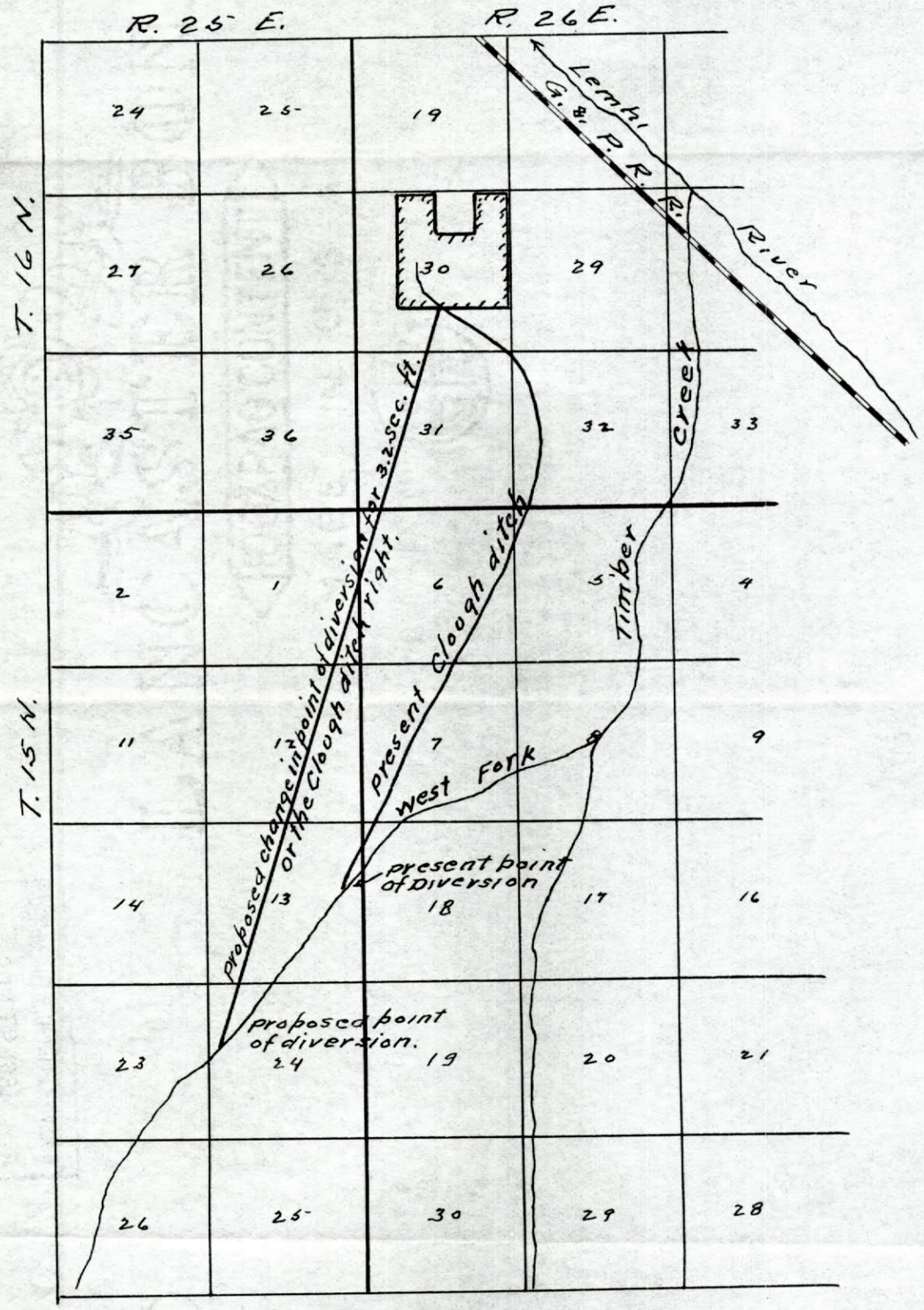
74-0038

Name of Applicants: S.F. [redacted]IAS and son RODNEY TO[redacted]AS

For change in point of diversion



MICROFILMED

74-0038

Form 13-A

Affidavit for Change of Point of Diversion of Decreed Water Right

STATE OF IDAHO,
County of Lemhi } ss.

