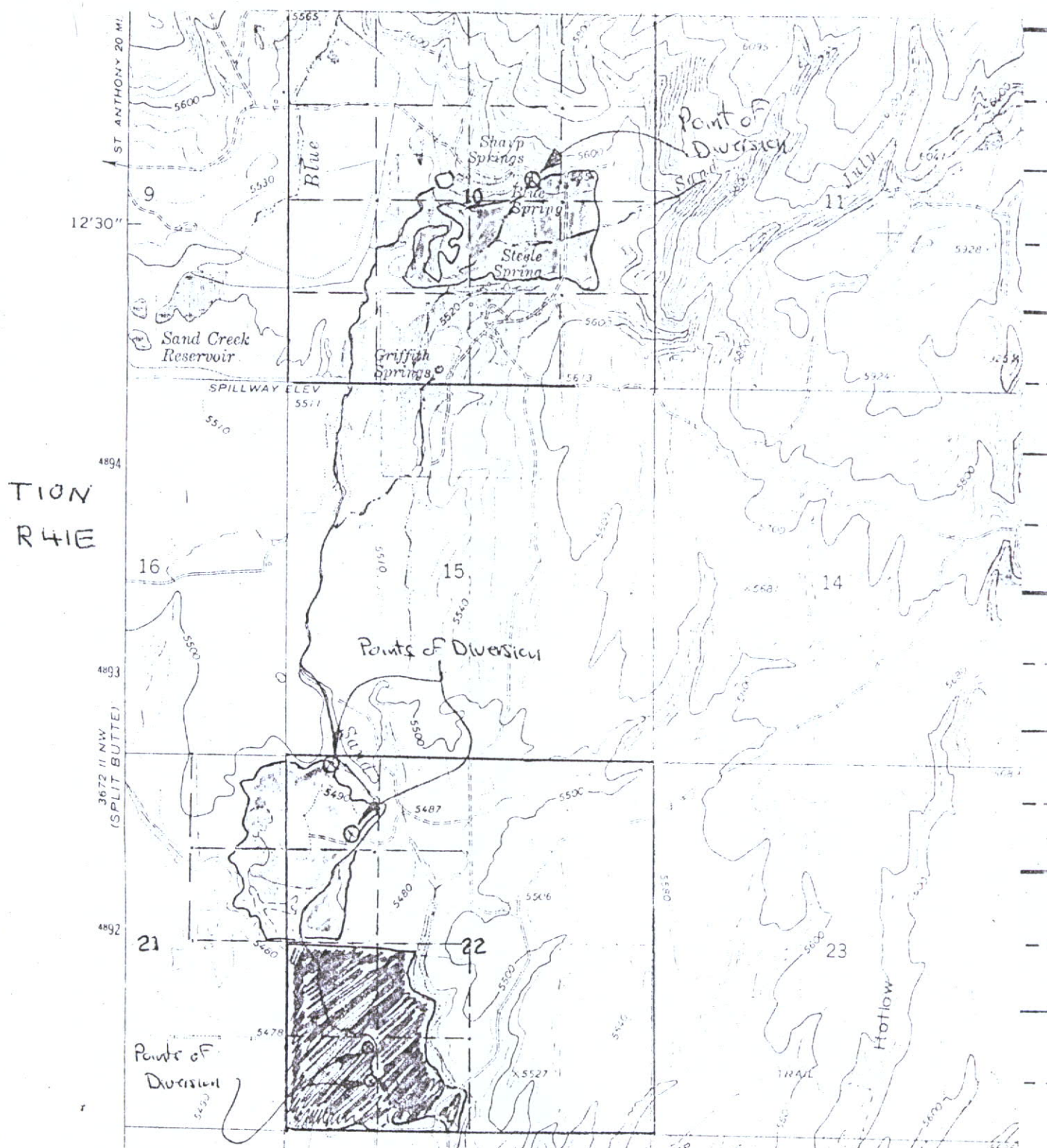


c. Describe the goods or place of use to which the right will be transferred.

