

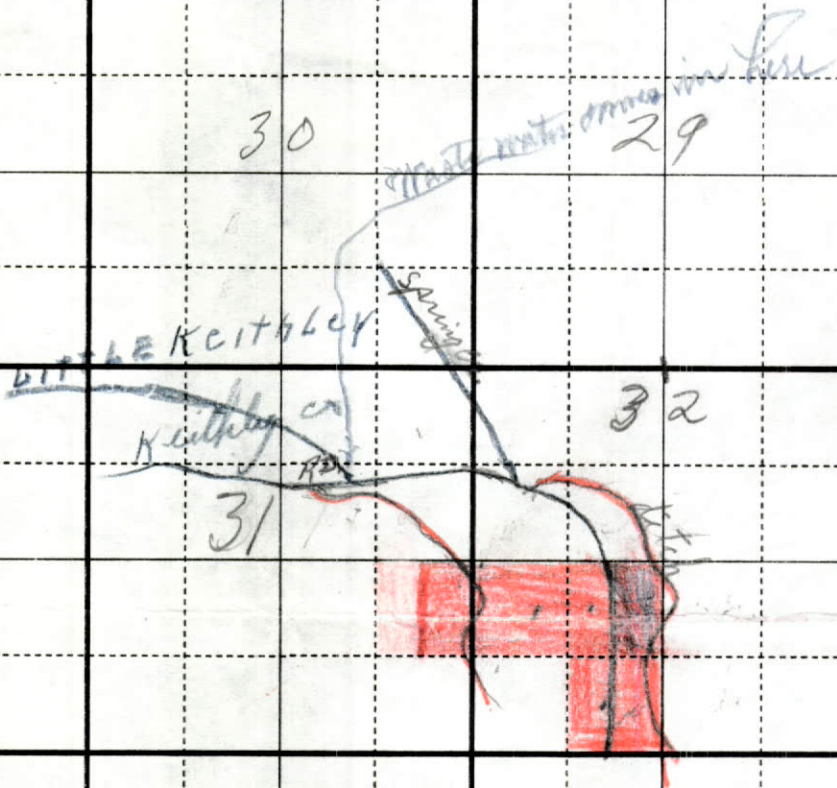
NAME OF APPLICANT.....

N $\frac{1}{2}$ SW.

SE SW S. 32 4 R. 3 W.

Form No. 0

E $\frac{1}{2}$ of NE of SE



TRANSFER NO.	NAME	AMOUNT C.F.S.	BALANCE C.F.S.	RIGHT NO.
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	Wiggins, Emerson	1.0		67-0168
826A	Wiggins, Emerson	1.0	0	67-0168A

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STATE OF IDAHO DEPARTMENT OF RECLAMATION

In the Matter of the Application of
EMERSON WIGGINS, of Midvale, Idaho,
for transfer of water right of 50
inches of the waters of Keithly
Creek, from the SE $\frac{1}{4}$ of Section 32,
Township 14 North, Range 3 West
Boise Meridian, to other lands, and
of the transfer of 12 $\frac{1}{2}$ inches of
the waters of Keithly Creek and
establishment of new point of
diversion.

PROTEST of
Harold L. Hiddleston
and Rex L. Hiddleston,
father and son, doing
business on a partner-
ship basis.

TO THE HONORABLE MARK R. KULP, STATE RECLAMATION ENGINEER, IN
AND FOR THE STATE OF IDAHO:

Comes now HAROLD L. HIDDLESON and REX L. HIDDLESON, of
Midvale, Idaho, father and son, doing business on a partnership
basis, and protest the application of Emerson Wiggins for transfer
of water right dated the 15th day of February, 1954, which said
application is set for hearing on the 19th day of March, 1954, at
10 o'clock a.m., at Room 107, State House, Boise, Idaho, before
the State Reclamation Engineer, or his authorized agent, and
respectfully request that said application be denied and a certi-
ficate for transfer of water right be denied for the following
reasons:

(1) The protestants herein are the owners of real prop-
erty located in Section 8 and Section 5, Township 13 North, Range
3 West Boise Meridian, and receive irrigation water from Keithly
Creek below the point of diversion of Emerson Wiggins, applicant
herein, which said waters from Keithly Creek are received by these
protestants pursuant to License and Certificate of Water Right
issued on the 29th day of August, 1952, by Mark R. Kulp, State
Reclamation Engineer, being License No. 19635, for 1.4 cubic ft.
per second of water, with priority date of May 12, 1947.

RECEIVED
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MAR 19

1 That during the low water irrigating season the waters
2 of Keithly Creek, past the diversion point of these protestants,
3 do not flow enough water to actually supply the irrigation needs
4 of these protestants and to supply the water right that these
5 protestants now own.

6 (2) That the issuance of a certificate authorizing
7 the application for transfer of the said $12\frac{1}{2}$ inches of water of
8 Keithly Creek, as applied for in said transfer and alleging a
9 priority date of May 15, 1896, would do injury to these protest-
10 ants and would adversely affect the water rights of these protest-
11 ants for the following reasons:

12 a. That said $12\frac{1}{2}$ inches of water from Keithly Creek,
13 with priority date of May 15, 1896, which was decreed to Edward
14 M. Wiggins, father of Emerson Wiggins, in the case of Muir Brothers,
15 et al. vs. Allison, et al., filed of record in the Seventh Judicial
16 District Court, in and for the County of Washington, State of
17 Idaho, and dated the 20th day of June, 1921, has long since been
18 abandoned, and said $12\frac{1}{2}$ inches of water from Keithly Creek has
19 long since been appropriated by these protestants. That for more
20 than twenty years last past the said applicant, Emerson Wiggins,
21 has not used said $12\frac{1}{2}$ inches of water which was decreed to his
22 father, as aforesaid, and which he later received by deed from his
23 father, and that since the abandonment of said $12\frac{1}{2}$ inches of
24 water right from Keithly Creek, the said waters have long since
25 been appropriated by these protestants, commencing in the year
26 1945, and used continuously each and every year since the year
27 1945 to date.

28 b. That the said court decree, dated June 20, 1921, in
29 decreeing to the said Edward M. Wiggins $12\frac{1}{2}$ inches of water from
30 Keithly Creek, with priority date of May 15, 1896, does not state
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1 upon what lands or where said $12\frac{1}{2}$ inches of water were for use,
2 and said decree or the findings of fact of Judge Ed L. Bryan does
3 not disclose anywhere the lands upon which the said $12\frac{1}{2}$ inches of
4 water were to be used, but said decree merely states that the said
5 Edward W. Wiggins is entitled to $12\frac{1}{2}$ inches of water diverted to
6 his lands by another ditch, and for use under priority date of
7 May 15, 1896.

8 That these protestants know of their own personal know-
9 ledge that said $12\frac{1}{2}$ inches of water has not been used by the said
10 applicant for over ten years last past, and have been competently
11 advised, and therefore verily believe, that said water right of
12 $12\frac{1}{2}$ inches has not been used for in excess of twenty years last
13 past, and therefore allege that said water right has long since
14 been abandoned and reverted to the State of Idaho, and again
15 appropriated pursuant to the statutes of the State of Idaho, to
16 these protestants.

17 (3) That said applicant, in his application for transfer
18 of water right, seeks to establish a point of diversion below the
19 confluence of Big Keithly, Little Keithly and Spring Creeks. That
20 during the irrigating season, at applicant's present point of
21 diversion on Big Keithly Creek, the waters of Keithly Creek
22 diminish in flow where the same is not always adequate or suffi-
23 cient to supply the 50 inches of water under the Wiggins water
24 right with priority date of May 15, 1884 for 50 inches of water.
25 That by establishing a new point of diversion for the said $12\frac{1}{2}$
26 inches of water which the applicant has heretofore abandoned, below
27 the confluence of Big Keithly, Little Keithly and Spring Creeks,
28 it would thus injure these protestants by taking a portion of
29 their said water right, which was issued to them on the 29th day
30 of August, 1952, with priority date of May 12, 1947. That the
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1 proposed point of diversion for the said 12 $\frac{1}{2}$ inches of water sought
2 by the said applicant, lies upstream from the point of diversion
3 of these protestants, and that if applicant is allowed to divert
4 12 $\frac{1}{2}$ inches of water, or any other amount, at said proposed divers-
5 ion point, in the Northeast Quarter of the Southwest Quarter of
6 Section 32, Township 14 North, Range 3 West Boise Meridian, it
7 would thus do injury to these protestants and diminish their flow
8 of water which is already, during the low water period, inadequate
9 to fullfill the water rights of these protestants.

