

45-0272

? superseded by Wood vs.
Stokes decree dated
3-21-1892

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

OFFICE OF STATE ENGINEER

CERTIFICATE NO. 85, AUTHORIZING TRANSFER OF WATER RIGHT.

Permission is hereby granted DON C. LOVELAND, of Albion, County of Cassia, State of Idaho, to transfer the use of thirty (30) inches of the waters of LAND CREEK (tributary of Marsh Creek), County of Cassia, State of Idaho, from the lands for which it was originally decreed, i. e., Southeast quarter of the Southwest quarter ($SE\frac{1}{4} SW\frac{1}{4}$), South half of the Southeast quarter ($S\frac{1}{2} SE\frac{1}{4}$), and the Northeast quarter of the Southeast quarter ($NE\frac{1}{4} SE\frac{1}{4}$), Section 6, Township 12 South, Range 25 East of the Boise Meridian, to the following described tract, to-wit: Southeast quarter ($SE\frac{1}{4}$), Section 14, North half of the Northeast quarter ($N\frac{1}{2} NE\frac{1}{4}$), Section 23, Township 12 South, Range 24, East of the Boise Meridian.

The water right appurtenant to the above described land was adjudged by decree, dated March 21, 1892, of C. O. Stockslager, Judge of the Fourth Judicial District of the State of Idaho, in and for Cassia County, in the matter of R. S. Wood, et al, plaintiffs, vs. Wm Stokes, et al, defendants.

IN WITNESS WHEREOF, I have hereunto set my hand and affixed the seal of my office at Boise, Idaho, this twenty-sixth day of September, A.D. 1911.

A. E. Robinson.

State Engineer.

MICROFILMED

(SEAL)

TRANSFER NO.	NAME	AMOUNT C.F.S.	BALANCE C.F.S.	RIGHT NO.
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	Loveland, D. C.	1.0		45-0278
85	Loveland, Don C.	0.6	0.4	45-0278A

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RECEIVED

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Not to be used
In the District Court of the Fourth
Judicial District in and for the
County of Cassia, State of Idaho 45-C

A. L. Wood, et al
Plaintiffs

vs

Wm. Stokes, et al
Defendants,

Resisting Notice

This cause having been heretofore tried by the Court without a jury and the Court having made its findings and conclusions of law,

It is now ordered adjudged and decreed that the following persons parties to this action are entitled to divert from Marsh Creek and its tributary streams situate in Cassia County, Idaho, the amount of water hereinafter indicated, the amount of each party to date from the time hereinafter stated and set apposite his or their name, to-wit:

Hardy Sears one hundred (100) inches from Land Creek tributary to Marsh Creek March 1st. 1875.

45 0259 Hardy Sears, Thirty inches from Rose Creek tributary to Marsh Creek March 1st. 1875.

45 0260 M. A. Harroun Seventy inches (70) from Howell Creek Tributary to Marsh Creek, March 31st. 1876.

45 0261 Josiah Bridger Fifty inches (50) from Marsh Creek March 31st. 1882.

45 0262 John Bridger Sixty inches from Marsh Creek November 30, 1879.

45 0263 J. W. Lamoreaux Sixty inches from Marsh Creek April 16th 1881.

45 0264 J. W. Lamoreaux, Sixty (60) inches from Marsh Creek July 21st 1884.

45 0265 J. W. Lamoreaux Four hundred and eighty (480) inches from Marsh Creek from January 1st. to July of each year when not in use by prior appropriators.

45 0266 W. A. Starrh, Sixty inches from Land Creek Tributary to Marsh Creek June 15, 1875.

45 0267 J. A. Guin Fifty inches from Marsh Creek June 5th, 1875.

45 0268 J. A. Guin one hundred and thirty three and 1/3 inches from Marsh Creek May 30, 1879.

45 0269. A. Guin Five hundred (500) inches from Marsh Creek April 20, 1881. 1878

45 0270 Annie Guin Five Hundred (500) inches from Marsh Creek April 20, 1881. 1878

45-0532 John and Jonas Chatburn Twenty five (25) inches from Marsh Creek March 31, 1880.

45-0271 John and Jonas Chatburn, thirty five (35) from warm creek tributary to Marsh Creek, April 30, 1881.

45 0272 John and Jonas Chatburn, Twenty five (25) inches from Springs March 31, 1881.

45 0273 J. Nutt Seventy inches from Howell Creek, tributary to Marsh Creek, March 31, 1876.

45 0274 A. Nutt, fifteen inches from Howell Creek, a tributary of Marsh Creek, March 31, 1876.

45-0523 45 0275 Louis Camp, twelve (12) inches from Springs on the Stokes, land November 1st. 1883, and 15 inches of the waste water from Stokes ranche April 30, 1885.

45 0276 A. Leatherman, eighty five (85) inches from Land Creek, a tributary to Marsh Creek, May 31st. 1876.

