

July 10, 1917.

MICROFILMED

Re Notice Publication.

The Hagerman Valley Herald,
Hagerman, Idaho.

Gentlemen: --

Enclosing herewith notice of transfer of water right which please publish once a week for four consecutive weeks. The expense of the publication will be paid by Emanuel Swinehart, of Hagerman, to whom you will please furnish proof of publication on or prior to August 11th.

Please send me a copy of the first publication that I may check same with my records.

Very truly yours,

J. H. SMITH,

State Engineer.

By _____

Not.

T. 211

MICROFILMED

PUBLISHER'S AFFIDAVIT

COUNTY OF GOODING }
STATE OF IDAHO } ss.

NOTICE OF PROPOSED TRANSFER OF WATER RIGHT

Notice is hereby given that Emanuel Swinehart of Hagerman, Idaho, has applied to the State Engineer of the State of Idaho for a certificate authorizing him to transfer the use of thirty-five (35) inches of the water of Birch Creek and tributaries, from the land upon which it is now used, i. e. a strip of land on the south side of the SE $\frac{1}{4}$ of SE $\frac{1}{4}$, Sec. 34, T. 6 S., R. 13 E., B. M.; also Lot 1, Sec. 2, T. 7 S., R. 13 E., B. M., except 3 acres sold to one William Glauner off the south side of said lot 1, leaving approx. 29 acres, also approx. 6 acres in the N. E. Cor. of Lot 2, Sec. 2, T. 7 S., R. 13 E. to the following described tract: SW $\frac{1}{4}$ of SW $\frac{1}{4}$, Sec. 35, and about 37 acres commencing at a point 12 rods north of the S. E. Cor. of Sec. 34, thence N. 74 rods, thence W. 80 rods, thence S. 74 rods, thence E. 80 rods to the place of beginning, all in T. 6 S., R. 13 E., aggregating approx. 77 acres. And that, on the 16th day of August, A. D., 1917, at Hagerman, Idaho, before the State 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.

31-34

JOHN H. SMITH,
State Engineer

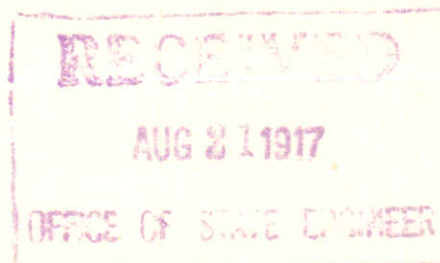
C. T. HARTE, being first duly sworn, deposes and says that he is publisher of the Gooding Leader, a weekly newspaper published at the City of Gooding, in said County and State; that a notice, of which the annexed is a true copy, was published in said newspaper for at least four consecutive issues, commencing with the issue dated July, 26 and ending with the issue dated August 16 in the regular and entire issue of said paper and not in any supplement thereof.

C. T. Harte
Affiant's Signature.

Subscribed and sworn to before me this 20th
day of Aug., 1917

H. Moody
Notary Public.
Residence Gooding Idaho

My commission expires See Seal



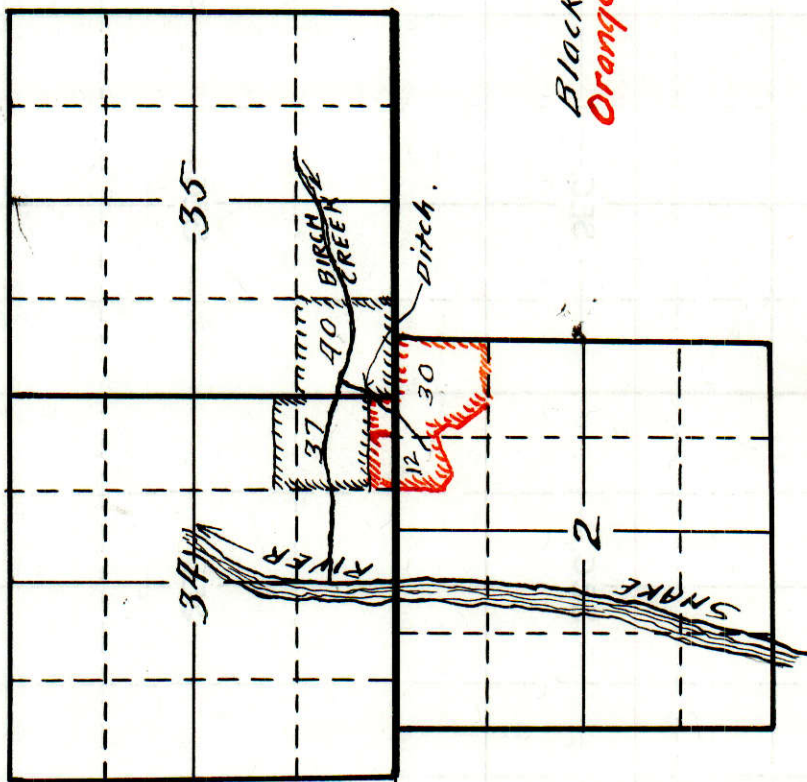
T-211

Name of Applicant --- E. SWINEHART.

RECEIVED

SWINEHART APPLICATION
for
TRANSFER.

Black -- Lands to which.
Orange -- from



TP. 6 S., R. 6. 13 E.
TP. 7 S., R. 6. 13 E.

R 13 E 10 N

Emanuel Swinehart.

MODIFIED

Water Dist. 63.

Birch Creek.

