

Doc 4435

Affidavit of Publication

STATE OF IDAHO, }
County of Bonneville, } ss.

I, J. K. Gulayson, of THE POST COMPANY, a corporation, publishers of the IDAHO FALLS DAILY POST, a daily newspaper of general circulation, published daily except Sunday, at Idaho Falls, Bonneville County, Idaho, do solemnly swear that the notice attached hereto, and which is a part of this affidavit, and a part of the proof of publication, was published in said newspaper 7 consecutive weeks, first publication having been made on the 1 day of Feb, 1929, last publication having been made on the 8 day of Feb, 1929; that said notice was published in the regular and entire issue of each number of the paper during the period and times of publication, and that the notice was published in the newspaper and not in a supplement.

Further, that said newspaper has been so published continuously and uninterruptedly for more than 78 weeks prior to the date first herein mentioned.

NOTICE OF PROPOSED TRANSFER OF WATER RIGHT

Notice is hereby given that C. G. Hopkins of Swan Valley, Idaho, has applied to the Commissioner of Reclamation of the State of Idaho for a certificate authorizing him to transfer the use of 3.2 second feet of the water of Ratney Creek, from the land upon which it is now used, i. e.: SE $\frac{1}{4}$ SE $\frac{1}{4}$ Sec. 35, SW $\frac{1}{4}$ SW $\frac{1}{4}$ Sec. 36, Twp. 2 N., R. 43 E., B. M.; NW $\frac{1}{4}$ NW $\frac{1}{4}$ Sec. 1, NE $\frac{1}{4}$ NE $\frac{1}{4}$ Sec. 2, Twp. 1 N., R. 43 E., B. M. to the following described tract: SE $\frac{1}{4}$ SW $\frac{1}{4}$, SW $\frac{1}{4}$ SE $\frac{1}{4}$ Sec. 4; NE $\frac{1}{4}$ NW $\frac{1}{4}$, NW $\frac{1}{4}$ NE $\frac{1}{4}$ Sec. 9, Twp. 1 N., R. 44 E., B. M.

And that, on the 18th day of February, A. D. 1929, at 10 o'clock a. m., at Dept. of Reclamation, Capitol Bldg., Boise, Idaho, before the Commissioner of Reclamation, 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.

GEO. N. CARTER,

Commissioner of Reclamation.
Pub 2-1 and 8

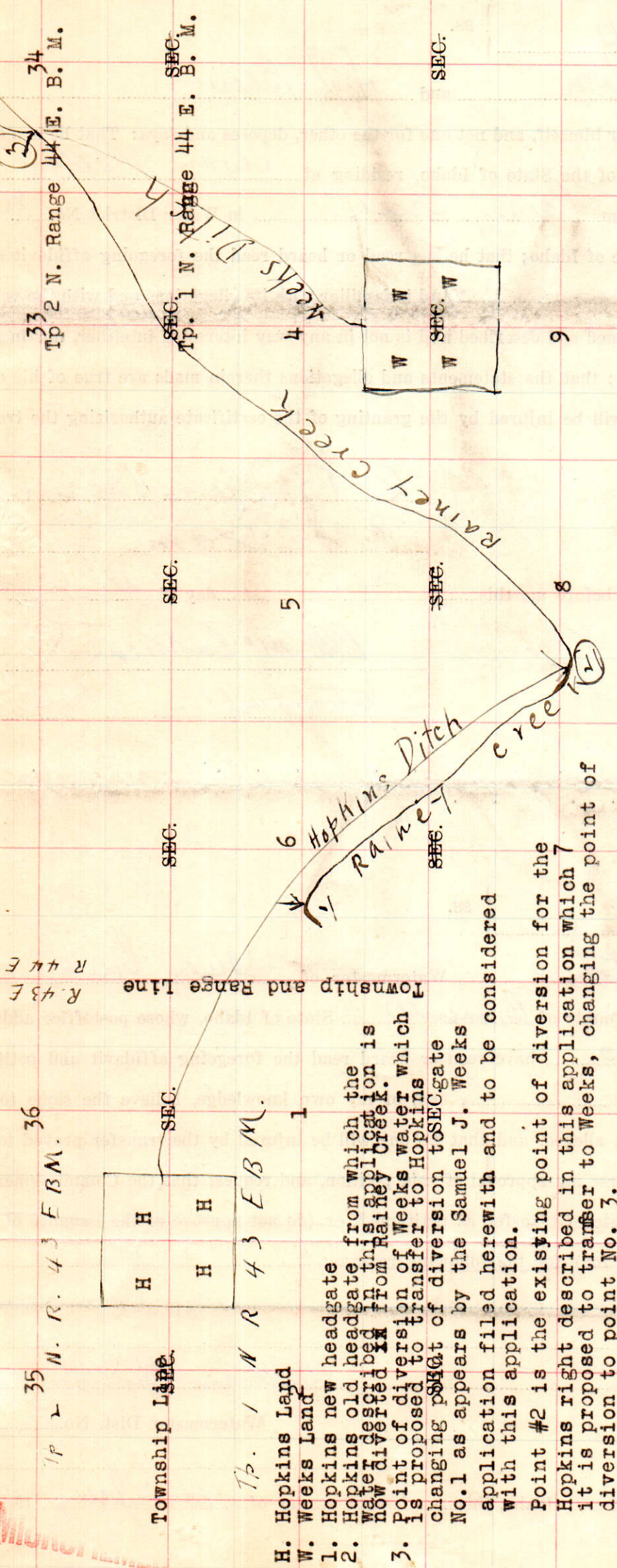
Subscribed and sworn to before me this 9 day of Feb, 1929.

