

RECEIVED

Suggested forms
by O. B. Baum
(not used)

TRANSFER NO.	NAME	AMOUNT C.F.S.	BALANCE C.F.S.	RIGHT NO.
	Knollin, A. J.	0.48		29-0121
525	First Trust Co.of St. Paul	0.48	0	29-0121A

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TELETYPE

STATE OF IDAHO

DEPARTMENT OF RECLAMATION

CERTIFICATE OF WATER RIGHT
Transferred Right No. 525

THIS IS TO CERTIFY, That FIRST TRUST COMPANY OF ST. PAUL,
MINN., a corporation, is the owner of, and using, certain water rights
bearing dates of priority as follows:

24.00 inches	-	July 1, 1882
36.00 inches	-	June 17, 1902
55.24 inches	-	July 1, 1903
134.10 inches	-	July 1, 1908
54.00 inches	-	June 1, 1910

totalling 303.34 inches of the waters of the North Fork of Teton Creek, a
tributary of the Portneuf River, County of Bannock, State of Idaho,
obtained by virtue of a decree issued to A. J. Knollin, and known as
Right No. 92, issued by the Honorable O. R. Baum, Judge of the District
Court of the Fifth Judicial District of the State of Idaho, in and for
the County of Bannock, in the case of

Union Grain & Elevator Co. vs. McCammon Ditch Co., et al,
said decree bearing date of June 29, 1921, for the purpose of irrigating
the following described lands, situate, lying and being in Water District
No. 17, in the County of Bannock, State of Idaho, to-wit:

5 acres in the Northeast Quarter of the Southwest
Quarter ($NE\frac{1}{4}SW\frac{1}{4}$); 10 acres in the Northwest Quarter
of the Southeast Quarter ($NW\frac{1}{4}SE\frac{1}{4}$); 5 acres in Lot
Three (3); 2 acres in the Southeast Quarter of the
Southwest Quarter ($SE\frac{1}{4}SW\frac{1}{4}$); 30 acres in the Southwest
Quarter of the Southeast Quarter ($SW\frac{1}{4}SE\frac{1}{4}$); 38 acres
in Lot Four (4), all in Section Twenty-five (25),
Township Six (6) South of Range Thirty-eight (38) East,
of the Boise Meridian;

33.4 acres in Lot One (1); 33.4 acres in Lot Two (2),
Section Thirty-six (36), Township Six (6) South of Range
Thirty-eight (38) East, of the Boise Meridian;

40.0 acres in Lot Two (2); 55.44 acres in North Half of
the Northwest Quarter ($N\frac{1}{2}NW\frac{1}{4}$), Section Thirty-one (31),
Township Six (6) South of Range Thirty-nine (39) East,
of the Boise Meridian.

That said decree has been entered in the records of the Department of Reclamation of the State of Idaho, in Book 4 of Decrees at page 292.

That the said First Trust Company of St. Paul has become the owner of said water right through foreclosure of mortgage.

That, now, upon the application of First Trust Company of St. Paul for a transfer of 140.76 inches of said water rights, made before the Commissioner of Reclamation of the State of Idaho, and the said application having been granted, the right to the use of the following water rights, to-wit:

24.00 inches	-	July 1, 1882
36.00 inches	-	June 17, 1902
30.00 inches	-	July 1, 1903
50.76 inches	-	June 1, 1910

totalling 140.76 inches of the waters of the North Fork of Toponce Creek, a tributary of Portneuf River, upon the lands above described, is hereby ABANDONED, and the lands to be irrigated under such rights, and to which the water rights hereby confirmed shall become appurtenant, by this certificate, for irrigation and domestic purposes, is described as follows:

Lots Nineteen (19) and Twenty (20), the Southwest Quarter ($SW\frac{1}{4}$), the West Half of the Southeast Quarter ($W\frac{1}{2} SE\frac{1}{4}$) of Section Twenty-five (25); East Half of the Southeast Quarter ($E\frac{1}{2} SE\frac{1}{4}$) of Section Twenty-six (26), all in Township Six (6) South of Range Thirty-eight (38) East, of the Boise Meridian,

situate, lying and being in the County of Bannock, State of Idaho, 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:

24.00 inches,	as of July 1, 1882
36.00 inches,	as of June 17, 1902
30.00 inches,	as of July 1, 1903
50.76 inches,	as of June 1, 1910

and that the remaining portion of the aforesaid Right No. 92, to-wit:

25.24 inches	-	July 1, 1903
134.10 inches	-	July 1, 1908
3.24 inches	-	June 1, 1910

totalling 162.58 inches of the waters of the North Fork of Toponce tributary to the Portneuf River, shall be appurtenant to ONLY

of the lands to which it was, by the aforementioned decree, made appurtenant, described as follows, to-wit:

Lots Three (3) and Four (4) of Section Twenty-five (25);
Lots One (1) and Two (2) of Section Thirty-six (36),
Township Six (6) South of Range Thirty-eight (38) East,
of the Boise Meridian; and Lot Two (2) and the North Half
of the Northwest Quarter ($N\frac{1}{2} NW\frac{1}{4}$) of Section Thirty-one
(31), Township Six (6) South of Range Thirty-nine (39)
East of the Boise Meridian.

That all of the above water, i. e., Right No. 92, has heretofore
been diverted from said North Fork of Toponce Creek at a point in the

Northeast Quarter of the Northwest Quarter ($NE\frac{1}{4} NW\frac{1}{4}$) of
Section Thirty-five (35), Township Six (6) South of
Range Thirty-eight (38) East of the Boise Meridian,

through a ditch known as the Knollin Ditch, and that no change shall be
made in this point of diversion due to this transfer, but that the total
amount of water shall still be diverted at the same point and through
the said Knollin Ditch.

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

IN WITNESS WHEREOF, I have hereunto set my hand and caused the
seal of the Department of Reclamation to be hereunto affixed at Boise,
Idaho, this 12th day of December, 1933.

Commissioner of Reclamation

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

DEPARTMENT OF RECLAMATION

In the Matter of the Application of)
FIRST TRUST COMPANY OF ST. PAUL, MINN.,)
a corporation, for a transfer of water,) ORDER GRANTING TRANSFER
Bannock County, Idaho.)

The FIRST TRUST COMPANY OF ST. PAUL, MINNESOTA, applicant, having heretofore applied to the undersigned, as Commissioner of Reclamation of the State of Idaho, for a Certificate authorizing it to transfer the use of 140.76 inches of water of the waters of the Portneuf River and its tributaries, all as decreed in that certain decree made and entered by the District Court of the Fifth Judicial District of the State of Idaho in and for the County of Bannock in that certain action entitled: "Union Grain and Elevator Company, a corporation, plaintiff, vs. McCammon Ditch Company, et al, defendants," from the lands to which it was decreed, namely:

Northeast Quarter of Southwest Quarter ($NE\frac{1}{4}SW\frac{1}{4}$);
Northwest Quarter of Southeast Quarter ($NW\frac{1}{4}SE\frac{1}{4}$);
Lot Three (3); Southeast Quarter of Southwest Quarter ($SE\frac{1}{4}SW\frac{1}{4}$); Southwest Quarter of Southeast Quarter ($SW\frac{1}{4}SE\frac{1}{4}$);
Lot Four (4), all in Section Twenty-five (25), Township Six (6) South of Range Thirty-eight (38) East, B. M.;
Lot One (1), Lot Two (2), Section Thirty-six (36), Township Six (6) South of Range Thirty-eight (38) East, B. M.;
Lot Two (2) and the North Half of Northwest Quarter ($N\frac{1}{2}NW\frac{1}{4}$) Section Thirty-one (31), Township Six (6) South of Range Thirty-nine (39) East, B. M.,

to the following described lands, to-wit:

Lots Nineteen (19) and Twenty (20), and the Southwest Quarter ($SW\frac{1}{4}$), and the West Half of Southeast Quarter ($W\frac{1}{2}SE\frac{1}{4}$) of Section Twenty-five (25), Township Six (6) South of Range Thirty-eight (38) East, B. M., and East Half of Southeast Quarter ($E\frac{1}{2}SE\frac{1}{4}$) of Section Twenty-six (26), Township Six (6) South of Range Thirty-eight (38) East, B. M.,

such lands being a part or portion of the first described lands; and that there shall be transferred from such lands first herein described the use

of a portion of said waters to the said lands herein described, such water being more particularly described as follows, to-wit:

24 inches (.48 c. f. s.)	of water right--July 1, 1882
36 " (.72 c. f. s.)	of water right dated June 17, 1902
30 "	of water right dated July 1, 1903
50.76 "	of water right of June 1, 1910

all as referred to in said certain Decree aforementioned, thereby making appurtenant to the said lands last herein described the said 140.76 inches of such waters and that the said lands last herein described shall be entitled to the use of such waters and after such application was filed, a notice was issued, based upon such application and due publication made of such notice, and thereafter, a remonstrance having been filed signed by Jasper W. Perkins, Parley P. Jensen, I. R. Bowler, O. R. Brangham, Thomas E. Reese, Lester Smith, J. C. Evans, and thereafter, a hearing having been had before the undersigned as Commissioner of Reclamation of the State of Idaho, and all of the Statutory requirements as provided by said Section 41-216, Idaho Code, Annotated, having been complied with, and the Watermaster of the said Portneuf River having given his non-approval of such transfer and the undersigned, as Commissioner of Reclamation, being fully advised in the premises, and it appearing to the undersigned, the Commissioner of Reclamation, that no one shall be injured by the transfer of the use of such water as applied for, and that the evidence does not disclose that the change of place of the use of waters as provided for in Section 41-216, Idaho Code, Annotated, would, in any way, injure the persons remonstrating within the contemplation of the provisions of said section as amended, and that the right to transfer the use of such water comes within the purview of the rule announced in the case of *Crockett, et al, vs. Jones, et al*, 47 Idaho 497, 277 Pac. 550.

IT IS THEREFORE ORDERED, That the said FIRST TRUST COMPANY OF ST. PAUL, MINNESOTA, a corporation, is hereby authorized to transfer and there is hereby transferred 140.76 inches of water and the right to the use of such water, to-wit: The right of the use of 140.76 inches of water of the waters of the Portneuf River, and its tributaries, all as is decreed in that particular decree made and entered by that certain

Decree in the District Court of the Fifth Judicial District of the State of Idaho, in and for the County of Bannock, entitled: "Union Grain and Elevator Company vs. McCammon Ditch Co., et al.," from the said land so referred to in such Decree, the same being described as follows, to-wit:

Northeast Quarter of Southwest Quarter ($NE\frac{1}{4} SW\frac{1}{4}$);
Northwest Quarter of Southeast Quarter ($NW\frac{1}{4} SE\frac{1}{4}$);
Lot Three (3); Southeast Quarter of the Southwest Quarter ($SE\frac{1}{4} SW\frac{1}{4}$); Southwest Quarter of Southeast Quarter ($SW\frac{1}{4} SE\frac{1}{4}$);
Lot Four (4), all in Section twenty-five (25), Township Six (6) South, Range Thirty-eight (38) East, B. M.; Lot One (1), Lot Two (2), Section Thirty-six (36), Township Six (6) South, Range Thirty-eight (38) East, B. M., Lot Two (2) and the North Half of the Northwest Quarter ($N\frac{1}{2} NW\frac{1}{4}$) Section Thirty-one (31), Township Six (6) South, Range Thirty-nine (39) East, B. M.,

to the following described lands, to-wit:

Lots Nineteen (19) and Twenty (20), and Southwest Quarter ($SW\frac{1}{4}$), and West Half of Southeast Quarter ($W\frac{1}{2} SE\frac{1}{4}$) of Section Twenty-five (25), Township Six (6) South, Range Thirty-eight (38) East, B. M., and East Half of Southeast Quarter ($E\frac{1}{2} SE\frac{1}{4}$) of Section Twenty-six (26), Township Six (6) South, Range Thirty-eight (38) East, B. M.,

such waters that have been ordered transferred being more particularly described as follows, to-wit:

24 inches (.48 c. f. s.)	of water right--July 1, 1882
36 " (.72 c. f. s.)	of water right dated June 17, 1902
30 "	of water right dated July 1, 1903
50.76 "	of water right of June 1, 1910

and,

IT IS FURTHER ORDERED that the said last mentioned water, to-wit: 140.76 inches, be and the same is hereby made appurtenant to the said last described lands aforementioned and that the remaining waters mentioned in such decree be made appurtenant to the remaining lands mentioned in such decree.

IN WITNESS WHEREOF, the said undersigned, as Commissioner of Reclamation of the State of Idaho has caused this order to be issued in the name of the State of Idaho, and the seal of his office attached on this, the 12th day of December, 1933.

Commissioner of Reclamation

(12)

CERTIFICATE OF TRANSFER OF THE PLACE OF USE OF WATER PURSUANT
TO THE PROVISIONS OF SECTION 41-216, IDAHO CODE,
ANNOTATED

STATE OF IDAHO)
) SS.:
COUNTY OF ADA)

I, R. W. FARIS, Commissioner of Reclamation of the State of Idaho, do hereby certify that the FIRST TRUST COMPANY OF ST. PAUL, MINN., a corporation, has heretofore filed in the office of the Commissioner of Reclamation of the State of Idaho, an application wherein and whereby it sought to transfer the use of 140.76 inches of the waters of the Portneuf River and its tributaries, all as decreed in that certain decree made and entered by the District Court of the Fifth Judicial District of the State of Idaho in and for the County of Bannock in that certain action entitled: "Union Grain and Elevator Company, a corporation, plaintiff, -vs- McCammon Ditch Company, et al, defendants", such Water Right being described as Right No. 92, "TOPONCE CREEK, NORTH FORK, TRIBUTARY TO THE PORTNEUF RIVER", said Right being described as follows:

*TOPONCE CREEK, NORTH FORK, TRIBUTARY TO THE PORTNEUF RIVER

92. Knollin, A. J.:			Said water to be diverted
1882—July 1	.48 c.f.s.	(24 inches)	through Knollin Ditch,
1902—June 17	.72 c.f.s.	(36 inches)	which diverts water from
at noon.			the North Fork of Toponce
1903—July 1	1.10 c.f.s.	(55.24 inches)	Creek, in the Northeast
			Quarter of the Northwest
1908—July 1	2.68 c.f.s.	(134.10 inches)	Quarter, Section 35, Town-
			ship 6 South, Range 38
1910—June 1	1.08 c.f.s.	(54 inches)	East. From the Northwest
			corner of Section 35, said
			Township and Range, the
			point of diversion bears
			South 71 degrees and 10
			minutes East, 1748 feet,
			for the irrigation of land
			described as follows: 5
			acres in the Northeast
			quarter of the Southwest
			quarter; 10 acres in the
			Northwest quarter of the
			Southeast Quarter, 5 acres
			in Lot 3; 2 acres in the

TOTAL	6.06 c.f.s.	
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RECORDED

(2)

Southeast quarter of the Southwest quarter; 30 acres in the Southwest quarter of the Southeast quarter; 38 acres in Lot 4, all in Section 25, Township 6 South, Range 38 East; 33.4 acres in Lot 1; 33.4 acres in Lot 2; Section 36, Township 6 South, Range 38 East; 40 acres in Lot 2; 55.44 acres in the North Half of the Northwest quarter, Section 31, Township 6 South, Range 39 East. ■

from the lands to which it was decreed, namely:

Northeast Quarter of Southwest Quarter ($NE\frac{1}{4}$ of $SW\frac{1}{4}$)
Northwest Quarter of Southeast Quarter ($NW\frac{1}{4}$ of $SE\frac{1}{4}$)
Lot Three (3), Southeast Quarter of the Southwest Quarter ($SE\frac{1}{4}$ of $SW\frac{1}{4}$), Southwest Quarter of the Southeast Quarter ($SW\frac{1}{4}$ of $SE\frac{1}{4}$), Lot Four (4) All in Section Twenty-five (25) Township Six (6) South Range Thirty-eight (38) E. B. M., Lot One (1), Lot Two (2), Section Thirty-six (36) Township Six (6) South, Range Thirty-eight (38) E. B. M., Lot Two (2) and the North Half of the Northwest Quarter ($N\frac{1}{2}$ of $NW\frac{1}{4}$) Section Thirty-one (31), Township Six (6) South, Range Thirty-nine (39) E. B. M.

to the following described lands, to-wit:

Lots 19 and 20, and the Southwest Quarter, and the West Half of the Southeast Quarter of Section 25, Township 6 South, Range 38 E. B. M. and East Half of Southeast Quarter of Section 26, Township 6 South, Range 38 E. B. M.

such lands being a part or portion of the first described lands and that there shall be transferred from such lands first herein described the use of a portion of said waters to the said lands described herein, such water being more particularly described as follows, to-wit:

24 inches (.48 c. f. s.)	of water right—July 1, 1882
36 " (.72 c.f.s.)	of water right dated June 17, 1902
30 "	of water right dated July 1, 1903
50.76 inches	of water right of June 1, 1910

and that on the _____ day of December, 1933, an order was issued authorizing such transfer wherein and whereby there was transferred the use of 140.76 inches of the waters of the Portneuf River and its tributaries, to the following described lands, to-wit:

Lots 19 and 20, and Southwest Quarter, and the West Half of Southeast Quarter of Section 25, Township 6 South, Range 38 E. B. M. and East Half of Southeast Quarter of Section 26, Township 6 South, Range 38 E. B. M.

such water being transferred being more particularly described as follows, to-wit:

RECORDED

(3)

24 inches (.48 c. f. s.)	of water right--July 1, 1882
36 inches (.72 c. f. s.)	of water right dated June 17, 1902
30 "	of water right dated July 1, 1903
50.76"	of water right of June 1, 1910

and such water being made appurtenant to the land last hereinabove described,
and the same having been transferred from the following described lands, to-
wit:

Northeast Quarter of Southwest Quarter ($NE\frac{1}{4}$ of $SW\frac{1}{4}$)
Northwest Quarter of Southeast Quarter ($NW\frac{1}{4}$ of $SE\frac{1}{4}$)
Lot Three (3), Southeast Quarter of the Southwest Quarter
($SE\frac{1}{4}$ of $SW\frac{1}{4}$), Southwest Quarter of the Southeast Quarter
($SW\frac{1}{4}$ of $SE\frac{1}{4}$), Lot Four (4) All in Section Twenty-five
(25) Township Six (6) South Range Thirty-eight (38) E.B. M.
Lot One (1), Lot Two (2), Section Thirty-six (36), Town-
ship Six (6), South, Range Thirty-eight (38) E. B. M.
Lot Two (2) and the North Half of the Northwest Quarter
($N\frac{1}{2}$ of $NW\frac{1}{4}$) Section Thirty-one (31) Township Six (6)
South, Range Thirty-nine (39) E. B. M.

IN WITNESS WHEREOF, I have hereunto set my hand and affixed my
official seal of my office this _____ day of December, 1933.