T-6-13

T-7-13

34

35

43 a
1/2 Sec 4
Sec 5

1st Standard Parallel South

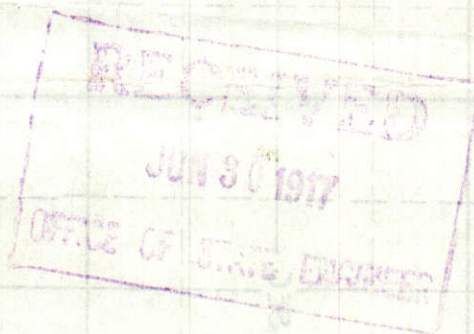
12.5 a

NE-SE
Sec 2
HOA

Point of diversion

2

Shank River



T-211

65-2004

INTER-DEPARTMENT MEMO — 1

RECEIVED

DATE 10-2-80

FROM Jim, Southern

OCT 8 1980

TO Transfer Clerk

Department of Water Resources

SUBJECT Transfer #211

According to your records, this transfer applies to Right #37-0798. I disagree. A comparison of Boyer vs Croco & Swinehart vs Vader shows the following: E. Swinehart was originally decreed 67 inches of 6-30-1878 water, with no P. U. given in Boyer. In Swinehart, the land listed as the original P. U. for 35" of 6-30-1878 water proposed to be transferred by T. 211 is shown as belonging to E. Swinehart (the transferee). The land to which this water is transferred is shown as being owned by Harry E. Swinehart in Swinehart vs Vader. E. Swinehart was decreed 32" of 6-30-1878 water in Swinehart & Harry E. Swinehart was decreed 35" of the same priority. T. 211 was dated 10-16-1917. Swinehart vs Vader was dated 12-14-1917. Therefore, I believe that T. 211 took 35" of E. Swinehart's original right & gave it to Harry Swinehart. T. 211 was incorporated into the Swinehart decree & was therefore superceded by it. So. T. 211 does not apply to any numbered right (Boyer vs Croco was never numbered). I will correct my records accordingly unless you disagree with this memo. T. 211 is actually the precursor of Rt. 37-0795.

SIGNATURE

Right No.
37-0798

See Swinehart
vs. Vader Decree

Trac. #211
Superceded
by decree.

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

-----OFFICE OF STATE ENGINEER-----

CERTIFICATE NO. 211, AUTHORIZING TRANSFER OF WATER RIGHT.

WATER DISTRICT NO. 63.

Permission is hereby granted Emanuel Swinehart, of Hagerman, County of Gooding, State of Idaho, to transfer the use of thirty five (35) inches of the waters of Birch Creek, and tributaries, in Water District No. 63, County of Gooding and State of Idaho, from the lands upon which it is now used, i. e., a strip of land on the south side of the SE $\frac{1}{4}$ of SE $\frac{1}{4}$, Sec. 34, T. 6 S., R. 13 E., B. M., more particularly described as follows: beginning at a point on the southeast corner of said SE $\frac{1}{4}$, thence due north along the east boundary of said SE $\frac{1}{4}$ a distance of 12 rods; thence due west to a point on the west boundary of said SE $\frac{1}{4}$ of SE $\frac{1}{4}$, 12 rods north of the southwest corner of the said SE $\frac{1}{4}$ of SE $\frac{1}{4}$; thence south to the southwest corner of said SE $\frac{1}{4}$ of SE $\frac{1}{4}$; thence due east along the south boundary of said SE $\frac{1}{4}$ of SE $\frac{1}{4}$ to place of beginning, containing approximately 6 acres; also, all of Lot 1, Sec. 2, T. 7 S., R. 13 E., B. M., except 3 acres off the south side of said Lot 1, leaving approximately 29 acres; also a parcel of land in the northeast corner of Lot 2, Sec. 2, T. 7 S., R. 13 E., B. M., containing approximately 6 acres, to the following described tract, to-wit: SW $\frac{1}{4}$ SW $\frac{1}{4}$, Sec. 35, T. 6 S., R. 13 E., B. M., also, commencing at a point 12 rods north of the southeast corner of Sec. 34, T. 6 S., R. 13 E., B. M.; thence north 74 rods, thence west 80 rods, thence south 74 rods, thence east 80 rods, to the place of beginning, containing approximately 37 acres; said water to be diverted from Birch creek from points in the SE $\frac{1}{4}$ of SE $\frac{1}{4}$, Sec. 34, and the SW $\frac{1}{4}$ of SW $\frac{1}{4}$, Sec. 35, T. 6 S., R. 13 E. B. M.

The water right appurtenant to the above described lands was adjudged by decree, dated December 31, 1902, of Kirtland I. Perky, Judge of the District Court of the Fourth Judicial District of the State of Idaho, in and for the County of Lincoln (now Gooding) in the case of Roy E. Boyer, plaintiff, vs. William Croco, E. Swinehart and Mary E. Bell, defendants, said right to date from June 30, 1878.

WITNESS, My hand and the seal of my office at Boise, Idaho, this 16th day of October, 1917.

(SEAL)

MICROFILMED

J. H. SMITH,
State Engineer.

RECEIVED

37-A-4

IN THE DISTRICT COURT OF THE FOURTH JUDICIAL DISTRICT
OF THE STATE OF IDAHO IN AND FOR THE COUNTY OF GOODING

Harry F. Swinehart,
William Woody, and
E. Swinehart,

Plaintiffs,

vs.

Frank Vauer, Water Master of
Water District No. 83, and
Roy E. Boyer,

Defendants.)

D E C R E E

THIS CAUSE CAME on regularly for trial the 13th day of December, 1917 the plaintiffs appearing by their counsel, A.F. James, Esquire, and the defendants failing to appear at all, and default being entered against them. The cause was tried by the court sitting without a jury, the plaintiffs submitting their evidence, both testimonial and documentary, and the court having taken the matter under consideration and being fully advised in the premises, ordered that judgment be entered against the defendants and in favor of the plaintiffs as prayed in the complaint on file in this cause.