Frank Stone

Notary Public.

MICROFILMED

MY COMMISSION EXPIRES NOV. 22, 1931
RESIDING AT IDAHO FALLS, IDAHO



Note: The Hopkins right is older in priority date than the Weeks right, and is available for use through longer periods during the irrigation seasons; but the Hopkins land is so situated that the Weeks late right will do him as much good as his own earlier right; on the other hand the Weeks land needs the earlier priority to be farmed successfully.

TRANSFER NO.	NAME	AMOUNT C.F.S.	BALANCE C.F.S.	RIGHT NO.
--------------	------	------------------	-------------------	--------------

	McGibbon, John	3.2		23-0045
439	Hopkins, C.G.	3.2		23-0045

TRANSFER

439

McGibbon, John

Hopkins, C.G.

3.2

3.2

23-0045

23-0045

230045

STATE OF IDAHO
DEPARTMENT OF RECLAMATION
CERTIFICATE OF WATER RIGHT
Transferred Right No. 439

THIS is to certify that C. G. Hopkins, of Irwin, County of Bonneville, State of Idaho, has a right to the use of the waters of Rainey Creek, for irrigation and domestic purposes, and that said right has been confirmed by decree of the District Court of the Sixth Judicial District of the State of Idaho, in and for the County of Fremont, in the case of Rexburg Irrigation Co., et al., plaintiffs, vs. Teton Irrigation Canal Co., et al., defendants, J. M. Stevens, District Judge, wherein 3.2 second feet of the waters of Rainey Creek, in Water District No. 36, were dedicated to Lot 4 (NW $\frac{1}{4}$ NW $\frac{1}{4}$) Sec. 1; Lot 1 (NE $\frac{1}{4}$ NE $\frac{1}{4}$) Sec. 2, Twp. 1 N., R. 43 E., B. M.; SW $\frac{1}{4}$ SW $\frac{1}{4}$ Sec. 36 and SE $\frac{1}{4}$ SE $\frac{1}{4}$ Sec. 35, Twp. 2 N., R. 43 E., B. M., said right bearing date of priority of September 1, 1889; that said decree has been entered in the records of the Department of Reclamation of the State of Idaho, at Boise, in Book 3 of Decrees, at page 450;

That, upon the application of C. G. Hopkins for a transfer of water right, made before the Commissioner of Reclamation of the State of Idaho, and the said application having been granted, the right to the use of 3.2 second feet of the waters of Rainey Creek upon the lands above described is hereby abandoned and a description of the lands to be irrigated under such right and to which the water right hereby confirmed shall by this certificate become appurtenant, for irrigation and domestic purposes, is given below, said water 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:

3.2 second feet, dated September 1, 1889

SE $\frac{1}{4}$ SW $\frac{1}{4}$, SW $\frac{1}{4}$ SE $\frac{1}{4}$ Sec. 4; NE $\frac{1}{4}$ NW $\frac{1}{4}$, NW $\frac{1}{4}$ NE $\frac{1}{4}$ Sec. 9, Twp. 1 N., R. 44 E., B. M.

That the water right to be transferred has heretofore been diverted at a point in the NW $\frac{1}{4}$ SW $\frac{1}{4}$ Sec. 8, Twp. 1 N., R. 44 E., B. M., and carried through the Hopkins ditch, but will hereafter, by virtue of this certificate, be diverted at a point in the SW $\frac{1}{4}$ NW $\frac{1}{4}$ Sec. 34, Twp. 2 N., R. 44 E., B. M., and carried through the Weeks ditch.

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

WITNESS, The seal and signature of the Commissioner of Reclamation of the State of Idaho, affixed at Boise, this 5th day of March, 1929.