10 (4) That the lands upon which the said applicant,
11 Emerson Wiggins, intends to apply said 12 $\frac{1}{2}$ inches of water, which
12 is in the Northeast Quarter of the Southwest Quarter of Section 32,
13 Township 14 North, Range 3 West Boise Meridian, East of Keithly
14 Creek, is not land that has heretofore been irrigated by the said
15 applicant, Emerson Wiggins. That said applicant stated in his
16 application that waters are now diverted from Keithly Creek for
17 the Southwest Quarter of the Northeast Quarter of Section 31, and
18 the Southwest Quarter of the Northwest Quarter of Section 32, Town-
19 ship 14 North, Range 3 West Boise Meridian, through a private
20 ditch. That these protestants hereby allege that there is actually
21 no ditch or diversion point in the Southwest Quarter of the North-
22 West Quarter of said Section 32, nor has there been such a diversion
23 point in said Section 32 for over twenty years last past, that has
24 been in any way used by the said applicant, Emerson Wiggins. That
25 if the said applicant means to say that waters are now diverted
26 from the Southwest Quarter of the Northwest Quarter in said Sect-
27 ion 32, from Keithly Creek, he is in error and such a statement is
28 untrue, whereas, in matter of fact, the applicant only has one
29 point of diversion from Keithly Creek, which he has used of recent
30 years, and that is now located in the Southwest Quarter of the
31 Northeast Quarter of Section 31, Township 14 North, Range 3 West
32 Boise Meridian.

1 (5) That these protestants, by this protest, are not
2 protesting the continued use of the said **applicant**, Emerson Wiggins,
3 of 50 inches of water from Keithly Creek, with diversion point
4 from Big Keithly Creek above the confluence of Big Keithly and
5 Little Keithly Creeks, which the said applicant has used to irri-
6 gate lands located in the East Half of the Northeast Quarter of
7 the Southeast Quarter of Section 31, and the North Half of the
8 Southwest Quarter, the Southeast Quarter of the Southwest Quarter
9 of Section 32, Township 14 North, Range 3 West Boise Meridian, as
10 he has been doing for many years last past under his said water
11 right, with priority date of May 15, 1884, for 50 inches of water.

12 (6) That these protestants respectfully request that
13 the Department of Reclamation thoroughly look into the rights of
14 the parties interested herein, and that should the Department
15 desire, that the hearing set for March 19, 1954, be continued to a
16 later time when a hearing can be held at the mutual agreement of
17 the parties hereto and the Department of Reclamation, and where
18 sworn testimony can be taken and given before the Reclamation
19 Engineer of the State of Idaho.

20 WHEREFORE, these protestants hereby object to the
21 issuance of any certificate authorizing change of water right and
22 creating a point of diversion in Keithly Creek below the confluence
23 of Big Keithly, Little Keithly and Spring Creeks, in the Northeast
24 Quarter of the Southwest Quarter of Section 32, Township 14 North,
25 Range 3 West Boise Meridian, or a re-establishment of the said
26 12 $\frac{1}{2}$ inches water right with priority date of May 15, 1896, which
27 has heretofore been abandoned by applicant and his predecessors,
28 and respectfully pray that such an application to such effect be
29 denied and dismissed.

30 These protestants further respectfully request that
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1 should the Department of Reclamation desire further information and
2 testimony in regard to this application and protest, that the
3 hearing set for March 19, 1954, be postponed to a date when
4 applicant and protestant may each appear before the Reclamation
5 Department to support their respective petitions.

6 Dated this 17th day of March, 1954.

7
8 HAROLD L. HIDDLESON and
9 REX L. HIDDLESON,
a partnership

10 By Harold L. Hiddleson
11 Harold L. Hiddleson

12
13
14
15 STATE OF IDAHO)
16 County of Washington) ss:

17 HAROLD L. HIDDLESON, being first duly sworn, on oath,
18 deposes and says:

19 That he is one of the protestants in the above and fore-
20 going Protest; that she has read the above and foregoing protest,
21 knows the contents thereof, and believes the facts therein stated
22 to be true.

23 Harold L. Hiddleson
24 Harold L. Hiddleson

25 SUBSCRIBED AND SWORN to before me this 17th day of March, 1954.

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Harold L. Ryan
Notary Public for said State:
Residing at Weiser, Idaho.

STATE OF IDAHO DEPARTMENT OF RECLAMATION

In the Matter of the Application of)
EMERSON WIGGINS, of Midvale, Idaho,)
for transfer of water right of 50)
inches of the waters of Keithly Creek)
from the SE $\frac{1}{4}$ of Section 32, Town-)
ship 14 North, Range 3 West Boise)
Meridian, to other lands, and of the)
Transfer of 12 $\frac{1}{2}$ inches of the waters of)
Keithly Creek and establishment of)
new point of diversion.)

PROTEST of
Harold L. Hiddleston
and Rex L. Hiddleston,
father and son, doing
business on a partner-
ship basis.

TO THE HONORABLE MARK R. KULP, STATE RECLAMATION ENGINEER, IN AND FOR THE

STATE OF IDAHO:

Comes now HAROLD L. HIDDLESON and REX L. HIDDLESON, of Midvale, Idaho, father and son, doing business on a partnership basis, and protest the application of Emerson Wiggins for transfer of water right dated the 15th day of February, 1954, which said application is set for hearing on the 19th day of March, 1954, at 10 o'clock a.m., at Room 107, State House, Boise, Idaho, before the State Reclamation Engineer, or his authorized agent, and respectfully request that said application be denied and a certificate for transfer of water right be denied for the following reasons:

(1) The protestants herein are the owners of real property located in Section 8 and Section 5, Township 13 North, Range 3 West Boise Meridian, and receive irrigation water from Keithly Creek below the point of diversion of Emerson Wiggins, applicant herein, which said waters from Keithly Creek are received by these protestants pursuant to License and Certificate of Water Right issued on the 29th day of August, 1952, by Mark R. Kulp, State Reclamation Engineer, being License No. 19635, for 1.4 cubic feet per second of water, with priority date of May 12, 1947.

RECEIVED

That during the low water irrigation season the waters of Keithly Creek, past the diversion point of these protestants, do not flow enough water to actually supply the irrigation needs of these protestants and to supply the water right that these protestants now own.

(2) That the issuance of a certificate authorizing the application for transfer of the said $12\frac{1}{2}$ inches of water of Keithly Creek, as applied for in said transfer and alleging a priority date of May 15, 1896, would do injury to these and would adversely affect the water rights of these protestants protestants for the following reasons:

a. That said $12\frac{1}{2}$ inches of water from Keithly Creek, with priority date of May 15, 1896, which was decreed to Edward M. Wiggins, father of Emerson Wiggins, in the case of Muir Brothers, et al. vs. Allison, et al., filed of record in the Seventh Judicial District Court, in and for the County of Washington, State of Idaho, and dated the 20th day of June, 1921, has long since been abandoned, and said $12\frac{1}{2}$ inches of water from Keithly Creek has long since been appropriated by these protestants. That for more than twenty years last past the said applicant, Emerson Wiggins, has not used said $12\frac{1}{2}$ inches of water which was decreed to his father, as aforesaid, and which he later received by deed from his father, and that since the abandonment of said $12\frac{1}{2}$ inches of water right from Keithly Creek, the said waters have long since been appropriated by these protestants, commencing in the year 1945, and used continuously each and every year since the year 1945 to date.

b. That the said court decree, dated June 20, 1921, in decreeing to the said Edward M. Wiggins $12\frac{1}{2}$ inches of water from Keithly Creek, with priority date of May 15, 1896, does not state upon what lands or where said $12\frac{1}{2}$ inches of water were

for use, and said decree or the findings of fact of Judge Ed L. Bryan does not disclose anywhere the lands upon which the said 12½ inches of water were to be used, but said decree merely states that the said Edward W. Wiggins is entitled to 12½ inches of water diverted to his lands by another ditch, and for use under priority date of May 15, 1896.

That these protestants know of their own personal knowledge that said 12½ inches of water has not been used by the said applicant for over ten years last past, and have been competently advised, and therefore verily believe, that said water right of 12½ inches has not been used for in excess of twenty years last past, and therefore allege that said water right has long since been abandoned and reverted to the State of Idaho, and again appropriated pursuant to the statutes of the State of Idaho, to these protestants.

(3) That said applicant, in his application for transfer of water right, seeks to establish a point of diversion below the confluence of Big Keithly, Little Keithly and Spring Creeks. That during the irrigating season, at applicant's present point of diversion on Big Keithly Creek, the waters of Keithly Creek diminish in flow where the same is not always adequate or sufficient to supply the 50 inches of water under the Wiggins water right with priority date of May 15, 1884 for 50 inches of water. That by establishing a new point of diversion for the said 12½ inches of water which the applicant has heretofore abandoned, below the confluence of Big Keithly, Little Keithly and Spring Creeks, it would thus injure these protestants by taking a portion of their said water right, which was issued to them on the 29th day of August, 1952, with priority date of May 12, 1947. That the proposed point of diversion for the said 12½ inches of water sought

by the said applicant, lies upstream from the point of diversion of these protestants and that if applicant is allowed to divert 12 $\frac{1}{2}$ inches of water, or any other amount, at said proposed diversion point, in the Northeast Quarter of the Southwest Quarter of Section 32, Township 14 North, Range 3 West Boise Meridian, it would thus do injury to these protestants and diminish their flow of water which is already, during the low water period, inadequate to fulfill the water rights of these protestants.