WHEREFORE BY REASON OF THE PREMISES AND OF THE LAW, it is ordered, adjudged and decreed that that certain judgment rendered in the District Court of the Fourth Judicial District of the State of Idaho in and for the County of Lincoln, under date of December 31st, 1902, in the cause entitled, "Roy E. Boyer, Plaintiff vs William Croco, E. Swinehart, and Mary E. Bell, defendants," of record in Book A of Civil Judgments, at page 46, Records of Gooding County, Idaho, be and the same is corrected as hereinafter set out, and that the plaintiffs do have judgment respectively for the right to use for irrigation purposes the following number of inches of water measured under a four (4) inch pressure, from Birch Creek and its tributaries in the

The plaintiff, Harry E. Swinehart (and successors) seventy-

(70) inches, with a priority as follows; 35 inches dating

from June 30, 1878, and 35 inches from June 30, 1880, all appurtenant to the following described lands situate in Gooding County, Idaho;

The Southwest Quarter of the Southwest Quarter of Section Thirty-five (35) in Township Six South (T 6 S) of Range Thirteen East (R 13 E) B. M., also the following described tract of land; "Commencing at a point twelve rods north of the southeast corner of Section Thirty-four in Township Six South of Range Thirteen East, B. M.; thence North seventy-four rods; thence West eighty rods; thence South seventy-four rods; thence East eighty rods to the point of beginning, all in section Thirty-four, in Township Six South of Range Thirteen East, B. M."

37-0797 The plaintiff, William Woody (and successors) one hundred five (105) inches with a priority of June 30, 1880, all appurtenant to the following described lands situate in Gooding County, State of Idaho:--

"The Northeast Quarter of the Southeast Quarter of Section Thirty-four (34) in Township Six South (T 6 S) of Range Thirteen East (R 13 E) B. M.; the Southwest Quarter of the Northwest Quarter and the Northwest Quarter of the Southwest Quarter of Section Thirty-five (35) in Township Six South (T 6 S) of Range Thirteen East (R 13 E) B. M. the Southeast Quarter of the Northwest Quarter, and the Southwest Quarter of the Northeast Quarter; the East One-half of the Southwest Quarter and the West One-half of the Southeast Quarter, Section Thirty-five (35) in Township Six South (T 6 S) of Range Thirteen East (R 13 E) B. M. "

37 0798 The plaintiff E. Swinehart (and successors) Thirty-two (32) inches of a priority of June 30, 1878, appurtenant to the following described lands;

"A strip of land on the south side of the Southeast Quarter of the Southeast Quarter of Section Thirty-four (34) in Township Six South (T 6 S) of Range Thirteen East, (R. 13 E) B. M. more particularly described as follows:

Beginning at a point on the Southeast corner of said Southeast Quarter of the Southeast Quarter of said Section Thirty-four; thence due North along the East boundary line of said Southeast Quarter of the Southeast Quarter of said Section Thirty-four a distance of 12 rods; thence due West to a point on the West boundary of the Southeast Quarter of the Southeast Quarter of said Section Thirty-four 12 rods North of the Southwest corner of the said Southeast Quarter of the Southeast Quarter of said Section Thirty-four; thence South to the Southwest corner of the said Southeast Quarter of the Southeast Quarter of said Section Thirty-four; thence due east along the South boundary of the said Southeast Quarter of the Southeast Quarter to the point of beginning, containing approximately six acres;

Also all of Lot One (1) of Section Two (2), in Township Seven South (T 7 S) of Range Thirteen East (R 13 E) B. M. except three acres thereof sold to one William Glauner off the south side of said Lot One, on January 12, 1910, deed for which is recorded in Book F of Deeds at page 326, Records of Gooding County, Idaho, leaving approximately 29 acres.

Also a parcel of land in the Northeast corner of Lot Two (2) in Section Two (2), in Township Seven South (T 7 S) of Range Thirteen East (R 13 E) B. M. containing approximately six acres."

37 0799 Defendant Roy C. Boyer, 112 inches with a priority from April 15th, 1896.

It is further ordered, adjudged and decreed that each and every party to this suit and the successors and assigns of each one be and is hereby enjoined from using or in any manner interfering with the water of said Three Creek and its tributaries.

IN THE DISTRICT COURT OF THE FOURTH JUDICIAL DISTRICT OF THE
STATE OF IDAHO IN AND FOR THE COUNTY OF LINCOLN.
.....

ROY F. BOYER,	Plaintiff.	:	
		:	
VS.		:	
		:	
WILLIAM GROCO, E. SWINFHART and		:	J U D G M E N T.
		:	
MARY F. BELL,	Defendants.	:	
		:	

This cause came on regularly for trial on the 11th day of September 1901, P. M. Bruner and Leon Calhoun appearing as counsel for plaintiff and Guy C. Earnum and Edward A. Walters appearing as counsel for defendant. A trial by jury having been expressly waived by counsel the for the respective parties, the cause was tried before the Court sitting without a jury, whereupon numerous witnesses were examined and documentary evidence introduced on behalf of the several defendants and the plaintiff, and the evidence being closed the cause was submitted to the Court for consideration and decision in writing which is filed and ordered that judgment be entered in accordance herewith.

Wherefore by reason of the law and findings aforesaid, it is ordered, adjudged and decreed that the plaintiff and the several parties defendants herein named, do have judgment respectively for the right to use for irrigation purposes, the following number of inches of water measured under a four inch pressure for said Birch Creek and its tributaries in the County of Lincoln as a prior right respectively, dating as follows to wit:-

Plaintiff: Roy C. Boyer.	112 inches from April 15th, 1896.
Defendants: William Groco	105 " " June 30th, 1880.
E. Swinehart	67 " " June 30th, 1878.
Mary C. Bell	35 " " June 30th, 1880

It is further ordered and adjudged that each and every party to this suit be and is hereby enjoined from using or in any manner interfering with the water of said Birch Creek and its tributaries except as in the manner and in the amount and in the order in which it is herein decreed

that each is entitled thereto; provided that said water may be measured according to the plan described by the State Engineer as an equivalent of so many feet per second instead of under a four inch pressure; and each party to this action is required to pay his own costs.

