

BEFORE THE DIRECTOR OF THE DEPARTMENT OF WATER RESOURCES  
OF THE  
STATE OF IDAHO

IN THE MATTER OF APPLICATION FOR TRANSFER  
OF WATER RIGHTS NO. 29-0236/0238/0239/0240  
IN THE NAME OF RONDO AND DELOS PERKINS

ORDER

WHEREAS, on July 17, 1979, Rondo and Delos Perkins filed with the Department of Water Resources an application to transfer water evidenced by right 29-0236/0238/0239/0240 originally decreed to Kemanatee and Mevish Hart in the case of the United States of America vs. Hibner and Sessions, dated April 8, 1929; and,

WHEREAS, notice of the application for transfer was published on August 9 and 16, 1979 in the Caribou County Sun, Soda Springs, Idaho and subsequently was protested by John C. White, Russell A. Hebdon, Ross D. Redford, and Alan Smith; and,

WHEREAS, pursuant to provisions of Section 42-222, Idaho Code, on June 8, 1983 and July 29, 1983 the Department of Water Resources requested that the applicants provide a copy of the deed or other evidence of ownership of the water rights; and,

WHEREAS, the applicants failed to furnish any documentation confirming their ownership of the water rights; and,

WHEREAS, on January 23, 1984, the Department sent an Order to the applicants by certified mail advising them to show cause on or before February 6, 1984 why their application for transfer of water rights No. 29-0236/0238/0239/0240 should not be voided from the Department's records for failure to provide evidence of ownership of the water rights; and,

WHEREAS, the applicants failed to respond to the Show Cause Order and did not show cause;

IT IS, THEREFORE, HEREBY ORDERED that Application for Transfer of Water Right No. 29-0236/0238/0239/0240 be and is VOIDED.

Dated this 29<sup>th</sup> day of MARCH, 1984.

for A. KENNETH DUNN  
Director

MICROFILMED

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

Voiced

Name of applicant Rondo and Delos Perkins Phone 648-7764  
Post office address Bancroft, Idaho 83217

A. DESCRIPTION OF RIGHT AS RECORDED

1. Right evidenced by:

- a. Decree to Hart, Kemamatee and Mevish (Name)  
in case of Unites States of America vs Hibner and Sessions  
dated 4/08/1929 in U. S. District Court county of (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. If applicant is not the original holder of this right, explain how it was acquired and attach a copy of the deed or other evidence of ownership of the land to which the right is appurtenant Through purchase of property and through lease of property.

3. Source of water Toponcee Creek tributary to Portneuf River

4. Date of priority 7/16/1868

5. Water is used for the following purposes:

29-0236 amount 0.31 cfs for Irrigation purposes from to  
29-0238 amount 1.733 for Irrigation purposes from to  
29-0239 amount 1.679 for Irrigation purposes from to  
29-0240 0.862 Irrigation (month/day – both dates inclusive)

6. Total amount of water under right: a. 4.58 cubic feet per second  
b. &/or acre feet per annum

7. Location of original point of diversion is ¼ of ¼ of Section  
Township Range , B.M., in County  
Additional points of diversion, if any Within or without lands irrigated.

8. Lands irrigated or 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 |        |
| 29-0236 |       |      |     |     |     |     |     |     |     |     |     |     |     |     |     |     |     |     |        |
| 6S      | 38E   | 36   |     |     |     |     |     |     |     |     |     |     | X   |     |     |     |     |     |        |
|         |       | 35   |     |     |     |     |     |     |     |     |     |     |     |     |     |     |     | X   | 15.53  |
| 29-0238 |       |      |     |     |     |     |     |     |     |     |     |     |     |     |     |     |     |     |        |
| 6S      | 38E   | 36   |     |     | X   |     |     |     | X   |     |     |     |     |     |     |     |     |     | 86.67  |
| 29-0239 |       |      |     |     |     |     |     |     |     |     |     |     |     |     |     |     |     |     |        |
| 6S      | 38E   | 36   |     |     |     |     |     |     |     | X   |     |     |     |     | X   |     |     |     | 83.97  |
| 29-0240 |       |      |     |     |     |     |     |     |     |     |     |     |     |     |     |     |     |     |        |
| 6S      | 38E   | 36   |     |     |     |     |     |     |     |     |     |     | X   |     |     |     | X   |     | 43.72  |
|         |       |      |     |     |     |     |     |     |     |     |     |     |     |     |     |     |     |     |        |
|         |       |      |     |     |     |     |     |     |     |     |     |     |     |     |     |     |     |     |        |

Total number of acres to be irrigated 229.89

9. Describe any other water rights used for the same purposes as described above None

B. 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 \_\_\_\_\_ 1/4 \_\_\_\_\_ 1/4, Section \_\_\_\_\_ Township \_\_\_\_\_  
Range \_\_\_\_\_, B.M., \_\_\_\_\_ County  
Additional points \_\_\_\_\_
3. 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 |        |
|      |       |      |        |        |        |        |        |        |        |        |        |        |        |        |        |        |        |        |        |
|      |       |      |        |        |        |        |        |        |        |        |        |        |        |        |        |        |        |        |        |
|      |       |      |        |        |        |        |        |        |        |        |        |        |        |        |        |        |        |        |        |
|      |       |      |        |        |        |        |        |        |        |        |        |        |        |        |        |        |        |        |        |
|      |       |      |        |        |        |        |        |        |        |        |        |        |        |        |        |        |        |        |        |
|      |       |      |        |        |        |        |        |        |        |        |        |        |        |        |        |        |        |        |        |
|      |       |      |        |        |        |        |        |        |        |        |        |        |        |        |        |        |        |        |        |