R. W. PAIS

COMMISSIONER OF RECLAMATION

STATE OF IDAHO

RECORDED
INDEXED
NOV 15 1933

CERTIFICATE OF TRANSFER OF THE PLACE OF USE OF WATER PURSUANT
TO THE PROVISIONS OF SECTION 41-216, IDAHO CODE,
ANNOTATED

STATE OF IDAHO }
COUNTY OF ADA } SS.:

I, R. W. FARIS, Commissioner of Reclamation of the State of Idaho, do hereby certify that the FIRST TRUST COMPANY OF ST. PAUL, MINN., a corporation, has heretofore filed in the office of the Commissioner of Reclamation of the State of Idaho, an application wherein and whereby it sought to transfer the use of 140.76 inches of the waters of the Portneuf River and its tributaries, all as decreed in that certain decree made and entered by the District Court of the Fifth Judicial District of the State of Idaho in and for the County of Bannock in that certain action entitled: "Union Grain and Elevator Company, a corporation, plaintiff, -vs- McCammon Ditch Company, et al, defendants", such Water Right being described as Right No. 92, "TOPONCE CREEK, NORTH FORK, TRIBUTARY TO THE PORTNEUF RIVER", said Right being described as follows:

"TOPONCE CREEK, NORTH FORK, TRIBUTARY TO THE PORTNEUF RIVER

92. Knollin, A. J.:		Said water to be diverted
1882—July 1	.48 c.f.s. (24 inches)	through Knollin Ditch,
1902—June 17	.72 c.f.s.	which diverts water from
at noon.	(36 inches)	the North Fork of Toponce
1903—July 1	1.10 c.f.s. (55.24 inches)	Creek, in the Northeast
1908—July 1	2.68 c.f.s. (134.10 inches)	Quarter of the Northwest
1910—June 1	1.08 c.f.s. (54 inches)	Quarter, Section 35, Town-
TOTAL	6.06 c.f.s.	ship 6 South, Range 33
		East. From the Northwest
		corner of Section 35, said
		Township and Range, the
		point of diversion bears
		South 71 degrees and 10
		minutes East, 1748 feet,
		for the irrigation of land
		described as follows: 5
		acres in the Northeast
		quarter of the Southwest
		quarter; 10 acres in the
		Northwest quarter of the
		Southeast Quarter, 5 acres
		in Lot 5; 2 acres in the

(2)

Southeast quarter of the Southwest quarter; 30 acres in the Southwest quarter of the Southeast quarter; 38 acres in Lot 4, all in Section 25, Township 6 South, Range 38 East; 33.4 acres in Lot 1; 33.4 acres in Lot 2; Section 36, Township 6 South, Range 38 East; 40 acres in Lot 2; 55.44 acres in the North Half of the Northwest quarter, Section 31, Township 6 South, Range 39 East. "

from the lands to which it was decreed, namely:

Northeast Quarter of Southwest Quarter ($NE\frac{1}{4}$ of $SW\frac{1}{4}$)
Northwest Quarter of Southeast Quarter ($NW\frac{1}{4}$ of $SE\frac{1}{4}$)
Lot Three (3), Southeast Quarter of the Southwest Quarter ($SE\frac{1}{4}$ of $SW\frac{1}{4}$), Southwest Quarter of the Southeast Quarter ($SW\frac{1}{4}$ of $SE\frac{1}{4}$), Lot Four (4) All in Section Twenty-five (25) Township Six (6) South Range Thirty-eight (38) E. B. M., Lot One (1), Lot Two (2), Section Thirty-six (36) Township Six (6) South, Range Thirty-eight (38) E. B. M., Lot Two (2) and the North Half of the Northwest Quarter ($N\frac{1}{2}$ of $NW\frac{1}{4}$) Section Thirty-one (31), Township Six (6) South, Range Thirty-nine (39) E. B. M.

to the following described lands, to-wit:

Lots 19 and 20, and the Southwest Quarter, and the West Half of the Southeast Quarter of Section 25, Township 6 South, Range 38 E. B. M. and East Half of Southeast Quarter of Section 26, Township 6 South, Range 38 E. B. M.

such lands being a part or portion of the first described lands and that there shall be transferred from such lands first herein described the use of a portion of said waters to the said lands described herein, such water being more particularly described as follows, to-wit:

24 inches (.48 c. f. s.)	of water right—July 1, 1882
38 "	(.72 c.f.s.) of water right dated June 17, 1902
30 "	of water right dated July 1, 1903
50.76 inches	of water right of June 1, 1910

and that on the _____ day of December, 1935, an order was issued authorizing such transfer wherein and whereby there was transferred the use of 140.76 inches of the waters of the Portneuf River and its tributaries, to the following described lands, to-wit:

Lots 19 and 20, and Southwest Quarter, and the West Half of Southeast Quarter of Section 25, Township 6 South, Range 38 E. B. M. and East Half of Southeast Quarter of Section 26, Township 6 South, Range 38 E. B. M.

such water being transferred being more particularly described as follows, to-wit:

RECORDED
JAN 10 1936
COUNTY CLERK
JAN 10 1936
JAN 10 1936

(5)

24 inches (.48 c. f. s.)	of water right—July 1, 1882
36 inches (.72 c. f. s.)	of water right dated June 17, 1902
50 "	of water right dated July 1, 1905
50.76"	of water right of June 1, 1910

and such water being made appurtenant to the land last hereinabove described,
and the same having been transferred from the following described lands, to-
wit:

Northeast Quarter of Southwest Quarter (NE $\frac{1}{4}$ of SW $\frac{1}{4}$)
Northwest Quarter of Southeast Quarter (NW $\frac{1}{4}$ of SE $\frac{1}{4}$)
Lot Three (3), Southeast Quarter of the Southwest Quarter
(SE $\frac{1}{4}$ of SW $\frac{1}{4}$), Southwest Quarter of the Southeast Quarter
(SW $\frac{1}{4}$ of SE $\frac{1}{4}$), Lot Four (4) All in Section Twenty-five
(25) Township Six (6) South Range Thirty-eight (38) E. B. M.
Lot One (1), Lot Two (2), Section Thirty-six (36), Town-
ship Six (6), South, Range Thirty-eight (38) E. B. M.
Lot Two (2) and the North Half of the Northwest Quarter
(N $\frac{1}{2}$ of NW $\frac{1}{4}$) Section Thirty-one (31) Township Six (6)
South, Range Thirty-nine (39) E. B. M.

IN WITNESS WHEREOF, I have hereunto set my hand and affixed my
official seal of my office this 8 day of December, 1933.

R. W. FARIS

COMMISSIONER OF RECLAMATION

STATE OF IDAHO

RECORDED
MICROFILMED

ORDER PERMITTING TRANSFER OF THE USE OF 140.76 inches OF THE WATER
OF THE PORTNEUF RIVER AND ITS TRIBUTARIES.

OFFICE OF COMMISSIONER OF RECLAMATION,)
STATE OF IDAHO)SS.:
COUNTY OF ADA)

The FIRST TRUST COMPANY OF SAINT PAUL, MINN., applicant,
having heretofore applied to the undersigned, As Commissioner of
Reclamation of the State of Idaho for a certificate authorizing it
to transfer the use of 140.76 inches of water of the waters of the
Portneuf River and its tributaries, all as decreed in that certain
decree made and entered by the District Court of the Fifth Judicial
District of the State of Idaho in and for the County of Bannock in
that certain action entitled: "Union Grain and Elevator Company, a
corporation, plaintiff -vs- McCammon Ditch Company, et al, defendants,"
from the lands to which it was decreed, namely:

Northeast Quarter of Southwest Quarter (NE $\frac{1}{4}$ of SW $\frac{1}{4}$)
Northwest Quarter of Southeast Quarter (NW $\frac{1}{4}$ of SE $\frac{1}{4}$)
Lot Three (3), Southeast Quarter of the Southwest Quarter
(SE $\frac{1}{4}$ of SW $\frac{1}{4}$), Southwest Quarter of the Southeast Quarter (SW $\frac{1}{4}$
of SE $\frac{1}{4}$), Lot Four (4) all in Section Twenty-five (25) Town-
ship Six (6) South Range Thirty-eight (38) E. B. M., Lot
One (1), Lot Two (2), Section Thirty-six (36), Township Six
(6) South, Range Thirty-eight (38) E. B. M., Lot Two (2)
and the North Half of the Northwest Quarter (N $\frac{1}{2}$ of NW $\frac{1}{4}$)
Section Thirty-one (31) Township Six (6) South, Range Thirty-
nine (39) E. B. M.