Done this 31st day of December 1902.

Kitland I. Peaky,
District Judge.

Filed Jan. 2, 1903.

A. I. McMahon, Clerk.

STATE OF IDAHO :
 : SS.
COUNTY OF GOODING :

I, Frank L. Bower, Clerk of the District Court and Ex-officio Recorder in and for the above named County and State, do hereby certify:

That the foregoing is a full, true and correct copy of that certain judgment as appears of record in Book 1 of Civil Judgments of Lincoln County, Idaho at Page 91 and Book A of Civil Judgments of Gooding County, Idaho at Page 46, of the Transcribed Records.

In Witness Whereof, I have hereunto set my hand and affixed my official seal this 23rd day of April 1914.

Frank L. Bower.
Clerk of the District Court and
Ex-officio Recorder.

RECORDED
APR 23 1914

Oct. 20th, 1917.

Re: Certificate of Transfer 211 - Swinehart.

Mr. A. F. James,
Attorney at Law,
Gooding, Idaho.

Dear Sir:

Inclosing herewith Certificate of Transfer
issued to Mr. A. Swinehart, with receipt for fee.

Very truly yours,

J. H. SMITH,

State Engineer.

By _____.

Enc. C. T.
R. #1054.

CB:PL

T-211

October 5, 1917.

J.H. Smith,
State Engineer,

Boise, Idaho.

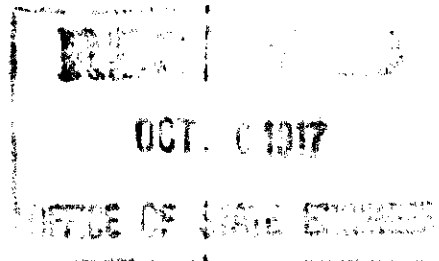
Dear Sir:

Sometime ago Mr. E. Swinehart of Hagerman, addressed in this office a letter to you asking that you forward to me a certificate authorizing him to make a certain transfer of water, but I have not yet received the same. I would be pleased to have you forward the same to me at your earliest possible convenience.

Very truly yours,

A. F. James

AFJ/s



T-211

A. F. JAMES
ATTORNEY AT LAW
GOODING, IDAHO

PROSECUTING ATTORNEY
GOODING COUNTY

FILED
September 21, 1917. *cf 20. 316*
100

J.H. Smith,
State Engineer,

Boise, Idaho.

Dear Sir:

I have your letter of the 20th. inst.
relative to certificate of transfer and as re-
quested am enclosing Mr. James's check for One
Dollar (\$1.). Kindly forward this certificate
to A.F. James, Gooding, Idaho.

Very truly yours,

Emanuel Steinhardt

AFJ/s

T-211

September 20, 1917.

Re: Certificate of Transfer.

Mr. Emanuel Swinehart,
Ragerman, Idaho.

Dear Sir:

Upon receipt of statutory fee of One
Dollar (\$1.00), certificate of trans-
fer will be issued you for the water
of Birch Creek.

Very truly yours,

J. H. Smith,

State Engineer.

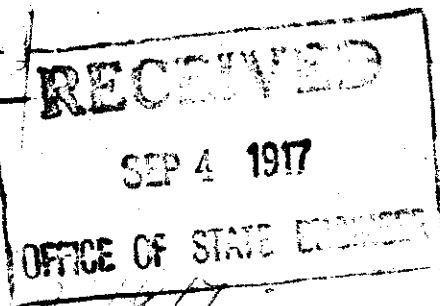
By

CB/AL

MICROFILMED

T-211

Showerhead Truck
Hagerman, Idaho



September 4, 1917

Dear Sir

J. H. Smith I would like
very well if you would
send the papers for the
transfer of the matter of
Emmanuel Swinhart to
Harry Swinhart
your engineer was here and
looked it over and said he
would tend to it right
away

we have sold both places
and would like to hear from
you so we could close the
deals as both parties is very
eager to get settled

RECEIVED

Y

up Please send the papers
as soon as possible
yours respect

Harry S. Bennett

MICROFILMED

T-211

A. F. JAMES
ATTORNEY AT LAW
GOODING, IDAHO

PROSECUTING ATTORNEY
GOODING COUNTY

September 4, 1917

MICROFILMED

J.H. Smith,
State Engineer,

Boise, Idaho.

IN RE: Swinehart matter.

Dear Sir:

Sometime ago I took up with your office the matter of obtaining certificate to transfer water from certain lands in Hagerman Valley, owned by one E. Swinehart. Notice of such application was published in the Gooding Leader and the publication thereof completed on August 16,. Moreover, I understand that deputy from your office has inspected the lands involved and has approved such transfer. I would be very pleased to have you therefore check into this matter and issue your certificate, authorizing the transfer of such water as early as possible, as these parties are very anxious to close the deal.

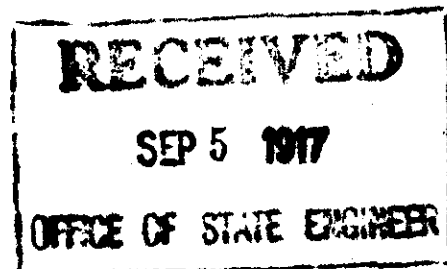
Kindly let me hear from you at once.

Very truly yours.

A. F. James

AFJ/s

*File Swinehart app
for trans x*



T-211

August 11th, 1917.

Re Transfer of Water Right.

Emanuel Swinehart,
Hagerman, Idaho.

Dear Sir:—

Our engineer, Mr. S. T. Baer, will be in Hagerman next Wednesday, August 15th, and will attend to your application for transfer of water right, instead of the 16th, as advertised. Please do not fail to meet Mr. Baer on that date.

Very truly yours,

J. H. SMITH,

State Engineer.