(4) That the lands upon which the said applicant, Emerson Wiggins, intends to apply said 12 $\frac{1}{2}$ inches of water, which is in the Northeast Quarter of the Southwest Quarter of Section 32, Township 14 North, Range 3 West Boise Meridian, East of Keithly Creek, is not land that has heretofore been irrigated by the said applicant, Emerson Wiggins. That said applicant stated in his application that waters are now diverted from Keithly Creek for the Southwest Quarter of the Northeast quarter of Section 31, and the Southwest quarter of the Northwest Quarter of Section 32, Township 14 North, Range 3 West Boise Meridian, through a private ditch. That these protestants hereby allege that there is actually no ditch or diversion point in the Southwest quarter of the Northwest quarter of said Section 32, nor has there been such a diversion point in said Section 32 for over twenty years last past, that has been in any way used by the said applicant, Emerson Wiggins. That if the said applicant means to say that waters are now diverted from the Southwest Quarter of the Northwest quarter in said Section 32, from Keithly Creek, he is in error and such a statement is untrue, whereas, in matter of fact, the applicant only has one point of diversion from Keithly Creek, which he has used of recent years, and that is now located in the Southwest Quarter of the Northeast Quarter of Section 31, Township 14 North, Range 3 West Boise Meridian.

(5) That these protestants, by this protest, are not protesting the continued use of the said applicant, Emerson Wiggins, of 50 inches of water from above the confluence of Big Keithly and Little Keithly Creeks Keithly Creek, with diversion point from Big Keithly Creek/, which the said applicant has used to irrigate lands located in the East Half of the Northeast Quarter of the Southeast Quarter of Section 31, and the North Half of the Southwest Quarter, the Southeast Quarter of the Southwest Quarter of Section 32, Township 14 North, Range 3 West Boise Meridian, as he has been doing for many years last past under his said water right, with priority date of May 15, 1884, for 50 inches of water.

(6) That these protestants respectfully request that the Department of Reclamation thoroughly look into the rights of the parties interested herein, and that should the Department desire, that the hearing set for March 19, 1954, be continued to a later time when a hearing can be held at the mutual agreement of the parties hereto and the Department of Reclamation, and where sworn testimony can be taken and given before the Reclamation Engineer of the State of Idaho.

WHEREFORE, these protestants hereby object to the issuance of any certificate authorizing change of water right and creating a point of diversion in Keithly Creek below the confluence of Big Keithly, Little Keithly and Spring Creeks, in the Northeast Quarter of the Southwest Quarter of Section 32, Township 14 North, Range 3 West Boise Meridian, or a re-establishment of the said 12 $\frac{1}{2}$ inches of water right with priority date of May 15, 1896, which has heretofore been abandoned by applicant and his predecessors, and respectfully pray that such an application to such effect be denied and dismissed.

These protestants further respectfully request that should the Department

of Reclamation desire further information and testimony in regard to this application and protest, that the hearing set for March 19, 1954, be postponed to a date when applicant and protestant may each appear before the Reclamation Department to support their respective petitions.

Dated this 17th day of March, 1954.

HAROLD L. HIDDLESON and
REX L. HIDDLESON,
a partnership

By HAROLD L. HIDDLESON
Harold L. Hiddleson

STATE OF IDAHO)
) ss:
County of Washington)

HAROLD L. HIDDLESON, being first duly sworn, on oath, deposes and says:

That he is one of the protestants in the above and foregoing Protest;
that she has read the above and foregoing protest, knows the contents thereof, and
believes the facts therein stated to be true.

HAROLD L. HIDDLESON
Harold L. Hiddleson

SUBSCRIBED AND SWORN to before me this 17th day of March, 1954.

(SEAL)

HAROLD L. RYAN
Notary Public for said State:
Residing at Weiser, Idaho.

STATE OF IDAHO DEPARTMENT OF RECLAMATION

In the Matter of the Application of
EMERSON WIGGINS, of Midvale, Idaho,
for transfer of water right of 50
inches of the waters of Keithly Creek
from the SE $\frac{1}{4}$ of Section 32, Town-
ship 14 North, Range 3 West Boise
Meridian, to other lands, and of the
Transfer of 12 $\frac{1}{2}$ inches of the waters of
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PROTEST of
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Comes now HAROLD L. HIDDLESTON and REX L. HIDDLESTON, of Midvale, Idaho,
father and son, doing business on a partnership basis, and protest the application
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1954, which said application is set for hearing on the 19th day of March, 1954,
at 10 o'clock a.m., at Room 107, State House, Boise, Idaho, before the State
Reclamation Engineer, or his authorized agent, and respectfully request that said
application be denied and a certificate for transfer of water right be denied for
the following reasons:

(1) The protestants herein are the owners of real property located in
Section 8 and Section 5, Township 13 North, Range 3 West Boise Meridian, and
receive irrigation water from Keithly Creek below the point of diversion of
Emerson Wiggins, applicant herein, which said waters from Keithly Creek are
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Engineer, being License No. 19635, for 1.4 cubic feet per second of water, with
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MICROFILMED

That during the low water irrigation season the waters of Keithly Creek, past the diversion point of these protestants, do not flow enough water to actually supply the irrigation needs of these protestants and to supply the water right that these protestants now own.

(2) That the issuance of a certificate authorizing the application for transfer of the said 12 $\frac{1}{2}$ inches of water of Keithly Creek, as applied for in said transfer and alleging a priority date of May 15, 1896, would do injury to these and would adversely affect the water rights of these protestants protestants/for the following reasons:

a. That said 12 $\frac{1}{2}$ inches of water from Keithly Creek, with priority date of May 15, 1896, which was decreed to Edward M. Wiggins, father of Emerson Wiggins, in the case of Muir Brothers, et al. vs. Allison, et al., filed of record in the Seventh Judicial District Court, in and for the County of Washington, State of Idaho, and dated the 20th day of June, 1921, has long since been abandoned, and said 12 $\frac{1}{2}$ inches of water from Keithly Creek has long since been appropriated by these protestants. That for more than twenty years last past the said applicant, Emerson Wiggins, has not used said 12 $\frac{1}{2}$ inches of water which was decreed to his father, as aforesaid, and which he later received by deed from his father, and that since the abandonment of said 12 $\frac{1}{2}$ inches of water right from Keithly Creek, the said waters have long since been appropriated by these protestants, commencing in the year 1945, and used continuously each and every year since the year 1945 to date.

b. That the said court decree, dated June 20, 1921, in decreeing to the said Edward M. Wiggins 12 $\frac{1}{2}$ inches of water from Keithly Creek, with priority date of May 15, 1896, does not state upon what lands or where said 12 $\frac{1}{2}$ inches of water were

for use, and said decree or the findings of fact of Judge Ed L. Bryan does not disclose anywhere the lands upon which the said 12½ inches of water were to be used, but said decree merely states that the said Edward W. Wiggins is entitled to 12½ inches of water diverted to his lands by another ditch, and for use under priority date of May 15, 1896.

That these protestants know of their own personal knowledge that said 12½ inches of water has not been used by the said applicant for over ten years last past, and have been competently advised, and therefore verily believe, that said water right of 12½ inches has not been used for in excess of twenty years last past, and therefore allege that said water right has long since been abandoned and reverted to the State of Idaho, and again appropriated pursuant to the statutes of the State of Idaho, to these protestants.

(3) That said applicant, in his application for transfer of water right, seeks to establish a point of diversion below the confluence of Big Keithly, Little Keithly and Spring Creeks. That during the irrigating season, at applicant's present point of diversion on Big Keithly Creek, the waters of Keithly Creek diminish in flow where the same is not always adequate or sufficient to supply the 50 inches of water under the Wiggins water right with priority date of May 15, 1884 for 50 inches of water. That by establishing a new point of diversion for the said 12½ inches of water which the applicant has heretofore abandoned, below the confluence of Big Keithly, Little Keithly and Spring Creeks, it would thus injure these protestants by taking a portion of their said water right, which was issued to them on the 29th day of August, 1952, with priority date of May 12, 1947. That the proposed point of diversion for the said 12½ inches of water sought

by the said applicant, lies upstream from the point of diversion of these protestants, and that if applicant is allowed to divert 12 $\frac{1}{2}$ inches of water, or any other amount, at said proposed diversion point, in the Northeast Quarter of the Southwest Quarter of Section 32, Township 14 North, Range 3 West Boise Meridian, it would thus do injury to these protestants and diminish their flow of water which is already, during the low water period, inadequate to fulfill the water rights of these protestants.

