer 102 inches of the waters of Garden Creek from what is known as the Barter Ranch, to the Village of Challis. They proposed to divert 79 inches of the water through the Village pipe line and the other 23 inches through a ditch which would divert from Garden Creek just above the Village. Notice of this proposed transfer of water right will be published for 2 weeks in the Challis Messenger and we have set March 23 as the date for the hearing on the proposed transfer.

You will have an opportunity to protest against the granting of the transfer and possibly the letter which we have received from you would have to be considered as a protest. If there are no protests, the hearing will be merely a formality at this office. If protests are filed, and not withdrawn, we will undoubtedly arrange to hold a continuation of the hearing at a date later than March 23 and will probably arrange to hold it at Challis so that all parties interested may be heard without entailing the expense of several persons making a trip to Boise. However, if this is done, it will necessitate the expense to this Department of a trip from here to Challis. For the reasons given, we are most anxious, if it is possible, to have an understanding of the situation prior to March 23 so that there will be no outstanding protests and so that these expenses may be avoided.

At the present time, we do not see how the matter of seepage has any bearing on the proposed transfer and we are wondering if you may not be laboring under a misapprehension. We certainly would appreciate it if you could get together with the officers of the Village and come to an understanding prior to March 23 so that the necessity of a formal hearing could be avoided. If you are able to do this, we wish you would write us again, stating that you have come to an agreement with them and that you no longer desire to protest against the transfer.

Mr. Alex Klug
Challis, Idaho

3/6/1936

However, you have a perfect right to protest if you feel that the transfer would injure you and everyone concerned is entitled to a hearing and will be granted ample opportunity to be heard.

We shall write to the Village and suggest to them that they contact you with the idea of arriving at an understanding if it can be done.

Yours very truly,

Lester C. Walker,
Director of Water Resources

LCW/ci

● Challis, Idaho ●

RECEIVED
March 4 1936

MAR 6 1936

Mr. R. W. Feris, Commissioner of Reclamation

Dear Sir:

The Village of Challis
having bought the water right
known as the Arthur Baxter
water right, and which according
to the decree, is the earliest water
right on Garden Creek, and which
claims 102 inches of water.

Intend to transfer this right from
its present point of diversion to a
point about $\frac{1}{2}$ mile above Challis
Where the City power plant is located
And The Village Council intend to
allow only 23 inches for the amount of
water which ~~passes~~ ^{flows} between the present
point of diversion and the place where
they intend to divert the water.
They claim that an engineer from your
office measured this water last summer
and said it was 23 inches
Now I knew nothing of this until
the water had been measured and
the engineer gone

and no other owner of a Water right was notified, unless someone in town who owns a small water right might have been notified.

Now I claim that 23 inches of water is not enough to allow for the water that raises between the two points of diversion.

For the reason that last year was one of the lowest water years we have ever had, and the Water master said in the presence of several witnesses ^{the day} known the amt of water which raised to be 40 inches,

Now I think a 3 year average should be taken as the amt of water to be deducted from the 102 inches

But the City Council refuse to do this, because they say they want to make out the necessary papers for transferring the water at once.

Now this means a grate deal to me for the reason that this seepage water has allways been part of the Arthur Baxter Water right.

And when the High water is gone, ^{the water right after the high water is gone} my ^{water} water is the first ^{water right} makes a cut off.

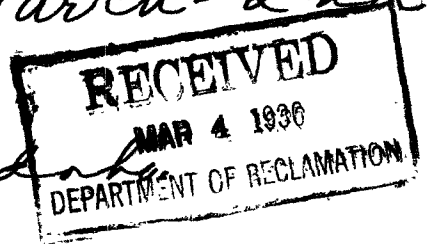
Hoping that you will give this matter your most careful consideration.

I am Yours very truly Geo. Thompson

Challis, Idaho.
March 2nd.

State Engineer:

Boise, Idaho.



Dear Sir:

The water users of Garden Creek held their annual meeting and elected their Watermaster for the coming water season.

At the meeting we were informed that the City of Challis has started to transfer the water from the Arthur Baxter ranch to the city. They recently purchased the ranch.

From the City head gates to The Arthur Baxter head gate there is a large amount of seepage water about 70 inches during a good water year. And it has been used as part of the Arthur Baxter decree allowed. Now the city wants to move 79 inches to the city head gate

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and allow 26 inches of seepage water.

They held a meeting but didn't inform any of the water owners about it and asked none of them to be present.

The water owners are not satisfied with this, they offered to take a 3 year average 35, 36, 37 and then permit the transfer of the actual amount belonging to the Arthur Butler ranch but the city refused anything but their own ideas.

I hope you can straighten this out and save a lawsuit as no rancher can afford to let the city rob him of his water.

Very truly

Alex. Kling.

270000
March 2, 1936

Mr. MERLE L. DRAKE
Attorney-at-Law
Challis, Idaho

Dear Sir:

We are this day in receipt of your letter of February 28, with which you enclosed an application for transfer of water right by the Village of Challis, together with an abstract of title and a check in the sum of one dollar (\$1.00).

This application appears to be in proper form and we are enclosing herewith notice for publication in the Challis Messenger, together with the letter of transmittal to them. We will thank you to deliver this to the Challis Messenger. We enclose carbon copy of the notice for your files.

You will note that we have set the date of hearing as March 23, at 10:00 A. M., at Boise, Idaho. This is in accordance with our usual custom. We note that you wish to hold the hearing at Challis, in case there are any objections to the transfer. Our usual custom is to set these hearings at Boise for the reason that in very few instances are there any protests. This enables us to handle most of the applications without going to the expense of making a trip out of town. In case protests are filed, the hearings are continued and the continued hearing held at a place most convenient to all concerned. If protests against this transfer are lodged, we will notify you and will arrange to hold the hearing, if it seems justifiable, at Challis. If no protests are lodged, it will be unnecessary for the Village to be represented here on the date set for the hearing.

Unless you have use for the abstract in the meantime, we will retain it until the hearing is held, after which it will be returned to you. Please see that the affidavit of publication reaches us prior to the date set for the hearing.

Yours very truly,

Lester C. Walker,
Director of Water Resources

LCW/cl
Encl.

STATE OF IDAHO
DEPARTMENT OF RECLAMATION
BOISE, IDAHO

Office copy

Date MARCH 2, 1936

THE CHALLIS MESSENGER
Challis, Idaho

DEAR SIR:

Enclosed you will find notice for publication once a week for ^{*Two*} ~~four~~ consecutive weeks
prior to March 21st, 1936, ~~the date set for proof~~, the expense of the publication
to be paid by the applicant, THE VILLAGE OF CHALLIS

to whom you should furnish proof of publication on or prior to the date set for proof.