By_____

RECEIVED

T-211

July 13, 1917.

MICROFILMED

J.H.Smith,
State Engineer,

Boise, Idaho.

Dear Sir:

I enclose herewith application for transfer of water right of Emanuel Swinehart with the approval of the Water Master of the District, Frank Bader.

Kindly expedite this matter insasmuch, as I have heretofore written you, the sale of the premises on which this water is appurtenant is awaiting the approval of your office.

Very truly yours,



AFJ/s
enc 1

T-211

July 17, 1917.

RECEIVED

Mr. A. F. James,
Gooding, Idaho.

Dear Sir:

I have received the application of
Mr. Emanuel Swinchart properly endorsed
by the Water Master.

This matter will be given as much
speed as the case will allow.

Very truly yours,

J. H. SMITH,

State Engineer.

By

Deputy.

PAW:FM

File: Application for Transfer.

T-211

Notice of Proposed Transfer of Water Right

Notice is hereby given that Manuel Swinehart of Hagerman
Idaho, has applied to the State Engineer of the State of Idaho for a certificate
authorizing him to transfer the use of thirty-five (35) inches of the water of
Birch Creek and tributaries,
from the land upon which it is now used, i. e. a strip of land on the south side of the
SE $\frac{1}{4}$ of SE $\frac{1}{4}$, Sec. 34, T. 6 S., R. 13 E., B.M.; also Lot 1, Sec. 2, T. 7 S., R. 13 E., B.M.,
except 3 acres sold to one William Glaumer off the south side of said lot 1, leaving
approx. 29 acres, also approx. 6 acres in the N.E. Cor. of Lot 2, Sec. 2, T. 7 S., R. 13 E.
to the following described tract: SW $\frac{1}{4}$ of SW $\frac{1}{4}$, Sec. 35, and about 37 acres commencing at a
point 12 rods North of the S.E. Cor. of Sec. 34, Thence N. 74 rods, thence W. 80 rods,
thence S. 74 rods, thence E. 80 rods to the place of beginning, all in T. 6 S., R. 13 E.,
aggregating approx. 77 acres.

And that, on the 14th day of August, A. D.
1917, at Hagerman, Idaho,
State Engineer
before the Water Commissioner of this Division, 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 certifi-
cate should not be issued authorizing such transfer.

~~Full details of the proposed transfer may be obtained from~~
~~Water Commissioner of this Division.~~

J.H. Smith,

State Engineer.

T-211

July 10, 1917.

Re Notice Publication.

The Hagerman Valley Herald,
Hagerman, Idaho.

Gentlemen: —

Enclosing herewith notice of transfer of water right which please publish once a week for four consecutive weeks. The expense of the publication will be paid by Emanuel Swinehart, of Hagerman, to whom you will please furnish proof of publication on or prior to August 11th.

Please send me a copy of the first publication that I may check same with my records.

Very truly yours ,

J. H. SMITH,

State Engineer.

Not.

By _____

T. 211

RECEIVED

July 23rd, 1917.

Re Transfer of Water Right- Swinehart.

Mr. A. F. James,
Attorney at law,
Gooding, Idaho.

Dear Sir:—

August 16th has been set as date for the hearing
in the above transfer. Notice for publication has been mailed
to the Gooding Leader.

Very truly yours,

J. H. SMITH,

State Engineer.

By _____

T-211

July 23, 1917.

Re Publication.

The Leader,
Gooding, Idaho.

Gentlemen:—

Enclosing herewith notice of transfer of water right which please publish once a week for four consecutive weeks. The expense of the publication will be paid by Emanuel Swinshart to whom please furnish proof of publication on or prior to August 16th.

Very truly yours,

J. H. SMITH,

State Engineer.

By _____

H

RECEIVED
JUL 24 1917

PUBLISHER'S AFFIDAVIT

COUNTY OF GOODING }
STATE OF IDAHO } ss.

NOTICE OF PROPOSED TRANSFER OF WATER RIGHT

Notice is hereby given that Emanuel Swinehart of Hagerman, Idaho, has applied to the State Engineer of the State of Idaho for a certificate authorizing him to transfer the use of thirty-five (35) inches of the water of Birch Creek and tributaries, from the land upon which it is now used, i. e. a strip of land on the south side of the SE $\frac{1}{4}$ of SE $\frac{1}{4}$, Sec. 34, T. 6 S., R. 13 E., B. M.; also Lot 1, Sec. 2, T. 7 S., R. 13 E., B. M., except 3 acres sold to one William Glaumer off the south side of said lot 1, leaving approx. 29 acres, also approx. 6 acres in the N. E. Cor. of Lot 1, Sec. 2, T. 7 S., R. 13 E. to the following described tract: SW $\frac{1}{4}$ of SW $\frac{1}{4}$, Sec. 35, and about 37 acres commencing at a point 12 rods north of the S. E. Cor. of Sec. 34, thence N. 74 rods, thence W. 80 rods, thence S. 74 rods, thence E. 80 rods to the place of beginning, all in T. 6 S., R. 13 E., aggregating approx. 77 acres. And that, on the 16th day of August, A. D. 1917, at Hagerman, Idaho, before the State 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.

31-34

JOHN H. SMITH,
State Engineer.

C. T. HARTE, being first duly sworn, deposes and says that he is publisher of the Gooding Leader, a weekly newspaper published at the City of Gooding, in said County and State; that a notice, of which the annexed is a true copy, was published in said newspaper for at least four consecutive issues, commencing with the issue dated July, 26 and ending with the issue dated August 16 in the regular and entire issue of said paper and not in any supplement thereof.

C. T. Harte

Affiant's Signature.

Subscribed and sworn to before me this 20th

day of Aug., 1917

H. H. Moody

Notary Public.

