

Affidavit of Publication

State of Idaho, County of Adams, ss:

I, B. J. Rogers, being first duly sworn upon my Oath, depose and say that I am the publisher of The Adams County

Leader, a newspaper; that a copy of the Notice of

Proposed Transfer as per clipping

herein attached, was published in the regular and entire issue of said newspaper, and not in any supplement thereof, for

Two (2) consecutive weeks, the first publication of the

same being made in the issue dated Feb. 15, 1952

and the last in the issue dated Feb. 22, 1952;

that said newspaper is of general circulation in Adams County, Idaho, printed and published weekly at Council therein and that said newspaper has been continuously and uninterruptedly published in said county during a period of more than sev-

enty-eight consecutive weeks prior to the first publication of

said Notice as aforesaid.

Subscribed and sworn to before me this 23rd

day of February, 1952

Bert J. Rogers
Notary Public for Idaho,
Residing at Council, Idaho

NOTICE OF PROPOSED TRANSFER OF WATER RIGHT

Notice is hereby given that Andy R. Lay of Council, Idaho, has applied to the State Reclamation Engineer of the State of Idaho for a certificate authorizing him to change place of use of the waters of Cottonwood Creek as follows: Amount: .08 cubic feet per second, Point of diversion: SE $\frac{1}{4}$ NW $\frac{1}{4}$, Section 36 Township 16 N. Range 1 W. Place of use: NE $\frac{1}{4}$ NE $\frac{1}{4}$, Section 28, Twp. 16, N. R. 1 W B.M.

Transfer to
Point of diversion: SE $\frac{1}{4}$ NW $\frac{1}{4}$, Section 36, Township 16 N. Range 1 W. Place of use: Seven acre tract in SE $\frac{1}{4}$ NE $\frac{1}{4}$ Section 28, Twp. 16 N, R. 1, W B.M.

And that on the 25th day of February 1952 at 10 o'clock A.M. at Room 107, State House, Boise, Idaho, before the State Reclamation Engineer, 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.

MARK R. KULP
State Reclamation Engineer
Pub. Feb. 15 & 22.

MICROFILMED



Andy R. Lay
T. 16 N. - R. 1 W.
Adams County

Name of Applicant ANDY R LAY



NORTH

TWP. 16 N. R. 1 W.
RIVER

SEC. 27

DITCH

LESTER CREEK

Point of diversion
ditch

PITCH

CREEK

COTTON WOOD

WEISER

SEC.

SEC.

SEC.

SEC.

SEC.

SEC.

SEC.

SEC.

SEC. 26

SEC. 27

SEC.

SEC.

SEC.

SEC. 36

SEC. 33

SEC. 34

SEC. 33

SEC.

TRANSFER NO.	NAME	AMOUNT C.F.S.	BALANCE C.F.S.	RIGHT NO.
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	Kincade, R. S.	0.08		67-0322
880	Lay, Andy R.	0.08	0	67-0322A

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REMICROFILMED

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STATE OF IDAHO
DEPARTMENT OF RECLAMATION

Certificate of Water Right
Transferred Right No. 880

THIS IS TO CERTIFY That ANDY R. LAY of Council, Idaho, is the owner of and using a certain water right from Cottonwood Creek, a tributary of Weiser River in the amount of 4 miner's inches, or .08 cubic foot per second bearing date of priority of April 1, 1896, said water being decreed to R. S. Kincaid by Judge Ed L. Bryan, of the 7th Judicial District of the State of Idaho in and for the County of Washington and Adams in the case of

MUIR BROTHERS,

Plaintiff

vs.

ALLISON, et al.,

Defendants,

said decree bearing date of June 1, 1921, and being appurtenant to the following lands, to-wit:

NE $\frac{1}{4}$ NE $\frac{1}{4}$, Section 28, Twp. 16 N., Range 1 W., B. M.

That said decree has been entered in the records of the Department of Reclamation, of the State of Idaho, in Volume 5 of Decrees beginning at Page 51 thereof.

That said Andy R. Lay has become the owner of said right by title conveyance by decree of the District Court in the case of, PEEBLES vs. LAY, signed October 9, 1954.

And that now, upon the application of ANDY R. LAY of Council, Idaho, for the transfer of .08 cubic foot per second of the waters of Cottonwood Creek, a tributary of the Weiser River, made before the State Reclamation Engineer of the State of Idaho, and that the said application having been granted the right to the use .08 cubic foot per second of the waters of Cottonwood Creek upon the above described lands is hereby abandoned, and the lands to be irrigated under such right, and to which the water right hereby confirms shall become appurtenant by this certificate for irrigation and domestic purposes, are described as follows, to-wit:

NE $\frac{1}{4}$ SE $\frac{1}{4}$, Section 28, Twp. 16 N., Range 1 W., B. M.

That the said water is to be limited at any given time to an amount actually needed and beneficially used for such purposes, and shall not exceed the following amount, to-wit:

.08 cubic foot per second with priority
of April 1, 1896.

That the water right hereby transferred has heretofore been conducted from Cottonwood Creek to the first above described lands with point of diversion in the

NW $\frac{1}{4}$ of Section 36, Twp. 16 N., Range 1 W., B. M.

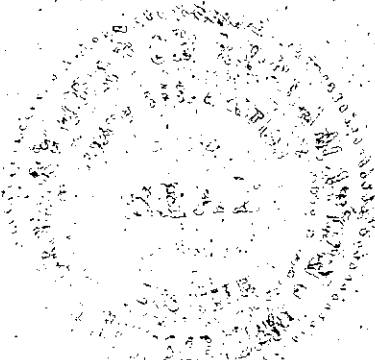
RECEIVED

That the water hereby transferred will hereafter be conducted to the last above described lands thru Cottonwood Creek with point of diversion located in the

NE 1/4, Section 28, Twp. 16 North, Range 1 West, B. M.

That the right to the use of the water aforesaid, hereby confirmed, is restricted to the lands or place of use last above described, as provided by the laws of the State of Idaho.

IN WITNESS WHEREOF, I have hereunto set my hand, and caused the official seal of the Department of Reclamation of the State of Idaho to be hereunto affixed, at Boise, Idaho, this 15th day of February, A. D. 1957.



Mark R. Kulp

MARK R. KULP
State Reclamation Engineer

STATE OF IDAHO

DEPARTMENT OF RECLAMATION

In the Matter of Application of)
Andy R. Lay of Council, Idaho,)
for a Transfer of Water Right)
in Water District No. 41, Adams)
County, Idaho.)