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

Very truly yours,

R. W. FARIS

Commissioner of Reclamation

By *Lester C. Walker*
Director of Water Resources

MICROFILMED

Notice of Proposed Transfer of Water Right

Notice is hereby given that.....**THE VILLAGE OF CHALLIS**.....of **CHALLIS**.....
IDAHO....., has applied to the Commissioner of Reclamation of the State of Idaho for a certificate authorizing him to transfer the use of.....**2.04 cubic feet per second**.....
.....of the water of.....**GARDEN CREEK**.....
.....
from the land upon which it is now used, i. e.....**SE $\frac{1}{4}$ NW $\frac{1}{4}$, SW $\frac{1}{4}$ NE $\frac{1}{4}$, NE $\frac{1}{4}$ SW $\frac{1}{4}$, NW $\frac{1}{4}$ SE $\frac{1}{4}$ of Section 21, Township 14 North, Range 19 East, B. M., Custer County**.....
.....
to the following described tract.....**E $\frac{1}{2}$ NE $\frac{1}{4}$ of Section 32, W $\frac{1}{2}$ NW $\frac{1}{4}$ of Section 33, all in Township 14 North, Range 19 East, B. M.**.....
.....
.....

And that, on the.....**23rd**.....day of.....**MARCH**....., A. D. 192....., at **10:00 A. M., at Boise, Idaho,**.....
x 36 before the Commissioner of Reclamation, or his authorized agent, the opportunity will be given to any and all persons to appear and present for his consideration any reason or reasons why a certificate should not be issued authorizing such transfer.

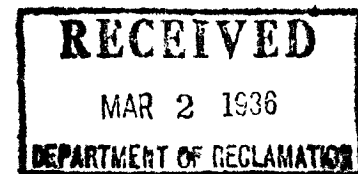
.....**R. W. FARIS**.....

Commissioner of Reclamation.

MERLE L. DRAKE
ATTORNEY AT LAW
CHALLIS, IDAHO

February 28th, 1936.

Commissioner of Reclamation
State of Idaho
Boise, Idaho.



Dear Sir:

Enclosed find application for transfer of water right, abstract of title and check in the sum of \$1.00., to cover your fee for certificate of transfer.

You may mail the notice for publication to me.

In the event there are any objections to the transfer, the Board of Trustees prefer to have the hearing at Challis, Idaho. There is considerable testimony and proof that can be submitted in support of this application and the cost of bringing witnesses and etc., to Boise, Idaho, is almost prohibitive.

Yours very truly,

Merle L. Drake

Enc.

MICROFILMED

STATE OF IDAHO
DEPARTMENT OF RECLAMATION

MEMORANDUM

August 19, 1935

Subject GARDEN CREEK

File District No. 3-B

A survey of the waters of Garden Creek as affecting the proposed addition to the municipal supply of Challis, Idaho, was made on the 16th instant, and conditions noted as follows:

The total stream flow at the intake of the city supply pipe was found to be as follows: 42 miner's inches were going into the pipe line, with an estimated loss of 5 inches immediately below which was returning directly back to the stream. At a Cippoletti weir situated about 50 yards below the points of diversion and leakage mentioned above, the stream flow was 76 miner's inches.

Deducting the 10 inches being diverted to the Peck right a short distance below leaves 66 inches total stream flow passing the Peck heading. The amount available at the head of the Banks ditch situated in the lower part of the village included 64 inches being diverted to the Banks right and 25 inches to the U. S. Forest right, or a total of 89 inches, which indicates a stream gain of 23 miner's inches between the pipe line intake and the lower diversions on the creek.

It is understood to be the purpose of the village board to acquire the Adams ranch, so-called, which has the No. 1 priority on Garden Creek and then by changing its point of diversion, dedicate it to municipal uses. By such an arrangement there would be made available at the present pipe line intake upward of 60 miner's inches more water than under the present arrangement. This would result in better service for lawns, gardens, etc., and also greatly increase the safety factor as regards fire protection. As regards the effect upon other water rights, the change would tend to be favorable rather than otherwise, as all remaining rights other than the U. S. Forest Service and the Peck rights divert above the city diversion.


Field Engineer

APPLICATION FOR TANSFER OF WATER RIGHT

STATE OF IDAHO)
) ss.
COUNTY OF CUSTER)

Donald Rowles, being first duly sworn, deposes and says:

That he is the Chairman of the Village Board of the Village of Challis, a municipal corporation organized and existing under and by virtue of the laws of the State of Idaho; that he makes this application for and on behalf of said Village; and that his postoffice address is Challis, Idaho;

That said Village of Challis is the owner and using a certain water right, bearing date of priority of October 24th 1877, for 2.04 cubic feet per second of the waters of Garden Creek, County of Custer, State of Idaho, decreed to John Q. Adams by decree of Judge, District Court of the Sixth Judicial District of the State of Idaho, in and for the County of Custer, in the case of John Q. Adams, et al., vs. R. B. Vandervort, et al., said decree bearing date of May 9th, 1914, for the purpose of irrigating the following described lands situate, lying and being in Water District No. 3-B in County of Custer and State of Idaho, to-wit: SE $\frac{1}{4}$ NW $\frac{1}{4}$, SW $\frac{1}{4}$ NE $\frac{1}{4}$, NE $\frac{1}{4}$ SW $\frac{1}{4}$, NW $\frac{1}{4}$ SE $\frac{1}{4}$, Sec. 21, Twp. 14 North Range 19 East, Boise Meridian, and is the representative of the corporation to whom such right so issued, or has become the owner thereof in the following manner, i. e., esne conveyances, as per abstract of title of said water right hereto attached and by reference made a part of this statement;

That said waters are now diverted from said stream in the NW $\frac{1}{4}$, Sec. 33, Twp. 14 North, Range 19 East, Boise Meridian, and conducted to the above described lands through a private ditch as per map herewith and of this affidavit made a part;

That said Village desires to abandon the use of 2.04 cubic feet per second of said water upon the above described lands, and

convey and use same upon the following tract, situate, lying and being in the County of Custer and State of Idaho, to-wit:

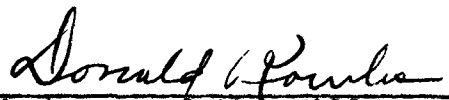
E $\frac{1}{2}$ NE $\frac{1}{4}$, Sec. 32; W $\frac{1}{2}$ NW $\frac{1}{4}$, Sec. 33, all in Twp. 14N., R.