45-0524 45 0277 F. M. Gray, sixty inches from Land Creek, a tributary to Marsh Creek, May 31, 1877, and fifteen (15) inches from Brim Creek, a tributary to Marsh Creek, May 31, 1880.

45-0525 45 0278 D. J. Loveland, Fifty inches from Land Creek, a tributary of Marsh Creek, June 30, 1879 and five inches from Spring on his land June 30, 1879.

45-0526 45 0279 Joseph Balbrook, twenty (20) inches from Howell Creek, a tributary to Marsh Creek, June 1st. 1882, and eight (8) inches from Cows Creek, June 1st. 1881.

17.

45 0280 The defendants Louis Garner and William Morris Seventy (70) inches of the waters of Howell Creek a Tributary of Marsh Creek, from the 30th day of April 1881.

45 0281 18.

The plaintiff A. L. Wood 160 inches of the waters of Marsh Creek from the 30th day of April 1873, and 45 inches of the waters of

45-0527

OFFICE OF STATE ENGINEER

CERTIFICATE NO. 85, AUTHORIZING TRANSFER OF WATER RIGHT.

Permission is hereby granted DON C. LOVELAND, of Albion, County of Cassia, State of Idaho, to transfer the use of thirty (30) inches of the waters of LAND CREEK (tributary of Marsh Creek), County of Cassia, State of Idaho, from the lands for which it was originally decreed, i. e., Southeast quarter of the Southwest quarter ($SE\frac{1}{4} SW\frac{1}{4}$), South half of the Southeast quarter ($S\frac{1}{2} SE\frac{1}{4}$), and the Northeast quarter of the Southeast quarter ($NE\frac{1}{4} SE\frac{1}{4}$), Section 6, Township 12 South, Range 25 East of the Boise Meridian, to the following described tract, to-wit: Southeast quarter ($SE\frac{1}{4}$), Section 14, North half of the Northeast quarter ($N\frac{1}{2} NE\frac{1}{4}$), Section 23, Township 12 South, Range 24, East of the Boise Meridian.

The water right appurtenant to the above described land was adjudged by decree, dated March 21, 1892, of C. O. Stockslager, Judge of the Fourth Judicial District of the State of Idaho, in and for Cassia County, in the matter of R. S. Wood, et al, plaintiffs, vs. Wm Stokes, et al, defendants.

IN WITNESS WHEREOF, I have hereunto set my hand and affixed the seal of my office, at Boise, Idaho, this twenty-sixth day of September, A.D. 1911.

RECORDED

A. E. Robinson.

State Engineer.

(SEAL)

August 3, 1931

Re: TRANSFER No. 85

Mr. C. A. JOHNSON
Burley
Idaho

Dear Sir:

Replying to your letter of June 28 relative to transfer of Water Right No. 85:

In looking over the records of this case, I find that Certificate of Transfer No. 85 was issued by State Engineer A. E. ROBINSON on September 26, 1911 and that it says in part:

"The water right appurtenant to the above described land (SE $\frac{1}{4}$ SW $\frac{1}{4}$; S $\frac{1}{2}$ SE $\frac{1}{4}$; NE $\frac{1}{4}$ SE $\frac{1}{4}$, Sec. 8, T. 12 S., R. 25 E., S.M.) was adjudged by decree, dated March 21, 1891, of C. O. SPOCKSLAGER, Judge of the Fourth Judicial District of the State of Idaho, in and for Cassia County, in the matter of A. A. WOOD, et al. -vs- Wm. Stokes, et al."

Then, in looking in the above mentioned decree, I find Right No. 6 to read:

"T. A. Starrh (is decreed) sixty inches from LAND CREEK, tributary to MARSH CREEK, June 1, 1875," and in the Findings of Facts relative to this case, "for the purpose of irrigating the following lands, to-wit: the W $\frac{1}{2}$ SW $\frac{1}{4}$ and the SE $\frac{1}{4}$ SW $\frac{1}{4}$, Section 8, T. 12 S., R. 25 E., S.M."

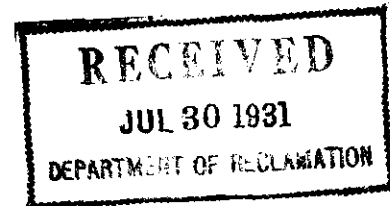
In these two land descriptions but one parcel is identical - the SE $\frac{1}{4}$ SW $\frac{1}{4}$. In my own mind, I feel that the intention was to transfer this P. A. STARRH water, but I can not find where the Department of Reclamation has the right or the authority to go back and change its records. It occurs to me that this would be a question to decide in an action to quiet title. If you do not agree with me on this point of law, and I am not a lawyer, I would be very pleased to have you quote authorities.

I am returning the other papers, as you requested.

Very truly yours,

Acting Assistant Commis-
sioner of Reclamation

CHARLES A. JOHNSON
ATTORNEY-AT-LAW
AMERICAN HOTEL BLDG.
• BURLEY, IDAHO



July 29, 1931

Mr. R. W. Farris
Commissioner of Reclamation,
Boise, Idaho.