[illegible]

Total number of acres to be irrigated 281

4. Describe any other water rights used for the same purpose as described above. None
5. Draw a map indicating the new point(s) of diversion and/or the new land to be irrigated. Show clearly the land involved by section, township and range number.



~~SGATF - 6 inches equal 1 mile. Draw plan in ink.~~

Printed Upper Sand Creek

21-C

IN THE DISTRICT COURT OF THE FIFTH JUDICIAL DISTRICT OF IDAHO,
IN AND FOR FREMONT COUNTY.

XXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXX

Arcadia Reservoir, Irrigation and Canal
Co., Ltd., a corporation, Plaintiff,

Edgar Roseborough, et al, Defendants,

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File #91

This case was commenced on the 6th day of August, A.D. 1901, and thereafter summons was duly issued and service was duly made upon Edgar Roseborough, Logan Roseborough, Charles Peterson, Byron Markham, Paul Fletcher, Thomas W. Lyons, R. M. Burton, Cullen Thompson, and H. H. Smith, and thereafter by stipulation duly made and entered Lemuel Steele was substituted Defendant for and in the place of H. H. Smith, Peter Melting was substituted defendant in the place of J. T. Griffith, and E. A. Smith was made a party defendant to the suit, service of summons as to these parties being expressly waived and the defendant Cullen Thompson having been allowed by stipulation in open court to file his Complaint in intervention, and the Defendants Edgar Roseborough, Logan Roseborough, Charles Peterson, Byron Markham, Paul Fletcher, Thomas W. Lyons, Lemuel Steele, Cullen Thompson, Peter Melting, and E. A. Smith, by their attorney, Thomas R. Hager, Esq., filed their Answer and Cross Complaint claiming interest and rights in the waters of Upper Sand Creek and its tributaries, the other defendant, R. M. Burton making no claim thereto.

And it was also stipulated by counsel for all parties that the Defendants might make Answer to the Complaint by a general denial with the same force and effect as if specific denials to all the allegations thereof were made, and that the Complaint should be deemed to be verified.

And it was further agreed that all Cross-complaints should be deemed denied without filing a written answer thereto, with the same force and effect as if verified Answers thereto were duly filed.

Thereafter on the 31st day of Dec. 1901, this cause having come regularly on to be heard and the Court having heard the evidence of the res-

pective parties and the arguments of counsel, and the latter having been submitted to the Court, and a stipulation having been made by the counsel for the respective parties that the Judge of the Court might visit the premises and view the same and find the amount of water in said stream, and that Decision could be filed out of term time as though in term time.

And the Court, having on the 16th day of December, A. D. 1902, rendered its Decision herein in writing and the Findings of fact and Conclusions of Law having been filed in accordance with the said Decision, in which are found all the facts necessary to support this Decree and no facts having been found inconsistent therewith.

It is therefore ordered, adjudged and decreed that the waters of Upper Sand Creek and its tributaries be and the same are hereby distributed and decreed to the several parties to this suit, for beneficial purposes and uses in the irrigation of their lands described in the Complaint and Cross-complaints in amounts and of the dates, with priorities of rights in accordance with said dates, as follows, to-wit;

To the Arcadia Reservoir Irrigation & Canal Co., Ltd., a corporation 335 inches or six and 7/10 cubic feet per second of time of all the waters of Upper Sand Creek dating from May 15th, 1890.

To the defendant, Logan Roseborough, on the E. A. Smith claim, 80 inches or one and 3/5 cubic feet per second of time of the water from that part of Upper Sand Creek known as Sharp's Springs, dating from May 15th 1888.

To the defendant Logan Roseborough, on the Richard D. Smith claim, 85 inches or one and 7/10 cubic feet per second of time of the waters of that part of Upper Sand Creek known as Sharp's Springs, dating from May 15th 1888.

To the defendant, Paul Fletcher, 30 inches or 3/5 cubic feet per seconds time of the waters of that part of Upper Sand Creek, known as East Creek, or Griffith's Springs, dating from May 15th, 1899.

To the Defendant, Thomas H. Lyons, 30 inches or 3/5 cubic feet per seconds time of the waters of that part of Upper Sand Creek known as Sharp's Springs dating from May 15th 1899.