(4) That the lands upon which the said applicant, Emerson Wiggins, intends to apply said 12 $\frac{1}{2}$ inches of water, which is in the Northeast Quarter of the Southwest Quarter of Section 32, Township 14 North, Range 3 West Boise Meridian, East of Keithly Creek, is not land that has heretofore been irrigated by the said applicant, Emerson Wiggins. That said applicant stated in his application that waters are now diverted from Keithly Creek for the Southwest Quarter of the Northeast Quarter of Section 31, and the Southwest Quarter of the Northwest Quarter of Section 32, Township 14 North, Range 3 West Boise Meridian, through a private ditch. That these protestants hereby allege that there is actually no ditch or diversion point in the Southwest Quarter of the Northwest Quarter of said Section 32, nor has there been such a diversion point in said Section 32 for over twenty years last past, that has been in any way used by the said applicant, Emerson Wiggins. That if the said applicant means to say that waters are now diverted from the Southwest Quarter of the Northwest Quarter in said Section 32, from Keithly Creek, he is in error and such a statement is untrue, whereas, in matter of fact, the applicant only has one point of diversion from Keithly Creek, which he has used of recent years, and that is now located in the Southwest Quarter of the Northeast Quarter of Section 31, Township 14 North, Range 3 West Boise Meridian.

(5) That these protestants, by this protest, are not protesting the continued use of the said applicant, Emerson Wiggins, of 50 inches of water from above the confluence of Big Keithly and Little Keithly Creeks Keithly Creek, with diversion point from Big Keithly Creek/, which the said applicant has used to irrigate lands located in the East Half of the Northeast Quarter of the Southeast Quarter of Section 31, and the North Half of the Southwest Quarter, the Southeast Quarter of the Southwest quarter of Section 32, Township 14 North, Range 3 West Boise Meridian, as he has been doing for many years last past under his said water right, with priority date of May 15, 1884, for 50 inches of water.

(6) That these protestants respectfully request that the Department of Reclamation thoroughly look into the rights of the parties interested herein, and that should the Department desire, that the hearing set for March 19, 1954, be continued to a later time when a hearing can be held at the mutual agreement of the parties hereto and the Department of Reclamation, and where sworn testimony can be taken and given before the Reclamation Engineer of the State of Idaho.

WHEREFORE, these protestants hereby object to the issuance of any certificate authorizing change of water right and creating a point of diversion in Keithly Creek below the confluence of Big Keithly, Little Keithly and Spring Creeks, in the Northeast Quarter of the Southwest Quarter of Section 32, Township 14 North, Range 3 West Boise Meridian, or a re-establishment of the said 12½ inches of water right with priority date of May 15, 1896, which has heretofore been abandoned by applicant and his predecessors, and respectfully pray that such an application to such effect be denied and dismissed.

These protestants further respectfully request that should the Department

of Reclamation desire further information and testimony in regard to this application and protest, that the hearing set for March 19, 1954, be postponed to a date when applicant and protestant may each appear before the Reclamation Department to support their respective petitions.

Dated this 17th day of March, 1954.

HAROLD L. HIDDLESON and
REX L. HIDDLESON,
a partnership

By HAROLD L. HIDDLESON
Harold L. Hiddleson

STATE OF IDAHO)
) ss:
County of Washington)

HAROLD L. HIDDLESON, being first duly sworn, on oath, deposes and says:

That he is one of the protestants in the above and foregoing Protest;
that she has read the above and foregoing protest, knows the contents thereof, and
believes the facts therein stated to be true.

HAROLD L. HIDDLESON
Harold L. Hiddleson

SUBSCRIBED AND SWORN to before me this 17th day of March, 1954.

(SEAL)

HAROLD L. RYAN
Notary Public for said State:
Residing at Weiser, Idaho.

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inches of the waters of Keithly Creek
from the SE $\frac{1}{4}$ of Section 32, Town-
ship 14 North, Range 3 West Boise
Meridian, to other lands, and of the
Transfer of 12 $\frac{1}{2}$ inches of the waters of
Keithly Creek and establishment of
new point of diversion.

PROTEST of
Harold L. Hiddleston
and Rex L. Hiddleston,
father and son, doing
business on a partner-
ship basis.

TO THE HONORABLE MARK R. KULP, STATE RECLAMATION ENGINEER, IN AND FOR THE
STATE OF IDAHO:

Comes now HAROLD L. HIDDLESTON and REX L. HIDDLESTON, of Midvale, Idaho,
father and son, doing business on a partnership basis, and protest the application
of Emerson Wiggins for transfer of water right dated the 15th day of February,
1954, which said application is set for hearing on the 19th day of March, 1954,
at 10 o'clock a.m., at Room 107, State House, Boise, Idaho, before the State
Reclamation Engineer, or his authorized agent, and respectfully request that said
application be denied and a certificate for transfer of water right be denied for
the following reasons:

(1) The protestants herein are the owners of real property located in
Section 8 and Section 5, Township 13 North, Range 3 West Boise Meridian, and
receive irrigation water from Keithly Creek below the point of diversion of
Emerson Wiggins, applicant herein, which said waters from Keithly Creek are
received by these protestants pursuant to License and Certificate of Water Right
issued on the 29th day of August, 1952, by Mark R. Kulp, State Reclamation
Engineer, being License No. 19635, for 1.4 cubic feet per second of water, with
priority date of May 12, 1947.

That during the low water irrigation season the waters of Keithly Creek, past the diversion point of these protestants, do not flow enough water to actually supply the irrigation needs of these protestants and to supply the water right that these protestants now own.

(2) That the issuance of a certificate authorizing the application for transfer of the said 12½ inches of water of Keithly Creek, as applied for in said transfer and alleging a priority date of May 15, 1896, would do injury to these and would adversely affect the water rights of these protestants protestants/for the following reasons:

a. That said 12½ inches of water from Keithly Creek, with priority date of May 15, 1896, which was decreed to Edward M. Wiggins, father of Emerson Wiggins, in the case of Muir Brothers, et al. vs. Allison, et al., filed of record in the Seventh Judicial District Court, in and for the County of Washington, State of Idaho, and dated the 20th day of June, 1921, has long since been abandoned, and said 12½ inches of water from Keithly Creek has long since been appropriated by these protestants. That for more than twenty years last past the said applicant, Emerson Wiggins, has not used said 12½ inches of water which was decreed to his father, as aforesaid, and which he later received by deed from his father, and that since the abandonment of said 12½ inches of water right from Keithly Creek, the said waters have long since been appropriated by these protestants, commencing in the year 1945, and used continuously each and every year since the year 1945 to date.

b. That the said court decree, dated June 20, 1921, in decreeing to the said Edward M. Wiggins 12½ inches of water from Keithly Creek, with priority date of May 15, 1896, does not state upon what lands or where said 12½ inches of water were

for use, and said decree or the findings of fact of Judge Ed L. Bryan does not disclose anywhere the lands upon which the said 12½ inches of water were to be used, but said decree merely states that the said Edward W. Wiggins is entitled to 12½ inches of water diverted to his lands by another ditch, and for use under priority date of May 15, 1896.

That these protestants know of their own personal knowledge that said 12½ inches of water has not been used by the said applicant for over ten years last past, and have been competently advised, and therefore verily believe, that said water right of 12½ inches has not been used for in excess of twenty years last past, and therefore allege that said water right has long since been abandoned and reverted to the State of Idaho, and again appropriated pursuant to the statutes of the State of Idaho, to these protestants.

(3) That said applicant, in his application for transfer of water right, seeks to establish a point of diversion below the confluence of Big Keithly, Little Keithly and Spring Creeks. That during the irrigating season, at applicant's present point of diversion on Big Keithly Creek, the waters of Keithly Creek diminish in flow where the same is not always adequate or sufficient to supply the 50 inches of water under the Wiggins water right with priority date of May 15, 1884 for 50 inches of water. That by establishing a new point of diversion for the said 12½ inches of water which the applicant has heretofore abandoned, below the confluence of Big Keithly, Little Keithly and Spring Creeks, it would thus injure these protestants by taking a portion of their said water right, which was issued to them on the 29th day of August, 1952, with priority date of May 12, 1947. That the proposed point of diversion for the said 12½ inches of water sought

by the said applicant, lies upstream from the point of diversion of these protestants, and that if applicant is allowed to divert $12\frac{1}{2}$ inches of water, or any other amount, at said proposed diversion point, in the Northeast Quarter of the Southwest Quarter of Section 32, Township 14 North, Range 3 West Boise Meridian, it would thus do injury to these protestants and diminish their flow of water which is already, during the low water period, inadequate to fulfill the water rights of these protestants.

(4) That the lands upon which the said applicant, Emerson Wiggins, intends to apply said $12\frac{1}{2}$ inches of water, which is in the Northeast Quarter of the Southwest Quarter of Section 32, Township 14 North, Range 3 West Boise Meridian, East of Keithly Creek, is not land that has heretofore been irrigated by the said applicant, Emerson Wiggins. That said applicant stated in his application that waters are now diverted from Keithly Creek for the Southwest Quarter of the Northeast Quarter of Section 31, and the Southwest Quarter of the Northwest Quarter of Section 32, Township 14 North, Range 3 West Boise Meridian, through a private ditch. That these protestants hereby allege that there is actually no ditch or diversion point in the Southwest Quarter of the Northwest Quarter of said Section 32, nor has there been such a diversion point in said Section 32 for over twenty years last past, that has been in any way used by the said applicant, Emerson Wiggins. That if the said applicant means to say that waters are now diverted from the Southwest Quarter of the Northwest Quarter in said Section 32, from Keithly Creek, he is in error and such a statement is untrue, whereas, in matter of fact, the applicant only has one point of diversion from Keithly Creek, which he has used of recent years, and that is now located in the Southwest Quarter of the Northeast Quarter of Section 31, Township 14 North, Range 3 West Boise Meridian.