(SEAL)

GEO. N. CARTER
Commissioner of Reclamation

STATE OF IDAHO
DEPARTMENT OF RECLAMATION
CERTIFICATE OF WATER RIGHT
Transferred Right No. 440

THIS is to certify that James D. Little, of Howe, County of Butte, State of Idaho, has rights to the use of the waters of Little Lost River and Sawmill Creek, for irrigation and domestic purposes, and that said rights have been confirmed by decree of the District Court of the Sixth Judicial District of the State of Idaho, in and for the County of Butte, in the case of Blaine County Investment Company, plaintiff, vs. Robert G. Mays, et al, defendants, Ralph W. Adair, District Judge, wherein water rights were awarded as follows:

From Little Lost River, 0.08 second feet,
priority, April 1, 1889;
From Little Lost River, 0.34 second feet,
priority, June 1, 1891;
From Sawmill Creek, 0.18 second feet,
priority, May 25, 1891;

That the waters above described were decreed to the following described lands, to-wit:

Lot 1, Section 5, Township 5 North, Range 29 East, Boise Meridian;

That said decree has been entered in the records of the Department of Reclamation of the State of Idaho at Boise, in Book 5 of Decrees, pages 86 to 102.

That, upon the application of James D. Little for a transfer of water right, made before the Commissioner of Reclamation of Idaho, and the said application having been granted, the right to the use of 0.6 second feet of the waters of Little Lost River and Sawmill Creek upon the land above described is hereby abandoned and the lands to be irrigated under such rights and to which the water rights hereby confirmed shall by this certificate become appurtenant, for irrigation and domestic purposes, are described as follows, said water being limited at any given time to an amount actually needed and beneficially used for such purposes and shall not exceed the following amounts with the following dates of priority, to-wit:

0.08 second feet, dated April 1, 1889;
0.34 " " " June 1, 1891;
0.18 " " " May 25, 1891;

Southeast quarter (SE $\frac{1}{4}$) Section 10, and Southwest quarter (SW $\frac{1}{4}$)
Section 11, Township 5 North, Range 29 East, Boise Meridian.

S T A T E O F I D A H O
D E P A R T M E N T O F R E C L A M A T I O N

In the matter of the Application)
of C. G. Hopkins for Transfer of)
Water Right: Water Dist. No. 36)

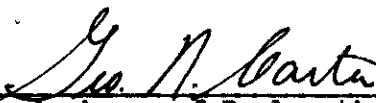
ORDER GRANTING TRANSFER

WHEREAS, On the 13th day of February, 1929, at the Department of Reclamation of the State of Idaho, at Boise, the matter of the application of C. G. Hopkins for a transfer of water right came regularly on for hearing, pursuant to the published notice: and,

WHEREAS, No one appeared at the hearing, either in person or by affidavit to protest the said application, and the evidence filed with the said application shows that a greater duty of water would result by reason of the transfer, and that no one would be injured thereby:

IT IS, THEREFORE, Hereby ordered that the said application for transfer be granted and that the certificate of transfer be issued the applicant herein.

IN WITNESS WHEREOF, I have hereunto set my hand and affixed the seal of my office, at Boise, Idaho, this 5th day of March, 1929.



Commissioner of Reclamation.

AMENDED

RECEIVED

FEB 27 1911

OFFICE OF STATE ENGINEER

IN THE DISTRICT COURT OF THE SIXTH JUDICIAL DISTRICT
OF THE

STATE OF IDAHO, IN AND FOR THE COUNTY OF FREEMONT.

file 205-a

Freemont Irrigation Company, et al.,

PLAINTIFFS.

DECEDE.

-V.-

Seton Irrigation Canal Company, et al.,

DEFENDANTS.

This cause coming on to be heard this 1st day of

1910, upon the report of F. J. Cowen, Referee heretofore appointed
for the purpose of taking the testimony and making recommendations
as to Findings of Fact, Conclusions of Law and Decree, to be entered
herein, and the said F. J. Cowen, having filed his report of the
testimony taken, and his recommendations as to Findings of Fact,
Conclusions of Law, which have heretofore been adopted, and the
respective plaintiffs and defendants and cross-complainants appearing
herein by their respective counsel, and the Court being fully informed
and advised in the premises, and having ordered that judgment be
entered in accordance with the report and recommendations of the said
Referee, therefore, by reason of the law and the Report and Findings
of Fact and Conclusions of Law aforesaid,

It is ordered, Adjudged and decreed, that the several parties
plaintiffs and defendants herein named, do have judgment respectively
for a right to use, for irrigation and other purposes, the following
number of inches of water, each fifty inches thereof to be equivalent
to a flow of one cubic foot per second, as prescribed by the law