19 E., B. M.

That its reasons for desiring to make such transfer are as follows: (1) To supply water to the inhabitants of the said Village of Challis for domestic purposes; (2) To supply water to property owners for the purpose of sprinkling their lawns; (3) To supply water for fire protection which is now totally inadequate during low water season;

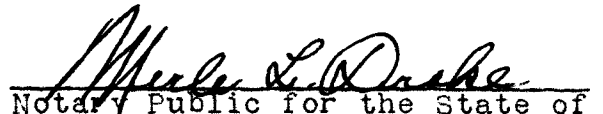
That said Village of Challis intends to divert and convey 79 inches of said water to the tract of land last above described through the Village pipe line with point of diversion in the NW $\frac{1}{4}$ NW $\frac{1}{4}$, Sec. 32, Twp. 14N. R. 19 E. B. M., and 23 inches of said water to the tract of land last above described through a ditch with point of diversion in the NE $\frac{1}{4}$ NE $\frac{1}{4}$, Sec. 32 Twp. 14N. R. 19E., B. M., all as set forth upon the map herewith; and that no one will be injured by such transfer.

WHEREFORE, Affiant and Petitioner in behalf of said Village of Challis prays that the Commissioner of Reclamation of the State of Idaho issue to said Village of Challis the proper certificate authorizing such transfer, in accordance with the provisions of Section 41-216, Idaho Code Annotated, as amended by Chapter 193 Idaho Session Laws of 1933.



Chairman of the Village Board of
the Village of Challis, Custer
County, State of Idaho-Applicant.

Subscribed and sworn to before me this 28th day of February, 1936


Notary Public for the State of
Idaho.
Challis, Idaho.

Township 14 North, Range 19 East, Boise Meridian,

North

SEC. 36	SEC. 31	SEC. 32	SEC. 33	SEC. 34	SEC. 35	SEC. 36	SEC. 31
SEC. 1	SEC. 6	SEC. 5	SEC. 4	SEC. 3	SEC. 2	SEC. 1	SEC. 6
SEC. 12	SEC. 7	SEC. 8	SEC. 9	SEC. 10	SEC. 11	SEC. 12	SEC. 7
SEC. 13	SEC. 18	SEC. 17	SEC. 16	SEC. 15	SEC. 14	SEC. 13	SEC. 18
SEC. 24	SEC. 19	SEC. 20	SEC. 21	SEC. 22	SEC. 23	SEC. 24	SEC. 19
SEC. 25	SEC. 30	SEC. 29	SEC. 28	SEC. 27	SEC. 26	SEC. 25	SEC. 30
SEC. 36	SEC. 31	SEC. 32	SEC. 33	SEC. 34	SEC. 35	SEC. 36	SEC. 31
SEC. 1	SEC. 6	SEC. 5	SEC. 4	SEC. 3	SEC. 2	SEC. 1	SEC. 6

Present Ditch

Present place of use.

Garden Creek Present point of Diversion

VILLAGE OF CHALLIS

Point of Diversion
19 inches

Point of Diversion
23 inches

South

PLOT P-4

Coyote Pub. Co., Colony, Wyo.,

AFFLICANT WILL ANSWER THE FOLLOWING QUESTIONS:

From what stream is the water diverted? Ans. Garden Creek.

Where is the diversion point located? Ans. NW $\frac{1}{4}$ NW $\frac{1}{4}$, Sec. 33, Tp.

14 N., R. 19E., B. M.

Through what ditch is it now conducted? Ans. Baxter Ditch.

How much land is now irrigated by the water sought to be transferred? Ans. 160 acres.

Give the description: SE $\frac{1}{4}$ SW $\frac{1}{4}$, SW $\frac{1}{4}$ NE $\frac{1}{4}$, NE $\frac{1}{4}$ SW $\frac{1}{4}$, NW $\frac{1}{4}$ SE $\frac{1}{4}$, Sec. 21, Tp.

14 N., R. 19 E., B. B.

What is the total amount of water in inches, or second feet, dedicated to said Land? Ans. 262 inches.

What kind of crops are being raised? Ans. Hay and grain.

How much water is now required to irrigate said land? 1 $\frac{1}{2}$ inch per acre.

What will be the effect on the land now irrigated, if the use of water on it is discontinued? Ans. At least one good crop of hay can be produced with the water not included in this application which is appurtenant to said land, and high water from Garden Creek.

Give location of new point of diversion, if change is to be made.

Ans. NW $\frac{1}{4}$ NW $\frac{1}{4}$. Sec. 32, Tp. 14 N., R. 19 E., B. M., being the present point of diversion for the village water system, and NE $\frac{1}{4}$ NE $\frac{1}{4}$, Sec. 32, Tp. 14 N., R. 19 E., B. M.

Through what ditch will it be conducted after transfer? Ans.

Through the village pipe line and Village ditch.

How much water will be required for the purposes as set forth in the application? Ans. A constant flow of not less than 200 inches.

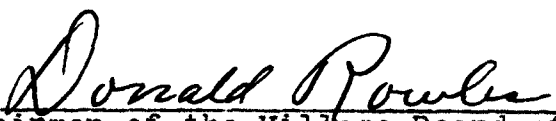
Does the Village of Challis claim any other water right for the land from which it seeks to abandon the use of this water? Ans. Yes.

If so, give amount, date and source, Ans. 160 inches with date of priority 1912, Source Challis Creek.

Is there now any other right for the land to which the Village of Challis seeks to make this transfer? Ans. Yes.

If so, give amount, date and source.

Amount.	Date.	Source.
3 inches.	April 15th, 1880.	Garden Creek.
16 inches.	May 15th, 1880.	Garden Creek.
10 inches.	May 15th, 1881.	Garden Creek.
37 inches.	May 15th, 1882.	Garden Creek.
9 inches.	May 15th, 1883.	Garden Creek.
34 inches.	May 15th, 1884.	Garden Creek.
58 inches.	May 15th, 1885.	Garden Creek.
3 inches.	May 15th, 1886.	Garden Creek.
18 inches.	May 15th, 1888.	Garden Creek.
8 inches.	May 15th, 1889.	Garden Creek.
3 inches.	May 15th, 1890.	Garden Creek.
2 inches.	May 15th, 1894.	Garden Creek.
8 inches.	May 15th, 1896.	Garden Creek.
4 inches.	May 15th, 1898.	Garden Creek.
8 inches.	May 15th, 1901.	Garden Creek.
3 inches.	May 15th, 1902.	Garden Creek.
3 inches.	May 15th, 1904.	Garden Creek.
6 inches.	May 15th, 1907.	Garden Creek.
5 inches.	May 15th, 1909.	Garden Creek.
14 inches.	May 15th, 1910.	Garden Creek.
15 inches.	May 15th, 1912.	Garden Creek.