ORDER GRANTING TRANSFER

NO. 880

WHEREAS, On the 25th day of February, 1952, at the Department of Reclamation of the State of Idaho, at Boise, Idaho, this matter of an application of Andy R. Lay of Council, Idaho, for a Transfer of Water Right came on regularly for hearing pursuant to the publication notice in due and statutory form; and

WHEREAS, A protest was filed against the granting of said transfer for the reason that the water right to be transferred was in litigation as to title ownership; and,

WHEREAS, On the 9th day of August, 1954, by decree of the District Court Judge Don Anderson, of the 7th Judicial District of the State of Idaho in and for the County of Adams, in the case of

STEPHEN PEEBLES and ETHEL E. PEEBLES, husband and wife,

Plaintiffs,

vs.

ANDY R. LAY and ONA LAY, husband and wife,

Defendants,

title of water right was confirmed as belonging to the defendant, Andy R. Lay; and,

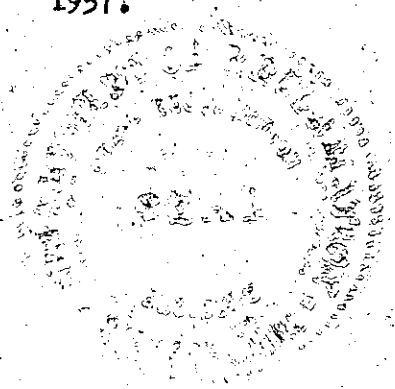
WHEREAS, Since the protest against the applicant was to satisfy title of water to be transferred only, it is evident that said court decree nullified the protest filed against the applicant; therefore, said water can be put to beneficial use and none will be injured thereby; and,

THEREFORE, IT IS HEREBY ORDERED, That the said application be, and the same is HEREBY GRANTED, and that a Certificate of Transfer be issued to the applicant herein, as provided by the laws of the State of Idaho.

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Defendants,

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NE¹/₄NE¹/₄, Section 28, Twp. 16 N., Range 1 W., B. M.

That said decree has been entered in the records of the Department of Reclamation, of the State of Idaho, in Volume 5 of Decrees beginning at Page 51 thereof.

That said Andy R. Lay has become the owner of said right by title conveyance by decree of the District Court in the case of, PEEBLES vs. LAY, signed October 9, 1954.

and that now, upon the application of ANDY R. LAY of Council, Idaho, for the transfer of .08 cubic feet per second of the waters of Cottonwood Creek, a tributary of the Weiser River, made before the State Reclamation Engineer of the State of Idaho, and that the said application having been granted the right to the use .08 cubic foot per second of the waters of Cottonwood Creek upon the above described lands is hereby abandoned, and the lands to be irrigated under such right, and to which the water right hereby confirms shall become appurtenant by this certificate for irrigation and domestic purposes, are described as follows, to-wit:

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MICROFILMED

That the water hereby transferred will hereafter be conducted to the last above described lands thru Cottonwood Creek with point of diversion located in the

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Plaintiffs,

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WHEREAS, Since the protest against the applicant was to satisfy title of water to be transferred only, it is evident that said court decree nullified the protest filed against the applicant; therefore, said water can be put to beneficial use and none will be injured thereby; and,

THEREFORE, IT IS HEREBY ORDERED, That the said application be, and the same is HEREBY GRANTED, and that a Certificate of Transfer be issued to the applicant herein, as provided by the Laws of the State of Idaho.

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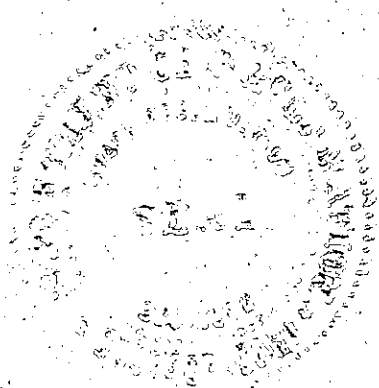
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STATE OF IDAHO

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Mark R. Kulp
MARK R. KULP
State Reclamation Engineer

Cow Creek.

American Falls Development Company, sub for

W H Philbrick and R B Greenwood

Goodrich Creek.

J P Ogilvie

Ashton Roby

Cottonwood Creek.

P W Baier

P W Higgins

Edgar Moser

William Phipps

I A Whiteley sub for I A Whiteley and J D Neale

G W Phipps

James H McGinley

Cottonwood Creek (Con)

Mary E Houston

A W Peebles

R S Kincaid

47

10

4

58

20

22 1/2

50

20

3

31 3/8

15 5/8

37 1/2

3

72

25

4

4

June 1, 1886 67 0306

May 1, 1892 67 0307

May 1, 1911 67 0308

June 1, 1882 67 0309

Sept 6, 1884 67 0310

Sept 6, 1884 67 0311

June 1, 1884 67 0312

June 1, 1889 67 0313

June 1, 1892 67 0314

June 1, 1887 67 0315

June 1, 1888 67 0316

June 1, 1889 67 0317

May 1, 1889 67 0318

July 1, 1890 67 0319

July 2, 1890 67 0320

April 1, 1896 67 0321

April 1, 1896 67 0322

MICROFILMED

September 14, 1956

Mr. G. N. Tillotson, Watermaster
Water District No. 41
233 East Galloway
Weiser, Idaho

RE: Cottonwood Creek

Dear Mr. Tillotson:

In order to clarify the delivery of decreed water of Cottonwood Creek and to settle the controversy over the designation of the North Channel, which divides from the South Channel in Section 36, Township 16 North, Range 1 West, the Department of Reclamation has designated said North Channel as much a part of Cottonwood Creek as the South prong of Cottonwood Creek for administration purposes only for the distribution of water in Cottonwood Creek.

The North prong is described as being that prong which divides with the South prong in Section 36, Township 16 North, Range 1 West down to where the two channels join in Section 28, Township 16 North, Range 1 West.

It will be noted, however, that as far as the administration of the decree entitled Peebles vs Lay that part of the stream as described and set out in said decree as Lester Creek affecting the Peebles water right only is to be considered and administered as dictated by the decree as water being diverted from Lester Creek.

We are enclosing, herewith, an opinion from the Attorney General's office in connection with the authority of the Watermaster to personally shut off the Lay pump or pumps when the terms as dictated in said decree Peebles vs. Lay is not being full-filled. Therefore, until such time to receiving further orders from the court, you are hereby instructed that if it is necessary to shut down the Lay pump in order to supply Peebles with his correct amount of water that a personal notification to defendant Lay to shut down said pump or supply the additional amount of water required will be considered as compliance to the terms and order of the court.

RECORDED

Mr. G. N. Tillotson, Watermaster

-2-

September 14, 1956

You are hereby authorized to follow the above stated procedure in administering the waters of Cottonwood Creek.

Very truly yours,

MARK R. KULP
State Reclamation Engineer
By

Roy W. Thompson
Supervisor of Water Distribution

T:hll
Enc.

1
Roy. The Beebe has tried to stir up
another lawsuit just recently over my
moving my land and a spring, what else
I know. I doubt if he has give up
as a complaint was about ready when
Swanson got a slight trace from attorneys.