MISCELLANEOUS

21 21 0071	150 inches.	June 1, 1892.	Black Spring Creek.
21 21 0075	150 inches.	June 1, 1894.	Black Spring Creek.
1 1 126	250 inches.	June 1, 1902.	Snake River.
McAllister, W.M.			(See M. R. Barry.)
McBain, E. V.			Trego Ditch Company.
McClermont, John			(See Benben H. Rowe.)
McGermick, Morris			
22 22 0388	156 inches.	June 15, 1897.	South Leigh Creek.
22 22 0389	160 inches.	June 15, 1897.	South Leigh Creek.
22 22 0390	105 inches.	June 1, 1885.	McMillan Slough.
22 22 0391	105 inches.	June 1, 1890.	McMillan Slough.
22 22 0392	105 inches.	June 1, 1895.	McMillan Slough.
22 22 0393	105 inches.	June 1, 1900.	McMillan Slough.
22 22 0394			
22 22 0395	120 inches.	June 1, 1885.	McMillan Slough.
22 22 0396	120 inches.	June 1, 1890.	McMillan Slough.
22 22 0397	120 inches.	June 1, 1895.	McMillan Slough.
McGibson, John.			Swan Valley Irrigation Company, Limited.
23 23 0045	160 inches.	Sept. 1, 1889.	Rainey Creek. #437
23 23 0046	80 inches.	Sept. 1, 1890.	Rainey Creek. #417-860
23 23 0074			
21 21 0076	160 inches.	June 1, 1898.	Palisade Creek.
21 21 0077	160 inches.	June 1, 1887.	Howard Creek.
21 21 0078	300 inches.	June 1, 1900.	Targee Creek.
22 22 0399	65 inches.	June 1, 1900.	Howard Creek and Targee Creek.
22 22 0399	40 inches.	May 1, 1903.	Trail Creek.

MICROFILMED

OTTO E. McCUTCHEON
ATTORNEY AND COUNSELLOR-AT-LAW
SUITE 207-209 SALISBURY BLDG.
IDAHO FALLS, IDAHO

WESTERN UNION CODE
CABLE ADDRESS: OTTOCUTCH

March 2nd, 1929.

Department of Reclamation,
Boise, Idaho.

Gentlemen:

Referring to the application of C. G. Hopkins to transfer water right on which hearing was had February 18th, you will please find enclosed my check for \$1.00 in payment of your fee, proof of publication of the notice, and abstract of title.

You will note that there is a mortgage on the water, but of course any transfer of the particular water right belonging to the land when the mortgage was executed could not affect the rights of the mortgagee. However, I assume that the fact that the right is encumbered will not deter you in issuing the certificate of transfer.

Very truly yours,

Otto E. McCutcheon

OEM:LK
Enc.

3-5-29.

*This case and that of
Sam'l J. White are exchanges.
It does not appear that the
Fed. Land Bank will suffer by
the transfer inasmuch as it holds
mortgages on both tracts of land.
Geo W. Carter*

MICROFILMED

Certificate of Transfer No. 439 issued last
January.

Application approved by William Burton, who is
not a state watermaster.

Land located in Water District No. 36

Think Myron is handling this.
Wm. Burton

OTTO E. McCUTCHEON
ATTORNEY AND COUNSELLOR-AT-LAW
SUITE 207-209 SALISBURY-EARL BLDG.
IDAHO FALLS, IDAHO

WESTERN UNION CODE
CABLE ADDRESS: OTTOCUTCH

July 2nd, 1929.

Department of Reclamation,
Boise, Idaho.

Application for Transfer
No. 439, Rainy Creek Waters
by Hopkins.

Gentlemen:

I understood from Mr. Hopkins that William Burton had served as watermaster on the creek during the year 1928. Perhaps his time has expired. If this is in District 36, perhaps Mr. Baldwin should have signed. I have no doubt I can get Mr. Baldwin to approve the original if you would send it back to me for that purpose.

Very truly yours,

OEM:LK



MICROFILMED

June 29, 1929

Re: Transfer No. 439

Mr. Ralph Fleming
Swan Valley, Idaho

Dear Sir:

This is to acknowledge receipt of your letter of the 26th relative to the above mentioned transfer of certain waters of Rainy Creek. I have looked up the record of these transfers, and find that they were all consummated as a result of the prescribed procedure. I appreciate the fact that certain sections of our state are at times entirely isolated from mail connections and that notices of publication are not effective in giving notice in such cases. However, the legislature has prescribed this method and the administrative officers of the various departments must follow the prescribed procedure. It is possible that in some cases parties who are vitally interested should probably be notified by mail or other form of notice; however, if an administrative officer should attempt this procedure he would undoubtedly be accused by the parties asking the transfer of trying to show partiality against his interests. It has, therefore, been found best for the administrative officer to act entirely impartial, and this has been done by this department.