(5) That these protestants, by this protest, are not protesting the continued use of the said applicant, Emerson Wiggins, of 50 inches of water from above the confluence of Big Keithly and Little Keithly Creeks Keithly Creek, with diversion point from Big Keithly Creek/, which the said applicant has used to irrigate lands located in the East Half of the Northeast Quarter of the Southeast Quarter of Section 31, and the North Half of the Southwest Quarter, the Southeast Quarter of the Southwest Quarter of Section 32, Township 14 North, Range 3 West Boise Meridian, as he has been doing for many years last past under his said water right, with priority date of May 15, 1884, for 50 inches of water.

(6) That these protestants respectfully request that the Department of Reclamation thoroughly look into the rights of the parties interested herein, and that should the Department desire, that the hearing set for March 19, 1954, be continued to a later time when a hearing can be held at the mutual agreement of the parties hereto and the Department of Reclamation, and where sworn testimony can be taken and given before the Reclamation Engineer of the State of Idaho.

WHEREFORE, these protestants hereby object to the issuance of any certificate authorizing change of water right and creating a point of diversion in Keithly Creek below the confluence of Big Keithly, Little Keithly and Spring Creeks, in the Northeast Quarter of the Southwest Quarter of Section 32, Township 14 North, Range 3 West Boise Meridian, or a re-establishment of the said 12½ inches water right with priority date of May 15, 1896, which has heretofore been abandoned by applicant and his predecessors, and respectfully pray that such an application to such effect be denied and dismissed.

These protestants further respectfully request that should the Department

of Reclamation desire further information and testimony in regard to this application and protest, that the hearing set for March 19, 1954, be postponed to a date when applicant and protestant may each appear before the Reclamation Department to support their respective petitions.

Dated this 17th day of March, 1954.

HAROLD L. HIDDLESON and
REX L. HIDDLESON,
a partnership

By HAROLD L. HIDDLESON
Harold L. Hiddleson

STATE OF IDAHO)
) ss:
County of Washington)

HAROLD L. HIDDLESON, being first duly sworn, on oath, deposes and says:

That he is one of the protestants in the above and foregoing Protest;
that he has read the above and foregoing protest, knows the contents thereof, and
believes the facts therein stated to be true.

HAROLD L. HIDDLESON
Harold L. Hiddleson

SUBSCRIBED AND SWORN to before me this 17th day of March, 1954.

(SEAL)

HAROLD L. HYATT
Notary Public for said State:
Residing at Weiser, Idaho.

C O P Y

STATE OF IDAHO
DEPARTMENT OF RECLAMATION

In the Matter of the Protest of

Harold L. Hiddleston and Rex
L. Hiddleston, father and son,
doing business on a partner-
ship basis, against the issuance
of a change of point of diver-
sion and place of use of the
waters of Keithley Creek to
Emerson Wiggins.

Decision of the
State Reclamation Engineer
and
Dismissal of Protest

On the 17th day of February of 1954, Emerson Wiggins of Midvale, Idaho, made application to the State Department of Reclamation for a change in place of use of a certain water right bearing date of priority of May 15, 1884, for 50 inches of the waters of Keithley Creek, County of Washington, State of Idaho, decreed to Edward M. Wiggins 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 20, 1921, for the purpose of irrigating the following described lands situate in the SE $\frac{1}{4}$ Section 32, Twp. 14 N., Rge. 3 W., B. 1.; the said waters now being diverted from said stream in the SW $\frac{1}{4}$ NE $\frac{1}{4}$ Section 31, Twp. 14 N., Rge. 3 W., B. 1.

The applicant, Emerson Wiggins, desires to abandon the use of the said 50 inches of water on the SE $\frac{1}{4}$ Section 32, Twp. 14 N., Rge. 3 W., B. 1. and convey the same to the NE $\frac{1}{4}$ SW $\frac{1}{4}$ Section 32 except that part of the NE $\frac{1}{4}$ SW $\frac{1}{4}$ lying East of Keithley Creek, and the NE $\frac{1}{4}$ SE $\frac{1}{4}$ Section 31, both in Twp. 14 N., Rge. 3 W., B. 1. with no change in the point of diversion, for the reason that the waters have always been used on the last described land and the transfer is for the sole purpose of correcting the record.

Also the said Emerson Wiggins made application to change the point of diversion and place of use of a certain water right bearing date of May 15, 1896 for 12 $\frac{1}{2}$ inches of the waters of Keithley Creek, County of Washington, State of Idaho, decreed to Edward M. Wiggins 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 20, 1921, for the purpose of irrigating lands in the SE $\frac{1}{4}$ Section 32, Twp. 14 N., Rge. 3 W., B. 1., the said waters now being diverted in the SW $\frac{1}{4}$ NE $\frac{1}{4}$ Section 32, Twp. 14 N., Rge. 3 W., B. 1.

The applicant, Emerson Wiggins, wishes to abandon the use of the said 12 $\frac{1}{2}$ inches of water on the SE $\frac{1}{4}$ of Section 32, Twp. 14 N., Rge. 3 W., B. 1. and to convey the same to and use on that part of the NE $\frac{1}{4}$ SW $\frac{1}{4}$ of Section 32, Twp. 14 N., Rge. 3 W., B. 1. lying east of Keithley Creek with a new point of diversion in the NE $\frac{1}{4}$ SW $\frac{1}{4}$ of Section 32, Twp. 14 N., Rge. 3 W., B. 1.

The application was duly submitted to the watermaster of Water District No. 41 who approved the transfer and the application was duly advertised.

Protest was filed by Harold L. Hiddleston and Rex L. Hiddleston, father and son, doing business on a partnership basis, who are holders of License No. 19635 issued by the Department of Reclamation of the State of Idaho for 1.4 cubic feet per second of the waters of Keithley Creek with priority of May 12, 1947.

RECORDED

The protest alleges:

(1) That during the low water irrigation season, the waters of Keithley Creek, past the diversion point of the protestants, do not flow enough water to actually supply the irrigation needs of the protestants and to supply the water right that the protestants now own; and,

(2) That the issuance of a certificate authorizing the transfer of the said 12½ inches of the waters of Keithley Creek, as applied for in the said transfer application, and alleging a priority date of May 15, 1896, would do injury to these protestants and would adversely affect the water rights of these protestants for the reasons that the 12½ inches of May 15, 1896, water has been abandoned and has been appropriated by these protestants, and that the court decree of June 20, 1921, does not specify the place of use or point of diversion of the said right for 12½ inches, and that the applicant seeks to establish a point of diversion below the confluence of Big Keithley, Little Keithley, and Springs Creeks which would diminish the amount of water available for the licensed right of the protestants, and that the land proposed to be irrigated by the 12½ inches has not heretofore been irrigated by the applicant and that the alleged present point of diversion has not been used for more than 20 years.

The State Reclamation Engineer has made an investigation and finds:

That---

1. Both rights sought to be transferred are decreed rights of public record.
2. The Department of Reclamation is not competent to pass on questions of abandonment.
3. That the lack of specific designation of the place of use or point of diversion of the 12½ inch right does not invalidate the right.
4. That in the case of the May 15, 1884, right for 50 inches there is no protest.
5. That the resumption of a valid right does not cause injury to a junior right which was established as subject to existing rights.

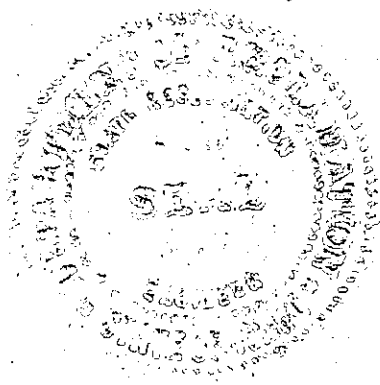
The protest is therefore dismissed and an order and Certificate of Transfer will be issued for each right transferred, and

Anyone feeling himself aggrieved by this decision and dismissal of protest or any part thereof, or by the issuance of either order and certificate, may within 60 days appeal to the District Court for the County of Washington, State of Idaho, as outlined in Section 42-222, Idaho Code.

Given under my hand and the seal of the State Department of Reclamation, at Boise, Idaho, this 23rd day of July, 1954.

Mark R. Kulp

MARK R. KULP
State Reclamation Engineer



STATE OF IDAHO
DEPARTMENT OF RECLAMATION

Certificate of Water Right
Transferred Right No. 826-A.