S.F.Tobias and Rodney Tobias, being first duly sworn, deposes and says: That ~~his~~ their postoffice address is Leadore, Idaho. That ~~he is~~ they are the owner of and using a certain water right, bearing date of priority of June 1, 1892 ~~xxx~~, for 3.2 cubic feet per second of the waters of Timber Creek, County of Lemhi, State of Idaho, decreed to Edwin M. Yearian, by decree of Judge J.M.Stevens, of the sixth Judicial District of the State of Idaho, in and for the County of Lemhi, in the case of Edwin M.Yearian etal vs. ~~Robert M.Stewart etal~~ said decree bearing date of November 10, 1913, for the purpose of irrigating the following described lands, situate, lying and being in Water Dist. No. 69-G, in the County of Lemhi, and State of Idaho, to-wit: E½NE¼, SW¼NE¼, E½NW¼, NE¼SW¼, N½SE¼, Sec. 30, T.16 N. R. 25 E. B.M.

That ~~he is the person (or representative of the corporation) to whom such right was issued, (or has~~ they have become the owners thereof in the following manner: by purchase

That said waters are now diverted from said stream in the SE ¼ NE ¼ of Sec. 13, Twp. 15 N., Range 25 E., and conducted to the above described lands through the Clough ditch, as per map filed herewith and of this affidavit made a part;

That affiant desires to change the point of diversion of said water from the point above described to a point located in SW ¼ of NW ¼, Sec. 24, Twp. 15 N., Range 25 E., and thereafter conduct same to the above described land through the Tobias ditch, as per map above referred to:

That his reasons for desiring to make such change are as follows:
By the change in point of diversion and the conatruction of this ditch we believe we can conserv the water.

That no one will be injured by such change and that such change will be made at affiant's own risk.

S F Tobias & Rodney H Tobias
Affiant.

Subscribed and sworn to before me this 12th day of June, 1931.

