

34-BZ-1

IN THE DISTRICT COURT
OF THE FOURTH JUDICIAL DISTRICT OF IDAHO, IN AND FOR CUSTER COUNTY.

S.T. NOE et al.,
Vs.
HENRY HARGER et al.,

In the above entitled cause, the default of the non-answering defendants having been duly entered, and said cause having been regularly tried and submitted to the Court for its decision, and the Court having considered the evidence and being fully advised in the premises, makes and files its findings of fact, and directs judgment to be entered in accordance therewith:--

Whereupon it is ordered, adjudged and decreed as follows:--

1. That each and every of the tracts of land described in the complaint, answers and cross-complaints in this action as belonging to the said several parties plaintiff and defendant herein are arid in character and will not successfully raise any agricultural crop without the use of water thereon.
2. That the quantity of water required for the successful irrigation and cultivation of said land is one inch per acre measured under a four inch pressure, or its equivalent in cubic feet per second of time, to be measured at the point or place of diversion.
3. That each of the parties plaintiff and defendant herein after named through the times of the several appropriations of water made as hereinafter set forth, the owners respectively of the several tracts of land set forth and described in the complaints, answers and cross-complaints, and that for the irrigation of the same the said parties or their predecessors in interest did respectively appropriate the quantities of water hereinafter stated and on the dates respectively as hereinafter stated and set opposite the names of each of said parties, such water being estimated and measured under a four inch pressure or its equivalent in cubic feet per second of time; and ever since said date of the said sever-

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L.D. Streeter, Lost River,	100	"	"	June 1st, 1891. ✓
P.J. Gregersen, successor to				
Allen Ewing, Lost River,	160	"	"	June 30th, 1895. ✓
Harford heirs, Edward F. Harford,				
Bridget Harford, John J. Fitzpatrick,				
heirs of Michael Harford,	254	"	"	Oct. 12th, 1894. ✓
Evan H. Harris, " "	160	"	"	May 6th, 1899. ✓
Wm. J. Harris, " "	130	"	"	Mar. 10th, 1894. ✓
R.N. Hull, admr. estate of				
Jos. Blaes, deceased, " "	160	"	"	June 1st, 1893. ✓
J.H. Gallagher, " "	240	"	"	June 1st, 1900. ✓
Evan Harris, " "	165	"	"	Feb. 15th, 1895. ✓
Wm. Harris, Jr., " "	160	"	"	June 1st, 1897. ✓
D.P. Wells, " "	160	"	"	May 31st, 1894. ✓
" " " "	80	"	"	June 1st, 1894. ✓
Scott Vaught, " "	160	"	"	June 30th, 1894. ✓
" " " "	30	"	"	June 30th, 1901. ✓
Chas. H. Furey, Pass Creek,	130	"	"	June 1st, 1893. ✓
Chas. H. Furey, Lost River,	490	"	"	July 21st, 1896. ✓
Chas. H. Furey, Lost River,	100	"	"	May 30th, 1895. ✓
John N. Haney, " "	160	"	"	June 1st, 1896. ✓
Sarah O. Haney, " "	160	"	"	June 1st, 1896. ✓
Texas Angel, " "	100	"	"	May 30th, 1895. ✓
" " " "	540	"	"	July 21st, 1896. ✓
Sanford Hall, " "	160	"	"	July 3rd, 1896. ✓
Jos. Dickey, Corral Creek,	240	"	"	May 20th, 1895. ✓
Will. P. Bascom, Upper Cedar Creek,	160	"	"	June 10th, 1899. ✓
Will. P. Bascom, admr. estate of				
J.H. Bascom, deceased, from Willow				
and Rock Creeks,	120	"	"	June 1st, 1888. ✓
Otto B. Fleischer, Lost River,	320	"	"	June 1st, 1890. ✓
Mark Hurst, " "	157	"	"	June 1st, 1887. ✓
" " " "	160	"	"	Sept. 23th, 1896. ✓
Louis Hahn, " "	200	"	"	Sept. 1st, 1893. ✓

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Paul Thomas,	James Creek,	160	inches	from June 1st, 1887.	✓
Paul Thomas,	Lest River,	160	"	" June 1st, 1890.	✓
Dan L. Jones,	" "	160	"	" June 1st, 1891.	✓
Ira S. George,	" "	200	"	" Sept. 1st, 1886.	✓
Archie Pershall	" "	160	"	" June 1st, 1898.	✓
T. C. Woodbridge, successor to					
E. A. Barnes,	" "	160	"	" May 9th, 1899.	✓
Arco Trading Co	" "	10	"	" June 1st, 1880.	✓
Arco Trading Co	" "	150	"	" Oct. 2nd, 1885.	✓
Arco Trading Co	" "	840	"	" Oct. 2nd, 1885.	✓
Matt. Boyle,	" "	160	"	" May 1st, 1886.	✓
Jas. Boyle,	" "	160	"	" May 1st, 1886.	✓
A. C. Porter,	" "	120	"	" Sept. 1st, 1901.	✓
Peter Anderson	" "	160	"	" June 1st, 1894.	✓
Herbert R. Jones	" "	200	"	" May 1st, 1899.	✓
Mrs. Lydie A. Wyatt	" "	153	"	" Sept. 1st, 1899.	✓
Elmer Pershall	" "	160	"	" Sept. 1st, 1898.	✓
Samuel Mulville	" "	60	"	" June 1st, 1896.	✓
Samuel Mulville	" "	20	"	" Mar. 1st, 1902.	✓
J. F. Long,	" "	160	"	" Sept. 28th, 1896.	✓
B. F. McCowan,	" "	160	"	" Sept. 28th, 1896.	✓
M. M. Moore	" "	216	"	" Aug. 1st, 1896.	✓
D. S. Brown,	" "	160	"	" Sept. 28th, 1896.	✓
Chas. Akin,	" "	160	"	" Aug. 10th, 1883.	✓
J. N. Kenneksey.	" "	160	"	" Mar. 1st, 1902.	✓
Otto B. Fleischer	" "	80	"	" July 22nd, 1901.	✓
Arco Townsite Co	" "	80	"	" July 22nd, 1901.	✓
Isaac R. Johnson,	" "	160	"	" Jan. 13th, 1902.	✓
Josephine Conbe,	" "	80	"	" Aug. 1st, 1898.	✓
D. H. Ashton, successor to					
Thos. Porter,	" "	80	"	" May 1st, 1897.	✓
Emille Singer & Sarah E. Singer,	" "	60	"	" May 1st, 1901.	✓
Emille Singer & Sarah E. Singer,	" "	100	"	" Feb. 1st, 1902.	✓
Frank F. Brown,	" "	160	"	" July 1st, 1901.	✓

MICROFILMED

May 26, 1920.

Re: Transfer Case No. 48. ✓

Mr. Mark Hurst,
Arco, Idaho.

Dear Sir:

In connection with the hearing for application for transfer will state that two other hearings were held on the same trip and the total expense incurred was \$43.00, therefore, your pro-rata share of the same is \$15.00. The statutory fee for certificate of transfer is \$1.00 and the cost of the Money Order on the refund made you is 12¢. This is in explanation of Money Order No. 486963 for \$28.88. No final action has been taken as yet in the matter of your application. You will be notified within the next few weeks as to the decision rendered by this Department. If the decision is unfavorable, the \$1.00 now being held will be refunded to you.

Very truly yours,

W. G. SWERDSEN,
Commissioner of Reclamation.

By

Assistant.

STB:MB
Encl.