CRASH 2100 8/02

Council, Idaho
Dec. 27, 1956

RECEIVED
DEC 31 1956
Department of Reclamation

Roy Thompson.
Dept of Reclamation
Boise Idaho:

Dear Roy

Inclosed find \$1.00 bill for book on water laws of State of Idaho, as announced on radio this morning.

Roy what did you find out about ~~the~~ transferring the 4 inch Kincaid Cottonwood right of 1896 priority from NE $\frac{1}{4}$ of NE $\frac{1}{4}$ of section 28 R 1 W.B.M. to N $\frac{1}{2}$ of SE $\frac{1}{4}$ of section 28 R 1 W.B.M., on the grounds the legal description was a clerical error, and water was never used on NE $\frac{1}{4}$ of NE $\frac{1}{4}$, but has been used consistantly on N $\frac{1}{2}$ of SE $\frac{1}{4}$ of Section 28, from 2 points of diversion.

I quiet tittle to Kincaid right, and have paid assessment for 11 years to date, and was paid by my predecessors since 1921.

However your Deputy watermaster has failed to try to deliver said right, and put up a very stiff argument last fall when I was using it, and wanted to shut off my headgate in Cottonwood creek. This argument was in presence of watermaster Tillison, and I believe Tillison found Deputy Harry Nicols trying to exceed his athority, anyway I was not further troubled with Nicols on that score.

Please clear this up as it has been pending long enough,

RECEIVED
DEC 31 1956

Department of Reclamation

Yours truly

Andy Lay

Council

Idaho

P.S. that transfer as advertized is useless and was all mixed up by Declaration of Lester C. and Peebles claiming said right.

February 19, 1957

RE: Transfer of Water Right # 880

Mr. Andy R. Lay
Council, Idaho

Dear Mr. Lay:

Enclosed herewith is your Certificate of Water Right of the
Waters of Cottonwood Creek.

Very truly yours,

MARK R. KULP
State Reclamation Engineer
By

Roy W. Thompson
Supervisor of Water Distribution

RWT:vem
Encl.

cc. C.M. Tillotson
Watermaster Dist. #41
203 E. Galloway
Weiser, Idaho

MICROFILMED

STATE OF IDAHO
DEPARTMENT OF RECLAMATION

MEMORANDUM

Mark R. Kulp & Roy W. Thompson

July 25, 1953

Subject Change in point of diversion of decreed waters out of the Weiser River.
Andy Lay - Peebles controversy

File _____

Mr. Woods, the Weiser River watermaster and Mr. Norris, an attorney from Payette, called and discussed the possibility of changing the point of diversion of water that Mr. Peebles claims that is now delivered around through Lester Creek.

Mr. Norris intends to do the legal work for Mr. Peebles and try to straighten out the controversy between Lay and Peebles. Mr. Woods and Mr. Norris both said that if this change could be made, that it would put an end to the controversy between the two gentlemen and that both were in agreement on it.

They were advised that the change in point of diversion would have to be advertised and that no injury could be done any other parties by the proposed change and that if Mr. Peebles wanted additional water from the Weiser River it would be necessary to obtain same through the permit method as it would not be permissible to pick up rising water merely by changing point of diversion.

You will hear from them again soon regarding this matter.

E. N. Humphrey
Deputy State Reclamation Engineer

MICROFILMED

Andy R. Lay, Council,

4" fr. Cottonwood Cr. deeded to R. S. Kincaid.

P.D. = NW $\frac{1}{4}$ S. 36 - 16 N. - 1 W.

by Ed L. Bryan (Judge.)
Fe 20 - 1921.

Frank & Ella Smith, owner of homestead patent in 1916.
S. D. Warner, to Dewey Peables, Oct 26 - 1926.

6 yrs ago. Lay developed a spring for dom. water

2x2" pump 22 sprinklers rain bird 5' gpm at 30th pressure.
5 hp. single

Claim on water right?

MICROFILMED

ld until inspection can be made, after high
water in 1952.

RWT.

Affidavit of Publication

State of Idaho, County of Adams, ss:

I, B. J. Rogers, being first duly sworn upon my Oath, depose and say that I am the publisher of The Adams County

Leader, a newspaper; that a copy of the Notice of Proposed Transfer as per clipping hereto attached, was published in the regular and entire issue of said newspaper, and not in any supplement thereof, for

Two (2) consecutive weeks, the first publication of the same being made in the issue dated Feb. 15, 1952 and the last in the issue dated Feb. 22, 1952;

that said newspaper is of general circulation in Adams County, Idaho, printed and published weekly at Council therein and that said newspaper has been continuously and uninterruptedly published in said county during a period of more than sev-

enty-eight consecutive weeks prior to the first publication of said Notice as aforesaid.

Bert J. Rogers

Subscribed and sworn to before me this 23rd

day of February 1952

at H. Levanbom
Notary Public for Idaho,
Residing at Council, Idaho

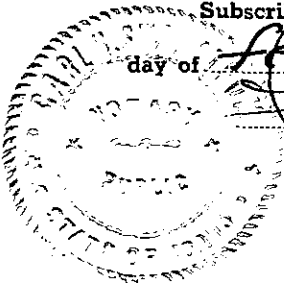
NOTICE OF PROPOSED TRANSFER OF WATER RIGHT

Notice is hereby given that Andy R. Lay of Council, Idaho, has applied to the State Reclamation Engineer of the State of Idaho for a certificate authorizing him to change place of use of the waters of Cottonwood Creek as follows: Amount: .08 cubic feet, per second, Point of diversion: SE $\frac{1}{4}$ NW $\frac{1}{4}$, Section 36 Township 16 N. Range 1 W. Place of use: NE $\frac{1}{4}$ NE $\frac{1}{4}$, Section 28, Twp. 16, N. R. 1 W. B.M.,

Transfer to
Point of diversion: SE $\frac{1}{4}$ NW $\frac{1}{4}$, Section 36, Township 16 N. Range 1 W. Place of use: Seven acre tract in SE $\frac{1}{4}$ NE $\frac{1}{4}$ Section 28, Twp. 16 N, R. 1, W B.M.

And that on the 25th day of February 1952 at 10 o'clock A.M. at Room 107, State House, Boise, Idaho, before the State Reclamation Engineer, 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.

MARK R. KULP
State Reclamation Engineer
Pub. Feb. 15 & 22.



UNRECORDED

Andy R. Lay

T. 16 N. - R. 1 W.

Adams County

MICROFILMED

23

26

22

HWY. 95

1119 Cr.

27 Lister Cr.

Cottonwood Road

* Diversion

Road

Ditch

Cottonwood Creek

Cottonwood Cr.