Dear Sir:-

Re water rights. Land Creek
Cassia County.

On Feb. 1, 1882, Thomas A. Starrh received patent for NE $\frac{1}{4}$ SE $\frac{1}{4}$, S $\frac{1}{2}$ SE $\frac{1}{4}$, SE $\frac{1}{4}$ SW $\frac{1}{4}$ of sec. 6-12-25 EBM, in Cassia County;

On March 21, 1892, a decree was entered in the district court of this county, in an action entitled R. L. Wood et al., vs. Wm. Stokes et al., adjudicating the waters of Land Creek, a tributary of Marsh Creek, in which decree T. A. Starrh was decreed sixty (60) inches of the waters of land creek, with a date of priority of June 15, 1875.

On April 12, 1902, Don C. Loveland acquired title by warrant deed to the above described land (by mesne conveyance), together with the water rights.

By two patents dated Jan 21 and Feb 14, 1893, Don C. Loveland acquired title to SE $\frac{1}{4}$ sec. 14, and N $\frac{1}{2}$ NE $\frac{1}{4}$ sec. 23, -12-24, near Land Creek. He retained title to this land until his death in Dec. 1911.

On Sept 26, 1911, by certificate #85, issued by A. E. Robinson State Engineer, Don C. Loveland was granted permission to transfer 30 inches of the waters of Land Creek (tributary of Marsh Creek) from the land first above described (in sec. 6) to the last described land (in secs. 14 and 23). This certificate however fails to describe the water transferred as of 1875. In the certificate mention is made that the water right.....was adjudged by decree dated March 21, 1892. This is an error on the part of whoever presented the transfer application to the Engineers office. The original water right, appurtenant to the lands in sec.

6, were applied by Mr. Starrh under the 1875 decree. This land and the 60 inches of water were acquired by Mr. Loveland, 1902. He then diverted 30 inches of the 60 to the lands in 14 and 23, and in Sept., 1911, applied to the State Engineers office for permission to transfer the said 30 inches of the 1875 water to the last described lands, that it might be made properly of record. The waters described as of 1892, in the Stockslager decree, was a later and different appropriation. Both of these waters, as well as still later appropriations are appurtenant to, and now being used on these lands.

I am enclosing an abstract, and affidavit from the watermaster, which I hope will prove of service to you in getting an understanding of the situation.

What we would like, if you can untangle the matter and agree with us, is, that we have an amendment of the certificate #85, dated Sept. 26, 1911, by State Engineer, definitely describing the transferred water as a part of the original 1875 decree of 60 inches to Thomas A. Starrh.

Please preserve and return to me all papers after you are finished with them.

Any further information or assistance we can give you will be gladly supplied. The land and water is being sold by the successors in interest of Don C. Loveland, and the new buyer is asking for a definite description of the water. It seems to be a matter of common knowledge, and unquestioned among the land creek farmers that the water is the original 1875 water.

Very truly yours,

Ed Johnson

September 17, 1931

Re: CERTIFICATE OF TRANSFER OF WATER RIGHT #85

Re: NORTH AMERICAN MORTGAGE CO.

vs.

LUCY R. POTTER, et al.

Mr. C. A. JOHNSON,
Burley,
Idaho

Dear Mr. Johnson:

Enclosed herewith find Acceptance of Service of
Summons in the above-entitled action.

Very truly yours,

Commissioner of Reclamation

RWF/mt
Enc.



CHARLES A. JOHNSON
ATTORNEY-AT-LAW
AMERICAN HOTEL BLDG.
BURLEY, IDAHO

September 14, 1931.

Mr. R. W. Faris,
Commissioner of Reclamation,
Boise, Idaho.

Dear Sir:-

Enclosed you will find a copy of summons and complaint in an action I have instituted to quiet title to cer-lands and waters in Cassia County. The reason for bringing your name into the case is on account of an omission in the description of the water right in a certain certificate issued by one of your predecessors some years ago.

By referring to your files in correspondence with your office a few weeks ago it was suggested by your office that this be handled by a quiet title action. This I am now doing, and would ask you to kindly sign the enclosed receipt and acceptance of the summons and return to me. Or, you might have one of the attorneys in the attorney general's office accept service for you if you prefer. I am merely trying to get the case lined up without expense in the matter of sheriffs fees etc.

I am sure that the matter will not require the active attention of any one.

Hoping to have an early response I beg to remain

Very truly yours,

Charles A. Johnson

MICROFILMED

NORTH AMERICAN MORTGAGE COMPANY,
a corporation,

 plaintiff,
-vs-

Copy
SUMMONS.

WITNESS MY HAND and the seal of said district court this
2nd day of September, 1931.

B F Wilson
Clerk

C.A.Johnson,attorney for plaintiff,
residence or post office address: Burley,Idaho.