I take it from your letter that there has been some water transferred which was previously carried in a ditch from which you now derive your water supply. If such is the case, the parties asking the transfer should have first gotten the permission of the owners of your ditch to remove such water from it. If this permission was not had, it is entirely possible that you could by proper legal procedure upset the transfer or require the parties who had removed such water to replace from their allotment an amount of water equal to the loss which you sustain as a result of such removal.

The applicant in each case also certifies that no parties will be injured, and while the notice of publication requires all parties objecting to the transfer to appear at the hearing and present evidence why and how he

MICROFILMED

Mr. Ralph Fleming

June 29, 1929

would be injured, it may be possible that if it could be shown in your case that the notice was not sufficient or effective, or that you did not have knowledge of the damage at the time the transfer was made, you could by proper legal procedure have the case re-opened and adjustment made in accordance with the findings.

You of course understand that this is merely a suggestion and should not be interpreted as a definite decision from this office, but rather a suggestion of procedure that you may take by proper legal action. As far as this department is concerned, the matter must stand as it is. The application having been made and all procedure having been had in accordance with the statute, and no protest having been made, the application was granted in good faith on the assumption that no parties would be injured.

I might suggest that before you start any legal action you see the parties who made these transfers and attempt to make some adjustment with them. If successful, this would save you the expense of attorney's fees and court costs, and would generally leave a better feeling on the part of all concerned.

Please call on this office if we can be of any further assistance.

Yours very truly,

Assistant Commissioner
of Reclamation

MS/co

MICROFILMED

Swan Valley Idaho
June 26 1929

Geo. W. Carter
Commissioner of Reclamation
Boise, Idaho

Sir:

I have a complaint
to make regarding a water
transfer that was made dur-
ing a time that our mail
system failed to operate.

I own 220 acres
of land under the English &
McGibbon ditch in Swan
Valley, Bonneville County, the
diversion from Rainy Creek is
three miles from my place and
the ditch was built to carry
540 inches of water.

MICROFILMED Up to date 330 inches
of water has been transferred,
without my consent, leaving
me 220 inches for evaporation
and loss etc. which practically
prohibits the irrigation of 220 acres.

All of these transfers
have been taken to heads
above mine, which also
hinders me.

The last transfer (#439)
must have been made while we
were snowed in here as I didn't
see anything about it in the
papers, and the other parties
were very careful not to
mention it.

Now if there is any
justice I'd like for you to
instruct me as to how I may
obtain it. Also I'd like to
know why Mr. Baldwin
shows so much favoritism.

Wishing an early reply I
wish to remain

Respectfully

Ralph Fleming
per B.F.

MICROFILMED

June 29, 1929

Re: Application for Transfer No. 439-Rainy Creek Waters.

Mr. Otto E. McCutcheon
Attorney at Law
Idaho Falls, Idaho

Dear Sir:

It is noted that you represented certain interests on Rainy Creek which perfected the above mentioned transfer of water, certificate on which was issued early this year.

It is noted in the application for transfer that one William Burton made a report on the transfer as water-master for district No. 36. A careful search of our records does not disclose any authority for Mr. Burton to act in such capacity. At the time the application was examined this matter was apparently overlooked, and there now being a complaint from one of the users of water of Rainy Creek to the granting and operation of this transfer, I would appreciate it if you would advise this office what Mr. Burton's status in the matter was.

Yours very truly,

Assistant Commissioner
of Reclamation

MS/co

UNRECORDED

RECEIPT FOR REGISTERED ARTICLE NO. 11831

15 fee paid class postage paid. 1908
From Dept of Reclamation

Addressed to Otto B. Mc Cutcheon
S. H. Taylor

Accepting employee will place initials in space indicating restricted delivery.
Return receipt fee Special delivery fee

Delivery restricted to addressee { in person or order Postmaster, per OKX



RETURN RECEIPT

Received from the Postmaster the Registered or Insured Article, the original number of which appears on the face of this Card.

Otto McCutcheon

(Signature or name of addressee.)

Luise J. Keefe

(Signature of addressee's agent.)

Date of delivery,

Feb 7

192

Form 3811

U. S. GOVERNMENT PRINTING OFFICE: 1920

Post Office Department
OFFICIAL BUSINESS

PENALTY FOR PRIVATE USE TO AVOID PAYMENT OF POSTAGE, \$300

REGISTERED ARTICLE

No. 11831

INSURED PARCEL

No. _____



Return to

Street and Number,
or Post Office Box,

(NAME OF SENDER)

Dept. of Reclamation
State House
BOISE,

IDAHO.