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T-271

State of Idaho
County of Butte

Charles A. Matthews, just being duly sworn,
according to law, deposes and says: That
he was the duly elected Watermaster for Big
Lost River in the year 1913-1914-1916
1917-1918 and 1919. That during all
these years he delivered to the Muncy
Ditch Co at the head of the Muncy
Canal all the waters that was decreed
to the shareholders in said Muncy
Ditch Co. - I also make the statement
that John F. Welch and L. A. Lafferty told me
that Mark Huest was not entitled
to the 60 inches of water in controversy,
but that the same 60 inches of water
belong to John F. Welch as successor
to John F. Lang -

Chas A Matthews

Subscribed and sworn to before me
this 22 day of May 1920

Otto B. Fleischer,
Notary Public
Arco Idaho

AFFIDAVIT OF PUBLICATION

I, C. A. Bottolfson, publisher of The Arco Advertiser, published weekly at Arco, Idaho, do solemnly swear that a copy of the notice, as per clipping attached, was published weekly in the regular and entire issue of said newspaper, and not in any supplement thereof, for Two consecutive weeks, commencing with the issue dated April 30, 1920 and ending with the issue dated May 7, 1920

Subscribed and sworn to before me this 19th day of May, 1920

Otto Fleischer
Notary Public.
Justice of the Peace
Arco, Precinct
Butte County, Idaho

NOTICE OF PROPOSED TRANSFER OF WATER RIGHT

Notice is herby given that Marcus Hurst of Arco, Idaho, has applied to the Commissioner of Reclamation of the State of Idaho for a certificate authorizing him to transfer the use of 7.8 second feet of the water of Big Lost River from the land upon which it is now used i. e., S $\frac{1}{2}$ SE $\frac{1}{4}$, Sec. 12; NE $\frac{1}{4}$ NE $\frac{1}{4}$, Sec. 13; T. 3 N., R. 26 E. B. M., SW $\frac{1}{4}$ SW $\frac{1}{4}$ Sec. 7, T. 3 N., R. 27 E. SE $\frac{1}{4}$ NE $\frac{1}{4}$, NE $\frac{1}{4}$ SE $\frac{1}{4}$, Sec. 13, T. 3 N., R. 26 E.; N $\frac{1}{2}$ SW $\frac{1}{4}$, Sec. 18, T. 3 N., R. 27 E. B. M.; W $\frac{1}{2}$ NE $\frac{1}{4}$ Sec. 13, T. 3 N., R. 26 E.; W $\frac{1}{2}$ NE $\frac{1}{4}$ S $\frac{1}{2}$ NW $\frac{1}{4}$, NE $\frac{1}{4}$ SW $\frac{1}{4}$, NW $\frac{1}{4}$ SE $\frac{1}{4}$, Sec. 13, T. 3 N., R. 26 E. B. M., to the following described tract, W $\frac{1}{2}$ NE $\frac{1}{4}$, SE $\frac{1}{4}$ NE $\frac{1}{4}$, S $\frac{1}{2}$ NW $\frac{1}{4}$, NE $\frac{1}{4}$ SW $\frac{1}{4}$, N $\frac{1}{2}$ SE $\frac{1}{4}$, Sec. 13 T. 3 N., R. 26 E. B. M., N $\frac{1}{2}$ SW $\frac{1}{4}$ Sec. 18, T. 3 N., R. 27 E. B. M.

And that, on the 19th day of May, A. D. 1920 at County Court House, Arco, at 11:00 A. M. 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.

A30-M7

W. G. SWENDSEN,
Commissioner of Reclamation.

T-271

~~3-1-271~~

Notice of Proposed Transfer of Water Right

Notice is hereby given that Marcus Hurst of Arco,
Idaho, has applied to the Commissioner of Reclamation of the State of Idaho
 for a certificate authorizing him to transfer the use of 7.8 second feet
 of the water of Big Lost River,
 from the land upon which it is now used, i. e. S $\frac{1}{2}$ SE $\frac{1}{4}$ Sec. 12; NE $\frac{1}{4}$ NE $\frac{1}{4}$ Sec. 13; T. 3 N., R. 26 E., B.M.
SW $\frac{1}{4}$ SE $\frac{1}{4}$ Sec. 7, T. 3 N., R. 27 E.; SE $\frac{1}{4}$ NE $\frac{1}{4}$, NE $\frac{1}{4}$ SE $\frac{1}{4}$ Sec. 13, T. 3 N., R. 26 E.;
N $\frac{1}{2}$ SW $\frac{1}{4}$ Sec. 18, T. 3 N., R. 27 E., B.M.; W $\frac{1}{2}$ NE $\frac{1}{4}$ Sec. 13, T. 3 N., R. 26 E.; W $\frac{1}{2}$ NE $\frac{1}{4}$, S $\frac{1}{2}$ NW $\frac{1}{4}$,
NE $\frac{1}{4}$ SW $\frac{1}{4}$, NW $\frac{1}{4}$ SE $\frac{1}{4}$ Sec. 13, T. 3 N., R. 26 E., B.M.
 to the following described tract:

W $\frac{1}{2}$ NE $\frac{1}{4}$, SE $\frac{1}{4}$ NE $\frac{1}{4}$, S $\frac{1}{2}$ NW $\frac{1}{4}$, NE $\frac{1}{4}$ SW $\frac{1}{4}$, N $\frac{1}{2}$ SE $\frac{1}{4}$ Sec. 13, T. 3 N., R. 26 E., B.M.
N $\frac{1}{2}$ SW $\frac{1}{4}$ Sec. 18, T. 3 N., R. 27 E., B.M.

And that, on the 19th day of May, A. D.
 1926, at County Court House, Arco, at 11:00 A.M.
 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.

W. G. Swendsen,
 Commissioner of Reclamation

T-271

~~PE District 7-36 -~~

~~1189-1503~~
~~1157~~

160" - Sept. 28-1896 - clear (1)
60" - " 28-1896 - " (2)
45" - May 17-1911 - fine (3)
125" - Apr. 15-1912 - " (4)
390" - Total.

(3) - NW⁴NE⁴, SW⁴NE⁴, Sec. 13-3N-26E.
P.O.D. SE⁴SW⁴-26-4N-26E.

(4) - SE⁴NW⁴, NW⁴NE⁴, NE⁴SW⁴, SW⁴NW⁴,
SW⁴NE⁴, NW⁴SE⁴ - Sec. 13-3N-26E.
P.O.D. Same as (3).

(1) - S²SE⁴, Sec. 12, NE⁴NE⁴, Sec. 13, T. 3N. R. 26E.
SW⁴SW⁴ - Sec. 7-3N-27E.

(2) - SE⁴NE⁴, Sec. 13, NE⁴SE⁴, Sec. 13, T. 3N.
R. 26E, N²SW⁴ Sec. 18, T. 3N-R. 27E.

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T-271

~~2116~~

Name of Applicant

Marcus Hurst

Tp 4 N R 26 E. 13. 2N

Point of division of Muncy ditch Co canal

SEC

SEC

SEC

SEC

SEC

SEC

** Point of division
Muncy ditch
private ditch*

SEC

SEC

SEC

Tp 3 N R 26 E 13. 2N Tp 3 N R 27 E 13. 2N.

SEC

SEC

SEC



SEC

SEC

SEC

Muncy ditch Co canal

*Point of division of
Muncy ditch Co canal*

*Lands
from
which*

SEC

SEC

SEC

*1898
1899
1900
1901
1902
1903
1904
1905
1906
1907
1908
1909
1910
1911
1912
1913
1914
1915
1916
1917
1918
1919
1920*

See right no
344-0355

→ superseded by

~~Utah Power~~
~~By~~
Utah Const. Co 15
Abbott Decree

STATE OF IDAHO.

