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STATE OF IDAHO,

County of Ada

} ss.

ROSS J. COMSTOCK, Agent for Deseret Savings Bank of Salt Lake, being first duly sworn, upon his oath deposes and says:

That he is the owner of a decreed water right appurtenant to the following described land to-wit:

S $\frac{1}{2}$ SE $\frac{1}{4}$, Section 16, Township 6 North, Range 40 East of Boise Meridian

as evidenced by the decree dated 16th day of December, 1910

in the cause entitled REXBURG IRRIGATION COMPANY, et al., Plaintiff,

vs. TETON IRRIGATION CANAL COMPANY, et al., Defendant, brought

in the district court of the Sixth Judicial District of the State of Idaho, or

That he is the owner and holder of Permit to appropriate the Public Waters of the State of Idaho No.

That he intends to change the point of diversion, as described in said decree or permit, to the following point: (two points of diversion)

50 miners inches will be diverted at the heading of the Woodmansee-Johnson ditch in NE $\frac{1}{4}$ NW $\frac{1}{4}$, Section 1, Township 6 North, Range 40 East of Boise Meridian, and

30-miners inches will be diverted at the heading of the Teton Island Feeder Canal in NW $\frac{1}{4}$, Section 36, Township 7 North, Range 40 East of Boise Meridian

That such change will be made for the following reasons, to-wit: That the Rexburg City ^{Canal} ditch ~~which~~ ^{through which the water is now conveyed to said land} is not convenient for the purpose of irrigating the lands while the Woodmansee-John-

son Rexburg Mill Ditch Company has a ditch which lies immediately south of the property described through which 50 acres of said land may be irrigated and the Teton Island Canal Company has a ditch with its feeders which conveys water to the northwest corner of the property described and through those two systems the lands can be more economically irrigated than through the present Rexburg City Ditch System.

That no one will be injured by such change and that deponent will make such change at his own risk.

And further deponent saith not.

Deseret Savings Bank of Salt Lake
R. J. Comstock agent

Subscribed and sworn to before me this 8th day of February, 1928.

My commission expires Apr. 11 - 1929

Clara M. Brown
Notary Public.

(Over)

STATE ENGINEER'S OFFICE

REGULATIONS AS TO CHANGE OF POINT OF DIVERSION

Section 3247 of the Revised Codes provides that a person entitled to the use of water, may change the place of diversion if others are not injured by such change. The Board of Irrigation has adopted the following regulations as to procedure under said section:

The person desiring to change point of diversion must file with the State Engineer an affidavit describing his water right, setting forth his intent to change point of diversion and the reasons for such change, together with an averment that no one will be injured thereby and that deponent will make such change at his own risk.

The point to which it is desired to change the place of diversion must be described as follows:

When the amount claimed does not exceed 25 cubic feet per second and point of diversion will be on surveyed land, locate same by giving the legal description of the 40 acre tract in which it will be situated. If upon unsurveyed land, give approximate distance to mouth of stream from which water is claimed or to the mouth of some creek flowing into said stream. Where there is more than one point of diversion, describe each separately and specify the amount claimed from each.

Where the water claimed exceeds 25 cubic feet per second, locate the point to which it is desired to change the place of diversion as follows:

If upon or near surveyed land, tie point of diversion by course and distance to section or quarter section corner. If said point will be more than two miles from the corner of a public survey, the tie may be made to the mouth of the stream from which the water is claimed or to the mouth of some creek flowing into said stream.

The affidavit must be accompanied by maps in duplicate, showing the following details:

1. If for irrigation and domestic use:
 - (a) Name of applicant.
 - (b) Section, town and range numbers, where public survey has been made.
 - (c) Source or sources of supply.
 - (d) Point or points of diversion.
 - (e) Route of ditch or ditches, including laterals delivering water within one mile of each 160 acre tract of the lands to be irrigated.
 - (f) Lands to be irrigated to be shown by crosshatching, outlining, or coloring.
2. If for other than irrigation and domestic purposes:
 - (a) Name of applicant.
 - (b) Section, town and range numbers, where public survey has been made.
 - (c) Source or sources of supply.
 - (d) Point or points of diversion.
 - (e) Route of ditch or ditches.
 - (f) Point or points of use.
 - (g) Point or points of return to stream after use.

If application is for more than 25 cubic feet per second, the maps must be prepared from actual survey and must be certified to by the engineer in charge of survey, in the following form:

I hereby certify that this map was prepared from an actual survey made by me.....191.... and correctly shows position of points indicated thereon.

Engineer.

P. O.

Date.....191.....

(over.)

March 14, 1929

Re: Change of Point of Diversion
Ross J. Comstock
File No. 97

MR. G. CLYDE BALDWIN
Watermaster, District 36
Idaho Falls, Idaho

Dear Sir:

Under date of February 10, 1928 this office forwarded you a copy of an affidavit by R. J. Comstock, showing his intention to change the point of diversion of certain water claimed by him, from the Rexburg City Canal to the Woodmansee-Johnson Rexburg Mill ditch and the Teton Island Canal Company ditch.

Mr. Comstock was in the office several days ago and stated that he had not yet been allowed to use the water in accordance with this change. Inasmuch as he is asking to change the point of diversion of a portion of a water right which is owned by Rexburg City, he being only joint owner, I take it that it would be necessary for Rexburg City to concur before the change could be made. However, I would think that if the City is willing that the change be made and recognizes Mr. Comstock's right to a portion of their award, that the change should then be made.