In and for the State of Idaho
Residence Gooding, Idaho

My commission expires Per Seal

T-211

OFFICE OF THE STATE ENGINEER

BOISE, IDAHO.

August 23, 1917.

Re: Swinehart Transfer,
Water District No. 63,
Birch Creek--Gooding Co.

Mr. J. H. Smith,
State Engineer.

Dear Sir:

In the above titled matter, the hearing was set at Hagerman, Idaho, on the 15th day of August, 1917. No one appeared in protest of the transfer, and an examination of the lands affected disclosed the following:

Lands colored in orange (see enclosed plat) have a decreed water right of 67 inches, dating from 1878, covering the 42 acres, as shown; of this acreage, 17 acres are in bearing crops, consisting of hay, grain and fruit, while the balance of the acreage is too high for irrigation, and has never been cropped. In the findings of the decree, 1.6 inches per acre were allowed. On this basis, 27 inches would be considered sufficient for the proper irrigation of the 17 acres in cultivation.

The lands shown in black on the enclosed plat comprise 77 acres, to which 35 inches were decreed from Birch Creek. The 37 acres in the E $\frac{1}{2}$ SE $\frac{1}{4}$, Sec. 34, are all under cultivation and irrigation, while the SW $\frac{1}{4}$ SW $\frac{1}{4}$ Sec. 35 is still in sage brush; about 25 acres of this forty may be irrigated by building a high line ditch, with point of diversion further up the stream. The son of the applicant owns this land, to which the transfer is asked. About 16 years ago, he developed two springs on his father's land--built two dams, one of which is 30 feet high, while the other is 12 feet high, in the natural channel which the flow

from the springs followed. He had conducted this water to his own lands in Sec. 34 and 35-- the two springs have a constant combined flow of about 33 inches, but have always been used on the lands of the applicant, who allowed his son to take 35 inches of his 67 inch decreed right, which was merely a trade in the use of the water. So that the son (lands to which) has had the use of the 35 inches decreed to his lands plus the 35 inches of his father's decreed water; while the father (applicant--lands from which) has had the use of the balance of his decreed water--32 inches, plus the 33 inches developed by his son from the two springs.

Birch Creek is a small stream fed by numerous springs, of which the Hagerman Valley is noted. There are only four users on the Creek, which is so located, that no lands other than those belonging to the four decreed rights may be served from this creek--and when the waters are not being used, they flow direct into Snake River, below the Thousand Springs. No one will be injured in any manner if the transfer is allowed.

Respectfully,

J. J. J. arr.

1-2

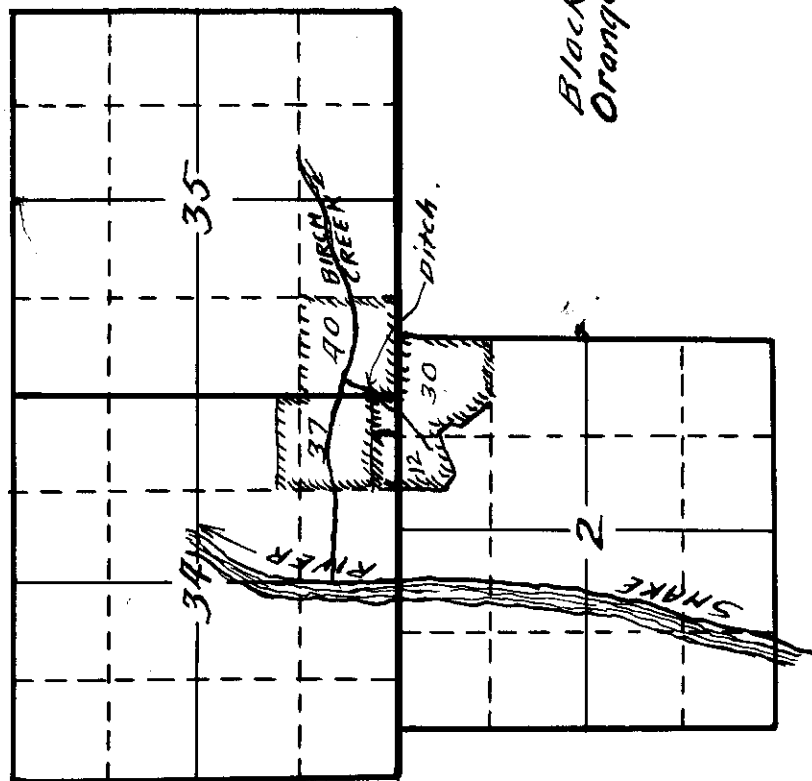
SCALE: 2 INCHES = 1 MILE. DRAW PLAN IN INK

Name of Applicant --- E SWINEHART.



SWINEHART APPLICATION
for
TRANSFER.

Black --- Lands to which.
Orange --- " from " .



TP. 6 S., R. 6. 13 E.
TP. 7 S., R. 6. 13 E.

State of Idaho
Engineering Department

Boise

Hagerman,
8/15-17

- Pr - E. Swinehart transfer
- Q - Do you own both parcels of lands, from & to which the water is being transferred?
- A - Father owns the land from which transfer is asked - E. Swinehart
H. E. Swinehart " " " " " " " " " " " "
- Q - How long has the original land been watered?
- A - 1878
- Q - How many acres in the original holding to which the water was diverted? And how much diverted?
- A - 42 acres - 67"
- Q - How much water do you consider necessary for the proper irrigation of the original lands?
- A - 32" + 30" in the 2 springs that can be developed.
- Q - How many acres in cultivation & under irrigation in the original holdings?
- A - 17 acres.
- Q - How long have you used the water on the lands to which the transfer is asked? How many acres in cultivation, and how much water have you used?
- A - 1880 - 35 acres - 70 to 75 inches -
- Q - How many acres do you intend to crop on the original lands with the remainder of the water, providing the transfer is allowed?
- A - 17 acres
- Q - Have you been using the water regularly on the original lands?
- A - Yes.
- Q - What is the condition of the land from which the transfer is asked?
- A - 17 acres irrigable - in good shape - balance is too high

Q- Is any of the original lands swampy, or subject to alkali?

