

五

Worlk

now the property
of J. B. H. H.

545

Exit

Middle of Cass. River

Proposed Site $\rightarrow$

Print of

~~well~~

Depend- Water
90 ins to B.C. Hitt - 1886
70 ins to J.B. Hitt - 1894
called B.C. Hitt cl

EC. 2.

SE-C-

516

RECEIVED

JUN 6 1910

OFFICE OF THE ENGINEER

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

Printed and for sale by the Statesman Printing Co., Boise, Idaho

See right no → File 43-A-1
43-0145

Superceeded by Albion-Idaho Land
VS Adams decree

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

OFFICE OF STATE ENGINEER

Certificate No. 52, Authorizing transfer of water right.

MICROFILMED

Permission is hereby granted JAMES B. HITT, of Malta, County of Cassia, State of Idaho, to transfer the point of diversion and place of use of sixty (60) inches of the waters of Cassia Creek from the point at which said waters are now diverted, i.e., Southeast quarter of Northwest quarter (SE4 NW4) section 24, township 13 South, Range 26 East of Boise Meridian, to be used upon the East half of southeast quarter (E2 SE4) Section 13, and East half of northeast quarter (E2 NE4) section 24, Township 13 South, Range 26 East of Boise Meridian, to a point in the southwest corner of the southwest quarter of northwest quarter (SW4 NW4) section 24, township 13 south, Range 26 East of Boise Meridian, and used upon the following tract: Southeast quarter of northwest quarter (SE4 NW4) and North half of southwest quarter (N2 SW4) Section 13, township 13 South, Range 26 East of Boise Meridian.

The water right appurtenant to the above described lands was adjudged by decree, dated March 13, 1909, of E.A. Walters, Judge of the Fourth Judicial District of the State of Idaho, in and for Cassia County, in the matter of George M. Scott, et.al. plaintiffs vs. Andrew Glenn, et.al., defendants, in the following words:

***** IT IS ORDERED, ADJUDGED AND DECREED

That the plaintiff, James Hitt, be and he is hereby awarded the use of the undecreed water hereinafter stated from the waters of Cassia Creek in each year, to-wit: One hundred inches of water, to be measured under a four inch pressure at the place of diversion for the irrigation of the lands described in the findings of fact, said right to date from April 1st, 1894.

IN WITNESS WHEREOF, I have herunto set my hand and affixed the seal of my office at
Boise, Idaho, this eighteenth day of July, A.D. 1910.

D.G. Martin

(SEAL)

State Engineer

SECOND DIVISION

JAMES McMILLAN, COMMISSIONER

TWIN FALLS, IDAHO

1910

Decreed Water Rights

CASSIA CREEK

IN THE DISTRICT COURT OF THE
FOURTH JUDICIAL DISTRICT
OF THE STATE OF IDAHO

IN AND FOR
CASSIA COUNTY

DECREE.

George M. Scott, Nevin Macfarland, H. E. Bigler, John Livingston, John Darrington, Joseph Udy, R. K. Lessey, B. O. Barker, S. H. Barker, W. J. Cole, A. Lounsbury, Charles Telfer, E. D. Whitaker, Thomas Taylor, Jr., Ephraim W. Bayliss, I. J. Neddo, E. P. Hall, Robert Hutchinson, T. R. Smith, L. M. Condit, J. S. Condit, M. C. Udy, A. Condit, W. H. Robertson, G. W. Shangles, Russell Hitt, Joseph S. Hutchinson, W. H. Parke,

MICROFILMED

Robert Wake, F. W. Parish, George S. Hadfield, David Hubbard, A. Condit, Jerusha L. Smith, James Hitt, Dee Keithley, J. W. Hepworth, O. L. Beecher, R. L. Rice, Sarah Gamble, and James M. Darby,

Plaintiffs,

vs.

Andrew Glenn, C. A. Brewerton, Henry Brewerton, R. H. Parish, C. F. Beecher, D. H. Ward, A. Taylor, A. F. Hoagland, David Ward, John Ottley, W. Rasmussen, Fred Ottley, Elizabeth Taylor, Cynthia Ward, Lucinda Beecher, E. F. Homer, Jr., Thomas Robinson, Orville Beecher, Ed. Conant, Frank Allen, William Robinson, E. Homer, James Glenn, John Boulware, Sarah Boulware, James Hitt, Jane Hitt, Charles S. Gamble, A. M. Beecher, Thomas Taylor, Sr., Hyrum Parke, Alonzo Parish, R. L. Rice, O. M. Olson, W. E. Perry, Apollis Taylor, Merritt Beecher, R. A. Beecher, O. F. Beecher, L. H. Sweetser, W. MacFarland, Solomon Woodland, A. Drabble, L. L. Howell, A. E. Bayliss, M. F. Kossman, Mrs. M. A. Parke, H. M. Condit, W. K. Rice, George Hepworth, William Horn, John Osterhout, Clarence Parke, A. J. Barker, Hugh Pettigill, Sweetser Company, a corporation as receiver of the bankrupt estate of L. H. Sweetser, and J. D. Doolley,

Defendants.