Mr. Comstock will probably call on you sometime before the irrigation season starts.

I am calling this matter to your attention in order that you may have the dates of our correspondence for your reference.

Yours very truly,

Assistant Commissioner of
Reclamation

MS/eq

April 9, , 1928

MR. ROSS J. COMSTOCK
General Manager
The Liquidating Co.
Rexburg, Idaho

Dear Mr. Comstock:

In reply to your letter of April 4th, relative to your application for change of point of diversion for certain waters for the irrigation of the South half of the Southeast quarter of Section 16, Township 6 North, Range 40 East, I beg to advise that I have searched the decree and can find no water allotted to Ballie and Thatcher. The water allotted to Rexburg City; namely, 1350 and 1650 inches, is decreed for lands within the city limits only and the city limits do not extend into Section 16, so, I take it, that the water right which you ask information for is not included in that decreed to the city of Rexburg.

I have consulted the maps which were made as a result of a survey at the time this decree was entered and find the above mentioned land was described as unirrigated at that time. I have consulted the transfer records and can find no record of any transfer to this particular piece of land.

I am wondering if the abstract would not show the source of water right and in whose name it was originally decreed. If you can furnish us with this information, we can probably trace the right. The application for change of point of diversion, as it now stands, will probably not be sufficient for the watermaster to determine what water it is intended to cover. G. Clyde Baldwin, at Idaho Falls has copies of all of the records and could probably assist you in running this matter down.

Call upon us, if we can be of any further assistance to you.

Very truly yours,

Assistant Commissioner
of Reclamation

MS/eq

February 16, 1928

MR. ROSS J. COMSTOCK
Rexburg, Idaho

Dear Mr. Comstock:

Further reference is made to the notice of intention to change point of diversion which you filed in this office a short time ago.

After a little further consideration of the matter, and reviewing the policy and procedure of this department in similar cases, it appears that you should present some evidence to indicate the consent of the Rexburg City Ditch Company to take out of their canal the eighty miners' inches of water which you desire to divert through the other two ditches described in the affidavit. It appears that in some cases, at least, objection arises on the part of the ditch which is being decreased in its total diversion right, for the reason that carrying losses may become a greater burden upon those whose water still remains in the ditch.

Therefore, if you will secure from the appropriate officers of the Rexburg City Ditch, a statement consenting to the taking of this amount of water from their ditch and file it here, the record will be more complete and possibly avert some hesitancy on the part of the watermaster in complying with the notice.

So far as I am aware, this matter has not been raised by the Rexburg City Ditch itself; at least they have made no statement or protest to me regarding the matter.

Yours very truly,

Commissioner of Reclamation

GNC:E
CC: G. Clyde Baldwin

February 10, 1928

MR. C. CLYDE BALDWIN
Idaho Falls
I d a h o

Dear Mr. Baldwin:

Enclosed is copy of notice of intention to change point of diversion as described in the Rexburg decree for the water right for certain lands described in the affidavit.

The said affidavit has been executed in regular form, received for record, and filed in this office, so that it is my understanding of the matter that full compliance has been had with the statute which provides for this procedure.

I presume that this recorded change of point of diversion will be recognized by you in distribution of water hereafter in Water District No. 36.

Yours very truly,

Commissioner of Reclamation

GNC:E
Enclosure
CC: Ross J. Constock

RECEIVED
FEB 11 1928

February 10, 1928

MR. ROSS J. COMSTOCK
Rexburg
I d a h o

Dear Mr. Comstock:

Enclosed is copy of letter I have just written to G. Clyde Baldwin, Watermaster, District 36, notifying him of your notice of intention to change point of diversion for the water irrigating lands described in the notice.

I assume that this notice of intention will, in fact, change the legal point of diversion for the water so involved.

Yours very truly,

Commissioner of Reclamation

GNC:E
Enclosure

36

OFFICE OF
The Liquidating Co.
AND
Securities Investment Company

REXBURG, IDAHO

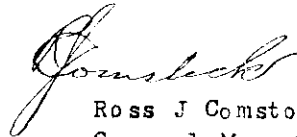
February 16, 1928

Mr. Geo. N. Carter,
Commissioner of Reclamation,
Boise, Idaho

Dear Mr. Carter:

We take this opportunity of thanking
you for the courtesies extended to the writer
while in your office.

Yours very truly,



Ross J Comstock,
General Manager.

RJC:A

*Exchange
File P.O. 12*

OFFICE OF
The Liquidating Co.
AND
Securities Investment Company

REXBURG, IDAHO

February 18, 1928

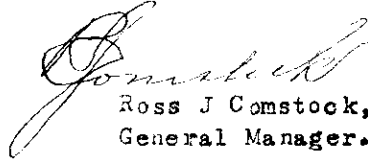
Mr. Geo. M. Carter, Commissioner
Department of Reclamation,
Boise, Idaho

Dear Mr. Carter:

Re: J. M. Shinkle

We have your letter of the 16th, relative to the transfer of water from one ditch, to one which would be more advantageous for irrigating the lands in which we are interested. It occurs to us that it would be just a question of the amount of water to which we are entitled, and not a question as to whether the City of Rexburg would be satisfied or not. However, I shall be pleased to take this matter up with the City Council, and as soon as this is done, will report to you further.

Yours very truly,


Ross J. Comstock,
General Manager.

RJC:A