March 7, 1929.

Re: Transfers Water Rights
Samuel J. Weeks
C. G. Hopkins

MR. OTTO E. MACCUTCHEON
Attorney at law
Idaho Falls, Idaho

Dear Sir:-

Enclosing you herewith certificates of transfer
of water rights issued to Samuel J. Weeks and C. G. Hopkins,
with receipts for fees paid.

We are also returning herewith the abstracts of title
sent in for reference in regard to these transfers.

Very truly yours,
GEO. H. CARTER
Commissioner of Reclamation

By _____ Chief Clerk

C.T.-438-439
R-22940-12941
2 Abs. Title

March 7, 1929.

Re: Transfers- Weeks-Hopkins.

MR. C. CLYDE BALDWIN
Idaho Falls, Idaho.

Dear Sir:-

Enclosing you herewith copies of Certificates of
Transfer of water rights issued to Samuel J. Weeks and
C. C. Hopkins.

Very truly yours,
GEO. N. CARTER
Commissioner of Reclamation.

By _____
Chief Clerk.

2 Encl.

Affidavit of Publication

STATE OF IDAHO, }
County of Bonneville, } ss.

I, J. K. Tinsley, of THE POST COMPANY, a corporation, publishers of the IDAHO FALLS DAILY POST, a daily newspaper of general circulation, published daily except Sunday, at Idaho Falls, Bonneville County, Idaho, do solemnly swear that the notice attached hereto, and which is a part of this affidavit, and a part of the proof of publication, was published in said newspaper 2 consecutive weeks, first publication having been made on the 1 day of Feb, 1929, last publication having been made on the 8 day of Feb, 1929; that said notice was published in the regular and entire issue of each number of the paper during the period and times of publication, and that the notice was published in the newspaper and not in a supplement.

Further, that said newspaper has been so published continuously and uninterruptedly for more than 78 weeks prior to the date first herein mentioned.

Subscribed and sworn to before me this 9

day of Feb, 1929.

Frank Stone
Notary Public.

RECEIVED

NOTARY PUBLIC, IDAHO, 1929

February 23, 1929

RE: TRANSFER CASES-
C.H.HOPKINS - S.J.WEEKS

Mr. Otto E. McCutcheon,
Attorney at law,
Idaho Falls, Idaho.

Dear Sir:-

Upon receipt of satisfactory evidence of title or ownership of the above named applicants to the waters sought to be transferred, together with fee of \$1.00, each, and the affidavits of publication from the Idaho Falls Post, the certificates of transfer will be granted. The hearing on these applications was held on the 18th inst.

Very truly yours,
GEO. N. CARTER
Commissioner of Reclamation.

By _____
Chief Clerk.

February 2, 1929.

Re: Transfer Notice - Hopkins.

PUBLISHER THE POST
Idaho Falls, Idaho

Dear Sir:-

On the 28th of January a notice for publication of transfer of water right was mailed to your office for C. S. Hopkins. This should have read "C. G. Hopkins". Please make the necessary correction before the next publication.

Very truly yours,
GEO. N. CARTER
Commissioner of Reclamation

By _____
Chief Clerk

January 31st, 1929.

Idaho Falls Post,
Idaho Falls, Idaho.

Gentlemen:

George N. Carter, Commissioner of Reclamation, has lately sent you two notices of proposed transfer of water right for publication. You will note that one gives notice that C. S. Hopkins has made application, etc. The applicant's name should be C. G. Hopkins. Will you please make the correction on your copy and when you make your proof of publication see that the printed copy which you attach to your affidavit contains the correct name?

Very truly yours,

W. H. L. L. L. L.

OEM:LK

STATE OF IDAHO
DEPARTMENT OF RECLAMATION
BOISE, IDAHO

Date Jan. 28, 1929

PUBLISHER THE POST
Idaho Falls, Idaho

DEAR SIR:

Enclosed you will find notice for publication once a week for ~~four~~ consecutive weeks prior to February 18, 1929, the date set for ~~proofing~~ expense of the publication to be paid by the applicant, C. H. Hopkins, of Swan Valley, Idaho, to whom you should furnish proof of publication on or prior to the date set for ~~proofing~~

Please acknowledge receipt of this notice and furnish this office with a copy of the first publication.

Very truly yours,

GEO. N. CARTER

Commissioner of Reclamation.