IN THE DISTRICT COURT OF THE ELEVENTH JUDICIAL DISTRICT OF
THE STATE OF IDAHO IN AND FOR CASSIA COUNTY

NORTH AMERICAN MORTGAGE COMPANY,
a corporation,

plaintiff,

-vs-

Lucy R. Potter and I. S. Potter, her
husband; First National Bank of
Burley, Idaho, a national banking
corporation, and C. O. Thomas as Re-
ceiver of said ~~BURLEY~~ National
Bank of Burley; R. W. Paris, as Com-
missioner of Reclamation of the
State of Idaho; Matthew Tremayne,
as Watermaster of the waters of
Land Creek, a tributary of Marsh
Creek, in Cassia County, Idaho; and
to the unknown owners and unknown
claimants of, and to any and all
persons having or claiming to
have any right, title or claim in
or to the following described real
estate situate in Cassia County,
Idaho, to wit: The southeast quarter
(SE $\frac{1}{4}$) of section fourteen (14), and
the North half of the Northeast
quarter (NE $\frac{1}{4}$ NE $\frac{1}{4}$) of section twenty
three (23), in township twelve (12)
south, of Range twenty four (24),
East, Boise Meridian, together with
all and singular the tenements,
hereditaments and appurtenances
thereunto belong, and particularly
thirty (30) inches of the waters
of Land Creek, tributary to Marsh
Creek, Cassia County, Idaho, appur-
tenant to the above described
land,

defendants. *

C O M P L A I N T.

COMPLAINING, Plaintiff alleges:

I.

That at all times hereinafter mentioned the
plaintiff has been, and now is a corporation, organized and
existing under and by virtue of the laws of the Kingdom of
Holland, and at all times mentioned in this complaint has been
and now is duly authorized to do business in the State of Idaho
by virtue of having complied with all the provisions of the con-
stitution and laws of the State of Idaho, relative to foreign
corporations doing business within this State; that at all times
hereinafter mentioned the defendants Lucy R. Potter and I. S. Potter,
were, and they now are husband and wife; that First National Bank
of Burley, Idaho, was at all times hereinafter mentioned a National
banking corporation, organized and existing under and by virtue of

the Federal banking laws, until on or about the _____ day of _____, 192____, at which time it closed its doors and ceased to do business as a National Bank; that its principal place of business was at Burley, Idaho, in said county; that thereafter the defendant C.O. Thomas was duly appointed Receiver of the assets and business of the said defendant First National Bank of Burley, Idaho, and that he is now and at all times herein mentioned since his said appointment has been the duly ~~making~~ qualified and acting Receiver of said defendant bank. That R.W. Paris, above named defendant is the duly qualified and acting Commissioner of Reclamation of the State of Idaho; that the defendant Matthew Tremayne has been for more than four years immediately preceding the commencement of this action, and now is the duly qualified and acting watermaster in charge of the distribution of the waters of the said Land Creek, tributary of Marsh Creek, in said County.

II

That this plaintiff is the owner of, in possession of and entitled to the possession of the following described real property, situate and being located in Cassia County, Idaho, to wit: the southeast quarter (SE $\frac{1}{4}$) of section fourteen (14), and the north half of the northeast quarter (N $\frac{1}{2}$ NE $\frac{1}{4}$) of section twenty three (23), Township twelve (12) south, Range twenty four (24) E., B.M., together with all and singular the tenements, hereditaments and appurtenances thereunto belonging, or in anywise appertaining, including all water rights and privileges appurtenant thereto, and particularly thirty (30) inches of the waters of said Land Creek, tributary to Marsh Creek, with a priority date of appropriation of June 15, 1875; the said date of appropriation having been fixed by a decree of the district court of the fourth judicial district of the State of Idaho, in and for Cassia County, entered on the 21st day of March, 1892, in an action therein entitled R.L. Wood et al., vs. Wm Stokes et al., wherein 60 inches of the waters of said Land Creek were decreed and allotted to one T.A. Starrh, with the said date of priority of June 15, 1875; the said thirty (30) inches of water first above described being a portion of the said sixty inches of said waters so decreed to said Starrh, and by the said Starrh conveyed to one Don C. Loveland, one of the grantors of this plaintiff, and appropriated by the said Loveland to the above described land; that the said thirty (30) inches of the said waters of said Land Creek having said date of priority of June 15, 1875, have been for more than twenty years last past continuously, for each irrigation season, applied to and used upon the above described lands by this plaintiff and its grantors.

III

That the said defendants, and each and all of them claim some right, title or interest in or to said above described property, or some part or portion thereof, either as mortgagees, grantees, judgment creditors, lienholders, or otherwise, the exact nature of which claim or claims being to this plaintiff unknown; but whatever the same may be, they are, and each of them is wholly without right, and are subject, subsequent and inferior to the right and title of this plaintiff; and the defendants have not, nor has either or any of them any estate, right, title or interest in or to the said property or any part or portion thereof.