To the Defendant, Charles Peterson, 10 inches or 1/5 cubic feet per second time of the water of that part of Upper Sand Creek known as Sharp's Springs dating from May 15th 1899.

0014 ✓

T. 3101

To defendant, Peter Melling, 50 inches of one cubic foot per seconds time of the water of that part of Upper Sand Creek known as Sharp's Springs, dating from May 15" 1896. Also 10 inches or $1/5$ cubic feet per seconds time of the water of that part of Upper Sand Creek known as Sharp's Springs, dating from May 15" 1896.

21 0005 ✓

T. 3101

21 0006 ✓

To the defendant, Edgard Roseborough, 25 inches of $1/2$ cubic feet per second time of the water from that part of Upper Sand Creek known as Griffith's Springs, dating from May 15" 1900.

21 0017 ✓

To the defendant Cullom Thompson, 25 inches or $1/2$ cubic feet per second time of the water of that part of Upper Sand Creek known as Sharp's Springs, dating from July 1", 1896.

That the several amounts of water above decreed be measured and distributed to the said parties at their several points of diversion from the natural channel of said Upper Sand Creek and the said Tributaries thereof, respectively.

That the said waters herein decreed be measured under the weir system, in cubic feet per second of time; fifty inches of water as herein decreed being equal to one cubic foot per second of time, or one second foot.

It is further ordered that each of said parties to this suit construct and maintain at their several points of diversion respectively, substantial and uniform boxes, head gates and weirs for the measurement of their said water.

That each and every of the parties to this suit, their agents, attorneys, assignees and grantees, are hereby restrained and perpetually enjoined from in any manner interfering with the waters of said Upper Sand Creek, and the tributaries thereof herein decreed, or exercising any other or greater rights with reference to said waters than as herein decreed to the respective parties.

That the costs of this action be paid as follows, to-wit;

That each, the plaintiff and defendants herein pay their own costs.

Dated at Montpelier Idaho, this the 24th day of December, A. D. 1902

Joseph C. Rich, Judge of the District Court.

Recorded in Book A of Judgements page 581.

STATE OF IDAHO
DEPARTMENT OF WATER RESOURCES

APPLICATION FOR TRANSFER OF WATER RIGHT

To Change the Point of Diversion and/or the Place of Use

Department of Water Resources

Name of applicant KEITH ROBERTSON or REED MORTIMER or JOHN PINNOCKPhone 356-5369Post Office address Route 2 Box 174, Rexburg, ID 83440

A. DESCRIPTION OF RIGHT AS RECORDED

1. Right evidenced by:

- a. Decree No. 21-0009 Decreed to Logan Roseborough (Name)
in case of Arcadia Res. Irrig. & Canal Co. vs Edgar Roseborough, et al
dated in 12-24-1902 in 5th District Court county of Fremont
(Name of court)
- b. License No. _____ issued by the Idaho Department of Water Resources
- c. Claim No. _____ on file with the Idaho Department of Water Resources

2. Attach a copy of last year's tax notice for the property to which the water right is appurtenant. If the applicant is not the original holder of the water right, explain how it was acquired Applicants had originally purchased ground together and now are separating out their own ground.

3. Source of water Sharp's Springs tributary to Sand Creek

4. Date of priority 5-15-1888

5. Water is used for the following purposes:

amount 1.60 cfs for Irrigation purposes from *Not listed to *
amount _____ for _____ purposes from _____ to _____
amount _____ for _____ purposes from _____ to _____
(month/day — both dates inclusive)

6. Total amount of water under right: a. 1.60 cubic feet per second
&/or
b. _____ acre feet per annum

7. Location of original point of diversion is * Not listed of 1/4 of Section _____
Township 1 Range _____, B.M., in _____ County
Additional points of diversion, if any _____

8. Lands irrigated or place of use:

TWP.	RANGE	SEC.	NE 1/4				NW 1/4				SW 1/4				SE 1/4				TOTALS
			NE 1/4	NW 1/4	SW 1/4	SE 1/4	NE 1/4	NW 1/4	SW 1/4	SE 1/4	NE 1/4	NW 1/4	SW 1/4	SE 1/4	NE 1/4	NW 1/4	SW 1/4	SE 1/4	
10N	41E	21	X			X													
		22						X	X										

Total number of acres to be irrigated Not Listed

9. Describe any other water rights used for the same purpose as described above N.A.

10. To your knowledge, has any portion of this water right undergone a period of five or more consecutive years
of nonuse? NO If yes, describe in item D. REMARKS.