RECEIVED
DEC 22 1952

Conrad, Idaho
Dec 18 1952

Department of Reclamation

Roy Thompson
Boise, Idaho

Dear Roy:

I was in to see you last Monday to see if you could help me find a surveyor, but talked with Mr Kulp when you was out. I didn't get very far as there is very few surveyors in Idaho available. However Mr. Frank Thurston is licensed and I believe a good man, but I can't get him as he wants to keep out, and lives in Payette.

I was sorry to hear of your accident but very happy it was the car not you.

Roy I sure have tried to settle this out of Court and may yet.

That mans water in late season is very definitely subject to the use of water above earlier in the season so his action is just plain foolish.

If I can get it settled some way so I can go ahead I will be glad to let you or the Dept * make tests and watch the results for the knowledge it will supply if you choose. I wouldn't mind having the Dept in now, but it appears to me to be too expensive and probably would not be the best for the Dept. This is my headache not yours so I will have to do the best I can win or lose.

That Lester Creek may be leverage needed yet if it is any good as to fillings.

It sure is the best right for me if I can prove it.

Merry Christmas to all of you and a Happy new year

Your Friend
Andy Luy

MEMORANDUM
September, 1953

DeLoach

3-#771

MICROFILMED

RECEIVED
DEC 29 1952

Department of Reclamation

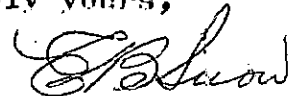
Council, Idaho,
December 27th 1952.

Mr. R. W. Thompson,
Boise, Idaho.

Dear Mr. Thompson:

Your letter of December 19th received and in reply will say that I have no definite plans, but think I may be in Boise on or about January 10th. If I am I will have the matter in mind and will call. I have definite information which leads me to believe an amicable adjustment can be made. Neither party wants suit I am sure.

Very truly yours,



E. B. Snow.

RECEIVED
DEC 29 1952

December 19, 1952

Mr. E. B. Snow
Council
Idaho

Dear Mr. Snow:

I have been requested to write you relative to the Andy Lay controversy, and try to find out when you expect to be in Boise.

Mr. Delane of Boise, attorney for Mr. Lay, is trying hard to settle this controversy and thinks perhaps it can be settled out of court, thereby keeping the litigants out of a law suit.

In case you are coming to Boise in the near future, Mr. Delane would like to talk the situation over with you, as the writer has advised Mr. Delane that you know more about this case and the conditions thereof, than anyone else. Therefore, he thinks your good counsel may go a long way in the settlement of this action.

Thanking you for a reply and wishing you a Merry Christmas and Happy New Year.

Very truly yours,

MARK R. KULP
State Reclamation Engineer
By

Roy W. Thompson
Supervisor of Water Distribution

RWT:fg

cc:

MICROFILMED

STATE OF IDAHO
DEPARTMENT OF RECLAMATION

MEMORANDUM

June 5, 1952

Subject Transfer of water right by Andy Lay of Council, Idaho, June 2.

File _____

The writer made a visit to the Lay Ranch and talked to Mr. Lay regarding the transfer of 4 inches of Cottonwood Creek water from the NE $\frac{1}{4}$ NE $\frac{1}{4}$ Section 28, Township 16 North, Range 1 West, B.M., to lands located in the SE $\frac{1}{4}$ NE $\frac{1}{4}$ Section 28, Township 16 North, Range 1 West, B.M.

Title to the ownership of the water right is in dispute and the writer informed the applicant, Mr. Lay, that whenever title to the ownership of the water right in question was straightened out, the department would take further action.

An earlier request was also made by Mr. Lay to look into the distribution of the decreed water rights from Cottonwood Creek as to existing appropriations of decreed water rights used above the Lay Ranch. At the time of my visit, flood water was far in excess of the amount to fill all decreed water rights. Therefore, no check upon the delivery of water was made. I advised Mr. Lay to take the matter up with Mr. Woods, Watermaster of the Weiser River, in case he had any complaint against the delivery of the water to other users. Mr. Lay claims an early use right of the water of Cottonwood Creek.

Mr. Ellis Snow, who claims to know about all the water rights on Cottonwood Creek was out of town at the time of my visit to the Lay Ranch. Most of the discussion with Mr. Lay was in connection and relative to the title of the water right proposed to be transferred, over which the department has no jurisdiction.

Roy W. Thompson

MICROFILMED

February 1, 1952

Mr. Andy R. Lay
Council
Idaho

Dear Mr. Lay:

We wish to state that we have mailed the Adams County Leader at Council, instructions to publish notice of transfer of water right amount to 4 inches from Cottonwood Creek, from the NE $\frac{1}{4}$ NE $\frac{1}{4}$ Section 28, to a 7 acre tract of land in the SE $\frac{1}{4}$ NE $\frac{1}{4}$ Section 28, Township 16 North, Range 1 West, B.M., to be published in 2 weekly issues.

We are returning your check, made out in favor of the Department, amounting to \$2.00 for which we will request that you substitute a check for \$1.00, the Department's fee for recording. It will be necessary that you pay the Adams County Leader direct and in turn, furnish this Department with an affidavit of publication which we have instructed the Adams County Leader to send you.

Our records do not show any filing from any source in the name of Drapper or Houston.

Very truly yours,

MARK R. KULP
State Reclamation Engineer
By

Roy W. Thompson
Supervisor of Water Distribution

RWT:ec
Enc
MICROFILMED

Council, Idaho,
Jan 28, 1952

Roy W. Thompson
Supervisor of Water Distribution
Dept. of Reclamation
Boise, Idaho.

RECEIVED
JAN 30 1952
Department of Reclamation

Dear Sir:

Inclosed find application to transfer water right, which I hope will comply.

I am inclosing checks for \$2⁰⁰, \$1 for recording & transfer as per your letter of Dec. 12/51.

One dollar for ~~transfer~~ publication cost, which I hope will be ample, but if it is not enough, please bill me.

The Adams County Leader is our only county paper, which is satisfactory with me, address Council, Idaho.

Yours truly,
Andy R. Lay

P.S.

Will you mind looking through the records to see if a man named Orapper recorded a water right of any kind in section 27 or 28, township 16 north, Range 1 West. Boise M. It would be prior to 1900 with squatters right on land or est. Also please look for Harvey Houston's name on same land, who got homestead patent on said land.

Thank you very much

copy

March 4, 1952

Mr. Andy Lay
Council
Idaho

Dear Mr. Lay:

In answer to your letter of February 20, 1952, in which you wished to be advised whether or not there were any water filings on Lester Creek, tributary to Cottonwood Creek, Township 16 North, Range 1 West, B.M.

Our records do not show any valid permit water filings on Lester Creek. In all, there have been three filings on Lester Creek which have all been cancelled by this department.

Thanking you for the additional information, we are

Very truly yours,

MARK R. KULP
State Reclamation Engineer
By

Roy W. Thompson
Supervisor of Water Distribution

RWT:fg

MICROFILMED

copy

February 18, 1952

Mr. Steven Peebles
Council
Idaho

Dear Mr. Peebles:

We wish to acknowledge receipt of your letter under date of February 8, 1952, protesting to the application for transfer of water right filed with the Department of Reclamation, State of Idaho, by Mr. Andy R. Lay of Council.