WHEREFORE, PLAINTIFF PRAYS JUDGMENT AND DECREE OF
THIS COURT:

That the plaintiff be found, adjudged and decreed to be the legal and equitable owner of the said lands and premises above described and every part and parcel thereof, together with the tenements, hereditaments and appurtenances thereunto belonging, including all water rights and privileges appurtenant thereto, and particularly thirty (30) inches of the waters of Land Creek, a tributary of Marsh Creek, in said County, with a priority date of June 15, 1875, as set out in this complaint; that plaintiff's title to said property, and the whole thereof, be quieted; that the defendants and each and all of them have no right, title, claim nor interest in or to the said property, or any part or parcel thereof; that the said defendants, and each and all of them be forever enjoined and debarred from asserting or claiming any lien, right, title, claim or interest of any kind or nature whatsoever, in or to the said lands and premises, and the said water rights and privileges, or any part or portion thereof, adverse to this plaintiff; that plaintiff have and recover from said defendants all its costs and disbursements of this suit, and for such other and further relief as to the court may seem meet and proper herein.

C.A. Johnson
Attorney for plaintiff,
Residing at Burley, Idaho.

State of Idaho)
: s.s.
Cassia County)

Copy

C.A. Johnson, being first duly sworn, deposes and says:

That he is the attorney for the plaintiff in the above entitled action; that as such attorney he is familiar with the facts set out in said complaint; that at the time of the commencement of this action no officer or managing agent of said company plaintiff was present in said county; that affiant has read the above and foregoing complaint and knows the contents thereof, and that the same is true as he verily believes.

C.A. Johnson

Subscribed and sworn to before me this 2nd day of September, 1931.

Swal

M.W. Croun
Notary Public

September 27, 1911

Re Transfer

Don C. Loveland,
Albion, Idaho

Sir:-

Am inclosing you herewith Certificate No. 85,
authorizing transfer of water right, also, receipt
for fee.

Very truly yours,

State Engineer.

CT85-R3796

By.....

10-11

August 21st. 1911.—

Boise, Idaho.—

AUG 23 1911

OFFICE OF STATE ENGINEER

Enclosed find two old plats that I have dug up relating to the application for transfer of water right, Land Creek, Cassia Co, Idaho made by Don C. Loveland years ago and granted but for which he has never received the certificate authorizing such transfer. These plats represent the situation and are evidently copies of the one originally sent in. Have been filed away with some old papers several years. Enclosed also find money order for amount one dollar. I believe this is all that is needed to complete this transaction according to letters previously received. If not satisfactory let me know.

Respectfully Your's,—

Frank Riblett

THE

AFFIDAVIT of PUBLICATION

STATE OF IDAHO, }
COUNTY OF CASSIA. } ss.

I, C. M. Gilkey, do solemnly swear that I am the Publisher and printer of THE CASSIA COUNTY TIMES, a weekly newspaper of general circulation, published once each week at Albion, Cassia county, Idaho; 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 for four consecutive weeks, first publication having been made on the 5th day of April 1907; that said notice was published in the regular and entire issue of every number of the paper during the period and times of publication; that the notice was published in the newspaper and not in a supplement, and that said newspaper has been published continuously for a period of more than fifty-two consecutive weeks prior to date of first publication of said notice.

Sworn and subscribed before me this 6th day

of May, A. D., 1907

Jerry Haighs
Clerk of Court

I, _____, register,
do hereby certify that a notice, a printed copy of which is hereunto annexed,
was by me posted in a conspicuous place in my office for a period of thirty
days, I having posted said notice on the _____ day of
_____, A. D., 190____

AFFIDAVIT of PUBLICATION

STATE OF IDAHO, }
COUNTY OF CASSIA, } SS.

I, C. M. Gilkey, do solemnly swear that I am the Publisher and printer of THE CASSIA COUNTY TIMES, a weekly newspaper of general circulation, published once each week at Albion, Cassia county, Idaho; 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 for

four consecutive weeks, first publication having been made on the 3rd day of April 1907; that said notice was published in the regular and entire issue of every number of the paper during the period and times of publication; that the notice was published in the newspaper and not in a supplement, and that said newspaper has been published continuously for a period of more than fifty-two consecutive weeks prior to date of first publication of said notice.

Notice of Proposed Transfer of Water Right

Notice is hereby given that Don C. Loveland of Albion, Idaho, has applied to the state engineer of the state of Idaho for a certificate authorizing him to transfer the use of 30 inches of the water of Land Creek a tributary of Marsh Creek, Cassia County, Idaho, from the land upon which it is now used, i. e. SE $\frac{1}{4}$ SW $\frac{1}{4}$, S $\frac{1}{2}$ SE $\frac{1}{4}$ and NE $\frac{1}{4}$ SE $\frac{1}{4}$ Section 6, Township 12 south, Range 20 east of the Boise meridian, to the following described tract: SE $\frac{1}{4}$ Section 14 and NE $\frac{1}{4}$ NE $\frac{1}{4}$ Section 23, Township 12 south of Range 24 east of the Boise meridian.

And that on the 6th day of May, A. D. 1907, at 10 o'clock a. m. at the Courthouse in Albion, Cassia county, Idaho, before the Water Commission 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 certificate should not be issued authorizing such transfer.