DESCRIPTION OF RIGHT AS RETURNED

1. Right evidenced by:

21-0015

a. Decree No. 21-0014 Decreed to Peter Melling

(Name)

in case of Arcadia Res. Irrig. & Canal Co. vs Edgar Roseborough et al

dated in 12-24-1902 in 5th District Court county of Fremont

(Name of court)

b. License No. issued by the Idaho Department of Water Resources

c. Claim No. on file with the Idaho Department of Water Resources

2. Attach a copy of last year's tax notice for the property to which the water right is appurtenant. If the applicant not the original holder of the water right, explain how it was acquired

3. Source of water Sharp's Spring tributary to Sand Creek

4. Date of priority May 15, 1896

5. Water is used for the following purposes:

21-0014 amount 1.00 cfs for Irrigation purposes from *Not listed to

21-0015 amount 0.20 cfs for Irrigation purposes from to

amount for purposes from to (month/day -- both dates inclusive)

6. Total amount of water under right: a. 1.20 cubic feet per second &/or b. acre feet per annum

7. Location of original point of diversion is * Not listed % of Section

Township Range B.M., in County

Additional points of diversion, if any

8. Lands irrigated or place of use:

TWP.	RANGE	SEC.	NE%				NW%				SW%				SE%				TOTALS
			NE%	NW%	SW%	SE%	NE%	NW%	SW%	SE%	NE%	NW%	SW%	SE%	NE%	NW%	SW%	SE%	
10N	41E	9															X	X	
		10											X	X					
		11																	

Total number of acres to be irrigated Not listed

9. Describe any other water rights used for the same purpose as described above N.A.

10. To your knowledge, has any portion of this water right undergone a period of five or more consecutive years of nonuse? No If yes, describe in item D, REMARKS.

DESCRIPTION OF PORTION OF RIGHT OWNED BY APPLICANT (If the entire right is owned by the applicant, omit part B).

1. Amount of water: a. _____ cubic feet per second
&/or
b. _____ acre feet per annum
2. Point of diversion _____ ¼ _____ ¼, Section _____ Township _____
Range _____, B.M., _____ County
Additional points _____

3. Place of use:

TWP.	RANGE	SEC.	NE¼				NW¼				SW¼				SE¼				TOTALS
			NE¼	NW¼	SW¼	SE¼	NE¼	NW¼	SW¼	SE¼	NE¼	NW¼	SW¼	SE¼	NE¼	NW¼	SW¼	SE¼	

*Each applicant gets: 0.533 cfs - 21-0009
0.33 cfs - 21-0014
0.07 cfs - 21-0015 } 0.933 cfs Total number of acres to be irrigated _____

C. DESCRIPTION OF RIGHT OR PORTION THEREOF, AFTER THE REQUESTED CHANGE

1. General Information

- a. Amount of water to be diverted 2.80 c.f.s. &/or _____ acre feet
- b. Description of diverting works Headgate to pipeline and flood irrigation.

- c. Describe the reasons for the proposed changes To define the actual place of use and division of water among John H. Pinnock, Reed Mortimer and myself.