DEPARTMENT OF RECLAMATION.

In the Matter of the Application of)
Marcus Hurst for Transfer of Water)
Right: Water Dist. No. 27-B.)
Case No. 48.)

ORDER GRANTING TRANSFER.

WHEREAS, On the 19th day of May, 1920, at Arco, Idaho, before John E. Badley, Assistant Commissioner of Reclamation, the matter of the application for transfer of water right of Marcus Hurst came on regularly for hearing, in accordance with the published notice; and,

WHEREAS, the applicant appeared in person and filed written testimony in support of the said application for transfer and John T. Welch, and his attorney, W. J. Lamm, appeared and filed a written affidavit protesting the said application; and,

WHEREAS, after due investigation and consideration of all the evidence filed in the matter, both for and against the transfer, it is found that a higher duty of water would result from allowing such transfer to be made, and that no one would be injured by making the transfer of water desired in the application;

IT IS, THEREFORE, hereby ordered that the said application for transfer be allowed and a certificate of transfer issued to the applicant herein.

IN WITNESS WHEREOF, I have hereunto set my hand and affixed the official seal of this Department, at Boise, Idaho, this 18th day of June, 1920.

W. G. Swendsen
Commissioner of Reclamation.

By F. J. [unclear], Deputy.

STATE OF IDAHO.
 DEPARTMENT OF RECLAMATION.
 CERTIFICATE OF WATER RIGHT.
 Transferred Right No. 271.

This is to certify that Marcus Hurst, of Arco, County of Butte, State of Idaho, has a right to the use of the waters of Big Lost River, for irrigation and domestic purposes, and that said right has been confirmed by decree of the District Court of the Fourth Judicial District of the State of Idaho, in and for the County of Custer, in the case of S. T. Doe, et al, plaintiffs, vs. Henry Warner, et al, defendants, K. I. Perly, District Judge, said right bearing date of priority of September 28, 1896; that the said decree has been entered at Boise, Idaho, in the records of the Department of Reclamation, in Vol. 1 of Decrees, page 492; that the applicant, Marcus Hurst, also has a right to the use of the waters of Big Lost River, for irrigation and domestic purposes, by virtue of two water licenses issued under Permit to appropriate the public waters of the State of Idaho, No. 7365, issued by the State Engineer of the State of Idaho, said licenses bearing dates of priority as follows: No. 1, May 17, 1911, and No. 2, April 15, 1912; that the total amount of water claimed under the above mentioned rights is 7.8 second feet and that said water has been dedicated to the following described lands, to-wit: S¹/₂ Sec.12; S¹/₂ Sec. 14, NE¹/₄ Sec. 1, N¹/₂ Sec. 1, NE¹/₄ Sec. 1, SE¹/₄ Sec. 1, and NE¹/₄ Sec. 1, Sec. 13, Twp. 3 N., R. 26 E., S. 4 N.; S¹/₂ Sec. 7, N¹/₂ Sec. 18, T. 3 N., R. 27 E., S. 4 N.; that, upon the application of the said Marcus Hurst 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 7.8 second feet of the waters of Big Lost River, in water district No. 27-B, is hereby abandoned upon the lands above described and a description of the lands to be irrigated under such rights and to which the water right hereby confirmed shall by this certificate become appurtenant, for irrigation and domestic purposes, is shown in the following table, limited at any given time to an amount actually needed and beneficially used for such purposes and shall not exceed the following amounts, to-wit:

5.2 sec.ft., dated September 28, 1896.									
1.2 " " " " " "									
0.9 " " " May 17, 1911.									
2.5 " " " April 15, 1912.									
Twp. Rge. Sec.	NE ¹ / ₄ Sec. 12	SE ¹ / ₄ Sec. 12	NE ¹ / ₄ Sec. 14	SE ¹ / ₄ Sec. 14	NE ¹ / ₄ Sec. 1	SE ¹ / ₄ Sec. 1	NE ¹ / ₄ Sec. 1	SE ¹ / ₄ Sec. 1	Totals.
3 N 26 E 13	40	40	40	40	40		40	40	320
3 N 27 E 18					40	40			80

The right to the use of the waters aforesaid, hereby confirmed, is restricted to the lands or place of use herein described, as provided by the laws of the State of Idaho.

WITNESS, The seal and signature of the Commissioner of Reclamation of the State of Idaho, affixed at Boise, Idaho, this 18th day of June, 1920.

Recorded in Water List.273-
 Platted on Map No. Dist.273-
 Diversion Point:-SW¹/₄ NW¹/₄-26 & NE¹/₄ SE¹/₄-35-4N-26E.

W. G. Fennell
 Commissioner of Reclamation.

By *J. H. Ross*, Deputy.

No.	Name	Address	Amount	Date	Remarks
1	Paul Thomas	East Street	100	June 1st, 1887	✓
2	Doc L. Jones	" "	150	June 1st, 1889	✓
3	Ira L. Jones	" "	150	June 1st, 1891	✓
4	Archib. Marshall	" "	100	Sept. 1st, 1893	✓
5	T.C. Woodbridge	successor to			
6	Wm. L. Jones	" "	100	May 2nd, 1899	✓
7	Archib. Marshall	" "	100	June 1st, 1899	✓
8	Archib. Marshall	" "	100	Oct. 1st, 1897	✓
9	Archib. Marshall	" "	100	Oct. 1st, 1898	✓
10	Wm. L. Jones	" "	100	May 1st, 1899	✓
11	Wm. L. Jones	" "	100	May 1st, 1899	✓
12	A. J. Porter	" "	100	Sept. 1st, 1901	✓
13	Wm. L. Jones	" "	100	June 1st, 1899	✓
14	Wm. L. Jones	" "	200	May 1st, 1899	✓
15	Wm. L. Jones	" "	100	Sept. 1st, 1899	✓
16	Wm. L. Jones	" "	100	Sept. 1st, 1899	✓
17	Wm. L. Jones	" "	100	June 1st, 1899	✓
18	Wm. L. Jones	" "	100	Mar. 1st, 1902	✓
19	Wm. L. Jones	" "	100	Sept. 1st, 1896	✓
20	Wm. L. Jones	" "	100	Sept. 1st, 1896	✓
21	Wm. L. Jones	" "	100	Aug. 1st, 1899	✓
22	Wm. L. Jones	" "	100	Sept. 1st, 1896	✓
23	Wm. L. Jones	" "	100	Aug. 1st, 1899	✓
24	Wm. L. Jones	" "	100	Mar. 1st, 1902	✓
25	Wm. L. Jones	" "	100	July 23rd, 1901	✓
26	Wm. L. Jones	" "	100	July 23rd, 1901	✓
27	Wm. L. Jones	" "	100	Jan. 1st, 1902	✓
28	Wm. L. Jones	" "	100	Aug. 1st, 1899	✓
29	Wm. L. Jones	" "	100	May 1st, 1899	✓
30	Wm. L. Jones	" "	100	May 1st, 1901	✓
31	Wm. L. Jones	" "	100	Feb. 1st, 1902	✓
32	Wm. L. Jones	" "	100	July 1st, 1901	✓

This transfer was superseded by 34-0355 (See Utah Construction Company vs. Abbott decree dated October 21, 1925.)