Chairman of the Village Board of the
Village of Challis, Custer County,
State of Idaho - Applicant.

STATE OF IDAHO)
)
COUNTY OF CUSTER) ss.

G. E. Keyser and Harry Waters

being first duly sworn, each for himself, and not for the other, desposes and says: That he is a citizen of the United States and of the State of Idaho, residing at Challis, Idaho; that he is a user of water from Garden Creek, in Water District No. 3-B, County of Custer, State of Idaho; that he has read the foregoing affidavit and petition of Donald Rowles, as Chairman of the Village Board of the Village of Challis, 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; 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 peitioned.

G. E. Keyser.
Harry B. Waters

Subscribed and sworn to before me this 28th day of February, 1936.

Merle L. Drake
Notary Public for the State of Ida.
Challis, Idaho.

STATE OF IDAHO)
)
COUNTY OF CUSTER) ss.

I, Fred Green, Watermaster of Garden Creek in Water District No. 3-B, County of Custer, State of Idaho, whose postoffice address is Challis, Idaho, have read the foregoing affidavit and petition of Donald Rowles, as Chairman of the Village Board of the Village of Challis, Custer County, State of Idaho, and, of my own knowledge, believe the same to be true as to all matters therein alleged, and that no one will be injured by the transfer prayed to be authorized; and I hereby endorse my approval of said petition, and request that the Commissioner of Reclamation issue the certificate of transfer

as petitioned.

Fred Green
Watermaster, Dist. No. 3-B, Custer County,
Idaho.

Dated at Challis, Idaho, this 28th day of February, 1936.

Dist 3B Letter 1935-

August 1st. 1935.

Re: Water District No. 3-B

Mr. John Boyd,
Cit. Clerk,
Challis, Idaho.

Dear Sir:

Referring again to your letter of July 25th. 1935, and your request that a representative of this department measure some of the waters of Gardon Creek, we enclose herewith copy of the report of Mr. Fred A. Tolman, Field Engineer, who recently made the examination you requested.

We trust that this report will furnish you with the desired information. If we can be of further service we will be pleased to again hear from you.

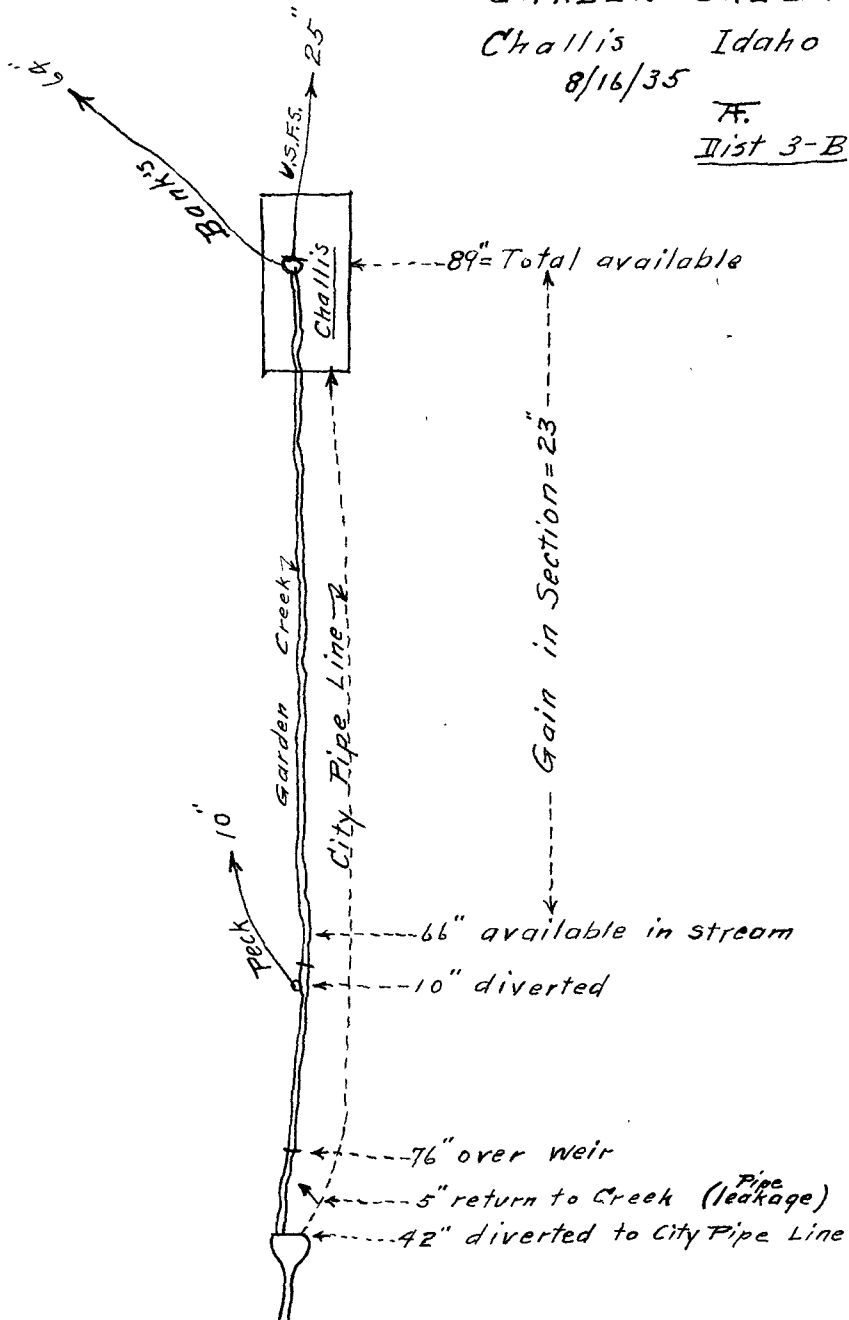
Very truly yours,

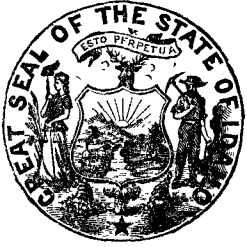
Lester C. Walker,
Director of Water Resources.