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

1. Change in point of diversion
- a. Amount of water to be diverted 4.58 c.f.s. &/or \_\_\_\_\_ acre feet
- b. Point(s) of diversion SW 1/4 SE 1/4, Section 34 Township 6S  
Range 38E, B.M., Caribou County  
Additional points \_\_\_\_\_
- c. Description of diverting works Headgate of Toponce Canal
- d. Describe the reasons for applying for a change in the point(s) of diversion \_\_\_\_\_

2. Change in place of use

- a. Describe the lands or place of use to which the right will be transferred:

| 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 |        |
| 7S   | 38E   | 10   |        |        |        |        |        |        |        |        |        |        |        |        | X      |        |        | X      | 50     |
|      |       | 11   |        |        | X      |        |        |        |        |        | X      | X      | X      | X      |        | X      |        |        | 130    |
|      |       | 14   |        |        |        |        |        |        | X      |        |        |        |        |        |        |        |        |        | 25     |
|      |       | 15   | X      |        |        |        |        |        |        |        |        |        |        |        |        |        |        |        | 25     |
|      |       |      |        |        |        |        |        |        |        |        |        |        |        |        |        |        |        |        |        |
|      |       |      |        |        |        |        |        |        |        |        |        |        |        |        |        |        |        |        |        |

Total number of acres to be irrigated 230

3. 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.

A grid of 10 columns and 10 rows. The first two columns are shaded gray. The grid contains handwritten numbers: 10, 11, 12 in the third row; 15, 14, 13 in the fifth row.

**Scale:** 2 inches equal 1 mile. Draw plan in ink.

4. Remarks \_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

I hereby assert that no one will be injured by such change and 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.

W. H. L. J. Per  
W. H. L. J. Per  
(Signature of applicant)

Subscribed and sworn to before me this \_\_\_\_\_ day of \_\_\_\_\_, 19 \_\_\_\_.

R. D. Dunn  
(Notary public)

My commission expires \_\_\_\_\_

ACTION OF THE DIRECTOR, DEPARTMENT OF WATER RESOURCES

This is to certify that I have examined Application for Transfer of Water Rights No. 29-0236/0238/0239/0240 and said application is hereby VOIDED, subject to the following limitations and conditions:

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

Witness my hand this 29th day of March, 19 84.

Norman C. Young  
for R. KENNETH DUNN, Director

MICROFILMED

FOR DEPARTMENT USE ONLY

|                                                           |                                                         |
|-----------------------------------------------------------|---------------------------------------------------------|
| Received by <u>dh</u> Date <u>7-17-79</u>                 | Protest filed by <u>John C. White, Russell A.</u>       |
| Prelim. check by _____ Fee <u>35.00</u>                   | <u>Hebdon, Ross D. Redford, Alan Smith</u>              |
| Receipted by <u>dh</u> Date <u>7-17-79</u> # <u>13603</u> | _____                                                   |
| Published in <u>Caribou County Sun</u>                    | Copies of protest forwarded by <u>dh</u> <u>8-29-79</u> |
| Pub. dates <u>August 9 &amp; 16, 1979</u>                 | Hearing held by _____ Date _____                        |
| Watermaster recommendation requested on <u>8-7-79</u>     | Recommended for _____ approval _____ denial _____       |
| _____ rec'd. <u>8-16-79</u>                               | by _____                                                |

PROPOSED CHANGE OF WATER PERMIT  
# 29-0236-0238-0239-0240

We the undersigned wish to register  
A protest AGAINST A decision rendered  
by your OFFICE ~~to~~ In Idaho Falls IN  
The case OF PERKINS & PERKINS OF Bancroft.

IT IS OUR understanding that this OFFICE  
granted permission for A higher water-  
decree TO be Transported through A private  
Canal TO A user with A lesser decree,

IT IS OUR opinion that once water  
IS put INTO said canal IT becomes  
property OF that canal company, TO be  
distributed TO ALL the stock holders.

We hope you will reverse the decision  
expressed by your Idaho Falls OFFICE

Name

Address

John C. White  
Russell A. Heblong  
Ross L. Redford  
John Smith

Bancroft Idaho  
Bancroft Idaho  
Bancroft Idaho  
Bancroft Idaho

MICROFILMED

IN THE DISTRICT COURT OF THE UNITED STATES IN AND FOR THE  
DISTRICT OF IDAHO, EASTERN DIVISION

29-0238

United States of America,  
upon the relation of H. S.  
Ray, United States Attorney  
for the District of Idaho,

POOR QUALITY ORIGINAL

Plaintiff,

v.