Full details of the proposed transfer may be obtained from Don C. Loveland, water master of said stream. Ap5 etc-11

Sworn and subscribed before me this 10th day

of May 1907

C. M. Gilkey
Publisher of the
Cassia County Times

I, _____, registrar,
do hereby certify that a notice, a printed copy of which is herewith annexed, was by me posted in a conspicuous place in my office for a period of thirty days, I having posted said notice on the _____ day of _____, A. D. 1907.

January 30, 1911

Re transfer-Don C C Loveland

Frank Riblett,
Albion, Idaho.

Sir:-

In reply to your letter of the 27th inst. would say that the maps and fee of \$1.00 have not yet been received. On the 4th day of March, 1910, a letter was sent you from this office explaining this and also stating that, upon receipt of same, the certificate of transfer would be issued.

Very truly yours,

State Engineer.

By...

RECEIVED
JAN 31 1911
STATE ENGINEER

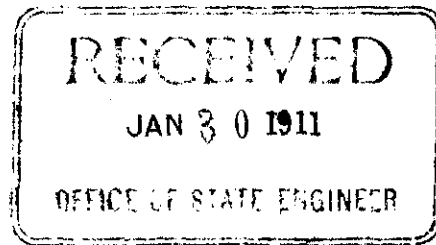
Albion, Cassia Co. Idaho.

January 27th. 1911.-----

Hon. D.G. Martin

State Engineer

Boise, Idaho.



Dear Sir:

Mr. Don. C. Loveland asks me frequently about a transfer of water (partial) that was favorably passed upon several years ago but for which he has never received a certificate. -----

It was for a portion of his decree in Land Creek, a tributary of Marsh Creek in this county. -----

Respectfully Yours,-----

Frank Riblett.

March 4, 1910.

Re transfer of water right
Don C. Loveland.

Mr. Frank Riblett,
Albion, Idaho.

Sir:-

I am just in receipt of yours of the 26th inst. relative to above transfer of water right. In reply would say that I find that the certificate is being withheld pending receipt of map and fee of \$1.00.

The map required in these cases should show the original land upon which the water was to be used and also the land upon which it is desired to transfer said water. As soon as the map, together with the required fee, is received the matter of issuing certificate will at once be taken up.

I am returning you herewith the abstract as we have no further need of same here.

Very truly yours,

State Engineer.

Abs.

Albion, Cassia Co. Idaho.
February 26th. 1910.

Hon. James Stephenson, Jr.
State Engineer
Boise, Idaho.

Dear Sir:

Mr. Don. C. Loveland has been frequently asking me about his transfer allowed for Marsh Creek water, this county, also about his abstract of title. It was thought last winter that perhaps you could get along without the abstract having a record of the same. It was quite expensive and Mr. Loveland thought it might save him the expense of getting --- another in case you did not need to keep this one. He has never received his certificate of transfer although it was allowed a long time ago.

Respectfully Yours,--

Frank Riblett

RECEIVED

MAR 4 1910

OFFICE OF STATE ENGINEER

Application for Transfer of Water Right.

STATE OF IDAHO,
County of Cassia } ss.

Don C. Loveland, being first duly sworn, deposes and says:

That his name is Don C. Loveland; that he is of lawful age, a citizen of the United States and of the State of Idaho, and that his postoffice address is

Albion, Cassia County, Idaho.

That he is the owner and using a certain water right of Sixty (60) inches of the waters of Land Creek (tributary to Marsh Creek)

County of Cassia, State of Idaho, decreed to J. A. Stark by decree of Judge C. O. Stockslager, of the

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

Cassia, in the case of R. L. Wood et al., Plaintiffs vs. Wm. Stokes et al., Defendants, said decree bearing date of March 21

1892 (or obtained by virtue of License No. _____, issued by the State Engineer of the State of Idaho, dated _____), for the purpose of irrigating the

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

State of Idaho, to wit: SE¹ & NW¹, S² SE⁴ 2nd & NE⁴ SE⁴ section 6

Township 12 South of Range 25 East of the Boise Meridian

and am the person (~~or corporation~~) to whom such right so issued, or have become the owner thereof in the following manner, i. e.

by purchase from former owners.

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 at a point situated about 200 yards westward from the center of section 7, said township and Range and conducted to the above described lands through a ditch,

as per map hereto attached and of this affidavit made a part;

That affiant and petitioner desires to abandon the use of Thirty (30) inches 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 Cassia and State of Idaho, to

wit: South East fourth of Section 14, Township 12 South of Range 24 East of the Boise Meridian. and N² NE⁴ sec. 23

That his reasons for desiring to make such transfer are as follows: That he can produce with the use of this water much larger crops on the last mentioned tract which is his home place having at present an insufficient water right - that he also desires to grow plants and raise trees which attempt with the present water right is not so far as on the said home place

That he intends to divert and convey said Thirty (30) inches of water to the tract of land last above described in the following manner, to wit: by rotation - at times through a ditch heading about one fourth ^{of a mile} Easterly from the center of section 22, T₄P₁S. R. 24E. B.M. on the NE¹/₄ of said section and at other times through a ditch heading on the southwest fourth of section 14, designated respectively as ditches No. 1 and No. 2 - both being now constructed.
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 shall issue to him the proper certificate authorizing such transfer, and give proper notice of the same to the Water Commissioner of this 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.