TO ADD WHERE SENT: YOU SHOULD WRITE HERE THE NAME OF THE PERSON TO WHOM THE ORDER IS

SENT TO

Mark Hurst

ADDRESS

Arco

FOR

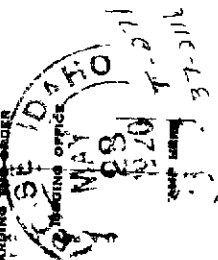
refund-transfer

486963
ECEIPT

DOLLARS	CENTS
28	88

AMOUNT FOR WHICH ISSUED

TO BE DETACHED BY THE PUR-
CHASER, WHO SHOULD PRESENT
IT AT THE OFFICE OF ISSUE IF
HE WISHES TO MAKE INQUIRY
REGARDING THIS ORDER



June 22, 1920.

Re: Transfer 48.

Mr. Marcus Hurst,
Arco, Idaho.

Dear Sir:

I am enclosing herewith order granting transfer of water right together with the certificate issued and receipt for fees.

I am returning herewith abstract of title as we have no further need of same in this office.

Yours very truly,

T. C. NELSON,
Commissioner of Reclamation,

By : _____

CC: 3.

June 22, 1920.

Re: Transfer 48.

Mr. T. J. Lamm,
Attorney, Arco,
Idaho.

Dear Sir:

I am enclosing herewith copy of the order granting the transfer
of water right of Marcus Harst.

Yours very truly,

M. G. Swendsen,
Commissioner of Reclamation,

By: _____

CMB:M

REC-271

7-271

June 14, 1920.

Re: Transfer Case No. 48. ✓

Mr. John L. Welsh,
Arco, Idaho.

Dear Sir:

In answer to yours of June 8th, concerning the application for transfer by Marcus Hurst, will state that this Department has decided to issue the certificate and an order to that effect will be drawn within the next few days.

Very truly yours,

W. C. STEEDMAN,
Commissioner of Reclamation.

By

STB:ED

Assistant.

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T-271

June 16th 1920

Hon W. G. Swendsen
Commissioner of Reclamation
Boise, Idaho

In Re: Transfer of water, Mark Hurst.

Dear Sir:-

In regard to my application for transfer of certain waters of Big Lost River, I wish to state, that Mr J. T. Welch, the party that made the objection to the transfer, told me that he has withdrawn all objection to this transfer in a recent letter to you; if this is the case, I wish you would kindly have this transfer completed, as I want to make a distribution of the land to my children at once, and for that reason would like to have this matter settled.

Thanking you for an early reply, I remain

Respectfully yours

Mark Hurst

MICROFILMED

T-271

May 28, 1920.

Re: Transfer Case No. 48. ✓

Mr. Mark Hurst,
Arco, Idaho.

Dear Sir:

In connection with the hearing for application for transfer will state that two other hearings were held on the same trip and the total expense incurred was \$43.00, therefore, your pro-rata share of the same is \$15.00. The statutory fee for certificate of transfer is \$1.00 and the cost of the Money Order on the refund made you is 12¢. This is in explanation of Money Order No. 486963 for \$28.88. No final action has been taken as yet in the matter of your application. You will be notified within the next few weeks as to the decision rendered by this Department. If the decision is unfavorable, the \$1.00 now being held will be refunded to you.

Very truly yours,

W. G. STEINBERG,
Commissioner of Reclamation.

By

Assistant.

STB:MB
Encl.

MICROFILMED

T-271

Ex^o 1118

Arco, Ida-6-8/26
State Engineer
Bism

Dear Sir, -

Hurst tells
me that if I do not
withdraw protest to his
transferring 60 inches
rated, that the 60 inches
will go back to the river
& U.C. will get it. If that
is the case I will with-
draw protest as I would
rather Hurst would get it than
U.C. Please advise me.
Respy John F. Welch T-271



D. W. DAVIS, GOVERNOR

STATE OF IDAHO
DEPARTMENT OF RECLAMATION

W. G. SWENDSEN, COMMISSIONER

BOISE

May 29, 1920.

BUREAU OF WATER RESOURCES
WATER APPROPRIATIONS
CAREY ACT DEVELOPMENT

Mr. W. G. Swendsen,
Commissioner of Reclamation,
Boise, Idaho.

Dear Sir:

On the 19th inst. at eleven o'clock, I conducted a hearing at the County Court House, Arco, Idaho, upon the application of Mr. Marcus Hurst, to transfer the use of 7.8 second feet of the waters of Big Lost River, this transfer not asking to change the point of diversion, but to merely allow the applicant to rotate the water from one piece of land to the other as necessity arose in order to get a higher duty of the water.

There appeared Mr. John T. Welch and Mr. W. J. Lamm, his attorney, and protested the transfer of 60 inches of this water. Mr. Welch's protest is attached hereto. I gave Mr. Hurst a copy of the protest that he might answer same and forward answers to this office; is also attached herewith.

From the attached affidavits of water masters, Mr. Hurst has been given this water upon demand and has used same. He also has been assessed by the Muncy Ditch Company for this water, therefore in view of all of this evidence, I recommend that Marcus Hurst be given the transfer as requested.

Respectfully yours,

J. E. Badley
Carey Act Engineer.

JEB:MB

MICROFILMED

T-27/

In the matter of Protest of John T. Welch
against the application of Marcus Hurst for transfer
of sixty inches of water.

State Engineer
Boise, Idaho

Dear Sir:

Herewith the following affidavits etc in the above matter, con-
sisting of :

Affidavit of Marcus Hurst

Affidavit of Charles A. Matthews

Affidavit

of Albert Duncan

Affidavit of S.L. Gates

Copy of ledger account of Marcus Hurst

Copy of ledger account of John T. Welch

Two original notices to Marcus Hurst to pay assessment.

Yours truly

Marcus Hurst

MAINTAINED

T-271

City of Idaho
City of Butte, Id.

also A Matthews, just being duly sworn,
according to laws, deposited and sworn: That
as the duly elected Watermaster for Big
River in the year 1913-1914-1916
- 1918 and 1919. That during all
years he delivered to the Muncy
Co at the head of the Muncy
Co all the waters that transpired
to shareholders in said Muncy
Co. - I also make the statement
John P. Welch and L. A. Lafferty to whom
Mark Hoot was not entitled
to 60 inches of water in a certain way,
that the same amount of water
going to John P. Welch and L. A. Lafferty
John P. Lafferty.

That I have not

scribed or signed this document
2 days of the month of July

FILED

State of Idaho
County of Butte

I, S. L. Gates first being duly sworn
according to law, depose and say:

That I was water master on
the Muncy Ditch from about the
13th of June 1918 to the 19th of June
1918. and that during most of that
time I delivered to Mark Stens
about 360 inches of water.

S. L. Gates

Subscribed and sworn to before me this
22 day of May 1920.

Otto B. Fleischer
Notary Public
Arco Idaho

My commission expires June 18 - 1923.

MICROFILMED

Arco Idaho
July, 15 1918

Mr. Mark Hurst.

Your assessment for cleaning and repairing
of Munsey Ditch for the year 1918 amounted to 25¢
per share. That would amount to \$90.00

And your work amounted to \$10.85
\$79.15 Bal. due

Please remit at once. And oblige Munsey Ditch Co
David Collings PRES.

E. Kidman
Sect

15
1918

Arco Idaho.
Nov. 5 1918.

Mr. Mark Hurst,
Dear Sir;

Your cash assessment on the Munsey
Ditch for the year 1918 amounts to
\$34.00

This assessment is to pay water master
and attorney fees and other expenses
for the year 1918. This assessment is
due. So please remit at once.

Yours very truly
Munsey Ditch Co.