RECORDED

Notice of Proposed Transfer of Water Right

Notice is hereby given that O. T. Hopkins of Svan Valley,
Idaho, has applied to the Commissioner of Reclamation of the State of Idaho for a certificate authorizing him to transfer the use of 3.2 second feet
of the water of Rainey Creek,

from the land upon which it is now used, i. e.: SE1SW1 Sec. 35, SW1SW1 Sec. 36, Twp. 2 N.,
R. 43 E., B.M.; NW1SW1 Sec. 1, NE1SW1 Sec. 2, Twp. 1 N., R. 43 E., B.M.

to the following described tract: SE1SW1, SW1SW1 Sec. 4, NE1SW1, NW1SW1 Sec. 9,
Twp. 1 N., R. 44 E., B.M.

And that, on the 20th day of February, A. D. 1929, at 10 o'clock a.m., at Dept. of Reclamation, Capitol Bldg., Boise, Idaho.
before the Commissioner of Reclamation, 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.

Geo. N. Carter,
Commissioner of Reclamation.

January 26, 1929

OTTO E. McCUTCHEON, Esquire,
Attorney-at-Law,
Idaho Falls, Idaho.

Dear Mr. McCutcheon:

This will acknowledge receipt of your communication of January 24, transmitting two applications for transfer of water rights, applicants - C. S. HOPKINS and SAMUEL J. WEEKS.

I have examined the applications and find that they are in sufficient form to prepare publication notice, which will be done. Copy of the notices, showing time and place of hearing, will be forwarded to you.

I believe that on or before the date of the hearing you should furnish some evidence of title or ownership of these rights by the applicants in question; ordinarily, it is required that an abstract of title to the lands to which such water is appurtenant by the decree of the court be furnished, however, in the case of a good many applications for transfer in the Idaho Falls territory individual water rights are evidenced by stock certificates; in such cases, the stock certificate possibly meets the statutory requirement. Therefore, I shall leave it to your own good judgment as to the most appropriate way in which to submit evidence of title vested in these applicants.

Very truly yours,

Commissioner of Reclamation.

GHC/tp

RECORDED

OTTO E. McCUTCHEON
ATTORNEY AND COUNSELLOR-AT-LAW
SUITE 207-209 SALISBURY BLDG.
IDAHO FALLS, IDAHO

WESTERN UNION CODE
CABLE ADDRESS: OTTOCUTCH

January 24th, 1929.

Department of Reclamation,
Boise, Idaho.

Attention of Mr. Carter.

Dear Mr. Carter:

I am enclosing herewith two applications for permanent transfer of water rights. These also include applications for changing the points of diversion.

Perhaps the situation is adequately explained in the applications, but, shortly, the applicant Samuel J. Weeks is selling a right of late priority to Hopkins, and the latter is selling a right of earlier priority to Weeks. The situation of the lands of each party is such that Weeks cannot get the best out of his property with the late priority right which he now owns, whereas, Hopkins can get along with the late priority on account of ground water conditions being favorable to him. I hope that you will be able to give the necessary notices and have the hearing at as early a date as possible. If you will bill me for fees or expenses or advances required, I will be glad to remit.

Very truly yours,

Otto E. McCutcheon

OEM:LK
Enc.

RECEIVED
JAN 25 1929
U.S. DEPT. OF AGRICULTURE
BUREAU OF RECLAMATION
BOISE, IDAHO

Application For Transfer of Water Right

STATE OF IDAHO,

County of

Bonneville

} ss.

C. B. Hopkins

, being first duly sworn, deposes and says:

That his name is

C. B. Hopkins

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

Swan Valley Idaho

That he is the owner and using a certain water right, bearing date of priority of Sept 1st, 1889 for 3 1/2 cubic feet per second of the waters of Raring Creek

County of Bonneville, State of Idaho, decreed to John W. Gibbonby decree of Judge, J. M. Stephens of the 12th Judicial District of the State ofIdaho, in and for the County of Fremont, in the case of Raring Cr. Co. et alvs. Teton Cr. Canal Co. et al, said decree bearing date of Dec. 16th 1910

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

for the purpose of irrigating the following described lands situate, lying and being in Water District No. 36 in the County of Bonneville and State of Idaho, to-wit:

SE 1/4 Sec. 35, SW 1/4 Sec. 36, Tp 2N. R. 43 E. B. M.; NW 1/4 Sec. 1, NE 1/4 Sec. 2 Tp. 1 N. R. 43 E. B. M.