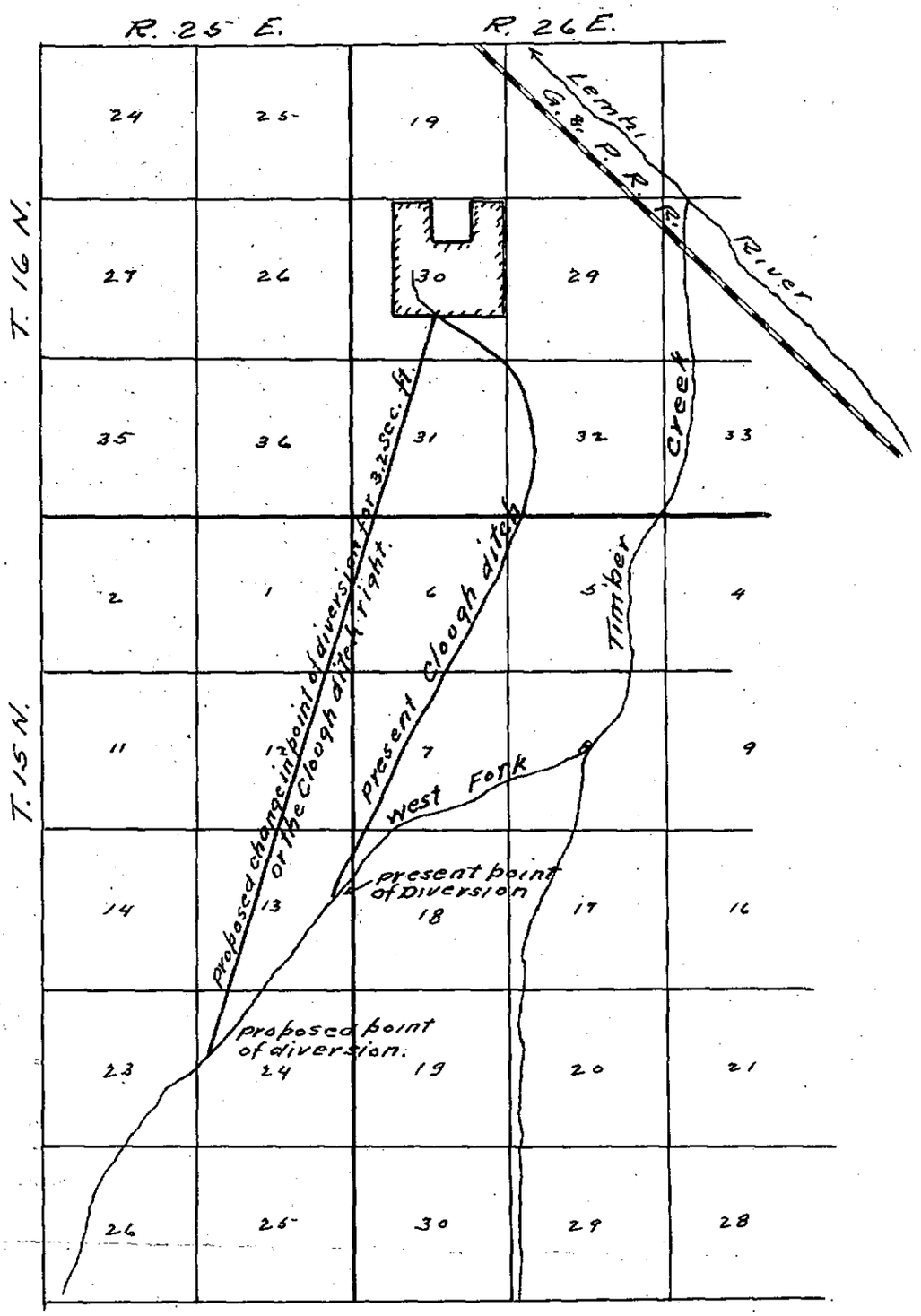
W.F. Stone
Notary Public

NOTE:—If this water right has heretofore been carried jointly in a ditch with other water, affiant should secure written consent of other owners or users to removal from its original carrier and file such consent with this affidavit.

74-0038

Name of applicants: S. F[illegible]IAS and SON RODNEY TO[illegible]AS

For change in point of diversion



State of Idaho
DEPARTMENT OF WATER RESOURCES
1301 North Orchard Street, Statehouse Mail, Boise, Idaho 83720-9000
Phone: (208) 327-7900 FAX: (208) 327-7866

CECIL D. ANDRUS
GOVERNOR

R. KEITH HIGGINSON
DIRECTOR

May 4, 1993

Kermit Purcell
1998 Melody Dr
Idaho Falls, ID 83402

RE: WATER RIGHTS 74-0038 AND 74-0040

Dear Mr. Purcell:

I have reviewed your letter dated April 25, 1993 in connection with use of the above referenced water rights.

In your letter, you have described water right no. 74-0038 as 194 miner's inches with a priority of June 1, 1879. Department records show the right as being 192 miner's inches of water (3.84 cfs) with a priority of June 1, 1892 to be diverted from Little Timber Creek within the SWNW Section 24, T15N, R25E,B.M.

You have also described water right no. 74-0040 as 210 miner's inches from Little Timber Creek with a priority of June 1, 1879. Department records show the 210 inches in two (2) parts as follows:

1) 3.0 cfs (150 miner's inches) to be diverted from Little Timber Creek in the SWNW Section 24, T15N, R25E,B.M. The priority of use is June 1, 1879.

2) 1.2 cfs (60 miner's inches) to be diverted from Big Timber Creek within the SENE Section 5, T15N, R26E,B.M. The priority of use is June 1, 1879.

Maps of the department show that even though the points of diversion for the rights diverted from Little Timber Creek are in the same 40-acre tract, the two rights are diverted out through different ditches.

The decree shows that decreed water right no. 74-0033 which is diverted from Little Timber Creek bears a priority of July 1, 1879. This water right is owned by a different party and is senior to the Clinger right (74-0038).

The procedure for changing the point of diversion and/or the place of use of the rights as described in your letter is to file an application for transfer with the department. That procedure is

for the purpose of providing notice to other users of an intended change.

Your contract with Clinger Enterprises apparently prevent you for the time being from filing a transfer to make the changes you propose. When you can pursue this change, however, our regional office in Idaho Falls is available to assist you with the filing of the application for transfer.

If you have additional questions, please feel free to contact the department.