David Collings PRES.

E. Kidman SECT.

Notice received by Mark Hurst
requiring him to pay assessment

135
134

T-371

~~RECEIVED~~

)
In the matter of protest of)
John T. Welch against the)
application of Marcus Hurst)
for transfer of sixty inches)
of water)

) SS
State of Idaho)
County of Butte)

Marcus Hurst, being first duly sworn, deposes and says: That he has read the sworn deposition of John T. Welch in regard to the above matter.

The said sixty inches of water were decreed to John F. Long and were sold by him on April 9th 1904 to John T. Welch, and on the 20th day of March 1905 the said John T. Welch and Ora Welch his wife sold to John Flohr said sixty inches of water. April 23d 1909 John Flohr sold the said sixty inches of water to Charles LaFever, On October 27th 1909 Charles LaFever sold the said sixty inches of water to Nina Hurst and on July 6th 1907 Nina Hurst sold the said sixty inches of water to Marcus Hurst.

The Muncy ditch company was incorporated sometime in 1911 and the books of said company show that John T. Welch was entitled only to 100 inches of water thru their ditch. And for every year since 1911, John T. Welch was assessed for 100 inches of water and no more. On July 1st 1912, the Secretary of the Muncy Ditch Co started his books, opening an account with each shareholder, showing the amount of water each was entitled to, among others it showed that John T. Welch was entitled to 100 inches and Marcus Hurst for himself and as Agent for Nina Hurst was entitled to 360 inches.

John T. Welch has never used more than 100 inches of water; He has only about 75 acres in cultivation and about 50 acres of his land is swampy, overgrown with willows and is overflowed during high water season.

Nina Hurst bought the sixty inches of water and I, as her Agent, used the water in 1909, 1910 and 1911 on the lands described in my application for transfer, and each water master since 1911 recognized the deed and my right to the use of said sixty inches of water.

During the time that Charles LaFever owned the water he used the water every year, and John T. Welch never questioned his right to the use of the said sixty inches.

I have used the said sixty inches of water every year since 1909 whenever there was water available for irrigation, and paid all assessment levied by the company on said 60 inches of water, as shown by the attached copy of certain pages out of the Muncy Company's books.

Marcus Hurst

*Subscribed and sworn to before
me this 24th day of May 1920*

*Otto B. Fischer
Notary Public
Arco Idaho*

State of Idaho) SS
County of Butte)

Albert Duncan, first being duly sworn, deposes and says:
I was Watermaster on the Muncy ditch Co canal in the year 1914,
and as such watermaster I delivered to Marcus Hurst as Agent for
Nina Hurst, the sixty inches of water originally decreed to John
F. Long. I asked Charles A. Matthews, watermaster on Big Lost
River, ~~to whom I should deliver this sixty inches of water,~~ to whom I should de-
liver this sixty inches of water, and he told me to deliver the
water to Nina Hurst, providing she had a deed to the water.

I also was Watermaster ~~for part of the year 1919,~~
year 1919, and as watermaster I delivered to Marcus Hurst said
sixty inches of water when ever the water was available and the
water was used on the lands described in his application for trans-
fer. And there was no protest from the board of Directors of the
Muncy ditch Co on the delivery of said water to Marcus Hurst.

Albert Duncan

Subscribed and sworn to before me this 24th day of May 1920.

Otto K. Kline

My Commission expires June 18 - 1923 Notary Public, Arco, Idaho

T-271

Inde...

		Dr.	Cr.
160 in	31 21/25		
200 in	74		
1912			
July 1,	To assessment to constructing ditch, " " " corporation	195.16	
1912,	By work,		25.20
April 19,	To balance due,		159.75
			14.21
		<u>138.16</u>	<u>199.16</u>
1912			
April 19,	Balance down,	14.21	
" 13,	To assessment 360 in 25	60.00	
June 15	By work,		82.00
		<u>104.21</u>	
		38.00	
		<u>22.21</u>	
Aug. 1 1912,	By cash	20.00	
	To balance		2.21
		<u>2.21</u>	
Jan. 1, 1913, assessment for 1913 360 in 25			
	By work,	54.00	
		<u>56.21</u>	
		28.61	
		<u>38.61</u>	
	By balance over	27.80	
Jan. 1, 1914	assessment for 1914 360 in 25	72.00	
	By work,	<u>99.60</u>	
			137.75
			<u>95.50</u>
	By balance due		<u>58.13</u>
Jan. 1, 1915 assessment for 1915 360 in 25			
	By work,	36.00	
			9.00
			<u>47.15</u>
			<u>56.00</u>
	By balance due		<u>11.15</u>
April 23, 1916 assessment for 1916 360 in 25			
	By work,	50.00	
		<u>42.77</u>	
			31.62
			<u>42.77</u>
	To balance over,	47.23	
Mar. 12, 1917	Paid cash,	<u>47.23</u>	
		00.00	47.23
Dec. 14, 1914 Sold to Muncy ditch Co. for assessment 65¢ per share 160 inches, and cost of sale and cost of advertising. 200 miners.			

Mine Hurst. Marc Hurst

		Dr.	Cr.
Assessed for 1917, 360 in 25		90.00	00.00
May 21, 1917	By work,		<u>37.10</u>
		<u>37.10</u>	
Oct. 24, 1917,	By balance due	53.10	
Nov. 5, 1917,	Paid cash,	<u>53.10</u>	
		00.00	53.10
April 10, 1918 Assessment for cleaning of ditch for year 1918, 360 in 25			
		90.00	
July 30, 1918	Paid cash,	<u>90.00</u>	
			75.15
			<u>10.85</u>
		<u>00.00</u>	<u>90.00</u>
Nov. 4, 1918 Cash assessment of 65¢ per share, for advertising sale of stock,			
		254.00	
		5.00	

Copy of the account of Marcus Hurst with Muncy ditch Co
showing that he was assessed at all times for 360 inches of
water.

T-271

100 in 51 21/22

J. T. Welch,

	Dr.	Cr.
1912,		
July, 1, To assessment for constructing	21.96	
, To assessment of corporation,	7.00	
1912, By work,		66.00
April 19, By balance,	27.04	
	<u>66.00</u>	<u>66.00</u>
1912,		
April 19, Balance down,		27.04
15, To assessment 100 in 25 1/2	25.00	
June 15, By work,		19.00
		<u>46.04</u>
		25.00
		<u>21.04</u>
Balance down,		
100 shares of J. T. Welch water		
Jan. 4, 1914 held as collateral by Union		
Central Life Insurance Co., Minn.,		
Ohio,		
Jan. 1, 1913 Assessment for 1913, 100 in 15 1/2	15.00	
By work,		9.87
		<u>30.91</u>
		15.00
		<u>15.91</u>
By balance due,		
Jan. 1, 1914 Assessment for 1914 100 in 20 1/2	20.00	
By work,		48.60
By balance due,		<u>64.51</u>
Jan. 1, 1915 Assessment for 1915 100 in 10 1/2	10.00	
By work,		20.00
		<u>44.51</u>
		10.00
		<u>34.51</u>
By balance due,		
April 22, 1916 Assessment for 1916, 100 in 25 1/2	25.00	
By work,		12.50
		<u>48.01</u>
		25.00
		<u>23.01</u>
By balance due,		

Copy of the account of John T. Welch with Muncy ditch Co showing that he was assessed only on 100 inches of water.

Arcos Ida, May 22/20

State Engineer Emerson Quinn.