This cause having this day been brought on to be heard upon the complaint filed herein taken as confessed by the defendants, Andrew Glenn, C. A. Brewerton, Henry Brewerton, R. H. Parish, C. F. Beecher, David H. Ward, A. Taylor, A. F. Hoagland, David Ward, John Ottley, W. Rasmussen, Fred Ottley, Elizabeth Taylor, Cynthia Ward, Lucinda Beecher, E. F. Homer, Jr., Thomas Robinson, Ed. Conant, Frank Allen, William Robinson, E. Homer, James Glenn, John Boulware, Sarah Boulware, James Hitt, Jane Hitt, Charles S. Gamble, A. M. Beecher, Thomas Taylor, Sr., Hyrum Parke, Alonzo Parish, O. M. Olson, W. E.

Perry, Apolis Taylor, Merritt Beecher, R. A. Beecher, O. F. Beecher, L. H. Sweetser, W. MacFarland, Solomon Woodland, A. Drabble, L. L. Howell, A. E. Bayliss, M. F. Kossman, Mrs. M. A. Parke, H. M. Condit, W. K. Rice, George Hepworth, William Horn, John Osterhout, Clarence Parke, A. J. Barker, Hugh Pettingill, whose default for not answering thereto has been duly entered, and the Court having heard the evidence and the testimony of the witnesses and proofs offered upon said hearing, and being fully advised of the law and the facts in the premises, and having made and filed a finding of facts and conclusions of law and the decision thereon in writing, and having been duly rendered by the Court, which are now on file in this cause, wherein judgment was awarded in favor of the said plaintiffs against all of the defendants, it is ORDERED, ADJUDGED AND DECREED:

1. That the Plaintiff, George M. Scott, be and he is hereby awarded the use of the undecreed water herinaftr stated from the waters of Cassia Creek in each year, to-wit: One hundred fifty-two inches of water, to be measured under a four-inch pressure at the place of diversion for the irrigation of the lands described in the findings of fact, and said right to date from April 1st, 1894.

2. That the Plaintiff, Ephraim W. Bayliss, be and he is hereby awarded the use of the undecreed water hereinafter stated from the waters of Cassia Creek in each year, to-wit: One hundred inches of water, to be measured under a four-inch pressure at the place of diversion for the irrigation of the lands described in the findings of fact, and said right to date from April 1st, 1894.

3. That the Plaintiff, I. J. Neddo, be and he is hereby awarded the use of the undecreed water hereinafter stated from the waters of Cassia Creek in each year, to-wit: One hundred thirty inches of the water, to be measured under a four-inch pressure at the place of diversion for the irrigation of the lands described in the findings of fact, and said right to date from April 1st, 1894.

4. That the Plaintiff, E. P. Hall, be and he is hereby awarded the use of the undecreed water hereinafter stated from the waters of Cassia Creek in each year, to-wit:

Eighty inches of water, to be measured under a four-inch pressure at the place of diversion for the irrigation of the lands described in the findings of fact, and said right to date from April 1st, 1894.

5. That the Plaintiff, Robert Hutchinson, be and he is hereby awarded the use of the undecreed water hereinafter stated from the waters of Cassia Creek in each year, to-wit: Eighty inches, to be measured under a four-inch pressure at the place of diversion for the irrigation of the lands described in the findings of fact, and said right to date from April 1st, 1894.

6. That the Plaintiff, T. R. Smith, be and he is hereby awarded the use of the undecreed water hereinafter stated from the waters of Cassia Creek in each year, to-wit: Sixty inches of the water, to be measured under a four-inch pressure at the place of diversion for the irrigation of the lands described in the findings of fact, and said right to date from April 1st, 1894.

7. That the Plaintiff, L. M. Condit, be and he is hereby awarded the use of the undecreed water hereinafter stated from the waters of Cassia Creek in each year, to-wit: One hundred inches of the water, to be measured under a four-inch pressure at the place of diversion for the irrigation of the lands described in the findings of fact, and said right to date from April 1st, 1894.