Sincerely,

R. KEITH HIGGINSON
Director

c: IDWR - E. Region

IDAHO DEPARTMENT OF WATER RESOURCES
WATER RIGHTS SUMMARY REPORT

WR-NUMBER: 74-00040
CURRENT OWNER: KERMIT PURCELL
COUNTY: LEMHI
SOURCE: BIG TIMBER CREEK
LITTLE TIMBER CREEK
TRIBUTARY: LEMHI RIVER
BIG TIMBER CREEK
PRIORITY DATE: 06/01/1879
STAGE: DECREED

WATER USE: IRRIGATION
DIVERSION RATE: 4.200
TOTAL: 4.200
DIVERSION VOLUME:
PERIOD FROM: 03/15
PERIOD TO: 11/15

POINT OF DIVERSION:

Twp	Rge	Sec	Tract	Lot
15N	25E	24	SW NW	
	26E	05	SE NE	

PLACE OF USE LEGAL DESCRIPTION FOR: IRRIGATION

			NE						NW						SW						SE					
			NENE		NWNE		SWNE		SENE		NENW		NWNW		SWNW		SENW		NESW		NWSW		SWSW		SESW		NESE		NWSE		SWSE		SESE		SUM
T	R	S	Lt	Ac	Lt	Ac	Lt	Ac	Lt	Ac	Lt	Ac	Lt	Ac	Lt	Ac	Lt	Ac	Lt	Ac	Lt	Ac	Lt	Ac	Lt	Ac	Lt	Ac	Lt	Ac	Lt	Ac	Lt	Ac	
16N	25E	24		40		40		40		36																30		36		36		20	278.0
16N	26E	19																	37	03-38	04-36				40									151.0
																																			TOTAL ACRES	429.0

REMARKS: AC. IRR.=429.6.
SOURCES ARE BIG TIMBER CK. & LITTLE TIMBER CK.
3.0 CFS DIVERTED FROM LITTLE TIMBER CK. & 1.2 CFS DIVERTED
FROM BIG TIMBER CK.

END OF REPORT

74-1039

June 27, 1931

Re: CHANGE OF POINT OF DIVERSION
Case No. 128

Mr. FRED CRANDALL
Salmon
I d a h o

Dear Sir:

Referring to the application of S. P. and RODNEY TOBIAS of Leadore for change of point of diversion:

In this connection, you are informed that this affidavit has been filed as of June 16, 1931.

The statute providing for change of point of diversion does not set up any definite procedure and the practise of this office has been simply to file them, then notify the water-master to deliver the water at the new point of diversion.

It is assumed if any party is injured by such change that he would take appropriate court action to prevent such change.

Very truly yours,

Acting Assistant Commissioner of Reclamation

MICROFILMED

74-[illegible]38

June 27, 1931

Re: DISTRICT No. 70-C

Mr. WILL VEZINA
Lemhi
I d a h o

Dear Sir:

You are hereby notified that affidavit for change of point of diversion of S. F. and ROLLEY TOBIAS of their water right in FINNEY CREEK has been filed in this office.

Upon application of Mr. TOBIAS, you will deliver the water to his new point of diversion, approximately one mile above the old. It is our understanding that this includes all of the water of the present CLOUGH DITCH.

Very truly yours,

Acting Assistant Commissioner of Reclamation

MICROFILMED

74-0038

FRED CRANDALL, C. E.
COUNTY SURVEYOR, LEMHI COUNTY
STATE LICENSED ENGINEER
U. S. DEPUTY MINERAL SURVEYOR
SALMON, IDAHO

June 25, 1931

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

Dear Sir:-

Re. change in point of diversion of S.F.Tobias and Rodney Tobias, of Leadore, Idaho, made June 9th., will you kindly advise me if there is any thing further required and will you notify the watermaster on this Timber Creek upon being advised that the new ditch is completed.

Yours very truly,

Fred Crandall

RECEIVED

June 16, 1931

Re: Change Point Diversion.

Mr. Fred Crandall
Salmon, Idaho

Dear Sir:-

Your letter of June 9th received, together with affidavit of S. F. and Rodney Tobias for change of point of diversion of water right. The affidavit will be placed on file here for future reference.

Very truly yours,
R. W. FARIS
Commissioner of Reclamation
By
Chief Clerk.

MICROFILMED

74-0038

FRED CRANDALL, C. E.
COUNTY SURVEYOR, LEMHI COUNTY
STATE LICENSED ENGINEER
U. S. DEPUTY MINERAL SURVEYOR
SALMON, IDAHO

June 9, 1931

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

Dear Sir:-

Enclosed please find application of S.F.Tobias and Son of Leadore, Idaho, to change a point of diversion, also map of proposed change.

Yours very truly,

Fred Crandall

RECEIVED JUN 10 1931