Dear sir,-

You will note in abstract that in deciding to take 80 inches of water from my decree I reserved the right to use all or any part of the 60 inches in order to make out full 100 inches in case of shortage. Now as a matter of fact there has been such shortage several years since deed was signed. Now I made the proposition to Hurst to compromise this affair & he should transfer 40 inches and I retain 20 inches. He agreed once to that but after word put back on it. Now I am writing that Mr. Hurst should transfer the 40 inches and leave the 20 inches where it is used now. I trust this will be satisfactory and every thing arranged with out further trouble. Respectfully,
John H. Williams

MICROFILMED

In the matter of Protest of)
John T. Welch against the)
application of Marcus Hurst)
for Transfer of sixty inches)
of water)

.....

State of Idaho,
ss.
County of Butte.

John T. Welch, being first duly sworn, deposes and says; That he is the owner of sixty inches of the water sought to be transferred by Marcus Hurst, to wit: That in the case of S.T. Moe et al., vs Henry Harger et al., In the District Court of the Fourth Judicial District of the State of Idaho, in and for Custer County, recorded in Book 1 of Judgments, page 58, records of Butte County, Idaho, the said District Court decreed to John F. Long from Lost River 160 inches of water with date of priority of September 28, 1896, of which the said sixty inches of water was part of said decree; that said water was decreed for the use of and for the purpose of ~~irrigating the S $\frac{1}{2}$ SE $\frac{1}{2}$ of section 12 and the NE $\frac{1}{4}$ NE $\frac{1}{4}$ section 13, Twp. 3 North of Range 26 E.B.M., and Lot 4, Section 7 in Twp. 3 North of Range 27 E.B.M.,~~ That on April 9th, 1904, said John F. Long deeded and conveyed the foregoing described land and water right to affiant; that on the 20th day of March, 1905, affiant deeded said sixty inches of water to John Flohr, said Marcus Hurst's predecessor in interest, with the following limitations as contained in said deed as shown on page 8 of abstract, to wit: " Provided however that in the event there is not sufficient water in the stream to furnish the full number of said 160 inches, the first party reserves the right to have the full amount of one hundred inches delivered to him before said sixty inches or any part thereof is delivered to said second party."

That at all times herein mentioned, whenever there was sufficient water in Big Lost River to fill affiant decree of 160 inches of water said affiant used said ^{60 inches of} water for the irrigation of the above described premises.

MICROFILMED

7-571

Affiant further states that the said Marcus Hurst or his predecessors in interest never at any time or at all used said sixty inches of water for the purpose of irrigating said land described in his application for transfer of water right, or on any part thereof, or on any land at all, except on affiants land to which said water was decreed.

Wherefore, affiant asks that said Marcus Hurst application be denied as to the transfer of said sixty inches of water, on the grounds that he is not entitled to the use thereof or any part thereof.

666

John F. Welch

Subscribed and sworn to before me this 19th day of May, 1920.

W. J. Lawrence
Notary Public, Arco, Idaho

1. State lands from which the transfer is desired : $S\frac{1}{2}SE\frac{1}{4}$ Sec 12 $NE\frac{1}{4}$ $NE\frac{1}{4}$ Sec 13
 $3N-26E SW\frac{1}{4}SW\frac{1}{4}$ Sec 7- $3N-27E SE\frac{1}{4}N\frac{1}{4}$ $N\frac{1}{4}SE\frac{1}{4}$ Sec 13- $3N-26E N\frac{1}{2}SW\frac{1}{4}$ Sec 18- $3N-27E$
 $W\frac{1}{2}NE\frac{1}{4}$ Sec 13- $3N-26E W\frac{1}{2}NE\frac{1}{4}$ $S\frac{1}{2}NW\frac{1}{4}$ $NE\frac{1}{4}SW\frac{1}{4}$ $NW\frac{1}{4}SE\frac{1}{4}$ Sec 13- $3N-26E$

2. State amount, source, and date of water right, covering the land : _____

7.8 second feet - Big Lost River, Jan 2 - 1846 - Aug 24 - 1912, Dec 8 - 1913

3. State the present point of diversion by 40 acre tract : $SW\frac{1}{4}NW\frac{1}{4}$ Sec 26

and $NE\frac{1}{4}SE\frac{1}{4}$ Sec 35 T4N R26E

4. Who owns the above described lands : Mark Hunt

5. How obtained : by appropriation and purchase

6. State how the water right was secured : by appropriation & purchase

7. How much of this land is in cultivation and under irrigation : 250 acres

8. State kind of crops : Alfalfa & grain

9. Is any portion of the above lands swampy, and if so, to what extent : _____

no

10. When was water last used on the above described lands : 1919.

11. How much of the above described lands will be irrigated if the transfer is granted : 400 acres

12. How much water per acre will be necessary : 1 inch per acre

13. Are there any water rights, other than the one above described, attached to the said lands, and if so, state same : no

14. Describe the lands to which the transfer is desired : same as in question 1.

15. Who is the owner of same, and how acquired : same as question 4 and 5.

MICROFILMED
1964

T-211

16. If there is any water right attached to the above lands at present,
state source, amount, date, how acquired : see question 2.

17. State point of diversion : same

18. How much of this land in cultivation and irrigation : 250 acres

19. How much water per acre is required for these lands : 1 inch per acre

20. If the transfer is granted, describe the new point of diversion : _____

will be the same point

21. How long have these lands been irrigated, and when was water last used on
them : 1896 - 1919

22. How much of the above described lands will be irrigated if the transfer is
granted : all

23. Are any of these lands swampy ? If so, how many acres : _____

no

24. What are the reasons for desiring said transfer : Will make the
various amounts appurtenant to all the lands, and
tend towards a higher duty of water, and greater
crop production

Marcus Haupt
Applicant.

Subscribed and sworn to before me this 19th day of May 1920.

Otto B. Fleischer
Notary Public.

Arco Idalos
My commission expires June 18-1923

MICROFILMED

T-571

AFFIDAVIT OF PUBLICATION

I, C. A. Bottolfsen, publisher of The Arco Advertiser, published weekly at Arco, Idaho, do solemnly swear that a copy of the notice, as per clipping attached, was published weekly in the regular and entire issue of said newspaper, and not in any supplement thereof, for Two consecutive weeks, commencing with the issue dated April 30, 1920 and ending with the issue dated May 7, 1920.

Subscribed and sworn to before me this 19th day of May, 1920

W. G. Swendsen
Notary Public
Justice of the Peace
Arco, P. C. District
Butte County, Idaho

NOTICE OF PROPOSED TRANSFER OF WATER RIGHT

Notice is hereby given that Marcus Hurst of Arco, Idaho, has applied to the Commissioner of Reclamation of the State of Idaho for a certificate authorizing him to transfer the use of 78 second feet of the water of Big Lost River from the land upon which it is now used i. e. S $\frac{1}{2}$ SE $\frac{1}{4}$, Sec. 12; NE $\frac{1}{4}$ NE $\frac{1}{4}$, Sec. 13; T. 3 N., R. 26 E. B. M., SW $\frac{1}{4}$ SW $\frac{1}{4}$ Sec. 7, T. 3 N., R. 27 E. SE $\frac{1}{4}$ NE $\frac{1}{4}$, NE $\frac{1}{4}$ SE $\frac{1}{4}$, Sec. 13, T. 3 N., R. 26 E.; N $\frac{1}{2}$ SW $\frac{1}{4}$, Sec. 18, T. 3 N., R. 27 E. B. M.; W $\frac{1}{2}$ NE $\frac{1}{4}$, Sec. 13, T. 3 N. R. 26 E.; W $\frac{1}{2}$ NE $\frac{1}{4}$, S $\frac{1}{2}$ NW $\frac{1}{4}$, NE $\frac{1}{4}$ SW $\frac{1}{4}$, NW $\frac{1}{4}$, SE $\frac{1}{4}$, Sec. 13, T. 3 N., R. 26 E. B. M., to the following described tract, W $\frac{1}{2}$ NE $\frac{1}{4}$, SE $\frac{1}{4}$ NE $\frac{1}{4}$, S $\frac{1}{2}$ NW $\frac{1}{4}$, NE $\frac{1}{4}$ SW $\frac{1}{4}$, N $\frac{1}{2}$ SE $\frac{1}{4}$, Sec. 13 T. 3 N., R. 26 E. B. M., N $\frac{1}{2}$ SW $\frac{1}{4}$ Sec. 18, T. 3 N., R. 27 E. B. M.