8. That the Plaintiff, J. S. Condit, be and he is hereby awarded the use of the undecreed water hereinafter stated from the waters of Cassia Creek in each year, to-wit: One hundred twenty inches of water, to be measured under a four-inch pressure at the place of diversion for the irrigation of the lands described in the findings of fact, and said right to date from April 1st, 1894.

9. That the Plaintiff, M. C. Udy, be and he is hereby awarded the use of the undecreed water hereinafter stated from the waters of Cassia Creek in each year, to-wit: One hundred and sixty-seven inches of the water, to be measured under a four-inch pressure at the place of diversion for the irrigation of the lands described in the findings of fact, and said right to date from April 1st, 1894.

10. That the Plaintiff, A. Condit, be and he is hereby

awarded the use of the undecreed water hereinafter stated from the waters of Cassia Creek in each year, to-wit: Eighty inches of water, to be measured under a four-inch pressure at the place of diversion for the irrigation of the lands described in the findings of fact, and said right to date from April 1st, 1894.

11. That the Plaintiff, W. H. Robertson, be and he is hereby awarded the use of the undecreed water hereinafter stated from the waters of Cassia Creek in each year, to-wit: One hundred inches of water, to be measured under a four-inch pressure at the place of diversion for the irrigation of the lands described in the findings of fact, and said right to date from April 1st, 1894.

12. That the Plaintiff, G. W. Shangles, be and he is hereby awarded the use of the undecreed water hereinafter stated from the waters of Cassia Creek in each year, to-wit: Eighty inches of water, to be measured under a four-inch pressure at the place of diversion for the irrigation of the lands described in the findings of fact, and said right to date from April 1st, 1894.

13. That the Plaintiff, Russell Hitt, be and he is hereby awarded the use of the undecreed water hereinafter stated from the waters of Cassia Creek, to-wit: Eighty inches of water, to be measured under a four-inch pressure at the place of diversion for the irrigation of the lands described in the findings of fact, and said right to date from April 1st, 1894.

14. That the Plaintiff, Joseph H. Hutchinson, be and he is hereby awarded the use of the undecreed water hereinafter stated from the waters of Cassia Creek in each year, to-wit: Forty-five inches of water, measured under a four-inch pressure at the place of diversion for the irrigation of the lands described in the findings of fact, and said right to date from April 1st, 1894.

15. That the Plaintiff, W. H. Parke, be and he is hereby awarded the use of the undecreed water hereinafter stated from the waters of Cassia Creek in each year, to-wit: Seventy-five inches of water, to be measured under a four-inch pressure at the point of diversion for the irrigation of the lands described in the findings of fact, and said right to date from April 1st, 1894.

16. That the Plaintiff, Robert Wake, be and he is hereby awarded the use of the undecreed water hereinafter stated from the waters of Cassia Creek in each year, to-wit: One hundred twenty inches of water, to be measured under a four-inch pressure at the place of diversion for the irrigation of the lands described in the findings of fact, and said right to date from April 1st, 1894.

17. That the Plaintiff, F. W. Parish, be and he is hereby awarded the use of the undecreed water hereinafter stated from the waters of Cassia Creek in each year, to-wit: One hundred thirty-eight inches of water, to be measured under a four-inch pressure at the place of diversion for the irrigation of the lands described in the findings of fact, and said right to date from April 1st, 1894.

18. That the Plaintiff, Nevin Macfarland, be and he is hereby awarded the use of the undecreed waters hereinafter stated from the waters of Cassia Creek in each year, to-wit: One hundred twenty inches of the water, to be measured under a four-inch pressure at the place of diversion for the lands described in the findings of fact, and said right to date from April 1st, 1894.

19. That the plaintiff, H. E. Bigler, be and he is hereby awarded the use of the undecreed waters hereinafter stated from the waters of Cassia Creek in each year, to-wit: Ninety inches of the water, to be measured under a four-inch pressure at the place of diversion for the irrigation of the lands described in the findings of fact, and said right to date from April 1st, 1894.

20. That the Plaintiff, John Livingston, be and he is hereby awarded the use of the undecreed water hereinafter stated from the waters of Cassia Creek in each year, to-wit: One hundred and nineteen inches of water, to be measured under a four-inch pressure at the place of diversion for the irrigation of the lands described in the findings of fact, and said right to date from April 1st, 1894.

21. That the Plaintiff, John Darrington, be and he is hereby awarded the use of the undecreed waters hereinafter stated from the waters of Cassia Creek in each year, to-wit: Seventy-nine inches of water, to be measured under a four-inch pressure at the place of diversion for the irriga-

tion of the lands described in the findings of fact, and said right to date from April 1st, 1894.