2. Change in point of diversion:

Point of diversion NW ¼ NW ¼, Section 22 Township 10N
Range 41E, B.M., Fremont County
Additional points SW¼SW¼, Sec. 22, T. 10N, R. 41E (Reed Mortimer)
SW¼NE¼, Sec. 10, T. 10N, R. 41E (John Pinnock)

3. Change in place of use

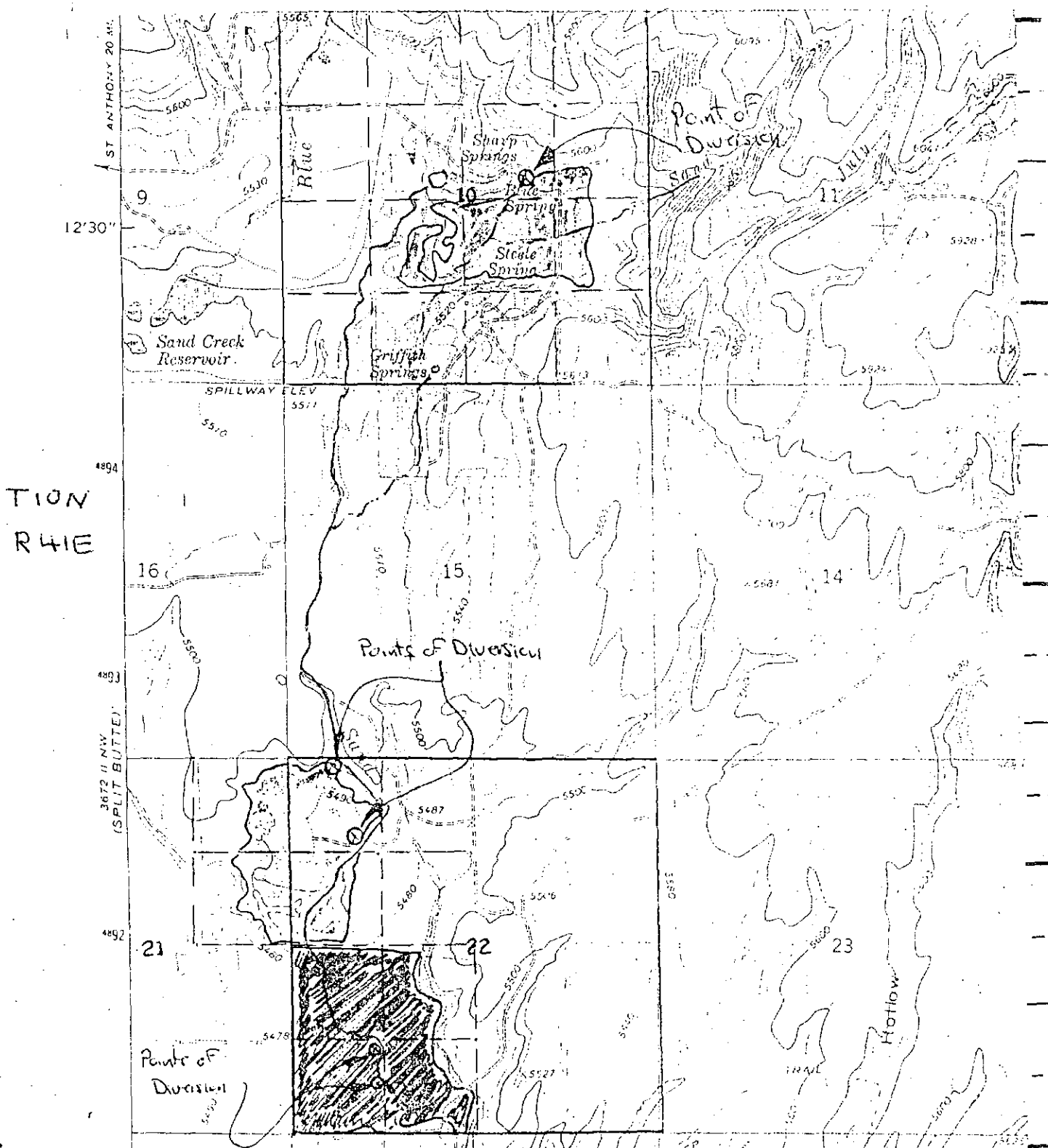
- a. Are the lands from which you propose to transfer the water right subject to any liens, deeds of trust, mortgages, or contracts? X Yes _____ No. If yes, provide a notarized statement from the holder of the lien, deed of trust, mortgage or contract agreeing to the proposed change.
- b. Describe the affect on the land now irrigated if the place of use is changed pursuant to this transfer.
No change is being made in land irrigated. The change in place of use came in the 1940's and this transfer is to clarify the actual places of use for the last 40 years.

c. Describe the goods or place of use to which the right will be transferred:

[illegible]

Total number of acres to be irrigated 281

4. Describe any other water rights used for the same purpose as described above. None
5. Draw a map indicating the new point(s) of diversion and/or the new land to be irrigated. Show clearly the land involved by section, township and range number.