And that, on the 19th day of May, A. D. 1920 at County Court House, Arco, at 11:00 A. M. 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.

A30 M7

W. G. SWENDSEN,
Commissioner of Reclamation

7-3711

April 26, 1920.

The Advertiser,
Arco, Idaho.

Gentlemen:--

An enclosing herewith notice of transfer of water right which please publish once a week for two consecutive weeks prior to May 19th, the expense of the publication to be paid by Marcus Hurst, of Arco, to whom you should furnish proof of publication on or prior to the date of the hearing.

Very truly yours,

W. J. STENDASIN,

Commissioner of Reclamation.

H

By _____

RECEIVED
MAY 1 1920

T-271

~~RECEIVED~~

Arco-

C. Court
House

11th C. M.
May 19

Arco
paper

2 weeks

T-271

~~_____~~

Notice of Proposed Transfer of Water Right

Notice is hereby given that Marcus Hurst of Arco,
Idaho, has applied to the Commissioner of Reclamation of the State of Idaho
 for a certificate authorizing him to transfer the use of 7.6 second foot
 of the water of Big Lost River,
 from the land upon which it is now used, i. e. S¹SE¹ Sec. 12, NE¹SE¹ Sec. 13, T. 3 N., R. 26 E., S. 1.
SW¹SW¹ Sec. 7, T. 3 N., R. 27 E.; SE¹SW¹ Sec. 15, T. 3 N., R. 26 E.;
NE¹SW¹ Sec. 18, T. 3 N., R. 27 E., S. 1.; W¹NE¹ Sec. 13, T. 3 N., R. 26 E.; W¹NE¹ Sec. 18,
NE¹SW¹ Sec. 13, T. 3 N., R. 26 E., S. 1.
 to the following described tract.

W¹NE¹ Sec. 12, SE¹NE¹ Sec. 13, T. 3 N., R. 26 E., S. 1.
NE¹SW¹ Sec. 18, T. 3 N., R. 27 E., S. 1.

And that, on the 19th day of May, A. D.
1920, at County Court House, Arco, at 11:00 A.M.
 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.

G. Swanson,
 Commissioner of Reclamation

T-271

~~Re District 21-26 -~~

~~457-1503~~

160" - Sept. 28 - 1896 - Live (1)
60" - " 28 - 1896 - " (2)
45" - May 17 - 1911 - " (3)
125" - Apr 15 - 1912 - " (4)
390" - Total.

(3) - NW¹/4E¹, SW¹/4E¹, Sec. 13 - 311-26E.
P.O.D. SE¹/4N¹ - 26 - 4N - 26E.

(4) - SE¹/4NW¹, NW¹/4E¹, SW¹/4N¹, SW¹/4E¹, NW¹/4E¹, Sec. 13 - 311-26E.
P.O.D. Same as (3)

(1) - SE¹/4NW¹, NW¹/4E¹, SW¹/4N¹, Sec. 13, T. 31N. R. 26E.
SW¹/4NW¹, Sec. 7 - 311-21E.

(2) - SE¹/4NW¹, Sec. 13, NW¹/4E¹, Sec. 13, T. 31N. R. 26E.
R. 26E, NW¹/4NW¹ Sec. 18, T. 31N. R. 27E.

MICROFILMED

Arco, Idaho April 16th 1900

Hon W. G. Swendson

Commissioner of Reclamation

Boise, Idaho

Dear Sir:-

In connection with the enclosed application for transfer of 60 inches of water from the Joan Long decree, I wish to make a statement explaining the situation: I own 160 inches of decreed water for the $SE\frac{1}{4}$ NE $\frac{1}{4}$ and the NE $\frac{1}{4}$ SE $\frac{1}{4}$ sec 13 Tp 3 N R 26 and N $\frac{1}{2}$ SW $\frac{1}{4}$ Sec 18 Tp 3 N R 27 E.B.M bearing date of priority of 1896. I also own a permit waterright of 170 inches from Big Lost River, as evidenced by State Engineer License No 7335 for the following described land: S $\frac{1}{2}$ NW $\frac{1}{4}$, W $\frac{1}{2}$ NE $\frac{1}{4}$, NE $\frac{1}{4}$ SW $\frac{1}{4}$ NW $\frac{1}{4}$ SE $\frac{1}{4}$ Sec 13 Tp 3 N R 26 E.B.M.

This makes a total of 220 inches of decreed waterright and 170 inches of permit water. Now what I want to do, is this: I want to divide the decreed right so each of the above described 40 acre tracts will have 22 inches of decreed water and 18.8 of permit water.

All the above described water comes thru the Muncey ditch and thru the Hurst private ditch, 360 inches flow thru the Muncey ditch and 40 inches thru the Hurst private ditch. I have used the water on all the lands thru both ditches as described above for a number of years, in fact ever since the lands were filed upon. Would you grant the privilege to use the water that way, and if so, what further procedure will be necessary for me? Kindly advise. Am enclosing check for \$45.00 as requested by you.

Yours truly

Wm. G. Swendson

March 2, 1920.

Mr. Marcus Hurst,
Arco, Idaho.

Dear Sir:

In answer to your letter of February 18th concerning application for transfer of water right, you are informed that such an application will be given every consideration by this Department when presented in proper form. For the purpose of making such an application, I am enclosing a blank form which is to be filled out in detail by you, with a sketch showing all ditches and lands affected. I would suggest that in making such application you state all rights to which you lay claim with the land to which each right has been made appurtenant then ask that these rights be taken from the land first described to the land to which transfer is desired which would then make your water right belong to all lands in order of priority.

Upon receipt of your application properly executed by yourself, two witnesses and the water master in your district, accompanied by your check or a money order for \$45 to defray the necessary expenses in connection with a hearing which will be held at Arco, you will be notified as to further requirements. If the amount deposited by you is in excess of the actual expenses incurred, the proper refund will be made you.

Yours very truly,

M. G. Iversen,
Commissioner of Reclamation,

By

Assistant.

STB/mw

MAR 10 1920

T-271

Arco, Idaho February 28th 1930

Commissioner of Reclamation

Boise, Idaho

Dear Sir:

Since the Utah Construction Co has bought the Big Lost River project, condition have changed very much as to the water situation, and I find that, they way the water id decreed to my 400 acres is not satisfactory. Some 40 acres tracts have more water decreed to them than other, and I would like to distribute the ^{water} equally on each forty; I have a decree of 220 inches of water from Big Lost River, with priority right from 1896, I also have a permit water right for 170 inches dated from May 17 1911. Permit No 10763. License No 7366 and hav an other license that I have not the number. I want to distribute the water equally on every forty acres, so each forty will have 22 inches of decreed water and then distribute the permit water right in the same way.