MICROFILMED

SURVEY
of
GARDEN CREEK
Challis Idaho
8/16/35

W.F.
List 3-B





C. BEN ROSS, GOVERNOR

STATE OF IDAHO
DEPARTMENT OF RECLAMATION
R. W. FARIS, COMMISSIONER
BOISE

BUREAU OF WATER RESOURCES
MANS H. COFFIN
DIRECTOR

STATE OF IDAHO
DEPARTMENT OF RECLAMATION

MEMORANDUM

August 19, 1935

Subject GARDEN CREEK

File District No. 3-B

A survey of the waters of Garden Creek as affecting the proposed addition to the municipal supply of Challis, Idaho, was made on the 16th instant, and conditions noted as follows:

The total stream flow at the intake of the city supply pipe was found to be as follows: 42 miner's inches were going into the pipe line, with an estimated loss of 5 inches immediately below which was returning directly back to the stream. At a Cippoletti weir situated about 50 yards below the points of diversion and leakage mentioned above, the stream flow was 76 miner's inches.

Deducting the 10 inches being diverted to the Peck right a short distance below leaves 66 inches total stream flow passing the Peck heading. The amount available at the head of the Banks ditch situated in the lower part of the village included 64 inches being diverted to the Banks right and 25 inches to the U. S. Forest right, or a total of 89 inches, which indicates a stream gain of 23 miner's inches between the pipe line intake and the lower diversions on the creek.

It is understood to be the purpose of the village board to acquire the Adams ranch, so-called, which has the No. 1 priority on Garden Creek and then by changing its point of diversion, dedicate it to municipal uses. By such an arrangement there would be made available at the present pipe line intake upward of 60 miner's inches more water than under the present arrangement. This would result in better service for lawns, gardens, etc., and also greatly increase the safety factor as regards fire protection. As regards the effect upon other water rights, the change would tend to be favorable rather than otherwise, as all remaining rights other than the U. S. Forest Service and the Peck rights divert above the city diversion.

Ed A. Holman
Field Engineer

November 1, 1915.

Re Cert. Transfer No. 167.

W. W. Adamson, Attorney,
Challis, Idaho.

Sir:--

Am enclosing herewith Certificate of transfer issued
to George J. Simmons. Am also returning the abstract of
title.

Very truly yours,

J. H. SMITH,

State Engineer.

CT167-Abs.

By _____

Sheet 2-B

Abstract of Decees

Garden Creek

4-18-80

CK

111

Name	Amount cfs	Priority	Lands
John C. Adams	2.04	10-24-77	E $\frac{1}{2}$ NE $\frac{1}{4}$, E $\frac{1}{2}$ SE $\frac{1}{4}$ Sec. 22, T. 14 N. R. 19 E.
J. A. Harrington	0.4	5-22-78	NW $\frac{1}{4}$ NE $\frac{1}{4}$, E $\frac{1}{2}$ NW $\frac{1}{4}$, Lot 3 Sec. 23, 14 N. 19 E
W. D. Bradbury	1.1	5-15-78	100 acres in Sec. 32, 14 N 19 E
John E. Bradbury	2.1	5-15-78	240 acres in Sec. 32, 14 N 19 E
L. Peck	0.2	5-15-78	See decree (Challis Townsite)
Belle Thompson George Thompson Ethel Philips Lizzie Chivers	1.48	3-5-79	E $\frac{1}{2}$ NE $\frac{1}{4}$, SW $\frac{1}{4}$ NE $\frac{1}{4}$, SE $\frac{1}{4}$ NW $\frac{1}{4}$ Sec. 31, 14 N 19 E
George Thompson	.94	3-5-79	N $\frac{1}{2}$ NW $\frac{1}{4}$, NW $\frac{1}{4}$ NE $\frac{1}{4}$, Sec. 31, 14 N. 19 E
Alex Klug	1.02	5-15-79	S $\frac{1}{2}$ NE $\frac{1}{4}$, NW $\frac{1}{4}$ SE $\frac{1}{4}$, NE $\frac{1}{4}$ SW $\frac{1}{4}$ Sec. 36 14 N 18 E
See note * Charles F. Zilkey	3/2 .5	5-15-80	SW $\frac{1}{4}$ NE $\frac{1}{4}$, SE $\frac{1}{4}$ NW $\frac{1}{4}$, NW $\frac{1}{4}$ SW $\frac{1}{4}$ Sec. 27 14 N 19 E
Alice B. Chamberlain	0.2	5-15-80	See decree (Challis Townsite)
Mary Horton	0.12	5-15-80	Lots 1, 2, 3, 4, 5, Bl. 6 Challis Townsite
William Mickson	0.6	4-15-80	Lots 5, 7, Bl. 38 " "
G. F. Fuchs	0.1	5-15-81	Lots 1, 3, Bl. 5, Lots 3, 4, Bl 16 " "
William Buster	0.06	5-15-81	See decree, all in Bl. 2 " "
Roger Brasseur	0.04	5-15-81	See decree " "
W. W. Adamson	0.06	5-15-81	See decree " "
M. M. Sweet	0.06	5-15-82	Part of Lots 3, 4, 5, Bl. 15 " "
C. E. Wilkinson	0.12	5-15-82	Lots 1, 2, 3, 4, & 5, Bl. 25 " "
Thomas Jose, Jr.	0.08	5-15-82	Lots 5, 7, 8, Part of Lot 6, Bl. 6 " "
J. C. Fox	0.1	5-15-82	See decree " "
Gertrude B. Brown	0.1	5-15-82	Lots 1, 3, 5, 7, Bl. 37 " "
Nellie Elder	0.1	5-15-82	Lots 1, 3, 5, 7, Bl. 23 " "
Maggie Jose	0.1	5-15-82	Bl. Block 13 " "
L. Violet Bradford	0.08	5-15-82	Lots 2, 4, 6, Bl. 17 " "
Elizabeth Wells	0.06	5-15-83	Lots 5, 7, Bl. 7 " "
Mabel Rowles	0.06	5-15-83	Lots 1, and 3, Bl. 7 " "

Part of 7 transferred to 5700, 5000, 2800, 2900, 2400, 2500, 1400, 1500

See note *
below

Note. 2.7 of Zilkey's right transferred to A.A. Adamson by Transfer Act. 352, 354, 358, 359 & 365. To following lands: .5 cfs to S $\frac{1}{2}$ NE $\frac{1}{4}$ & N $\frac{1}{2}$ SE $\frac{1}{4}$, Sec. 22; .5 cfs NW $\frac{1}{4}$ NE $\frac{1}{4}$, Sec. 23; .5 cfs to NE $\frac{1}{4}$ NE $\frac{1}{4}$, Sec. 24; NW $\frac{1}{4}$ NE $\frac{1}{4}$, Sec. 25. In the village of Challis: .2 cfs to part of S $\frac{1}{2}$ SE $\frac{1}{4}$, Sec. 28; 1.0 cfs to SW $\frac{1}{4}$ SE $\frac{1}{4}$, Sec. 27. NW $\frac{1}{4}$ NW $\frac{1}{4}$, Sec. 34, NE $\frac{1}{4}$ NW $\frac{1}{4}$, Sec. 34, all in T. 14 N., R. 19 E.