22. That the Plaintiff, Joseph Udy, be and he is hereby awarded the use of the undecreed water hereinafter stated from the waters of Cassia Creek in each year, to-wit: One hundred sixty-four and one-half inches of water, to be measured under a four-inch pressure at the place of diversion for the irrigation of the lands described in the findings of fact, and said right to date from April 1st, 1894.

23. That the Defendant, R. K. Lessey, be and he is hereby awarded the use of the undecreed water hereinafter stated from the waters of Cassia Creek in each year, to-wit: Twenty-four inches, to be measured under a four-inch pressure at the place of diversion for the irrigation of the lands described in the findings of fact, to date from April 1st, 1894.

24. That the Plaintiff, B. O. Barker, be and he is hereby awarded the use of the undecreed water hereinafter stated from the waters of Cassia Creek in each year, to-wit: One hundred inches of water, to be measured under a four-inch pressure at the place of diversion for the irrigation of the lands described in the findings of fact, and said right to date from April 1st, 1894.

25. That the Plaintiff, S. H. Barker, be and he is hereby awarded the use of the undecreed water hereinafter stated from the waters of Cassia Creek in each year, to-wit: One hundred ten inches, to be measured under a four-inch pressure at the place of diversion for the irrigation of the lands described in the findings of fact, and said right to date from April 1st, 1894.

26. That the Plaintiff, W. J. Cole, be and he is hereby awarded the use of the undecreed water hereinafter stated from the waters of Cassia Creek in each year, to-wit: Forty-five inches of water, to be measured under a four-inch pressure at the place of diversion for the irrigation of the lands described in the findings of fact, and said right to date from April 1st, 1894.

27. That the Plaintiff, A. Lounsbury, be and he is hereby awarded the use of the undecreed water hereinafter stated from the waters of Cassia Creek in each year, to-wit: One hundred forty inches of the water, to be measured under a

four-inch pressure at the place of diversion for the irrigation of the lands described in the findings of fact, and said right to date from April 1st, 1894.

28. That the Plaintiff, Charles Telfer, be and he is hereby awarded the use of the undecreed water hereinafter stated from the waters of Cassia Creek in each year, to-wit: One hundred ninety inches of water, to be measured under a four-inch pressure at the place of diversion for the irrigation of the lands described in the findings of fact, and said right to date from April 1st, 1894.

29. That the Plaintiff, E. D. Whitaker, be and he is hereby awarded the use of the undecreed water hereinafter stated from the waters of Cassia Creek in each year, to-wit: One hundred thirty-five inches of water, to be measured under a four-inch pressure at the place of diversion for the irrigation of the lands described in the findings of fact, and said right to date from April 1st, 1894.

30. That the Plaintiff, Thomas Taylor, Jr., be and he is hereby awarded the use of the undecreed waters hereinafter stated from the waters of Cassia Creek in each year, to-wit: Three hundred seventeen and one-half inches of water, to be measured under a four-inch pressure at the place of diversion for the irrigation of the lands described in the findings of fact, and said right to date from April 1st, 1894.

31. That the Plaintiff, George S. Hadfield, be and he is hereby awarded the use of the undecreed water hereinafter stated from the waters of Cassia Creek in each year, to-wit: Two hundred inches of water, to be measured under a four-inch pressure at the place of diversion for the irrigation of the lands described in the findings of fact, and said right to date from April 1st, 1894.

32. That the Plaintiff, David Hubbard, be and he is hereby awarded the use of the undecreed waters hereinafter stated from the waters of Cassia Creek in each year, to-wit: Sixty-four inches of water, to be measured under a four-inch pressure at the place of diversion for the irrigation of the lands described in the findings of fact, and said right to date from April 1st, 1894.

33. That the Plaintiff, O. L. Beecher, be and he is hereby awarded the use of the undecreed water hereinafter stated

from the waters of Cassia Creek in each year, to-wit: One hundred fifty-four inches of water, to be measured under a four-inch pressure at the place of diversion for the irrigation of the lands described in the findings of fact, and said right to date from April 1st, 1894.

34. That the Plaintiff, R. L. Rice, be and he is hereby awarded the use of the undecreed water hereinafter stated from the waters of Cassia Creek in each year, to-wit: Forty-three inches of water, to be measured under a four-inch pressure at the place of diversion for the irrigation of the lands described in the findings of fact, and said right to date from April 1st, 1894.