In Jan 1909 I bought 60 inches of water from the John Long place in Section 12 & 13 T 3 N R26 E, ~~Minerum~~ I have been using this water on my 400 acres and have never had a transfer of the water made, as the water is in the same ditch as my water is, and comes from the same diversion point from the river. This water comes 350 inch thru the Munsey ditch and 40 inches thru my private ditch.

Will you please send me the proper blanks to make this transfer of the 60 inches of wter Am sending you map of the lands in question inclosed.

Yours truly

Samuel S. S. S.

T-271

Application for Transfer of Water Right

STATE OF IDAHO,

County of BUTTE

ss.

MARGUS HURST

, being first duly sworn, deposes and says:

That his name is MARGUS HURST; that he is of lawful age, a citizen of the United States and of the State of Idaho, and that his postoffice address is ARBO, Idaho.

That he is the owner and using a certain water right, bearing date of priority of Sept. 23-7-1907 for $\begin{pmatrix} 1 \\ 2 \\ 3 \\ 4 \end{pmatrix} \begin{pmatrix} 3.2 \\ 1.2 \\ 0.9 \\ 2.5 \end{pmatrix}$ cubic feet per second of the waters of Big Lost River County of Butte, State of Idaho, decreed to $\begin{pmatrix} 1 \\ 2 \end{pmatrix} \begin{pmatrix} Earl Hurst \\ John Long \end{pmatrix}$

by decree of Judge, K. J. Ferry, of the Fourth Judicial District of the State of Idaho, in and for the County of Custer, in the case of U. S. Doe, et al vs. Henry Jorgar, et al, said decree bearing date of January 2, 1903,

and obtained by virtue of License No. 7355, issued by the State Engineer of the State of Idaho, dated $\begin{pmatrix} 3 \\ 4 \end{pmatrix} \begin{pmatrix} Apr. 24 \\ Dec. 8 \end{pmatrix}$, 1912, bearing date of priority of $\begin{pmatrix} 3 \\ 4 \end{pmatrix} \begin{pmatrix} May 17 \\ Apr. 15 \end{pmatrix}$, 1911,

for the purpose of irrigating the following described lands situate, lying and being in Water District No. 27-B in the County of Butte and State of Idaho, to wit: $\begin{pmatrix} 1 \\ 2 \end{pmatrix} \begin{pmatrix} S_{1/4} \text{ Sec. 13, T. 31N., R. 26E., S. 26E., Sec. 7-31N-27E.; } \\ S_{1/4} \text{ Sec. 13-31-26E., } \\ S_{1/4} \text{ Sec. 13-31-27E.; } \\ S_{1/4} \text{ Sec. 13-31-26E.; } \\ S_{1/4} \text{ Sec. 13-31-26E. } \end{pmatrix}$

and is the person (or the representative of the corporation) to whom $\begin{pmatrix} 1 \\ 2 \\ 3 \\ 4 \end{pmatrix}$ said right so issued, and has become the owner thereof in the following manner, i. e. $\begin{pmatrix} 1 \\ 2 \end{pmatrix}$ by purchase.

as per abstract of title of said water right hereto attached and made a part of this statement.

That said waters are now diverted from said stream at $\begin{pmatrix} 1 \\ 2 \end{pmatrix} \begin{pmatrix} S_{1/4} \text{ Sec. 26, T. 31N., R. 26E., } \\ S_{1/4} \text{ Sec. 35, T. 31N., R. 26E. } \end{pmatrix}$

and conducted to the above described lands through Henry Ditch and Hurst Ditch, as per map herewith and of this affidavit made a part;

That said applicant and petitioner desires to abandon the use of $\begin{pmatrix} 1 \\ 2 \end{pmatrix} \begin{pmatrix} 7.2 \\ 7.2 \end{pmatrix}$ cubic feet per second of said water upon the above described land, and to convey and use same upon the following tract, situate, lying and being in the County of Butte and State of Idaho, to wit: $\begin{pmatrix} 1 \\ 2 \end{pmatrix} \begin{pmatrix} S_{1/4} \text{ Sec. 13, T. 31N., R. 26E., } \\ S_{1/4} \text{ Sec. 13, T. 31N., R. 27E. } \end{pmatrix}$

That his reasons for desiring to make such transfer are as follows: Will make the various amounts appurtenant to all the lands, and turn toward the higher level of water, and greater crop production.

T-377

That he intends to divert and convey said 1.1 second feet of water to the tract of land last above described in the following manner, to wit: thru the Muncey ditch company canal, thru which it has been carried since the construction of said Muncey Ditch Company canal in 1896.

as set forth upon the map herewith; and that no one will be injured by such transfer.

WHEREFORE, Affiant and Petitioner prays that the Commissioner of Reclamation of the State of Idaho issue to him the proper certificate authorizing such transfer, and give proper notice of the same to the Water Master of Water District No. 27^B, in accordance with the provisions of Section 3264 of the Revised Codes of Idaho, as amended.

Marcus Haist

Subscribed and sworn to before me this 13th day of March 1920

A. D. 19 20

Otto C. Treichel

By Walter White
Arce G. ...

APPLICANT WILL ANSWER THE FOLLOWING QUESTIONS:

From what stream is the water diverted? Big Lost River

Where is the diversion point located? In NW¹ Section 26 Township 4 North Range 26 E

Through what ditch is it now conducted? Muncey Canal

How much land is now irrigated by the water sought to be transferred? 80 acres

Give the description: S¹ SE¹ Section 12 Township 3 North Range 26 E.B.M.

What is the total amount of water in inches, or second feet, dedicated to said land? 160 inches

What kind of crops are being raised? Alfalfa and grain

How much water per acre is now required to irrigate said land? one inch

What will be the effect on the land now irrigated, if the use of water on it is discontinued? of no effect, as there is still an inch to the acre left for land that can be irrigated

From what stream will the water be diverted if the transfer is made? Big Lost River

Give location of new point of diversion same point

Through what ditch will it be conducted after transfer? same ditch

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

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

Is there now any other water right for the land to which you seek to make this transfer? Yes

Signed

Marcus Haist

Applicant.

STATE OF IDAHO,

County of

Butte

ss.

Joseph L. ... and

being first duly sworn, each for himself, and not one for the other, deposes and says: That he is a citizen of the United States and of the State of Idaho, residing at Arco, Idaho that he is a user of water from Big Lost River, in Water District No. 27B, County of Butte, State of Idaho; that he has read or heard read the foregoing affidavit and petition of Marcus Hurst 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.

Joseph L. ...

W. J. Iverson

Subscribed and sworn to before me this 13th day of March

A. D. 1920

Notary Public
Arco, Idaho

STATE OF IDAHO,

County of

Butte

ss.

I, Charles A. Matthews Watermaster of Big Lost River

Water District No. 27B, County of Butte, State of Idaho, whose postoffice address is Moore, Idaho, have read or heard read the foregoing affidavit and petition of Marcus Hurst, 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; or ~~do not approve of the issuance of the~~

~~certificate of transfer prayed for~~ for the following reasons:

Chas A Matthews
Deputy Watermaster, Dist. No. 27B

Dated at Moore, Idaho, this

10th day of April, 1920

Name of Applicant

Marcus Hurst

Tp 4 N R 26 E B. M.

Point of division of Muncy ditch Co canal

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Tp 3 N R 26 E B. M. Tp 3 N R 27 E B. M.

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Muncy ditch Co canal

Point of division of Muncy ditch Co canal

Lands from Muncy

*1890 - 1896
2-170 - 2-17365*