Joseph L. Ebberts	0.06	5-15-83	Lots 5, 7, Bl. 16	Challis Townsite
Ralph Baxter	0.04	5-15-84	Lot 8, Block 17	" "
John & Lochhart Boyd	0.1	5-15-84	Lots 5,6,7,8, Block 50	" "
William Bueter	0.04	5-15-84	See decree, allin Block 2	" "
Barbara Watson	0.1	5-15-84	Lots 6, 8, Bl. 37, Lots 5,7, Bl. 39	" "
L. Peck	0.18	5-15-84	Lots 2,4,8, Bl. 73, Lots 2,4,6,8, Bl. 74 Lots 2, 4, 6, 8, Bl. 75	" "
Village of Challis	0.14	5-15-84	See Decree	" "
Jennie Dodge	0.06	5-15-84	Lots 1 and 3, Bl. 40	" "
Joseph L. Horton	0.06	5-15-84	Lots 1 and 3, Bl. 30	" "
Geo. C. & E. L. Keys	0.1	5-15-85	About 4 acres in Challis	" "
T. J. & Lee Kerr	0.02	5-15-85	Lot 4, Bl. 15	" "
Laurentia McGowan	0.08	5-15-85	Lots 2, 4, 6, Bl. 39	" "
Kate Cameron	0.06	5-15-85	Lots 1, 3, Bl. 17	" "
Della McGowan	0.1	5-15-85	Lots 1, 3, 5, 7, Bl. 18	" "
Hannah Mohn	0.06	5-15-85	Lots 1, 3, Bl. 24	" "
James A. McFadden	0.16	5-15-85	Lots 1,2,3,4,5,6,7,8, Bl. 21 Parts of Lots 1 and 2, Block 22	" "
Lillie G. McKendrick	0.06	5-15-85	Lots 1 and 3, Block 38	" "
J. C. Fox	0.06	5-15-85	Lots 6, 8, Block 15	" "
Earl J. Michael	0.06	5-15-85	Lots 1 and 3, Block 9	" "
Earl J. Michael	0.04	5-15-85	Lot 4, Block 19	" "
David B. Drake	0.18	5-15-85	Lots 5,7, Bl. 9, Lots 1,3,5,7, Bl. 10, Lots 1, 2,3,4,5,6, part of 7,8, Bl. 20	Challis
Idalene Michael	0.06	5-15-85	Lots 6, 8, Block 19	" "
Mattie Waters	0.06	5-15-85	See decree	" "
Ed O'Neil	0.06	5-15-86	Lots 2, 4, Block 27	" "
Peter McKinney	1.1	5-15-87	WEST 1/4, SW 1/4 Sec. 15, E 1/4 SW 1/4 Sec. 16, E 1/4 NE 1/4 Sec. 21, NW 1/4 NE 1/4 Sec. 22, T. 14 N. R. 19 E	
E. P. Wilson & Ida B. Wilson	0.16	5-15-88	2 lots in Challis	
Lynn Wilkinson	0.1	4-15-88	See decree (Challis townsite)	
Clyde Wilkinson	0.1	5-15-88	See decree	" "
William Klug	1.2	5-15-88	NE 1/4 NW 1/4, NW 1/4 NE 1/4 Sec. 2, T. 13 N. 18 E. SW 1/4 SE 1/4, NE 1/4 SE 1/4, SE 1/4 NE 1/4 Sec. 35, 14 N. 18 E.	
Father Van Camp	0.1	5-15-89	Lots 5,7, Bl. 40, Lots 6,8, Bl. 52	Challis
Julia Maetsgar	0.06	5-15-90	Lots 6, 8, Bl. 18	Challis townsite

Nick Z. Kiser	1.4	5-15-90	SW $\frac{1}{4}$ NW $\frac{1}{4}$, Lot 4, Sec. 2, N $\frac{1}{2}$ S $\frac{1}{2}$, SE $\frac{1}{4}$ NW $\frac{1}{4}$ Sec. 3, T. 13 N. R. 18 E.
Roger Brasseur	0.04	6-15-94	Lot 6, Challis,
Thomas Chivers	0.2	5-15-95	10.3 14 N. 19 E. Challis
W. T. Oster	0.06	5-15-95	Two lots Challis
Challis Ind. Schoo District No. 1	0.16	5-15-96	Block 30 Challis
Earl J. Michael (Adm. estate of L. H. Johnston)	0.08	5-15-98	Lots 6, 8, Bl. 71, Lots 2, 4, 6, 8, Bl. 72 Challis
Julius Blume, Sr.	0.06	5-15-99	Lots 1, 3, Bl. 39 "
John L. Bradbury	0.86	5-15-99	See decree, all in Sec. 32, 14 N. 19 E. 240 A
John Q. Adams	3.2	5-15-01	Transferred to SE $\frac{1}{4}$ N $\frac{1}{2}$ SW, SPSW, Sec. 32 - 14 N., 19 E SW$\frac{1}{4}$N$\frac{1}{2}$SW, Sec. 22, N$\frac{1}{2}$SW, Sec. 27 14 N. 19 E
Custer County	0.16	5-15-01	Block 29 Challis
Louise S. Treloar	0.12	5-15-01	See decree "
M. AC. I. Stage Co.	0.06	5-15-02	Lots 3, 5, 7, Block 4 "
A. F. Blume, Sr.	0.06	5-15-04	Lots 5, 7, Block 28 "
Consuella Howell	0.06	5-15-07	Lots 6, 8, Block 38 "
William Chivers	0.06	5-15-07	See decree "
J. A. Harrington	1.2	6-21-08	SE $\frac{1}{4}$ NW $\frac{1}{4}$ Sec. 27, N $\frac{1}{2}$ NE $\frac{1}{4}$ Sec. 38 14 N. 19 E
E. F. & Ida F. Wilson	0.04	11-1-09	Lots 1, 3, Bl. 27, Challis (Spring in cellar)
Mabel Adenson	0.1	5-15-09	N $\frac{1}{2}$ Bl. 3 Challis
George Keyser	1.58	2-2-10	SE $\frac{1}{4}$ NW $\frac{1}{4}$, SE $\frac{1}{4}$ NW $\frac{1}{4}$, NW $\frac{1}{4}$ SW $\frac{1}{4}$ Sec. 28, T. 14 N. R. 19 E.
Emmett Howford	0.06	5-15-10	Lots 1, 3, Block 3 Challis
Guy Bradbury	0.8	5-20-10	SW $\frac{1}{4}$ NW $\frac{1}{4}$ Sec. 32, T. 14 N. R. 19 E.
J. L. Riley	0.06	5-15-10	Lots 6, 8, Bl. 54 "
A. L. & J. E. Monte	0.1	5-15-10	Lots 1, 3, 5, 7, Bl. 54 "
L. E. Glennon	0.06	5-15-10	Lots 2, 4, Bl. 54 "
Alex Klug	1.36	8-15-10	Lots 2, 3, Sec. 31, T. 14 N. R. 19 E.
Marganetha Klug	1.6	8-15-10	NE $\frac{1}{4}$ SE $\frac{1}{4}$, NE $\frac{1}{4}$ SW $\frac{1}{4}$ Sec. 31 14 N. R. 19 E.
Paul Cardial	0.16	5-15-12	Lots 1, 2, 3, 4, 5, 7, Bl. 47, Lots 6, 8, Bl. 48 Challis
Henry Horton	0.1	5-20-12	Lots 1, 2, 3, 4, Bl. 31 "
Joseph L. Ebberts	0.04	5-15-12	Lot 1, Bl. 4 "