Subscribed and sworn to before me this sixteenth day of January
A. D. 1906.

Al. Derbyshire
Notary Public.

STATE OF IDAHO, }
County of Cassia } ss.

Hardy Sears and W. O. Pratt

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 Minidoka and Albion, Idaho, respectively, that he is a user of water from Sand Creek, County of Cassia, State of Idaho; that he has read or heard read the foregoing affidavit and petition of Don C. Loveland, 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.

Hardy Sears
W. O. Pratt

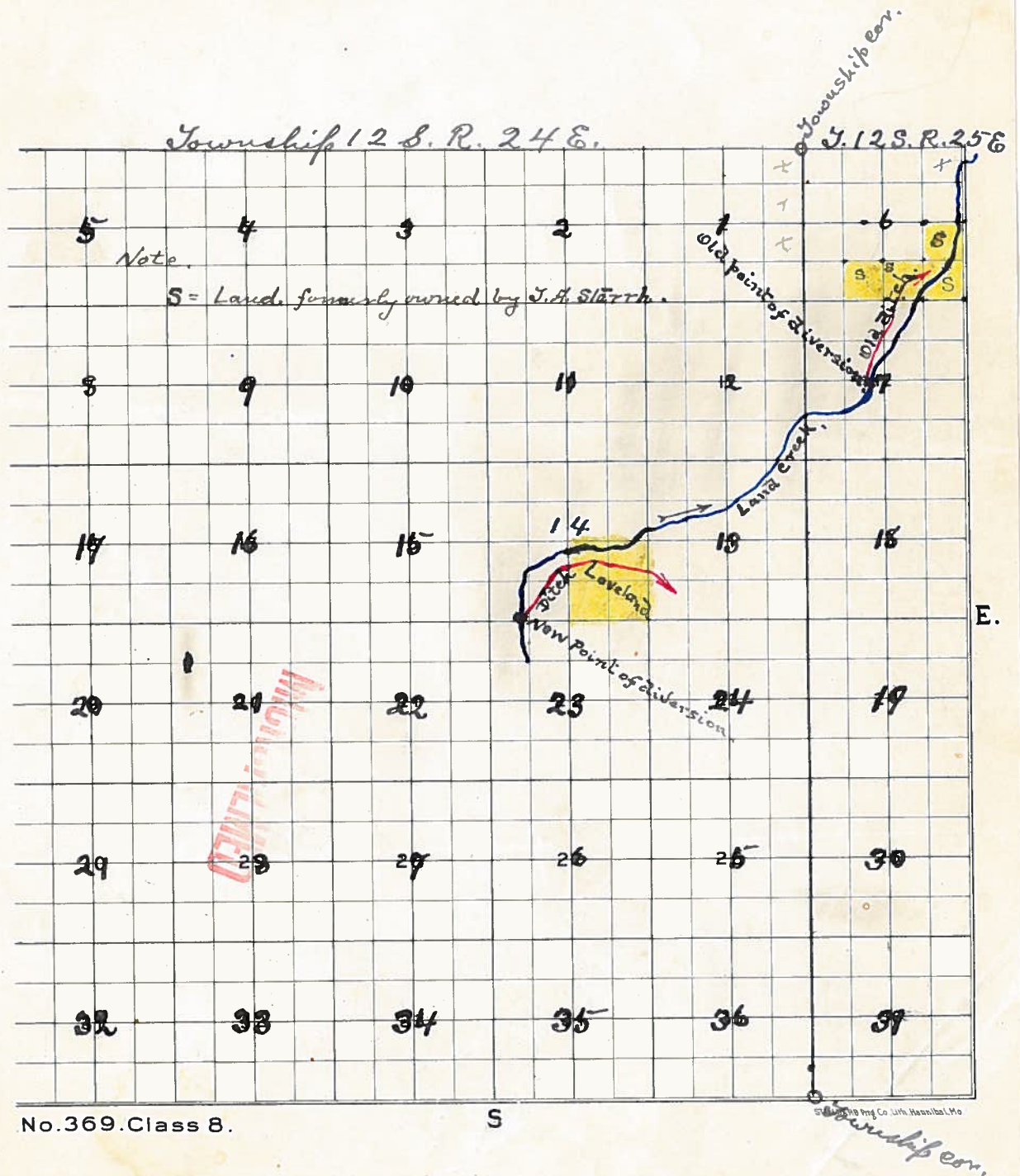
Subscribed and sworn to before me this seventeen day of January
A. D. 1906.

Al. Derbyshire
Notary Public.