Proposed transfer is for 4 minor inches of decreed water right of the waters of Cottonwood Creek, with priority of April 1, 1896, decreed to R. S. Kincaid by Judge Ed L. Bryan of the 7th Judicial District of the State of Idaho, in the case of Meir Brothers versus Allison, et al. The application requests that the use of said 4 inches of water right be transferred from the NE₁ NE₁ Section 28, Township 16 North, Range 1 West, B.M., to a 7 acre tract lying within the SE₁ NE₁ of Section 28, Township 16 North, Range 1 West, B.M.

We also wish to acknowledge receipt of a copy of deed showing title of ownership. Your letter of protest will be placed on file and before any action is taken by the department relative to said application for transfer of water right, you will be officially advised in the matter.

Very truly yours,

MARK R. KULP
State Reclamation Engineer
By

Roy W. Thompson
Supervisor of Water Distribution

RWT:fg
cc: Mr. Andy R. Lay
Mr. E. B. Snow

MICROFILMED

6075
June 5, 1952

Mr. Andy Lay
Council
Idaho

Dear Mr. Lay:

Relative to our conversation of June 2, 1952, relative to a hearing on the proposed transfer of 4 inches of water right from Cottonwood Creek.

In talking the matter over with Mr. Kulp relative to a hearing which you thought might straighten the title of ownership of the water right in question, it is like I stated to you while at your ranch. Our department has no authority in the matter. Therefore, a hearing would be of no value.

Providing you cannot work out a settlement among yourselves, the only other alternative is to have the court settle the controversy regarding title of the water right.

The transfer proceedings will be held in abeyance by this department until title of ownership is settled or we are otherwise notified.

Very truly yours,

MARK R. KULP
State Reclamation Engineer
By

Roy W. Thompson
Supervisor of Water Distribution

RWT:fg

MICROFILMED

Form No. 11-A

STATE OF IDAHO
DEPARTMENT OF RECLAMATION

Boise

Date February 1, 1952.

Adams County Leader,
Council, Idaho.

Gentlemen:

Enclosed you will find notice for publication once a week for two consecutive weeks prior to February 25, 1952. the date set for the hearing, the expense of the publication to be paid by the applicant, Andy R. Lay, Council, Idaho.

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

Please acknowledge receipt of this notice, and furnish this office with a copy of the first publication, in order that we may check same.

Very truly yours,

MARK R. KULP
State Reclamation Engineer

By

Roy W. Thompson
Roy W. Thompson,
Supervisor of Water Distribution.

RECEIVED
FEB 1 1952

Notice Of Proposed Transfer Of Water Right

Notice is hereby given that Andy R. Lay
of Council, Idaho. has applied to the State Reclamation Engineer
of the State of Idaho for a certificate authorizing him to change ~~the point of diversion~~
~~and/or~~ place of use of the waters of Cottonwood Creek,
as follows: Amount: .08 cubic feet per second,
Point of diversion: SE ¼ NW ¼, Section 36, Township 16.N.,
Range 1.W. Place of Use:
NE ¼ NE ¼, Section 28, Twp. 16.N. R. 1.W. B.M.

Transfer to

Point of diversion: SE ¼ NW ¼, Section 36, Township 16.N.,
Range 1.W. Place of Use:
Seven acre tract in SE ¼ NE ¼ Section 28, Twp. 16.N. R. 1.W. B.M.

And that on the 25th day of February 1952, ~~1954~~
at 10 o'clock A. M., at Room 107, State House, Boise Idaho.
before the State Reclamation Engineer, or his authorized agent, the opportunity will be
given to any and all persons to appear and present, for his consideration any reason or rea-
sons why a certificate should not be issued authorizing such transfer.

MARK. R. KULP.
State Reclamation Engineer.

Take
RECEIVED
FEB 25 1952
Department of Reclamation

COPY OF AFFADAVIT OF HARRY L. NICHOL

Harry L. Nichol being first duly sworn deposes and says:

That he is a citizen of the United States: of legal and a resident of Council, Idaho for the past five years.

That during the seasons of 1950 and 1951 he was the Deputy Water Master for Cottonwood which is a tributary of the Weiser River.

That as such Deputy Water Master for Cottonwood Creek he had no knowledge of a water right, or made any deliveries of water to Andy R. Lay.

That at the point where the Creek enters the property of Andy R. Lay the stream was dry during the entire time he was on duty as Water Master.

That he did make delivery of water to Stephen Peebles at a point farther downstream, because of a rise of subterranean water which came up in springs above the diversion of the Peebles-Kincaid ditch.

That it has come to his knowledge and attention during the past five years that there is always some water at the head of the Peebles-Kincaid ditch, even though the stream always goes dry one fourth mile farther up.

Signed Harry L. Nichol

Subscribed and sworn to before me this 19th day of February 1952.

Mabel Hoover, Clerk of the District Court.

My Commission expires 2nd Monday of January 1955.

NOTARIAL SEAL

Notarial Seal

Original with Attorney

COPY OF AFFADAVIT OF S. D. WARNER

STATE OF IDAHO)
COUNTY OF ADAMS) SS

copy
RECEIVED
FEB 25 1952

Department of Reclamation

S. D. Warner being first duly sworn deposes and says:

That he is a citizen of the United States and of legal age; That from the year 1916 to 1944 he was the sole owner and operator of the Northeast Quarter of the Northeast Quarter of Section 28 of Township 16 North of Range One West of the Boise Meridian; That there are no irrigation works of any nature on this land; That it appeared that through error some water had been decreed to the land, which in actual practice should belong to Dewey Peebles who was the owner of the Southwest Quarter of the Northeast Quarter of section 28; That on October 26th 1926 I made a quit claim deed to Dewey Peebles and recognized the transfer of the water to land owned by him. That during the remaining time that I operated the Northeast Quarter of the Northeast Quarter of Section 28 and other adjoining lands owned by me, I made no claim to the water and Dewey Peebles and his successors in interest had the free and unmolested use of whatever water was available, including certain subterranean water which raised from springs on the lower end of my property and which were above and supplied water to the ditch of Dewey Peebles and which conveyed water to the Southwest Quarter of the Northeast Quarter of Section 28.

This instrument is made at the request of Stephen Peebles, who is successor in interest to Dewey Peebles.

Signed S. D. Warner

Subscribed and sworn to before me this 19th day of February 1952.

Glenn Welker, Notary Public

My Commission expires November 1 1954.