Notice of Proposed Transfer of
Water Right.

by Notice is hereby that George E. Sim-
er mons of Ch... Custer county, Idaho,
as applied to the State Engineer of
the State of Idaho for a certificate
authorizing him to transfer the use of
1 2 inches of water of Garden Creek,
from the land upon which it is now
used i. e., E $\frac{1}{2}$ of NE $\frac{1}{4}$ and S $\frac{1}{2}$ of SE $\frac{1}{4}$
Section 22, Tp. 14 N., R. 19 E., B. M.,
to the following described tract: SE $\frac{1}{4}$
NW $\frac{1}{4}$, SW $\frac{1}{4}$ of NE $\frac{1}{4}$, NE $\frac{1}{4}$ of SW $\frac{1}{4}$
and NW $\frac{1}{4}$ of SE $\frac{1}{4}$, Section 21, Tp. 14
N., R. 19 E., B. M.

And that, on the 18th day of Septem-
ber, A. D. 1915, at Challis, Idaho, be-
fore the State Engineer, or his auth-
orized 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.

J. H. SMITH, State Engineer.
First publication Aug. 10th, 1915.

Affidavit of Publication.

STATE OF IDAHO, }
COUNTY OF CUSTER. } ss.

M. A. Dillingham.....being first
duly sworn, deposes and says, that he is the Editor and Proprietor
of THE SILVER MESSENGER, a Weekly Newspaper, printed
and published in Challis in the said County and State; that the
annexed advertisement was published weekly for five.....suc-
cessive weeks in the said newspaper; that the date of the first
publication of the said advertisement was on the 10th....day
of.....August.....190¹⁵, and the date of the last publi-
cation was on the 14th....day of September.....191⁵.
That the said notice was published in the regular and entire issue
of every number of the paper during the period and time of publi-
cation and that the said notice was published in the newspaper
proper and not in a supplement.

M. A. Dillingham

Subscribed and sworn to before me

this 18th....day of September.....191⁵...

B. B. Barnes
Notary Public.

MICROFILMED

18
August 10, 1915.

Re Transfer of Water right-Geo.L.Simmons.

W. W. Adamson, Attorney,
Challis, Idaho.

Sir:--

In reply to your letter of the 5th would say that September 18th has been set as the date for the hearing in the matter of the above transfer of water right and the notice for publication was mailed to the Challis Messenger August 2nd.

Very truly yours,

J. H. SMITH,

State Engineer.

By _____

MICROFILMED

W. WARD ADAMSON
Attorney and Counsellor at Law
CHALLIS, IDAHO

August 5th, 1915.

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

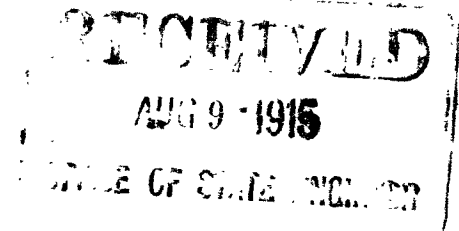
Dear Sir:-

In reference to the transfer of the water right for George L. Simmons. I note that you say the hearing cannot be had until sometime in September. Kindly let me know the date as near as possible. I can arrange to have Mr. Simmons there, and oblige.

Yours truly,

W. W. Adamson

WWA/HCL



MICROFILMED

August 3, 1915.

Re Transfer- Geo.L. Simmons,

W. W. Adamson, Attorney.
Challis, Idaho.

Sir:--

September 18th has been set as the date for the hearing in the matter of the above transfer and the notice for publication has been mailed to the Challis Messenger. Mr. F. A. Wilkie, Deputy State Engineer, will be in Challis on the date set for the hearing.

Very truly yours,

J. H. SMITH,

State Engineer.

By _____

RECEIVED

August 2, 1915.

Re transfer of water right.

The Messenger,
Challis, Idaho.

Gentlemen:-

Enclosed find notice for publication for transfer of water right which please publish once a week for four consecutive weeks. The expense of the publication will be paid by W. W. Adamson, Attorney for the applicant, of Challis, to whom you will please furnish proof of the publication on or before September 18th.

Please acknowledge receipt of this notice and send me a copy of the first issue of your paper containing the notice that I may compare it with my records.

Very truly yours,

J. H. SMITH,

State Engineer.

Enc.N.