Julia Hibner, Kepler Lessions,  
Merchants Trust Company, a corporation,  
successor in interest to A.J. Knollin,  
Continental National Bank of Salt Lake  
City, a corporation, successor in  
interest to Thomas J. Ripper, John L.  
Symons, George A. Whitworth, George  
John, Cordelia Warner, Dempsey Irrigat-  
ing Company, a corporation, Toynaz  
Irrigation Company, a corporation,  
Thomas Hillman, F. A. Reed, James H.  
Byington, Noah Keese, Lava Irrigation  
Company, a corporation, Mrs. A. A.  
Fairchild, Portneuf Irrigating Company,  
a corporation, Portneuf Marsh Valley  
Canal Company, a corporation, A. T.  
Shumway, J. T. Clifton, J. J. Lewis,  
McCumson Litch Company, a corporation,  
Amesiah Hanson, Brigham L. Green, Orson  
V. Robbins, Royal T. Hale, Samuel Orgill,  
C. H. Romriell, William J. Lewis, Ed  
Murphy, Thomas Orgill, George Goodenough,  
Oregon Short Line Railroad Company, A. J.  
Butterfield, Harley P. Jensen, Ben C.  
Jensen, George Brangham, Westside Canal  
Company, a corporation, Florence Canal  
Company, a corporation, First National  
Bank of Pocatello, a corporation,  
successors in interest of Joseph and  
William F. Purvis, J. A. Eldridge, Union  
Grain & Elevator Company, a corporation,  
Michael Whitworth, National Loan Company,  
a corporation, G. B. Brangham, and  
Village of McCumson, a municipal corpor-  
ation,

Defendants.

In Equity No. 479

D  
E  
C  
H  
E  
E

This cause came on to be further heard at this term,

additional proofs being submitted and the cause being further ar-

RECEIVED

| No. of<br>Allotment | Name of<br>Claimant | Date of<br>Priority | Amount in<br>Second | Point of Diversion<br>and<br>Place of Use |
|---------------------|---------------------|---------------------|---------------------|-------------------------------------------|
|---------------------|---------------------|---------------------|---------------------|-------------------------------------------|

0234  
66

Teachend

July

1.764

Said water to be diverted from Toponce Creek at a point within or without the confines of the lands herein designated for the irrigation of 85.21 acres in the NE $\frac{1}{4}$ NE $\frac{1}{4}$  and the NW $\frac{1}{4}$ NE $\frac{1}{4}$  of Section 36, Township 6 South Range 38 E.B.M.

0235  
67

Jack Hoyt

July 6, 1868 1.58

Said water to be diverted from Toponce Creek at a point within or without the confines of the lands herein designated for the irrigation of 79.24 acres in the SE $\frac{1}{4}$ NE $\frac{1}{4}$  of Section 35, and the SW $\frac{1}{4}$ NW $\frac{1}{4}$  of Section 36, Township 6 South, Range 38 E.B.M.

POOR QUALITY ORIGINAL

T. 2327

0236  
69

Mary Hoyt

July 6, 1868 .31

Said water to be diverted from Toponce Creek at a point within or without the confines of the lands herein designated for the irrigation of 15.53 acres in the SE $\frac{1}{4}$ SE $\frac{1}{4}$  of Section 36, and the SW $\frac{1}{4}$ SW $\frac{1}{4}$  of Section 36, Township 6 South, Range 38 E.B.M.

23 001

29 070

Kate Hoyt

July 6, 1868 1.076

Said water to be diverted from Toponce Creek at a point within or without the confines of the lands herein designated for the irrigation of 23.80 acres in the SE $\frac{1}{4}$ NW $\frac{1}{4}$  of Section 1, Township 7 South, Range 38 E.B.M.

T. 2327

29 0238  
71

Kemenatse

July 6, 1868 1.733

Said water to be diverted from Toponce Creek at a point within or without the confines of the lands herein designated for the irrigation of 85.67 acres in the SE $\frac{1}{4}$ NW $\frac{1}{4}$  and the SW $\frac{1}{4}$ NE $\frac{1}{4}$  of Section 36, Township 6 South Range 38 E.B.M.

T. 2327

29 0238  
72

Movish

July 6, 1868 1.679

Said water to be diverted from Toponce Creek at a point within or without the confines of the lands herein designated for the irrigation of 83.97 acres in the NE $\frac{1}{4}$ SW $\frac{1}{4}$  and the NW $\frac{1}{4}$ SE $\frac{1}{4}$  of Section 36, Township 6 South Range 38 E.B.M.

RECORDED

**MEMORANDUM**

**TO:** FILE 29-00239  
**FROM:** VAULT  
**RE:** TRANSFER # 5782  
**DATE:** \_\_\_\_\_

=====

**Original Transfer Application, Form and correspondence regarding the above  
referenced Transfer is located within:**

**FILE #** 29-00236

**MICROFILMED  
NOV 17 2000**

FROM Sharla

DATE 4/4/84

TO Files 29-0238/0239/0240

SUBJECT

See file 29-0236 for all correspondence regarding Voided transfer No. 2327.

SIGNATURE

RECEIVED