THIS IS TO CERTIFY, That Emerson Wiggins of Midvale, Idaho, is the owner of and using 50 inches or 1.0 cubic foot per second of the waters of Keithley Creek with priority of May 15, 1884, said water being decreed to Edward M. Wiggins by 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.
Plaintiffs

vs.

Allison et al.
Defendants

said decree bearing date of June 20, 1921, and being appurtenant to the following described lands, to-wit:

SE $\frac{1}{4}$ Section 32, Township 14 North, Range 3 West B.M.

That said decree has been entered in the records of the Department of Reclamation of the State of Idaho in Volume 4 of Decrees, beginning at page 354.

That Emerson Wiggins has become the owner of said described land through purchase.

And that now, upon the application of Emerson Wiggins of Midvale, Idaho, for the transfer of 50 inches or 1.0 cubic foot per second of the waters of Keithley Creek made before the State Reclamation Engineer of the State of Idaho, and said application having been granted, the right to the use of 50 inches or 1.0 cubic foot per second of the waters of Keithley Creek upon the above described land is hereby abandoned, and the land to which the water right hereby confirmed shall, by this certificate, become appurtenant for irrigation and domestic purposes as described as follows, to-wit:

NW $\frac{1}{4}$ SW $\frac{1}{4}$, SE $\frac{1}{4}$ SW $\frac{1}{4}$ Section 32
Part of the NE $\frac{1}{4}$ SW $\frac{1}{4}$ lying west of Keithley Creek Sec. 32
E $\frac{1}{2}$ NE $\frac{1}{2}$ SE $\frac{1}{4}$ Section 31
All in Township 14 North, Range 3 West B.M.

That 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:

50 inches or 1.0 cubic foot per second of the waters of Keithley Creek with priority of May 15, 1884.

That the water right hereby transferred has heretofore been conducted to the first above described lands from Keithley Creek with point of diversion in the SW $\frac{1}{4}$ NE $\frac{1}{4}$ Section 31, Township 14 North, Range 3 West B.M.

RECEIVED

That the water right hereby transferred will hereafter be conducted to the last above described lands from Keithley Creek with no change in point of diversion.

That the right of use of said 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 23rd day of July, 1954.

Mark R Kulp

MARK R. KULP
State Reclamation Engineer



30 P 1

STATE OF IDAHO

DEPARTMENT OF RECLAMATION

In the Matter of the Application of)

Emerson Wiggins
Midvale, Idaho)

For a Transfer of Water Right in
Water District No. 41, Washington
County, Idaho)

ORDER GRANTING TRANSFER

No. 826-A

WHEREAS, On the 19th day of March, 1954, at the Department of Reclamation of the State of Idaho, at Boise, Idaho, this matter of an application of Emerson Wiggins of Midvale, Idaho, for a transfer of water right, came on regularly for hearing, pursuant to the published notice, in due and statutory form; and,

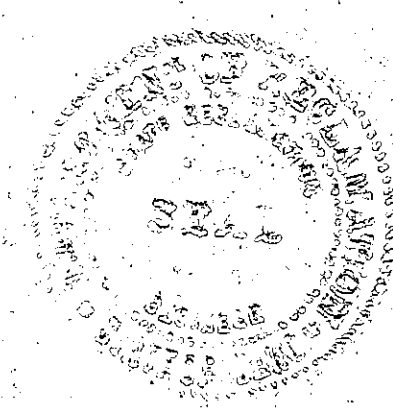
WHEREAS, No protest has been filed against the application, and the evidence filed by the applicant, with the application, shows that the water will be put to a higher and more beneficial use, and that no one will be injured thereby.

NOW, 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.

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 23rd day of July, 1954.

Mark R Kulp

MARK R. KULP
State Reclamation Engineer



Charles T Reavis

20 May 15, 1882 67 0155

W F Seid

48 3/4 May 15, 1883 67 0157

43 3/4 May 15, 1883 67 0158

2 May 15, 1883 67 0159

William S Potter

2 May 15, 1883 67 0160

2 1/2 May 15, 1889 67 0161

7 May 15, 1901 67 0162

William Wiggins

2 1/2 May 15, 1884 67 0163

Frank Towell

18 3/4 May 15, 1884 67 0164

9 3/8 May 15, 1899 67 0165

Forrest Burns and Clifford Burns

7 1/4 May 15, 1884 67 0166

5 May 15, 1886 67 0167

Edward M Wiggins

50 May 15, 1884 67 0168

John Zenger

8 1/4 May 15, 1885 67 0169

Walter J Hopper

11 May 15, 1885 67 0170

William Wicks

3 1/4 May 15, 1896 67 0171

Otho Towell

6 1/4 May 1, 1886 67 0172

20 May 15, 1899 67 0173

Carrie Clayton

2 May 15, 1886 67 0174

Jacob Ader

20 May 15, 1890 67 0175

E M Stewart

4 May 15, 1890 67 0176

James Keithley

26 1/4 May 15, 1877 67 0177

Edward M Wiggins

12 1/2 May 15, 1896 67 0178

MICROFILMED

178

FRANK D. RYAN
HAROLD L. RYAN

Ryan & Ryan
ATTORNEYS AND COUNSELORS AT LAW
340 STATE STREET • P.O. BOX 587
WEISER, IDAHO

TELEPHONE
251

July 23, 1954

RECEIVED
JUL 24 1954
Department of Reclamation

Mr. Mark R. Kulp
State Reclamation Engineer
State of Idaho Department of Reclamation
Boise, Idaho

In re the matter of Application of Emerson
Wiggins for transfer of water right,
and Protest of Harold L. Hiddleson, et al.

Dear Mr. Kulp:

We wrote your office on June 10, 1954, in re
the above captioned matter, to which letter we have
received no reply.

We would appreciate hearing from your office
as to the present situation on this matter.

Very truly yours,

RYAN & RYAN


Harold L. Ryan

HLR srb

cc to: Harold L. Hiddleson and
Rex L. Hiddleson, Midvale

RECEIVED
JUL 24 1954

July 23, 1954

Mr. T. C. Woods, Watermaster
Water District No. 41
Weiser, Idaho

Dear Mr. Woods:

We enclose herewith, a copy of the Decision in connection
with Mr. Emerson Wiggins' application for transfer of water rights;
also, copies of Transfer Certificates Nos. 826 A and 826 B.

Very truly yours,

MARK R. KULP
State Reclamation Engineer

A:hll
Enc.

MICROFILMED

July 23, 1954

Mr. Emerson Wiggins
Midvale
Idaho

Dear Mr. Wiggins:

We enclose copy of the Decision in regard to the protest of Harold L. Hiddleston and Rex L. Hiddleston, against your application for transfer of water rights out of Keithley Creek.

We also enclose Transfer Certificates Nos. 826 A and 826 B.

There is a recording fee of \$2.00 in connection with these transfers, for which please send us your check.

By this same mail we are sending a copy of the Decision and Transfer Certificates to Mr. T. C. Woods, Watermaster, for his information.

Very truly yours,

MARK R. KULP
State Reclamation Engineer

A:hll
Enc.

MICROFILMED

July 23, 1954

Messrs. Ryan & Ryan
P. O. Box 587
Weiser, Idaho

ATTENTION: Mr. Harold L. Ryan

Dear Mr. Ryan:

We enclose Decision in regard to the protest of Harold L. Hiddleston and Rex L. Hiddleston against the Transfer, by Emerson Wiggins, of certain water rights out of Keithley Creek.

We also enclose copies of Transfer Certificates Nos. 826 A and 826 B.

Very truly yours,

MARK R. KULP
State Reclamation Engineer

A:hll
Enc.
cc Mr. Harold L. Hiddleston

MICROFILMED



LEN JORDAN
GOVERNOR

STATE OF IDAHO
DEPARTMENT OF RECLAMATION

MARK R. KULP, RECLAMATION ENGINEER

BOISE

July 23, 1954

RECEIVED
JUL 27 1954
Department of Reclamation

Mr. Emerson Wiggins
Midvale
Idaho

Dear Mr. Wiggins:

We enclose copy of the Decision in regard to the protest of Harold L. Hiddleston and Rex L. Hiddleston, against your application for transfer of water rights out of Keithley Creek.

We also enclose Transfer Certificates Nos. 826 A and 826 B.

There is a recording fee of \$2.00 in connection with these transfers, for which please send us your check.

By this same mail we are sending a copy of the Decision and Transfer Certificates to Mr. T. C. Woods, Watermaster, for his information.

Very truly yours,

Mark R. Kulp

MARK R. KULP
State Reclamation Engineer

A:hll
Enc.

R 26801

MICROFILMED

FRANK D. RYAN
HAROLD L. RYAN

Ryan & Ryan
ATTORNEYS AND COUNSELORS AT LAW
~~300 WEST STREET~~ P. O. BOX 587
WEISER, IDAHO

TELEPHONE
251

June 10, 1954

RECEIVED
JUN 11 1954
Department of Reclamation

Mr. Mark R. Kulp
State Reclamation Engineer
State of Idaho Department of Reclamation
Boise, Idaho

In re the matter of Application of Emerson Wiggins
for transfer of water right and Protest of
Harold L. Hiddleson and Rex L. Hiddleson.