~~SGAIF-2 is the equal 1 mile Detachment in ink.~~

D. REMARKS

Each applicant owns 1/3 of the water rights listed and will use that total on his own ground.

I hereby assert that no one will be injured by such change and that the change does not constitute an enlargement in use of the original right. The information contained in this application is true to the best of my knowledge.

I understand that any willfull misrepresentations made in this application may result in voiding its approval.

x Keith Robertson
(Signature of Applicant)

Subscribed and sworn to before me this 11th day of January, 19 85

Margie S. Chanhill
(Notary Public)

My commission expires Life

ACTION OF THE DIRECTOR, DEPARTMENT OF WATER RESOURCES

This is to certify that I have examined Application for Transfer of Water Rights No. _____ and said application is hereby _____, subject to the following limitations and conditions:

Witness my hand this _____ day of _____, 19____.

FOR DEPARTMENT USE ONLY

Received by KCW Date 1-14-85

Protest filed by _____

Prelim. check by KCW Fee 50⁰⁰ #34399

Receipted by AN Date 2-6-85

Published in Boston Herald

Copies of protest forwarded by _____

Pub. dates 2-14 & 2-11-85

Hearing held by _____ Date _____

Watermaster recommendation requested on 2/7/85

Recommended for _____ approval _____ denial

WD #1 rec'd.

by _____

Printed Upper Sand Creek

21-C

IN THE DISTRICT COURT OF THE FIFTH JUDICIAL DISTRICT OF IDAHO,

IN AND FOR FREMONT COUNTY.

XXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXX

Arcadia Reservoir, Irrigation and Canal
Co., Ltd., a corporation,
Plaintiff,

vs.

Edgar Roseborough, et al.,
Defendants.

XXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXX

File #91

This cause was commenced on the 28 day of August, A.D. 1901, and

hereafter summons was duly issued and service made upon Edgar

Roseborough, Logan Roseborough, Charles Peterson, Byron Markham, Paul

Fletcher, Thomas W. Lyons, R. M. Burton, Cullum Thompson, and J. H.

Smith, and thereafter by stipulation duly made and entered Lemuel

Steele was substituted defendant for J. H. Smith, and

Peter Melting was substituted defendant in the place of J. H. Smith.

Griffin, and E. A. Smith was made a party defendant to the said

vice of Summons for these parties being expressly waived and the de-

fect of Cullum Thompson having been allowed by stipulation in open

court to file his Complaint in intervention, and the Defendant Edgar

Roseborough, Logan Roseborough, Charles Peterson, Byron Markham, Paul

Fletcher, Thomas W. Lyons, Lemuel Steele, Cullum Thompson, Peter Mel-

ting, and E. A. Smith, by their attorney, Thomas R. Baker, Esq., filed

their Answer and Cross Complaint claiming interest and rights in the

waters of Upper Sand Creek and its tributaries, the other defendant,

R. M. Burton making no claim thereto.

And it was also stipulated by counsel for all parties that the De-

fendants might make Answer to the Complaint by a general denial with the

same force and effect as if specific denials to all the allegations there-

of were made, and that the Complaint should be deemed to be verified.

And it was further agreed that all Cross-complaints should be

deemed denied without filing a written answer thereto, with the same force

and effect as if verified Answers thereto were duly filed.

Thereafter, on the 13 day of Dec. 1901, this cause having come regul-

arly on to be heard and the Court having heard the evidence of the res-

pective parties and the arguments of counsel, and the matter having been submitted to the Court, and a stipulation having been made by the counsel for the respective parties that the Judge of the Court might visit the premises and view the same and find the amount of water in said stream, and that Decision could be filed out of term time as though in term time.