35. That the Plaintiff, Jerrusha L. Smith, be and she is hereby awarded the use of the undecreed water hereinafter stated from the waters of Cassia Creek in each year, to-wit: Fifty-five inches of water, to be measured under a four-inch pressure at the place of diversion for the irrigation of the lands described in the findings of fact, and said right to date from April 1st, 1894.

36. That the Plaintiff, James M. Darby, be and he is hereby awarded the use of the undecreed water hereinafter stated from the waters of Cassia Creek in each year, to-wit: Forty-five inches of water, to be measured under a four-inch pressure at the place of diversion for the irrigation of the lands described in the findings of fact, and said right to date from April 1st, 1894.

37. That the Plaintiff, James Hitt, be and he is hereby awarded the use of the undecreed water herein after stated from the waters of Cassia Creek in each year, to-wit: One hundred inches of water, to be measured under a four-inch pressure at the place of diversion for the irrigation of the lands described in the findings of fact, and said right to date from April 1st, 1894.

38. That the Plaintiff, Sarah Gamble, be and she is hereby awarded the use of the undecreed water hereinafter stated from the waters of said Cassia Creek in each year, to-wit: Fifty-five inches of water, to be measured under a four-inch pressure at the point of diversion for the irrigation of the lands described in the findings of fact, and said right to date from April 1st, 1894.

39. That the Plaintiff, L. A. Condit, be and he is hereby

awarded the use of the undecreed waters hereinafter stated from the waters of said Cassia Creek in each year, to-wit: One hundred and twenty inches of water, to be measured under a four-inch pressure at the place of diversion for the irrigation of the lands described in the findings of fact, and said right to date from May 1st, 1906.

40. That the Plaintiff, J. W. Hepworth, be and he is hereby awarded the use of the undecreed water hereinafter stated from the waters of said Cassia Creek in each year, to-wit: One hundred and sixty inches of water, to be measured under a four-inch pressure at the place of diversion for the irrigation of the lands described in the findings of fact, and said right to date from May 29th, 1907.

41. That the Plaintiff, Dee Keithley, be and he is hereby awarded the use of the undecreed water hereinafter stated from the waters of said Cassia Creek in each year, to-wit: One hundred and sixty inches of water, to be measured under a four-inch pressure at the place of diversion for the irrigation of the lands described in the findings of fact, and said right to date from October 1st, 1905.

That the irrigation season is held to begin on the first day of April and to end on the first day of October, at which date all water is to be turned into the main river, except as may be directed and determined to be necessary by the water master for domestic and stock purposes.

That each appropriator under and by virtue of this decree is hereby required, as far as practicable, to measure the water herein awarded to him according to the decree heretofore rendered in the action of James M. Darby et al. vs. E. D. Jones et al.

It is further considered, ordered, adjudged and decreed that when the waters appropriated are not needed for useful and beneficial purposes all water shall be turned into the stream and allowed to go down to the next appropriators needing it.

It is further considered, ordered and adjudged and decreed, that at the close of the irrigating season on October the first of each year, the water master shall visit all head-gates and shall so arrange and fix them as to give to each ditch such amount of water as in his judgment the appropriators using therefrom actually require for domestic and

stock purposes during the winter, but each appropriator may take water earlier in the spring for irrigation than April 1st if he so desires.

It is further ordered, adjudged and decreed that each of the appropriators take the water in the order and at the dates of their said claims; that each is entitled to the whole of his appropriation before any subsequent appropriator is entitled to any; and that appropriators upon the same date and of consequent and equal dignity take as tenants in common in proportion to the amount of water awarded to each.

It is further ordered, adjudged and decreed that the clerk's costs and disbursements in this case shall be paid by each party in proportion to the amount of water in which he is adjudged to receive by virtue of this decree.

It is further ordered, adjudged and decreed that each party pay his own witnesses' and attorney's and sheriff's fees and none shall have the right to tax the costs against another.

EDWARD A. WALTERS, *Judge.*

Dated this 13th day of March, 1909.

Filed March 13, 1909.

STATE OF IDAHO,)
County of Cassia,) ss.

I, Joseph Y. Haight, Clerk of the District Court of the Fourth Judicial District of the State of Idaho, in and for Cassia County, do hereby certify that the foregoing is a full, true and correct copy of the decree in an action entitled George M. Scott et al., Plaintiffs, and Andrew Glenn et al., Defendants, the original of which is now on file in my office.

IN WITNESS WHEREOF, I have hereunto set my hand and affixed the official seal of said court, at Albion, Idaho, this 10th day of June, A. D. 1910.

(Seal)

JOS. Y. HAIGHT,
Clerk of the District Court.

June 2, 1924.