A- No

Q- Can any of the original land be dry-farmed?

A- Not with success - all needs water.

Q- How many acres of the land, to which the water may be transferred, can be irrigated?

A- 60 acres -

Q- Do you have to build new ditches in order to irrigate this second land?

A- No, except for 25 ac. in E. 40

Q- Does this second land tend towards swamp or alkali?

A- No.

Q- Have you ever raised crops on the land to which the water may be transferred, by dry-farming?

A- No - tried it, but didn't succeed -

I hereby affirm that the answers to the above foregoing questions are true, to the best of my knowledge and belief -

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Harry E. Lavinhart
Applicant for Transfer.

Dated this 14th day of AUGUST, 1917 - Hagerman, Idaho.

July 9, 1917.

Re: Application Transfer of Emmanuel Swinehart.

Mr. A. F. James,
Attorney at Law,
Gooding, Idaho.

Dear Sir:

Am returning to you the application for
Water Master's approval. Mr. Frank Vader is
Water Master for District No. 63, and lives in
Hagerman Valley. Mr. Padgham can tell you just
where he lives.

In the mean time, we have ordered the ad-
vertisement of this transfer, so that no time
will be lost by reason of this being returned to
you.

Very truly yours,

J. H. SMITH,

State Engineer.

By

Deputy.

Enc.: App.

FAW:FM

63-A.

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June 29, 1917.

J.H. Smith,
State Engineer,
Boise, Idaho.

Dear Sir:

Find enclosed application of Emanuel Swinehart for transfer of water right. Because the land involved is situate partly on one side and partly on another side of a correction ^{line it} was impossible to use the blank map which you forwarded and we have therefore drawn a map, which you will find attached to the application.

The land from which the water is to be transferred is red inked on its exterior line, while the land to which the water is to be transferred is black inked on its exterior line, and the point of diversion, as originally used, for diverting water to the first above described land is shown on the map. Birch Creek, from which this water is taken, as you will see from the map, passes through the land to which the water is to be transferred, and the water can be taken from the creek at many points on this land.

As I have heretofore indicated to you, the water has, as a matter of fact, - but not of record **MICKEN used** for quite a number of years on the land to which it is to be transferred. I enclose also copy of the judgment decreeing this water, which decree, I take it, should be returned attached to your certificate authorizing the transfer.

There is no Water Master on Birch Creek and for this reason I presume that this matter can be expedited, and I hope so, inasmuch as this land is now being sold and the

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A. F. JAMES
ATTORNEY AT LAW
GOODING, IDAHO

PROSECUTING ATTORNEY
GOODING COUNTY

RECEIVED

J H Smith page 2.

closing of the deal is awaiting the transfer of this
water.

Kindly let me hear from you at an early date.

Very truly yours,

A. F. James

AFJ/s

enc 2.

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Application for Transfer of Water Right

Oct. 63

STATE OF IDAHO,

County of Gooding

ss.

Emanuel Swinehart

, being first duly sworn, deposes and says:

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

Hagerman, Idaho.

That he is the owner and using a certain water right of 67 inches of the waters of Birch Creek and its tributaries,

County of Gooding, State of Idaho, decreed to him as

E. Swinehart by decree of Judge Kirtland I. Perky, of the

Fourth Judicial District of the State of Idaho, in and for the County of Lincoln

(now Gooding), in the case of Roy E. Boyer -vs- William Croco, E. Swine-

hart and Mary E. Bell, said decree bearing date of December 31, 1902.

(or obtained by virtue of License No. X, issued by the State Engineer of the State of Idaho, dated X), for the purpose of irrigating the

following described lands situate, lying and being in the County of Gooding and

State of Idaho, to-wit:

A strip of land on the South side of the SE $\frac{1}{4}$ of the SE $\frac{1}{4}$, Section 34, Township 6-South, Range 13-East Boise Meridian, more particularly described as follows:

Beginning at a point on the South East Corner of said South East Quarter, thence due North along the East boundary of said SE $\frac{1}{4}$ of 12 rods; thence due West to a point on the West boundary of said SE $\frac{1}{4}$ of the SE $\frac{1}{4}$ 12 rods North of the South West corner of the said SE $\frac{1}{4}$ of the SE $\frac{1}{4}$; thence South to the SW corner of said SE $\frac{1}{4}$ of the SE $\frac{1}{4}$; thence due East along the South boundary of said SE $\frac{1}{4}$ of the SE $\frac{1}{4}$ to place of beginning, containing approximately 6-acres of land.

Also all of lot One (1) Section Two (2) Township Seven (7) South Range Thirteen (13) East Boise Meridian, except three acres sold to one William Glauner off the South side of said Lot 1, leaving approximately 29 acres. (See entry # 42 for part sold)

Also a parcel of land in the North East corner of Lot Two (2) Section Two (2) Township Seven (7) South, Range Thirteen (13) East Boise Meridian, containing approximately 6-acres.

his right to the use of this amount of water, and as a matter of fact has for a number of years been used upon the last described land.

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That he intends to divert and convey said 35 miners inches of water to the tract of land last above described in the following manner, to-wit: From Birch Creek itself as it passes through said described land.

as set forth upon the map hereto attached; and

That no one will be injured by such transfer.

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

Emanuel Swinehart (X) his mark
Subscribed and sworn to before me this 28 day of June 1917

A. D. 1917

C. W. Stringfield
Notary Public, Hagerman, Idaho.

STATE OF IDAHO,

County of Gooding

SS.

Ruben M. Woody and Charles A. Woody

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 Hagerman, Idaho

that he is a user of water from Birch Creek, County of Gooding,

State of Idaho; that he has read or heard read the foregoing affidavit and petition of

Emanuel Swinehart, 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.