_____ 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 purchase from W. Gibbon

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 NW 1/4 of SW 1/4 (also NE corner) of Section 8, Township 1N, Range 44, B. M., and conducted to the above described lands through canal

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

That affiant and petitioner desires to abandon the use of 3 1/2 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 Bonneville and State of Idaho, to-wit:

SE 1/4 SW 1/4, SW 1/4 SW 1/4, Sec. 4, NE 1/4 NW 1/4, NW 1/4 NE 1/4 Sec. 9
Tp. 1N. R. 44 E. B. M. owned by Samuel J. Weeks

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

Applicants land now sub irrigates lots in the Blaine
and the only right of weeks which applicant proposes
to take in exchange will be sufficient

C. B. Hopkins - CT. 439

That he intends to divert and convey said 3 1/2 second feet of water to the tract of land last above described in the following manner, to-wit: into the Weeks ditch in a ditch on the east bank of Rainey Creek with point of diversion near the SE corner of the SW 1/4 of the NW 1/4 Sec. 34 Tp. 2 N. R. 44 E. 13m.

as set forth upon the map herewith; and that no one will be injured by such transfer.

WHEREFOR, 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.

C. J. Hopkins

Applicant.

Subscribed and sworn to before me this 24 day of March 1924
A. D. 1924.

APPLICANT WILL ANSWER THE FOLLOWING QUESTIONS:

From what stream is the water diverted? Rainey Creek -

Where is the diversion point located? near SE cor. of NW 1/4 of SW 1/4 Sec. 34 - T. 2 N. 44 E.

Through what ditch is it now conducted? Hopkins ditch with pt. of diversion near NE cor. of NW 1/4 of SW 1/4 Sec. 8 Tp. 1 N. R. 44 E. 13m.

How much land is now irrigated by the water sought to be transferred? 160

Give the description: SW 1/4, NW 1/4, SE 1/4, SW 1/4 Sec. 8 Tp. 1 N. R. 44 E. 13m. SE 1/4 + SE 1/4 Sec. 35, NW 1/4 Sec. 36 Tp. 2 N. R. 43; NW 1/4 Sec. 1, NE 1/4 Sec. 2 Tp. 1 N. R. 43 E. 13m.

What is the total amount of water in inches, or second feet, dedicated to said land? 160

What kind of crops are being raised? Wheat principally

How much water per acre is now required to irrigate said land? 160"

What will be the effect on the land now irrigated, if the use of water on it is discontinued?

He not propose to discontinue will give up the land privately, & take a lot of for same -

Give location of new point of diversion, if change is to be made. Weeks ditch above -

Through what ditch will it be conducted after transfer? Weeks ditch above -

How much water will be required per acre to irrigate the land to which this water is transferred?

More than 1 inch per acre -

Do you claim any other water right for the land from which you seek to abandon the use of this water?

If so, give amount, date and source. No. but Weeks will transfer to me

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. Yes. 160" date 1897. Rainey Creek.

Signed

C. J. Hopkins

Applicant.

STATE OF IDAHO,

County of Bonner } SS.

C. B. Van Horn

and

H. J. Bean

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 Swan Valley, that he is a user of water from Rainey Creek, in Water District No. 36, County of Bonner, State of Idaho; that he has read or heard read the foregoing affidavit and petition of C. B. Hopkins 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.

C. B. Van Horn

H. J. Bean

Subscribed and sworn to before me this

24

day of

Dec Jan

A. D. 1927

Wm. C. Lathen

Notary Public

STATE OF IDAHO,

County of Bonner } SS.

I, Wm. Burton

Watermaster of

Rainey Creek

Water District No. 36, County of Bonner, State of Idaho, whose postoffice address

is Irwin Hole, have read or heard read the foregoing affidavit and petition

of C. B. Hopkins, 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:~~

William Burton

Watermaster Dist. No.

Dated at

Idaho Falls

Idaho, this

24

day of

Dec Jan, 1927

R. 43 E
R 44 E

H	H
H	H

~~SEC.~~

~~SEC.~~

~~SEC.~~

33 Tp 2 N. Range 44 E. B. M. 34

SEC. Tp. 1 N. Range 44 E. B. M. SEC.

Tb. 1 N R 43 E B M

H. Hopkins Land

W. Weeks Land

1. Hopkins new headgate

2. Hopkins old headgate from which the water described in this application is now diverted ~~is~~ from Rainey Creek.

3. Point of diversion of Weeks water which is proposed to transfer to Hopkins changing point of diversion to SEC gate No.1 as appears by the Samuel J. Weeks

application filed herewith and to be considered with this application.

Point #2 is the existing point of diversion for the Hopkins right described in this application which ⁷ it is proposed to transfer to Weeks, changing the point of diversion to point No. 3.

Note: The Hopkins right is older in priority date than the Weeks right, and is available for use through longer periods during the irrigation seasons; but the Hopkins land is so situated that the Weeks late right will do him as much good as his own earlier right; on the other hand the Weeks land needs the earlier priority to be farmed successfully.

Township and Range Line

6
Hopkins Ditch
Rainey
SEC.
ered
for the
which 7
the point of

5

~~SECRET~~

8

1

6

W W
W SEC. W