And the Court, having on the 16th day of December, A. D. 1902, rendered its Decision herein, in writing and the Findings of fact and Conclusions of Law having been filed in accordance with the said Decision, in which are found all the facts necessary to support this Decree and no facts having been found inconsistent therewith.

It is therefore ordered, adjudged and decreed that the waters of Upper Sand Creek and its tributaries here and the same are hereby distributed and decreed to the several parties to this suit, for beneficial purposes and uses in the irrigation of their lands described in the Complaint and Cross-complaints in amounts and of the dates, with priorities of rights in accordance with said dates, as follows, to-wit:

To the Arcadia Reservoir Irrigation & Canal Co., Ltd., a corporation 335 inches or six and 7/10 cubic feet per second of time of all the waters of Upper Sand Creek dating from May 15", 1890.

To the defendant, Logan Roseborough, on the R. A. Smith claim, 80 inches or one and 3/5 cubic feet per second of time of the water from that part of Upper Sand Creek known as Sharp's Springs, dating from May 15" 1888.

To the defendant Logan Roseborough, on the Richard D. Smith claim, 85 inches or one and 7/10 cubic feet per second of time of the waters of that part of Upper Sand Creek known as Sharp's Springs, dating from May 15" 1888.

To the defendant, Paul Fletcher, 30 inches or 3/5 cubic feet per seconds time of the waters of that part of Upper Sand Creek, known as East Creek, or Griffith's Springs, dating from May 15", 1899.

To the Defendant, Thomas H. Lyons, 30 inches or 3/5 cubic feet per seconds time of the waters of that part of Upper Sand Creek known as Sharp's Springs dating from May 15" 1899.

To the Defendant, Charles Peterson, 10 inches or 1/5 cubic feet per second time of the water of that part of Upper Sand Creek known as Sharp's Springs, dating from May 15" 1897.

0014

To defendant, Peter Melling, 50 inches of one cubic foot per seconds time of the water of that part of Upper Sand Creek known as Sharp's Springs, dating from May 15" 1896. Also 10 inches or 1/5 cubic feet per seconds time of the water of that part of Upper Sand Creek known as Sharp's Springs, dating from May 15" 1896.

21 0015

T. 3101

21 0016

To the defendant, Edgard Roseborough, 25 inches of 1/2 cubic feet per second time of the water from that part of Upper Sand Creek known as Griffith's Springs, dating from May 15" 1900.

21 0017

To the defendant, Carlton Thompson, 25 inches or 1/2 cubic feet per second time of the water of that part of Upper Sand Creek known as Sharp's Springs, dating from July 1", 1896.

That the several amounts of water above decreed be measured and distributed to the said parties at their several points of diversion from the natural channel of said Upper Sand Creek and the said Tributaries thereof, respectively.

That the said waters herein decreed be measured under the weir system, in cubic feet per second of time, fifty inches of water as herein decreed being equal to one cubic foot per second of time, or one second foot.

It is further ordered that each of said parties to this suit construct and maintain at their several points of diversion respectively, substantial and uniform boxes, head gates and weirs for the measurement of their said water.

That each and every of the parties to this suit, their agents, attorneys, assignees and grantees, are hereby restrained and perpetually enjoined from in any manner interfering with the waters of said Upper Sand Creek, and the tributaries thereof herein decreed, or exercising any other or greater rights with reference to said waters than as herein decreed to the respective parties.

That the costs of this action be paid as follows, to-wit;

That each, the plaintiff and defendants herein pay their own costs.

Dated at Montpelier Idaho, this the 24th day of December, A. D. 1902

Joseph C. Rich, Judge of the District Court.

Recorded in Book A of Judgements page 581.

DATE 12/17/87

FROM Sharla

TO Filed 21-0014/0015

SUBJECT

Trans. 3101 (WITHDRAWN)

See file 21-0009 for all correspondence
regarding the above withdrawn transes.

MICROFILMED

FEB 24 1988

SIGNATURE