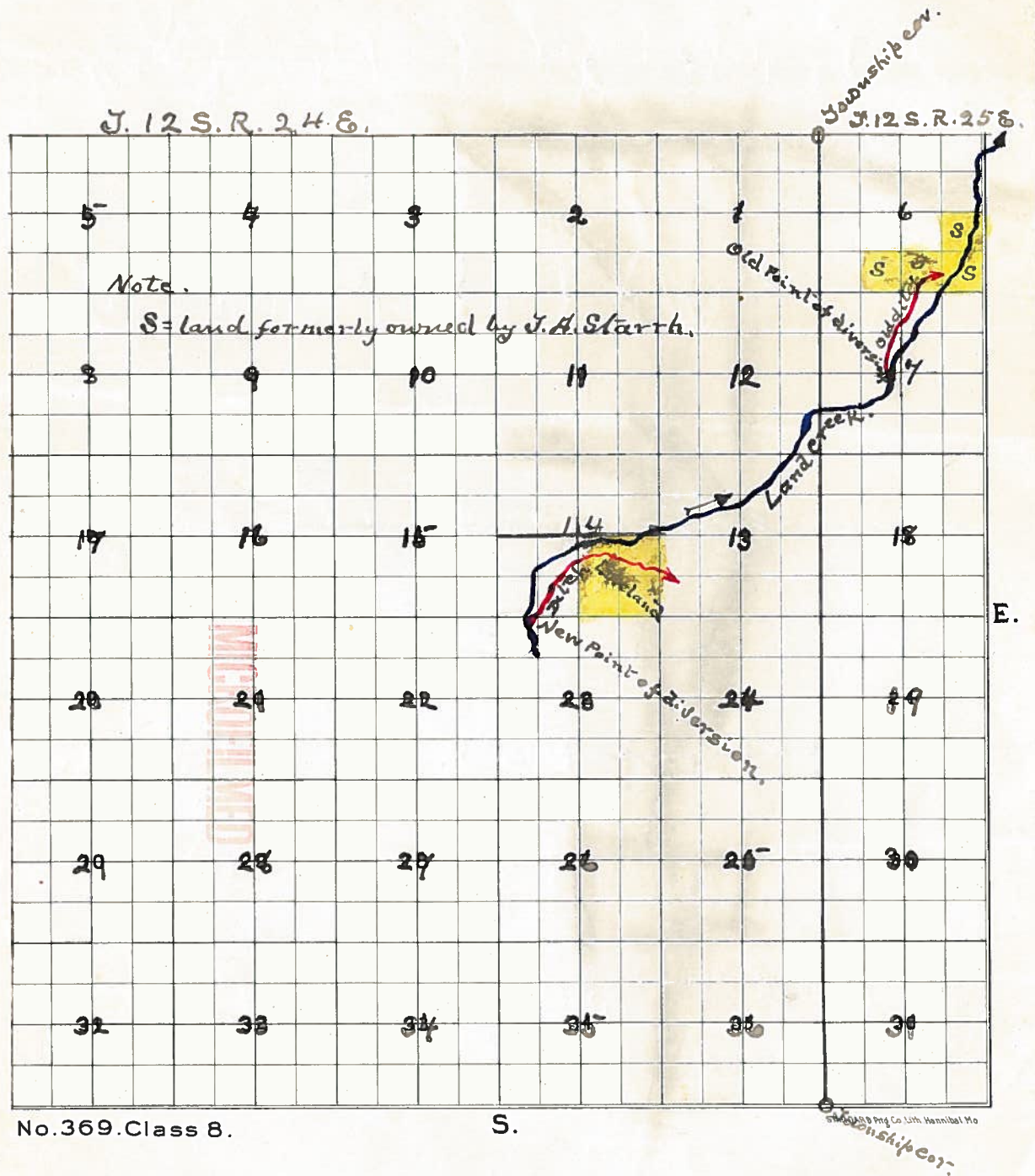
STATE OF IDAHO. }
County of Cassia } ss.

I, Don C. Loveland, Wastmaster of Sand Creek,
County of Cassia, State of Idaho, whose postoffice address is Albion,
Idaho, have read or heard read the foregoing affidavit and petition of

Plat of Township No. 12 S., Range No. 24 and 25 E., B.M.



Plat of Township No. 12 S, Range No. 24 and 25 E. B.M.



Don C. Loveland, 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 will 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: stated in the said affidavit and petition.

Don C. Loveland

Watermaster.

Hagerman, Idaho
May 6th 1907

Notice having been duly published for thirty days of the intention of the above named Don C. Loveland to apply to the State Engineer of the State of Idaho for a certificate authorizing the transfer of water as set forth in his 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 Albion, Idaho, on 6th of May 1907, according to the terms of said notice;

And it not appearing at said hearing that any one 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 applicant, authorizing the transfer as prayed for in his petition; or (and it appearing at said hearing that the following injuries would be sustained by others if such transfer is permitted

No one appeared.

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

W. Van Dorn

Commissioner of Water Division No. 2

By _____