By _____

RECEIVED

Notice of Proposed Transfer of Water Right

Notice is hereby given that George L. Simmons of Challis
Custer, has applied to the State Engineer of the State of Idaho for a certificate
authorizing him to transfer the use of 102 inches of the water of
Garden creek,
from the land upon which it is now used, i. e. E $\frac{1}{2}$ of NW $\frac{1}{4}$ and S $\frac{1}{2}$ of SE $\frac{1}{4}$, Sec. 22,
T. 14 N., R. 19 E.B.M.,
to the following described tract: SE $\frac{1}{4}$ of NW $\frac{1}{4}$, SE $\frac{1}{4}$ of NE $\frac{1}{4}$, NE $\frac{1}{4}$ of SW $\frac{1}{4}$, and NW $\frac{1}{4}$ of SE $\frac{1}{4}$,
Sec. 21, T. 14 N., R. 19 E.B.M.

And that, on the 18th day of September, A. D. 1915 at Challis, Idaho,
State Engineer
before the ~~Water Commissioner of the 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. J. Smith,
State Engineer.

July 15, 1915.

Permit transfer of water right.

W. W. Adamson, Attorney,
Challis, Idaho.

Sir:--

We are in receipt of your letter enclosing application of George L. Simmons for transfer of water right. In reply would say that it will be impossible for an engineer to make the required investigation and have the hearing before some time in September. We will advise you just as soon as we can arrange the date .

Very truly yours,

J. H. SMITH,

State Engineer.

By _____

MICROFILMED

W. WARD ADAMSON
Attorney and Counsellor at Law
CHALLIS, IDAHO July 8-1915.

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

Dear Sir:-

Please find inclosed application of Geo. L. Simmons to change and transfer water right to other lands. We would like you to have the publication made in the Challis Messenger, a news paper here and the place of hearing at Challis, Idaho, as such arrangement would be most convinent to all parties.

Kindly let me know when any fees are due and I will promptly send check to cover same.

Yours very truly,

W. W. Adamson

*Challis
Sat Sept 18*

MICROFILMED

RECEIVED
JUL 12 1915
OFFICE OF THE STATE ENGINEER

Application for Transfer of Water Right

STATE OF IDAHO,

JUL 12 1915

County of Custer

ss.

George L. Simmons, being first duly sworn, deposes and says:

That his name is George L. Simmons; that he is of lawful age, a citizen of the United States and of the State of Idaho, and that his postoffice address is

Challis, Custer County, Idaho,

That he is the owner and using a certain water right of 102 miners inches of the waters of Garden Creek

County of Custer, State of Idaho, decreed to J. Q. Adams

by decree of Judge James M. Stevens, of the

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

, in the case of J. Q. Adams, et al,

vs. R. B. Vandervort, et al, said decree bearing date of May 12-1914

~~(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 Custer and

State of Idaho, to-wit: E 1/2 of NE 1/4, S 1/2 of SE 1/4, Sec. 22, Township

14 North Range 19 East Boise Meridian, containing 160 acres.

_____ 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 and exchange of water

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 a point on Garden Creek about 300 feet West and 20 feet North of the Southeast corner of the SW 1/4 of Sec. 28 Tp. 14 N. R. 19 E. B. M.

and conducted to the above described lands through an irrigation ditch

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

That affiant and petitioner desires to abandon the use of 102 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 Custer and State of Idaho,

to-wit: SE 1/4 of NE 1/4, SW 1/4 of NE 1/4, NE 1/4 of SW 1/4 and NW 1/4

of SE 1/4 in Section 21, Township 14 North Range 19 East Boise

Meridian

That his reasons for doing so to make such transfer are as follows: That I have purchased said water right from J. Q. Adams by delivering him water from a ditch from Salmon River, the ditch covers his land and will not cover my said land owing to its lying above the Salmon River ditch, and most of the season there is no other water available for use on my said land and I have it placed in the ditch in irrigation and the ditch covers all

That he intends to divert and convey said 102 inches of water to the tract of land last above described in the following manner, to-wit: by an irrigation ditch, the point of diversion being on Garden Creek in the Northwest quarter of the Northwest quarter in Sec. 33 T. 14 North Range 12 E. B. M. as shown by the map hereto annexed

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.

George L. Simmons

Subscribed and sworn to before me this 7th, day of July

A. D. 1915

W. W. Adams

Notary Public.

STATE OF IDAHO,

County of Custer

ss.

Rodger Brasseur and M. M. Sweet

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 Challis, Idaho, that he is a user of water from Garden Creek, County of Custer, State of Idaho; that he has read or heard read the foregoing affidavit and petition of George L. Simmons, 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.

Rodger Brasseur
M. M. Sweet

Subscribed and sworn to before me this 7th, day of July

A. D. 15

W. W. Adams

Notary Public.

STATE OF IDAHO,

County of Custer

ss.

I, Thomas Jose, Watermaster of Garden Creek
County of Custer, State of Idaho, whose postoffice address is Challis
Idaho, have read or heard read the foregoing affidavit and petition of
George L. Simmons, 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:~~

Thomas Jose

Watermaster.

Notice having been duly published for thirty days of the intention of the above named
Geo. L. Simmons 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 *Challis, Idaho*, on *September 15, 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 *This transfer*
benefits the whole community.

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

Ludwig Wilkie
Deputy State Engineer.
Commissioner of Water Division No.

By

Merch 30, 1915.

Re Chang Pt. Div.

W. W. Adamson, Attorney,
Challis, Idaho.

Sir:

Your letter of the 13th inst., enclosing affidavit of change of point of diversion for water right of J. C. Adams to hand. No official action of the State Engineer is required for same but the affidavit and maps will be placed on file in this office for future reference.

Very truly yours,

J. H. Smith

State Engineer.

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MICROFILMED

W. WARD ADAMSON
Attorney and Counsellor at Law
CHALLIS, IDAHO

March 13th, 1915.

State Engineer,
Boise, Idaho.

Dear Sir:-

Enclosed you will find affidavits and required maps for change in point of diversion of water right of J. Q. Adams for 102 inches dated from October 24th, 1877, to a point further up the creek about one mile.

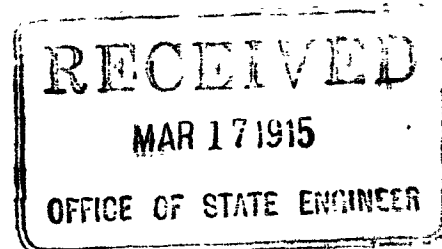
This change will injure no one, but will be a benefit to the other users on the stream for the reason that the change in point of diversion avoids an old creek bed for about one mile distance and it requires about twice this amount of water to make the delivery to the old point of diversion.

Yours truly,

W. W. Adamson

WWA/HCL.

MICROFILMED



Name of Applicant George L. Simmons