Re: Transferred water right
No. 52.

Mrs. Jane L. Hitt,
Malta, Idaho.

Dear Madam:

In Mr. Riblett's letter of June 2, inquiry was made as to whether the water transferred under certificate of transferred water right No. 52 was the water awarded in the case of J. M. Darby, et al Plaintiffs vs. E. B. Jones et al Defendants, commonly known as the Stockslager decree, or the water awarded by the Walter's decree in the case of George M. Scott et al Plaintiffs vs. Andrew Glenn, et al Defendants.

The application for transfer and likewise the certificate of transferred water right, both specifically state that the water which is sought to be transferred, and by virtue of the certificate was transferred, is 60 inches of that certain right decreed to James M. Hitt by decree of Judge E. A. Walters, in the case of George M. Scott, et al, Plaintiffs, vs. Andrew Glenn, Defendants, said decree bearing date of March 13, 1909.

There is no uncertainty as to which right was transferred, regardless of the uncertainty there may be in the minds of the parties interested, as to which right they wanted to, or thought they did, transfer.

Very truly yours,

Director of Water Resources.

GNC-H
CC-Frank Riblett.

MICROFILMED

*Let's - Mr. Hitt
start notes down -
Walters - Mr. Hitt
an altar -*

Malta, Cassia Co. Idaho.
June 2nd. 1924.

Hon. W.G.Swendsen
Commissioner of Reclamation.
Boise, Idaho.---
Dear Sir

In Re. transfer of water from ---
James B.Hitt and Jane Hitt to
Albert J.Petersen and Laura L.Petersen.
Waters of Cassia Creek,Cassia County, Idaho.

I am sorry to bother you again but one of the Hitt family called in and read your letter of May 17th. and the attached copy of----
Certificate No.52--authorizing transfer of water right. -----
The lands referred to in this certificate .to-wit: E $\frac{1}{2}$ SE $\frac{1}{4}$ Sec.13-
and E $\frac{1}{2}$ NE $\frac{1}{4}$ Sec. 24--Tp. 13 S.R.26 E.B.M. were ~~xxx~~ embraced inthe
Desert Land Entry of Bennett C. Hitt who evidently made proof and
received a final certificate from the U.S.Land Office and in the----
case of J.M.Darby et al Plaintiffs vs. E.D.Jones et al Defendants---
in the Decree rendered by C.O.Stockslager Judge of the Fourth Judicial
District Dated ,September 30, 1895 -- Section 21 was awarded -----
90 inches of the waters of Cassia Creek to date from March 31st. 1886.
Bennett C.Hitt afterwards sold this land and appurtenances to-----
James B.Hitt-- who afterwards was awarded by decree of Judge E.A.Walter
of said Judicial District and dated March 13, 1909 .-in the matter of
George M.Scott , et al Plaintiffs Vs.- Andrew Glenn et al,-Defendants
100 inches of the waters of Cassia Creek - to date from April 1st.---
1894.-- Now then ~~these~~ these people are wondering whether it is not
possible that this ~~is~~ transfer of water to the Petersens was not----
based upon the earlier decree to B. C. Hitt--by Judge Stockslager---
which may have been overlooked in the search and the transfer thought
to be based upon the later decree by Judge Walters.-----
Thes people are anxious to know about this and are willing to pay
some fees to make sure where they are before taking any steps for ---
any other transfers which may not be necessary. So better charge them
something and perhaps they can be satisfied that they have all the--
information .----- --Sincerely Your's,

Frank Riblett
Frank Riblett-- Notary Public
U.S.Commissioner--etc.-----

MICROFILMED

May 9, 1910.

Re transfer

Mr. O. R. Hale,
Albion, Idaho.

Sir:-

Your letter of the 3rd inst. has just been referred to me upon my return home. In reply would say that it is not necessary that these publication notices be signed by me, personally. The notice is sent out by the water commissioner and it is not necessary that same be sent to this office for my signature.

Very truly yours,

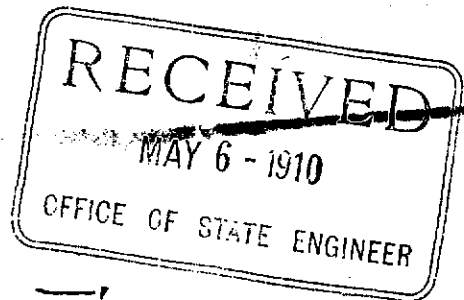
State Engineer.

Eyl..