Dear Mr. Kulp:

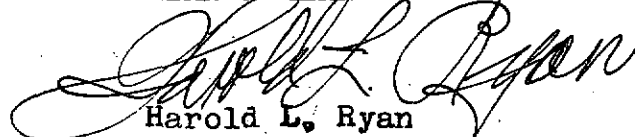
Shortly after May 3, 1954, we received a copy of your letter dated May 3rd, directed to Mr. Emerson Wiggins of Midvale, relative to his proposed transfer of water right of the waters of Keithly Creek. Since that time we have heard nothing from your office on this matter, nor have we received any communications from Mr. Wiggins as to whether or not he desires a hearing before you.

You stated in your letter that you would have sufficient information on file upon which to base a decision as to the transfer of water right.

Since the applicant, Mr. Wiggins, apparently does not desire a hearing, we would suggest that your office, as soon as possible, render a decision so that the parties might take, pursuant to statute, any recourse they have from such decision, and thus move the matter along or bring it to a termination.

Very truly yours,

RYAN & RYAN


Harold L. Ryan

HLR srb

cc to: Harold L. Hiddleson and
Rex L. Hiddleson, Midvale

RECEIVED
JUN 11 1954
DEPT. OF RECLAMATION

May 8, 1954

Mr. Emerson Wiggins
Midvale
Idaho

Dear Mr. Wiggins:

We enclose herewith a copy of a protest of Harold L. Hiddleston and Rex L. Hiddleston, of Midvale, against your transfer of water right of the waters of Keithly Creek recently filed in this department.

We acknowledge receipt of what you had to say regarding a special hearing on your protested transfer.

Very truly yours,

MARK R. KULP
State Reclamation Engineer
By

Roy W. Thompson
Supervisor of Water Distribution

T:hll
Enc.

MICROFILMED

May 3, 1954

Mr. Emerson Wiggins
Midvale
Idaho

Dear Mr. Wiggins:

Relative to your proposed transfer of water right, of the waters of Kiethley Creek, on file in the State Engineer's office at Boise, Idaho.

The State Reclamation Engineer states that he has sufficient information on file, upon which to base his decision as to the transfer of said water right. However, a hearing can be granted, prior to the issuance of his decision, if you and the protestants desire the same. Said hearing will be granted upon the request of both parties, and upon agreement of time and place of hearing, said hearing can be held in Midvale or some place convenient to yourself and witnesses.

Please inform this Department at an early date, your desire in the matter.

Very truly yours,

MARK R. KULP
State Reclamation Engineer
By

Roy W. Thompson
Supervisor of Water Distribution

T:hll

cc Mr. Harold L. Hiddleson
Mr. Rex L. Hiddleson
Mr. Harold L. Ryan, Attorney

MICROFILMED

Divide into Two Certificates

Transfer 50 inches or 1.0 cubic feet per second from the $SE\frac{1}{4}$ Sec. 32, Twp. 14 N., Rge. 3 W., B.M. to the $W\frac{1}{2}NE\frac{1}{4}SE\frac{1}{4}$ Section 31 and $NW\frac{1}{4}SW\frac{1}{4}$, $NE\frac{1}{4}SW\frac{1}{4}$ lying west of Keithley Creek. - S E S W. 32

Diversion point $SW\frac{1}{4}NE\frac{1}{4}$ - 31 - (no change)

Second Transfer

From
Transfer $12\frac{1}{2}$ inches or .25 cubic feet per second, priority of 5-15-1896, from $SE\frac{1}{4}$ Sec. 32 - 14 N., - 3 W. with point of diversion in the $SW\frac{1}{4}NW\frac{1}{4}$ Section 32.

To
Part $NE\frac{1}{4}SW\frac{1}{4}$ lying East of Keithley Creek Sec. 32 - With point of diversion in the $NE\frac{1}{4}SW\frac{1}{4}$ Sec. 32.

RECORDED

Ryan & Ryan

FRANK D. RYAN
HAROLD L. RYAN

ATTORNEYS AND COUNSELORS AT LAW
340 STATE STREET • P. O. BOX 587
WEISER, IDAHO

TELEPHONE
251

March 17, 1954

Mr. Mark R. Kulp
State Reclamation Engineer
State of Idaho Dept. of Reclamation
Boise, Idaho

RECEIVED
MAR 18 1954
Department of Reclamation

Dear Mr. Kulp:

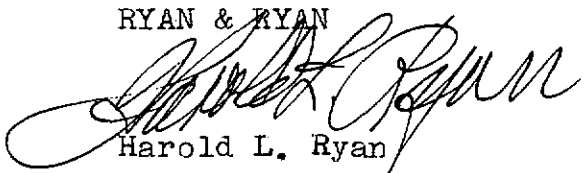
Enclosed herewith you will find the signed and verified Protest of Harold L. Hiddleston and Rex L. Hiddleston, in the matter of the application of Emerson Wiggins for transfer of water right.

We have been giving this matter considerable study and seriously urge that you give each of the parties here serious consideration in your deliberations on this water matter. We further urge that if there is any doubt in your mind as to the merits of our protest, that you grant a continuance of this hearing and cause testimony to be taken at some future time, offering both parties, the applicant and the protestants, the opportunity to give testimony as to the allegations set forth by each of the parties.

Thanking you for your consideration in this matter,
we are,

Very truly yours,

RYAN & RYAN


Harold L. Ryan

HLR:srb

RECEIVED
MAR 18 1954
DEPT. OF RECLAMATION

February 27, 1954

Messrs. Harold L. & Rex L. Hiddleston
Midvale,
Idaho

Gentlemen:

This is to inform you that Emerson Wiggins of Midvale, Idaho has withdrawn his application for change in point of diversion filed as of August 21, 1953 for change of point of diversion of the waters of Keithley Creek.

That a public notice of publication, stating that Emerson Wiggins has requested changing the place of use and point of diversion of certain waters of Keithley Creek has been sent to the News Reporter of Cambridge, Idaho under date of February 26, 1954.

This is a new filing substituting the proposed change in point of diversion, to which you recently protested.

Very truly yours,

MARK R. KULP
State Reclamation Engineer
By

Roy W. Thompson
Supervisor of Water Distribution

h11

MICROFILMED

STATE OF IDAHO
DEPARTMENT OF RECLAMATION

Boise

Date February 26, 1954

The News Reporter,
Cambridge, Idaho.

Gentlemen:

Enclosed you will find notice for publication once a week for two consecutive weeks prior to **March 19, 1954** the date set for the hearing, the expense of the publication to be paid by the applicant, **Emerson Wiggins, Midvale, 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 department 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,**
Supervisor of Water Distribution.

MICROFILMED

NOTICE OF PROPOSED TRANSFER OF WATER RIGHT
AND POINT OF DIVERSION,

Notice is hereby given that, Emmerson Wiggins, of Midvale, Idaho, has applied the State Reclamation Engineer of the State of Idaho, for a certificate authorizing Him to change the point of diversion and place of use of the Waters of Kiethley Creek as follows, Amount .25 cubic feet per second with priority of May 15, 1896 with point of diversion in the SW $\frac{1}{4}$ NW $\frac{1}{4}$ Section 32. Twp. 14.N. R. 3.W and 1.0 cubic feet per second with priority of May 15, 1884, with point of diversion in the SW $\frac{1}{4}$ NE $\frac{1}{4}$ Section 31, Twp. 14.N. R. 3.W. The place of use as designated in the Weiser River water Decree is SE $\frac{1}{4}$ Section 32, Twp. 14.N. R. 3.W.

The place of use to which said water rights will be transfered is as follows, N $\frac{1}{2}$ SW $\frac{1}{4}$,; SE $\frac{1}{4}$ SW $\frac{1}{4}$, Section 32 and E $\frac{1}{2}$ NE $\frac{1}{4}$ SE $\frac{1}{4}$ Section 31, Twp. 14.N. R. 3.W. The only change in point of diversion will be on the .25 cubic feet per second of 1896 water, which will hereafter be diverted in the NE $\frac{1}{4}$ of the SW $\frac{1}{4}$ Section 32. Twp. 14.N. R. 3.W. And that on the 19th day of March 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 reasons why a certificate should not be issued authorizing such transfer.

MARK. R. KULP.
State Reclamation Engineer,

**NOTICE OF PROPOSED TRANS-
FER OF WATER RIGHT AND
POINT OF DIVERSION.**

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diversion in the SW $\frac{1}{4}$ NW $\frac{1}{4}$ Sec-
tion 32 Twp. 14 N. R. 3 W. and 1.0
cubic feet per second with priority
of May 15, 1894, with point of di-
version in the SW $\frac{1}{4}$ NE $\frac{1}{4}$ Section
31, Twp. 14. N. R. 3. W. The place
of use as designated in the Wel-
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MARK R. KULP.
State Reclamation Engineer

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sideration any reason or reasons
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MARK B. KULP.