Notarial Seal

Original with attorney

MICROFILMED

Convent Idaho 804
Feb 20 - 1952

State Engineer, Mark R. Kulp

Dear Sir:- I signed a return
for Andy Lay an application relat-
ing to the transfer of water to other
lands. at that time Mr Lay re-
presented that he legally had 4
inches of decreed water rights for
the NW 1/4 of the NE 1/4 of sec 28, 16 north-

Therefore any endorsement I make
of the transfer as recorded, as ab-
stract show that this water was
transferred to Dewey Peebles and
that Stephen Peebles ^{is the} owner, as the
4-inches has been used on this land
for 5 years.

Yours Respt
John A. Higgins

RECEIVED
FEB 25 1952

Department of Reclamation

February 18, 1952

Mr. E. B. Snow
Council
Idaho

Dear Mr. Snow:

We wish to thank you for your letter of explanation relative to the proposed transfer of Mr. Andy R. Lay of Council, Idaho, who has filed application with this department for the transfer of the right of use of 4 inches decreed water of the waters of Cottonwood Creek, from the NE $\frac{1}{4}$ NW $\frac{1}{4}$ Section 28, to a 7 acres lying in the SE $\frac{1}{4}$ NW $\frac{1}{4}$ Section 28, Township 16 North, Range 1 West, B.M.

Very truly yours,

MARK R. KULP
State Reclamation Engineer
By

Roy W. Thompson
Supervisor of Water Distribution

RWT:fg

RECEIVED
FEB 21 1952

copy
RECEIVED
FEB 18 1952

Council, Idaho,
February 15th 1952
Department of Reclamation

State Engineer,
Boise, Idaho.

Dear Mr. Kulp:

Recently I signed as witness for Andy Lay, an application leading to the transfer of water to other lands. At the time I signed Mr. Lay represented that he legally possessed four inches of decreed water for the Northeast Quarter of the Northeast Quarter of Section 28, 16 North 1 West.

Since signing I have found that the decree to that particular forty was an apparent error: That the forty lies upon a hillside above any ditches and never was irrigated: That the date of priority of the water right is twenty years prior to the patenting by Frank Smith of the Northeast quarter of the Northeast Quarter of Section 28.

It appears that the successor in interest to Frank Smith S. D. Warner to correct the error, made a quit claim deed to Dewey Peebles and Mr. Warner has stated to me that he never claimed the water and could not use it.

In view of all that has come to light it appears that Stephen Peebles, successor in interest to R. S. Kincaid and Dewey Peebles is the rightful owner of the water and has used continuously without interference by the successors in interest to Frank Smith.

Therefore any endorsement that I may have made of the transfer of this water is hereby recinded because of the ~~mis~~representation to me that a bonefide right existed.

Very truly yours,



E. B. Snow.

COUNCIL BRANCH

92-293

1241

THE IDAHO FIRST NATIONAL BANK

COUNCIL, IDAHO, Feb 6 1952

PAY TO THE
ORDER OF

Defat of Reclamation

\$ 1⁰⁰/₁₀₀

One and ⁰⁰/₁₀₀

DOLLARS

No.

9

water transfer

Ardyce Lay

Council, Idaho
Feb 6 1952

Dept of Reclamation
Boise Idaho

Dear Sir

Enclosed find check for \$1.00
for filling fee, to replace \$2.00 check
returned as per letter on Wincaid water
right transfer.

Yours truly
Andy Lay

67-0322

RECEIVED
FEB 8 1952

Department of Reclamation

December 12, 1951

Mr. Andy R. Lay
Council
Idaho

Dear Mr. Lay:

In reply to your request, we are enclosing a form of application for transfer of water right. It is necessary to answer all questions on the form; also to have executed, the depositions on the third page, one by two water users who are familiar with your water supply and diversion, and also the deposition of your watermaster in whose water district your land is located.

Also draw a sketch map on the last page in the place provided showing location of stream, point of diversion, land location, in proper section, township, and range, from which and to which the water is proposed being transferred.

The fee for recording this transfer is \$1.00 and you will also have to pay for the notice of publication in your county newspaper which we will prepare. Kindly send us the name of the newspaper in which you would like to have the notice published.

Very truly yours,

MARK R. KULP
State Reclamation Engineer
By

Roy W. Thompson
Supervisor of Water Distribution

RWT:fg
Enc.

RECORDED

Council, Idaho
Dec 10, 1951

Dept. of Reclamation
Boise, Idaho

Dear Sir:

Please send me the
forms for transferring a
water right from one 40 acres
to another, also instructions
if any fee. Thank you.

Yours truly
Andy Q. Lay

RECEIVED
DEC 11 1951
Department of Reclamation

RE: WATER DISTRICT NO.

STREAM:

WATERMASTER:

AMOUNT:

CLERK, BOARD OF COUNTY COMMISSIONERS,

Dear Sir:

Enclosed herewith is claim for services and expenses rendered by the regularly qualified and acting watermaster of the above numbered district.

This claim is approved by the Department of Reclamation in conformity with

Section 4b-510 to Section 41-516

Idaho Code Annotated, with the understanding that final claim and distribution thereof to the water users will be made at the close of the irrigation season, approved copy to be filed with your Honorable Board.

In the mean time, it is desired that the Watermaster receive a warrant covering his services to date.

Very truly yours,

MARK R. KULP
State Reclamation Engineer

By

Supervisor of Water Distribution

MICROFILMED

	7	7	7		
27	7	7	28		96

16 N. 115

Roy - Elmer

Andy Lay • Council • Mr. Right

Transfer on Cottonwood Creek of Feb 28
would like to have situation investigated
tomorrow as conditions are just right to
confirm his statements. Conditions are
changing rapidly and if not seen tomorrow
a later date can be arranged.

Told him not possible to arrange a
trip for tomorrow but would make an
investigation when it could be
arranged.

RECORDED
5/2/52

2:10 P.M.

MRK

acquire the right to the beneficial use of ground water shall before commencing the excavation or opening or re-opening of any well or other means of withdrawal and use of ground water, make application to the State Reclamation Engineer for a permit to make such appropriation. Such application must set forth:

1. The name and post office address of the applicant.
2. The source, location and description of the water supply in so far as the same is known to the applicant.
3. The nature of the proposed use.
4. The location and description of the proposed well and ditch or other work, if any, and the amount or flow of water to be diverted and used.
5. The estimated time within which such well and ditch, or other work, if any, will be completed and the water withdrawn and applied to use.
6. In case the proposed right of use is for agricultural purposes, the application shall give the legal subdivisions of land proposed to be irrigated, with the total acreage to be reclaimed as near as may be ascertained.
7. When any such application is made the State Reclamation Engineer shall collect from the applicant a fee of 25 cents per miner's inch.

Before the State Reclamation Engineer shall issue any permit the applicant shall furnish such additional information relative to the proposed appropriation as may be required by the State Reclamation Engineer as reasonably necessary to enable him to act upon the application.