MICROFILMED

Albion Idaho
May 3rd 1910

D. F. Martin
State - Engineer



Dear Sir -

I herewith send
Notice of Proposed Transfer of
Water Right of James B. Hitt
I presented it to the "Nugget"
as designated by Commissioner
James McMillin and the Nugget
set the same and informed me
that your signature was
necessary so I herewith
send the same to you
to comply with their request
Trusting to receive an early reply
and that all is well I am,

MICROFILMED

Very Respectfully

O. R. Hall

Albion Idaho

AFFIDAVIT of PUBLICATION

STATE OF IDAHO,

COUNTY OF CASSIA.

SS.

Notice of Proposed Transfer of Water Right.

Notice is hereby given that James B. Hitt of Malta, Idaho, has applied to the State Engineer of the State of Idaho for a certificate authorizing him to transfer the use of sixty inches of the water of Cassia Creek from the land upon which it is now used, i. e. E $\frac{1}{4}$ SE $\frac{1}{4}$ Sec. 13 and E $\frac{1}{4}$ NE $\frac{1}{4}$ Sec 24 township 13 south range 26 east B. M., to the following described tract: SE $\frac{1}{4}$ NW $\frac{1}{4}$ and NE $\frac{1}{4}$ SW $\frac{1}{4}$ and W $\frac{1}{4}$ of SW $\frac{1}{4}$ of section 13 south range 26 east B. M. And that, on the 11th day of June, A. D. 1910, at 2 o'clock, in the Sheriff's office at Albion, Cassia County, Idaho, before the Water Commissioner of this Division, or his authorized agent, O. R. Hale, 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 a transfer.

Full details of the proposed transfer may be obtained from Wm. H. Robertson, Water Master of said stream. D. G. MARTIN,

29-34

State Engineer.

I, Alb Coleman ~~Publisher~~ Foreman, of the Albion Nugget, a weekly newspaper of general circulation, published once each week at Albion, Cassia County, Idaho, do solemnly swear that a copy of the notice attached hereto and which is made a part of this affidavit, and a part of the proof of publication, was published in said newspaper for five consecutive weeks, commencing with the issue dated May 6, 1910, and ending with the issue dated June 10, 1910, that said notice was published in the regular and entire issue of every number and not in any supplement thereof, and that said newspaper has been published for more than fifty-two consecutive weeks prior to date of first publication of said notice.

Subscribed and sworn to before me

this 13 day of June

Louis A. Berman
Notary Public, Cassia County, Idaho.

My Commission expires Sept. 16, 1913

RECEIVED

JUN 20 1910

OFFICE OF STATE ENGINEER

Application for Transfer of Water Right.

State of Idaho, }
County of Cassia. } ss.

James B. Hitt

, being first duly sworn, deposes and says:

That his name is James B. Hitt; that he is of lawful age, a citizen of the United States and of the State of Idaho, and that his postoffice address is

Malta, Cassia County, Idaho

That he is the owner and using a certain water right of sixty inches of the waters of Cassia Creek

County of Cassia, State of Idaho, decreed to James B. Hitt

by decree of Judge E. A. Walters, of the

Fourth

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

, in the case of George M. Scott, et.al. Vs. Andrew

~~xx~~ Glenn, et. al., said decree bearing date of March 13th, 1909

(~~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 Cassia and

State of Idaho, to wit: East half of the South east quarter of Sec. 13 and the East half of the North east quarter of Sec. 24 in Tp. 13 South Range 28 East of the Boise Meridian

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

By Decree of Court
as per abstract of title of said water right hereto attached and made a part of this statement;

RECEIVED

OFFICE OF STATE ENGINEER

That said waters are now diverted from said stream at two points of diversion in the SE.4 of NW.4 of Sec. 24 Tp.13 S.R.26 E.B.M. out of Cassia Creek

and conducted to the above described lands through SE.4 NW.4 & SW.4 NE.4 Sec. 24 & NE.4 NW.4 & NW.4 NE.4 of Sec. 24 & SW.4 SE.4 of Sec. 13 T.13 S.R.26 E.B.M as per map hereto attached and of this affidavit made a part;

That affiant and petitioner desires to abandon the use of 60

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 Cassia and State of Idaho, to

SE.4 NW.4 & NE.4 SW.4 and NW.4 SW.4 of Sec. 13 Tp. 13 S.R. 26 E.B.M.

RECEIVED

JUN 20 1910

that his reasons for desiring to make such transfer are as follows: I have more water on the land to which said water was decreed than is necessary for the proper irrigation of the same and as the land to which the water is to be transferred is new land and requires more water than does old cultivated land.