State Reclamation Engineer

DR. R. T. WHITEMAN

Physician & Surgeon

Phone 6-02

CAMBRIDGE, IDAHO

Midvale Idaho
May, 6, 1954.
Department of Reclamation
Boise, Idaho.

Dear Sirs; I think
you have all information
necessary relative to
proposed transfer of water
right, on which to base
your decision. I feel a
hearing on the matter
would be a waste of time
and unnecessary expense.

However if Mr. Biddleston
insists a hearing could be
held in Boise or Weiser.

Will you please send a copy
of the protest to me?

yours truly
Emerson Wiggins

The Upper Country
CAMBRIDGE MIDVALE
NEWS-REPORTER

PRINTERS AND PUBLISHERS

CAMBRIDGE, IDAHO Feb. 27, 1954

Mark R. Kulp
State Reclamation Engineer
Boise, Idaho

RECEIVED
MAR 1 1954
Department of Reclamation

Month of _____ Advertiser _____

Date	Description	Edition	Lines Inches	Rate	Gross	
	ACKNOWLEDGEMENT: of Receipt of Proposed Transfer of Water Right for Emerson Wiggins, Midvale, to be published March 2 and 11. Thanks. RECEIVED			Stuart Dopp Pub. Stuart Dopp		

N 1/2 SW.

NAME OF APPLICANT

S.E. SW S. 32 4 R. 3 W.

Form No. 0

E 1/2 of NE of SE

30

29

28

Little Keithley

31

32

REPRODUCED

CAMBRIDGE, IDAHO March 13, 1954

Emmerson Wiggins
Midvale, Idaho

March

Month of _____ Advertiser _____

Date	Description	Edition	Lines Inches	Rate	Gross	
4-11	Water Right Transfer Noted	2	46L	.18	\$8.28	
	MICROFILMED Paid 3-13-54 S. D. H. Pub.					

NOTICE OF PROPOSED TRANSFER OF WATER RIGHT AND POINT OF DIVERSION.

Notice is hereby given that, Emerson Wiggins, of Midvale, Idaho,

Engineer of the State of Idaho, for a certificate authorizing him to change the point of diversion and place of use of the Waters of Keithley Creek as follows: Amount 25 cubic feet per second with priority of May 15, 1896 with point of diversion in the SW $\frac{1}{4}$ NW $\frac{1}{4}$ Section 32 Twp. 14 N. R. 3 W. and 1.0 cubic feet per second with priority of May 15, 1894, with point of diversion in the SW $\frac{1}{4}$ NE $\frac{1}{4}$ Section 31, Twp. 14 N. R. 3 W. The place of use as designated in the Weiser River water Decree is SE $\frac{1}{4}$ Section 32, Twp. 14 N. R. 3 W.

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MARK R. KULP.
State Reclamation Engineer

AFFIDAVIT OF PUBLICATION

State of Idaho }
County of Washington } ss.

Stuart Dopf, being first duly sworn, deposes and says that he is the publisher, foreman, principal clerk, of THE NEWS-REPORTER, a weekly newspaper published at Cambridge, Washington County, Idaho, and that said paper has been published continuously for more than 78 weeks immediately preceding the first publication of the attached notice; that said paper is in general circulation in the county aforesaid and in the vicinity of Cambridge, Idaho; that the notice, a copy of which is attached hereto, was published in said newspaper once a week for two consecutive weeks in the regular and entire issue of every number thereof during the period and time of publication, and was published in the newspaper proper and not in a supplement thereto; that the publication of said notice began with the issue of March 4, 1954, and ended with the issue of March 11, 1954

Stuart Dopf

Subscribed and sworn to before me this

15th day of March, 1954

[Signature]
Notary Public for Idaho, residing at
Cambridge, Idaho

RECEIVED
MAR 16 1954

Department of Reclamation

MICROFILMED

Application For Transfer of Water Right

STATE OF IDAHO

County of Washington

ss.

Emerson Wiggins

, being first duly sworn, deposes and says:

That his name is Emerson Wiggins; that he is of lawful age, a citizen of the United States and of the State of Idaho, and that his postoffice address is Midvale

Idaho5-15-1896

That he is the owner and using a certain water right, bearing date of priority of 5-15-1884 19.....
12 1/2 inches
 for 50 inches ~~cubic feet per second~~ of the waters of Keithley Creek

County of Washington, State of Idaho, decreed to Edward M. Wigginsby decree of Judge, Ed L. Bryan of the Seventh Judicial District of the State ofIdaho, in and for the County of Washington, in the case of Muir Bros.vs. Allison et al., said decree bearing date of June 20, 1921

(or obtained by virtue of License No., issued by the State Engineer of the State of Idaho, dated, 19....., bearing date of, 19.....)

for the purpose of irrigating the following described lands situate, lying and being in Water District

No. in the County of and State of Idaho, to-wit:

SE 1/4 Section 32, Twp. 14 N. R. 3. W.

..... 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 Deed.

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 SW 1/4 NE 1/4 section 31 and SW 1/4 NW 1/4 of Section 32, Township 14 N, Range 3 W, B. M., and conducted to the above described lands through Private ditch

as per map herewith and of this affidavit made a part;

That affiant and petitioner desires to abandon the use of 1.25 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 Washington and State of Idaho, to-wit:

N 1/2 SW 1/4, SE 1/4 SW 1/4 Section 32, and E 1/2 NE 1/4 SE 1/4 Section 31, Twp. 14 N R 3 W

That his reasons for desiring to make such transfer are as follows:

Said Water right was never used on the SE 1/4 Section 32, as stated and made appurtenant by the Weiser Water Decree, but always used upon the last above described lands.

MICROFILMED

That he intends to divert and convey said 1.25 second feet of water to the tract of land last above described in the following manner, to-wit: 1. cubic foot per second with priority of water right as of 5-15-1884 to be diverted in the SW $\frac{1}{4}$ NE $\frac{1}{4}$ Section 31 with no change in point of diversion and .25 cubic feet per second with priority 5-15-1896, which will be changed from the SW $\frac{1}{4}$ NW $\frac{1}{4}$ to the NE $\frac{1}{4}$ SW $\frac{1}{4}$ Section 32, Twp. 14 N. R. 3 W.

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.

Emerson Wiggins
Applicant.

Subscribed and sworn to before me this 15th day of February

A. D. 1954

APPLICANT WILL ANSWER THE FOLLOWING QUESTIONS:

From what stream is the water diverted? Keithley Creek.

Where is the diversion point located? SW $\frac{1}{4}$ NE $\frac{1}{4}$ Section 31 and SW $\frac{1}{4}$ NW $\frac{1}{4}$ Sec. 32 Twp. 14 N. R. 3 W.

Through what ditch is it now conducted? Private ditches.

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

Give the description: E $\frac{1}{4}$ NE $\frac{1}{4}$ SE $\frac{1}{4}$ Sec. 31 and N $\frac{1}{4}$ SW $\frac{1}{4}$ and SE $\frac{1}{4}$ SW $\frac{1}{4}$ Sec. 32

What is the total amount of water in inches, or second feet, dedicated to said land? 1.25 c.f.s.

What kind of crops are being raised? Alfalfa, Grain and pasture.

How much water per acre is now required to irrigate said land? 5/8 inch per acre

What will be the effect on the land now irrigated, if the use of water on it is discontinued? no effect as the land from which the water is proposed for transfer, has never been irrigated from said water right.

Give location of new point of diversion, if change is to be made. NE $\frac{1}{4}$ SW $\frac{1}{4}$ Section 32. 12 $\frac{1}{2}$ inches will be used on the NE $\frac{1}{4}$ SW $\frac{1}{4}$ lying East of Keithby Creek.

Through what ditch will it be conducted after transfer? Private, Sprinkler system.

How much water will be required per acre to irrigate the land to which this water is transferred? Approx. 5/8 inch per acre.

Do you claim any other water right for the land from which you seek to abandon the use of this water? None

If so, give amount, date and source. None

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. None.

Signed

Emerson Wiggins
Applicant.

STATE OF IDAHO,

County of Washington

SS.

Clifford Hopper

and

Warden Seid

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 Midvale, Idaho that he is user of water from Keithly Creek, in Water District No. 41 County of Washington, State of Idaho; that he has read or heard read the foregoing affidavit and petition of Emerson Wiggins 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.

Clifford Hopper
Warden Seid

Subscribed and sworn to before me this 17th day of February

A. D. 19 54

May Collins

Notary Public, residing at Cambridge, Idaho

STATE OF IDAHO,

County of Washington

SS.

I,

G. C. Woods

Watermaster of

Water District No. 41, County of Washington, State of Idaho, whose postoffice address is Weiser Rt #1, have read or heard read the foregoing affidavit and petition of Emerson Wiggins, 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:

Increase the duty of water in the now existing water right

Watermaster Dist. No. 41

Weiser

G. C. Woods

Dated at Weiser, Idaho, this Feb 21 day of Feb, 19 54

Name of Applicant.....

SEC.

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