Take

NOTES ON ANDY LAY APPLICATION FOR TRANSFER

We have received an application from Andy R. Lay for transfer of place of use of 4 inches of water, decreed to R. S. Kincaid for use on the NE $\frac{1}{4}$ NE $\frac{1}{4}$ Section 28, Township 16 North, Range 1 West, B.M., in the Bryan decree in the case of Muir Bros. vs. Allison, et al.

The facts in connection with this case are of such a nature that we are requesting an opinion from your office as to whether or not his right to this water is valid and of such a nature that he has a lawful right to request this department for a transfer.

The 4 inches of water, with a priority of April 1, 1896, from Cottonwood Creek, was decreed to R. S. Kincaid for use on the NE $\frac{1}{4}$ NE $\frac{1}{4}$ Section 28, Township 16 North, Range 1 West, B.M., on June 1, 1921. Case was in the Seventh Judicial District of the State of Idaho, in and for the County of Washington.

The land was patented to Frank and Ella Smith in 1918.

Subsequently they sold to S. D. Warner and by chain of deeds it came to Andy R. Lay in 1946. The water right was quit claimed by S. D. Warner in 1926 to Dewey Peebles and so recorded in the county and passed with other title to Stephen Peebles. The said water right was never transferred through this department as request for same was never made. Thus, records of this department indicate that delivery was always to the land for which it was decreed. Tax records show that maintenance was paid for as though it was appurtenant to the land to which it was decreed.

Mr. Lay claims to have had continual use of the water since owning the place, which is comprised of this and additional forties. Whether he applied it to that particular forty of the place in general, I am not certain.

Note: Kincaid never did own this NE $\frac{1}{4}$ NE $\frac{1}{4}$ Section 28, and this forty has never been irrigated.

But Mink takes out water above Lay's place, dams whole creek. Takes 200 inches on a 47 inch water right. We will check next summer.

RECORDED

RECEIVED
FEB 9 1952
Department of Reclamation

Council, Idaho,
February 8th 1952.

State Dept of Reclamation,
Boise, Idaho.

Gentlemen:

It has come to my attention: that Mr. Andy Lay of Council, Idaho: has filed application, and proposes to transfer to other lands, certain decreed water from Cottonwood Creek, being decreed to the Northeast Quarter of the Northeast Quarter of Section 28 of township 16 North, Range One West B. M.

The proof in this case was made as applying to the Southwest Quarter: instead of the Northeast Quarter. Recognizing this typographical error, Mr. S. D. Warner and his wife made a quitclaim deed for the purpose of correction and the water was transferred to the Southwest Quarter, where it was used since 1896 and to the present time.

I am the present owner and successor in interest to the lands of R. S. Kincaid, to whom the water was decreed and I hereby protest the interference of Mr. Lays or any other person in my water right.

Enclosed herewith is a copy of the deed from Warner to Peebles as recorded on the records of Adams County.

Will you please give this matter your careful consideration and let me hear from you at an early date.

Very truly yours,

Stephen Peebles

Stephen Peebles.

RECORDED

QUITCLAIM DEED

THIS INDENTURE, Made the 26th day of October
 in the year of our Lord one thousand nine hundred and twenty-six, between
S. D. Warner and Gertrude Warner, his wife

of Council, County of Adams, State of Idaho,
 the parties of the first part, and Dewey Peebles

of Council, County of Adams, State of Idaho,
 the party of the second part:

WITNESSETH, That the said parties of the first part, for and in consideration of the sum of

\$1.00

~~DOLLARS~~

lawful money of the United States of America, to them

in hand paid by the said party of the second part, the receipt whereof is hereby acknowledged, do

by these presents remise, release and forever QUITCLAIM, unto the said party of the second part, and

to his heirs and assigns, all that certain lot, piece or

parcel of land, situate, lying and being in the County of Adams,
 State of Idaho, bounded and particularly described as follows, to-wit:

All that certain Water right, consisting of 4 inches with priority
right of 1896, adjudicated July 27th, 1921, in the action of John T.
Muir et al, vs William Allison, et al, to R. S. Kincaid, and made
appurtenant to the Northeast Quarter of the Northeast Quarter of
Section 28, Township 16 North of Range 1 West of the Boise Meridian,
and I further consent that the water be made appurtenant to the
Southwest Quarter of the Northeast Quarter of Section 28, Twp. 16, N.
R. 1 W. B. M.

TOGETHER With all and singular the tenements, hereditaments and appurtenances thereunto
 belonging or in anywise appertaining, and the reversion and reversions, remainder and remainders, rents,
 issues and profits thereof.

TO HAVE AND TO HOLD, All and singular, the said premises, together with the appurtenances,
 unto the said party of the second part, and to his heirs and assigns forever.

IN WITNESS WHEREOF, The said parties of the first part have hereunto set their
hands and seals, the day and year first above written.

Signed, Sealed and Delivered in the Presence of

S. D. Warner (SEAL)

Gertrude Warner (SEAL)

(SEAL)

(SEAL)

STATE OF IDAHO,
County of Adams } ss.

On this 26th day of October, in the year 1926, before me,
Matilda Moser, Clerk District Court, a ~~Notary Public~~
Adams County, Idaho,
in and for ~~said State~~, personally appeared S. D. Warner and Gertrude Warner

known to me to be the persons whose name s are subscribed to the within instrument, and
acknowledged to me that he executed the same.

IN WITNESS WHEREOF, I have hereunto set my hand and affixed my official seal, the day and
year in this certificate first above written.

(Official Seal)

Matilda Moser
Clerk District Court,
~~Notary Public~~ Residing at Council, Idaho.

State of Idaho)
County of Adams) ss.

I, Mabel Hoover, Recorder of Adams County, Idaho, do hereby
certify that the foregoing Quitclaim Deed is a true and exact copy of
the original which is recorded in Book 11 of Deeds at Page 133.

Dated: February 8, 1952.

Mabel Hoover, Recorder

By Winifred Brown
Deputy

No. 14829
QUITCLAIM DEED
S. D. & Gertrude Warner
—TO—
Dewey Peebles
Dated October 26, 1926
I hereby certify that this instrument
was filed for record at the request of
Dewey Peebles
at 30 minutes past 9 o'clock
AM., this 26th day of October
A.D. 1926, in my office, and duly
recorded in Book 11 of Deeds
at page 133
Matilda Moser
Ex-Officio Recorder.
By _____, Deputy.
Fees, \$ 1.00
SYNEYORK CO. PRINTERS & BINDERS, BOISE 171726

**NOTICE OF PROPOSED
TRANSFER OF WATER RIGHT**

Notice is hereby given that Andy R. Lay of Council, Idaho, has applied to the State Reclamation Engineer of the State of Idaho for a certificate authorizing him to change place of use of the waters of Cottonwood Creek as follows: Amount: .08 cubic feet per second, Point of diversion: SE $\frac{1}{4}$ NW $\frac{1}{4}$, Section 36 Township 16 N, Range 1 W. Place of use: NE $\frac{1}{4}$ NE $\frac{1}{4}$, Section 28, Twp. 16, N. R. 1 W B.M.