MICROFILMED

That he intends to divert and convey said sixty inches of water to the tract of land last above described in the following manner, to wit: through a ditch from Cassia Creek to be taken out of said Creek at a point in the SW corner of the SW.4 of NW.4 of Sec. 24 Tp. 13 S.R. 26 E.B.M. and run thence North a distance of 3/4 of a mile along the west side of the W.2 of NW.4 of Sec. 24 and the SW.4 of SW.4 of Sec. 13 Tp. 13 S.R. 26 East Boise Meridian

as set forth upon the map hereto attached; and

That no one will be injured by such transfer.

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

Subscribed and sworn to before me this 30th day of April

A.D. ~~1909~~ 1910.

James B. Hitt
George A. Smith
Notary Public

My commission expires Dec. 31st, 1913.

State of Idaho, }
County of Cassia } ss.

Robert Hutchinson and Charles S. Gamble, Sr.,

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 Malta, Idaho that he is a user of water from Cassia Creek, County of Cassia, State of Idaho; that he has read or heard read the foregoing affidavit and petition of James B. Hitt, and is familiar with its allegations, and with the water right and lands therein mentioned and described and is not in any way interested in either, nor in any way related to said petitioner; that the statements and allegations therein made are true of his own knowledge; and that no one will be injured by the granting of the certificate authorizing the transfer therein petitioned.

Subscribed and sworn to before me this 30th day of April

A.D. ~~1909~~ 1910.

Robert Hutchinson
Charles S. Gamble
George A. Smith
Notary Public

My commission expires Dec. 31st, 1913.

MICROFILMED

EC. SEC. SEC. SEC.

Township 13 S. R. 26 E.
13 M.

North

EC. 14 SEC. 13 SEC. SEC.

Hand to
Water
Bore
Bore
Bore

more the highest
of 9. 13. 14. 15.

Deposited - Water
90 m. to 13. C. 1886
70 m. to 13. A. 1894
Called 13. C. 1886

Water
gaining

East

EC. 2 3 SEC. SEC. SEC.

Proposed Ditch
Old Ditch
New Point of Division
Old Point of Division

South

RECEIVED

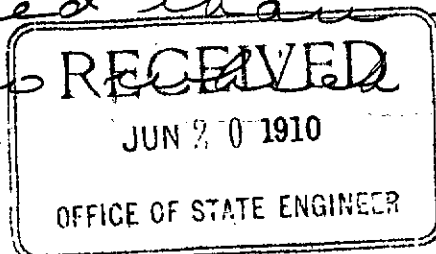
JUN 10 1910

SEC. OFFICE OF STATE ENGINEER

State of Idaho } ss.
County of Cassia }

RECEIVED

I, Watermaster of Cassia
Creek, County of Cassia, State of Idaho, whose
postoffice address is, Malta, Idaho, have
read or heard read the foregoing affidavit
and petition of, James B. Hitt, 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 issue of the certificate
of transfer prayed for) for the following
reasons: That the water will be more
beneficial on the tract of land to
which it is desired to have it
transferred than it will be on the
land to which the water was
decreed.



B. P. Spencer
(watermaster)

State of Idaho,
County of Cassia } ss.

I, William H. Robertson, Watermaster of Cassia Creek,
County of Cassia, State of Idaho, whose postoffice address is
Malta, Idaho, have read or heard read the foregoing affidavit and petition of
James B. Hitt, and, of my own knowledge, believe the same to be
true as to all matters therein alleged, and that no one will be injured by the transfer prayed to be au-
thorized; and I hereby endorse my approval of said petition, and request that the State Engineer
issue the certificate of transfer as petitioned; or (do not approve of the issuance of the certificate of
transfer prayed for) for the following reasons: That the water will be more beneficial
on the tract of land to which it is desired to have it transferred
than it will be on the land to which the water was decreed

William H. Robertson
Watermaster.

Twin Falls, Idaho.
June, 17th, 1910.

Notice having been duly published for thirty days of the intention of the above named
James B. Hitt, to apply to the State Engineer of the State of Idaho for a certificate
authorizing the transfer of water as set forth in his affidavit and petition herein, and an opportunity
having been given to any and all persons opposing said transfer to present their objections in a public
hearing before O. R. Hale, at Albion, Idaho on June 11th, 1910, according to
the terms of said notice;

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

I hereby recommend that the said State Engineer of the State of Idaho issue his certificate to said
applicant, authorizing the transfer as prayed for in his petition; ~~or if not appearing at said hearing~~
~~that the following reasons would be sustained by others if such transfer is permitted~~

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

W. H. Milman
Commissioner of Water Division No. 2

By _____