Ruben M. Woody
Chas A Woody
Subscribed and sworn to before me this 28 day of June 1917

A. D. 1917

C. W. Stringfield
Notary Public, residence and
P.O. address, Hagerman, Idaho.

STATE OF IDAHO,

County of Groding } ss.

I, Frank Vader, Watermaster of Water Dist. No. 63

County of Groding, State of Idaho, whose postoffice address is

Hagerman, Ida., have read or heard read the foregoing affidavit and petition of Emanuel Swinehart, and, of my own knowledge, believe the same to be

true as to all matters therein alleged, and that no one will be injured by the transfer prayed to be authorized;

and I hereby endorse my approval of said petition, and request that the State Engineer issue the certificate of

transfer as petitioned; or (do not approve of the issuance of the certificate of transfer prayed for) for the

following reasons: This is a transfer in

good faith, and the water

has already been used on the

land to which the transfer is

desired

Frank Vader Dist 63
Watermaster.

Notice having been duly published for thirty days of the intention of the above named

to apply to the State Engineer of the State of Idaho for a certificate

authorizing the transfer of water as set forth in this affidavit and petition herein, and an opportunity having

been given to any and all persons opposing said transfer to present their objections in a public hearing before

me at _____, on _____, according to

the terms of said notice;

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

I hereby recommend that the said State Engineer of the State of Idaho issue his certificate to said appli-

cant, authorizing the transfer as prayed for in his petition; ~~or (and it appearing at said hearing that the fol-~~

~~lowing injuries would be sustained by others if such transfer is permitted.~~

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

David Wilkie
Deputy State Eng.
Commissioner of Water Division No. 63

By _____

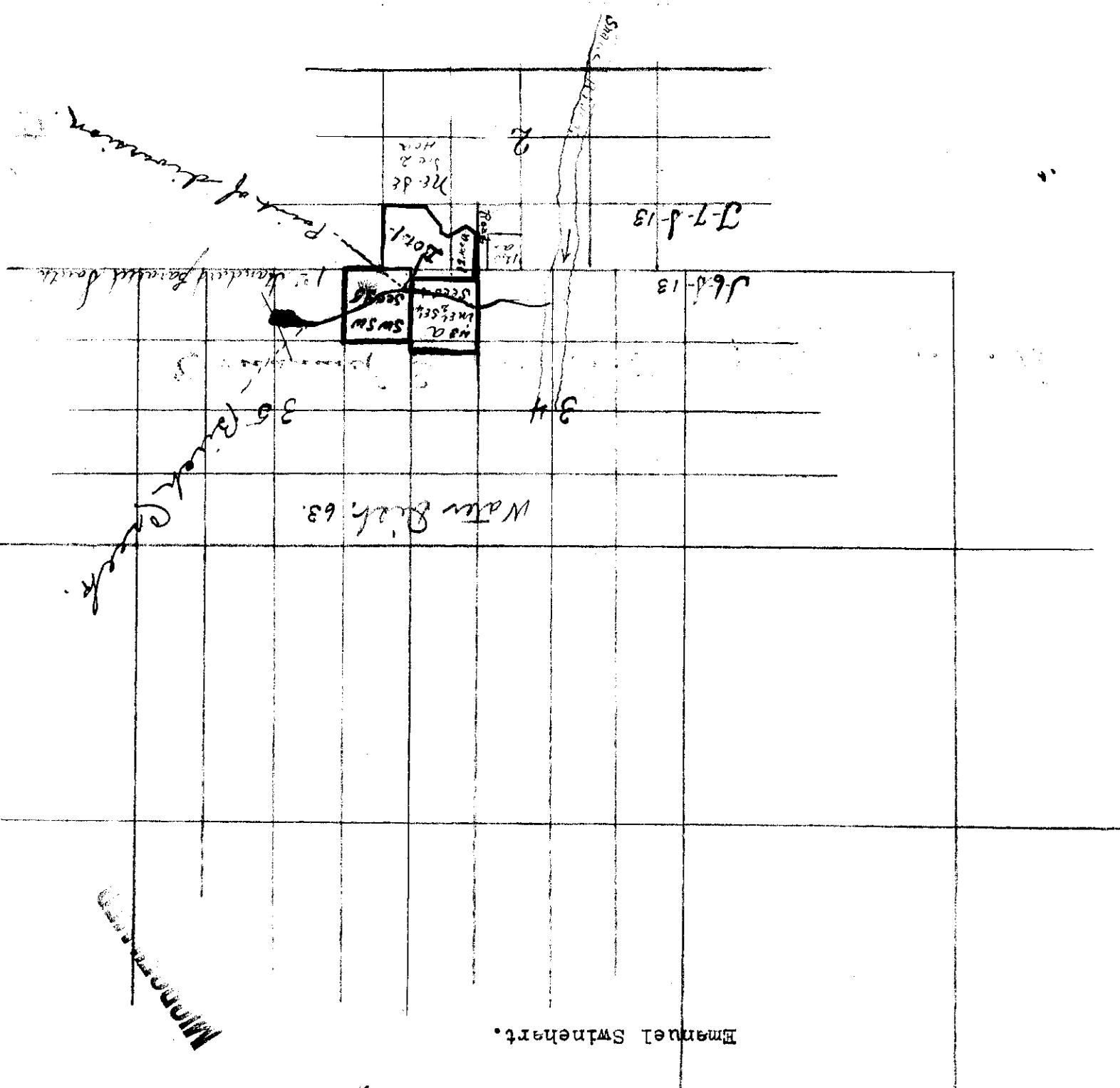
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SCALE: 2 INCHES = 1 MILE. DRAW PLAN IN INK.

Name of Applicant-

11C-4



Emmanuel Swinehart.

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