Transfer to
Point of diversion: SE $\frac{1}{4}$ NW $\frac{1}{4}$, Section 36, Township 16 N, Range 1 W. Place of use: Seven acre tract in SE $\frac{1}{4}$ NE $\frac{1}{4}$ Section 28, Twp. 16 N, R. 1 W B.M.

And that on the 25th day of February 1952 at 10 o'clock A.M. at Room 107, State House, Boise, Idaho, before the State Reclamation Engineer, 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.

MARK R. KULP
Reclamation Engineer
Pub. (Feb. 15) & 22.

Application for Transfer of Water Right

STATE OF IDAHO,

County of Adams

ss.

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Andy R. Lay

, being first duly sworn, deposes and says:

That his name is Andy R. Lay; that he is of lawful age, a citizen of the United States and of the State of Idaho, and that his postoffice address is Council, Idaho

That he is the owner and using a certain water right, bearing date of priority of April 1st 1896 for Four (4) Inches ~~cubic feet~~ per second of the waters of Cottonwood Creek County of Adams, State of Idaho, decreed to R. S. Kincaid by decree of Judge, Ed. L. Bryan of the Seventh Judicial District of the State of Idaho, in and for the County of Washington, in the case of Muir Bros. vs. Allison, et al, said decree bearing date of June 18 1892 (or obtained by virtue of License No. _____, issued by the State Engineer or the Commissioner of Reclamation of the State of Idaho, dated _____, 19____, bearing date of priority of _____, 19____) for the purpose of irrigating the following described lands situate, lying and being in water District No. 41 in the County of Adams and State of Idaho, to-wit:

Northeast Quarter of the Northeast Quarter of Section 28 in

Township 16 North, Range 1 West, Boise Meridian

and is the person (or representative of the corporation) to whom such right so issued, or has become the owner thereof in the following manner, i. e. By conveyance of land and appurtenant water by chain of deeds 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 in the North Quarter of Section 36, Township 16 North, Range 1 West, B. M., and conducted to the above described lands through Channel of Lester Creek to East line of SE $\frac{1}{4}$ NE $\frac{1}{4}$ Sec. 27 and thence by ditch to irrigated lands as per map herewith and of this affidavit made a part;

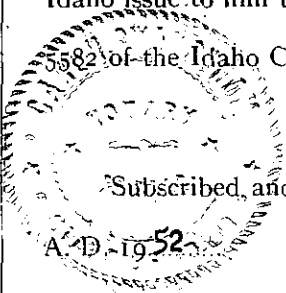
That affiant and petitioner desires to abandon the use of Four (4) Inches cubic feet per second of said water upon the above described land, and to convey and use same upon the following tract, situate, lying and being in the County of Adams and State of Idaho; to-wit:

On about Seven (7) Acres in the Southeast Quarter of the Northeast Quarter of Section 28 in Township 16 North, Range 1 West, Boise Meridian and will divert water from Lester Creek Channel near NW corner of NW $\frac{1}{4}$ SW $\frac{1}{4}$ Sec. 27

That his reasons for desiring to make such transfer are as follows: To make better use of water by conveying it through a shorter ditch and also, to use it in conjunction with water developed by well and pump in NW $\frac{1}{4}$ SW $\frac{1}{4}$ Of Sec. 27

That he intends to divert and convey said Four Inches second feet of water to the tract of land last above described in the following manner, to-wit: by short, existing ditch from Cottonwood Creek to Lester Creek; then down channel of Lester Creek to point near NW corner of NW $\frac{1}{4}$ SW $\frac{1}{4}$ of Sec. 27, Twp. 16 N. R. 1 W. B. M. and there divert directly on lands to be irrigated through ditch not over 1/8th mile long and this will eliminate about 1/2 mile of existing ditch and make water available for use with water from well and pump, giving more useable supply and saving loss from seepage and evaporation 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, in accordance with the provisions of Section 5582 of the Idaho Compiled Statutes.



Subscribed and sworn to before me this Twenty Second day of January

Andy B. Lay
Applicant.
Carl H. Robinson
Notary Public.

APPLICANT WILL ANSWER THE FOLLOWING QUESTIONS:

From what stream is the water now diverted? Cottonwood Creek
Where is the diversion point now located? SE $\frac{1}{4}$ NE $\frac{1}{4}$ 36 Twp. 16 N. R. 1 W.
Through what ditch is it now conducted? Private ditch, not named
How much land is now irrigated by the water sought to be transferred? About 7 acres
Give the description: by decree designated to NE $\frac{1}{4}$ NE $\frac{1}{4}$ Sec. 28, but has actually been used on SE $\frac{1}{4}$ NE $\frac{1}{4}$ of Sec. 28. Twp 16 N R 1 West B M
What is the total amount of water in inches, or second feet, dedicated to said land? 4 Inches
What kind of crops are being raised? Hay, and Pasture
How much water per acre is now required to irrigate said land? 5/8ths Inch per acre
What will be the effect on the land now irrigated, if the use of water on it is discontinued? It will be used for dry land hay, grain and pasture
Give location of new point of diversion, if change is to be made No change from Cottonwood Creek
Through what ditch will it be conducted after transfer? Short Private Ditch
How much water will be required per acre to irrigate the land to which this water is transferred?
5/8ths Inch per Acre
Do you claim any other water right for the land from which you seek to abandon the use of this water?
only supplemental supply from well and pump and flood water
If so, give amount, date and source. no fixed date or amount
Is there now any other water right for the land to which you seek to make this transfer? If so, give amount, date and source. No

Signed

Andy B. Lay
Applicant.

STATE OF IDAHO,

County of Adams

ss.

John A. Higgins

and

E. B. Snow

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 Council, Idaho

that he is a user of water from Cottonwood Creek, in Water District No. 41

County of Adams, State of Idaho; that he has read or heard read the foregoing affidavit and

petition of Andy R. Lay 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 re-

lated 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.

John A. Higgins
E. B. Snow

Subscribed and sworn to before me this Twenty Second day of January

A. D. 1952

[Signature]

Notary Public for Idaho at Council,
Idaho

STATE OF IDAHO,

County of Washington

ss.

I, T. C. Woods

Watermaster of Dist 41

Water District No. 41, County of Washington, State of Idaho, whose postoffice address

is Wensey Rt #1 Ida, have read or heard read the foregoing affidavit and petition

of Andy R Lay, 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:

A shorter ditch coupled to aid pump and
flood water will increase the duty of
the decreed water

T. C. Woods

Watermaster Dist. No. 41

Dated at Wensey, Idaho, this 25th day of Jan, 1952

ANDY R LAY



NORTH