to the following described lands, to-wit:

Lots 19 and 20, and the Southwest Quarter, and the West Half
of Southeast Quarter of Section 25, Township 6 South,
Range 38 E. B. M. and East Half of Southeast Quarter of
Section 26, Township 6 South, Range 38 E. B. M.

such lands being a part or portion of the first described lands and
that there shall be transferred from such lands first herein described
the use of a portion of said waters to the said lands described herein
described, such water being more particularly described as follows, to-
wit:

24 inches (.48 c. f. s.) of water right--July 1, 1882
36 " (.72 c. f. s.) of water right dated June 17, 1902
30 " of water right dated July 1, 1903

RECEIVED
JUL 1 1903

(2)

50.76 inches of water right of June 1, 1910

all as referred to in said certain Decree aforementioned, thereby making appurtenant to the said lands last herein described the said 140.76 inches of such waters and that the said lands last herein described shall be entitled to the use of such waters and after such application was filed, a notice was issued, based upon such application and due publication made of such notice, and thereafter, a remonstrance having been filed signed by Jasper W. Perkins, Parley P. Jensen, I. R. Bowler, O. R. Brangham, Thomas E. Reese, Lester Smith, J. C. Evans, and thereafter, a hearing having been had before the undersigned as Commissioner of Reclamation of the State of Idaho, and all of the statutory requirements as provided by said Section 41-216, IDAHO CODE, ANNOTATED, having been complied with, and the Water Master of the said Portneuf River, having given his non-approval of such transfer and the undersigned, as Commissioner of Reclamation being fully advised in the premises, and it appearing to the undersigned, the Commissioner of Reclamation, that no one shall be injured by the transfer of the use of such water as applied for, and that the evidence does not disclose that the change of place of the use of waters as provided for in Section 41-216, IDAHO CODE, ANNOTATED, would, in any way, injure the persons remonstrating within the contemplation of the provisions of said section as amended, and that the right to transfer the use of such water comes within the purview of the rule announced in the case of CROCKETT, et al v. JONES, et al, 47 Idaho 497, 277 Pac. 550.

IT IS, THEREFORE, ORDERED that the said First Trust Company of St. Paul, Minn., a corporation, is hereby authorized to transfer and there is hereby transferred 140.76 inches of water and the right to the use of such water, to-wit: the right of the use of 140.76 inches of water of the waters of the Portneuf River, and its tributaries, all as is decreed in that particular decree made and entered by that certain Decree in the District Court of the Fifth Judicial District of the State of Idaho, in and for the County of Bannock, entitled:

RECORDED

(3)

"Union Grain and Elevator Company vs. McCammon Ditch Co., et al,"
from the said land so referred to in such Decree, the same being
described as follows, to-wit:

Northeast Quarter of Southwest Quarter ($NE\frac{1}{4}$ of $SW\frac{1}{4}$)
Northwest Quarter of Southeast Quarter ($NW\frac{1}{4}$ of $SE\frac{1}{4}$)
Lot Three (3), Southeast Quarter of the Southwest Quarter
($SE\frac{1}{4}$ of $SW\frac{1}{4}$), Southwest Quarter of Southeast Quarter ($SW\frac{1}{4}$
of $SE\frac{1}{4}$), Lot Four (4) all in Section twenty-five (25)
Township Six (6) South Range Thirty-eight (38) E. B. M.
Lot One (1), Lot Two (2), Section Thirty-six (36),
Township Six (6) South, Range Thirty-eight (38) E. B. M.,
Lot Two (2) and the North Half of the Northwest Quarter
($N\frac{1}{2}$ of $NW\frac{1}{4}$) Section Thirty-one (31) Township Six (6)
South, Range Thirty-nine (39) E. B. M.

to the following described lands, to-wit:

Lots 19 and 20, and Southwest Quarter, and West Half of
Southeast Quarter of Section 25, Township 6 South, Range
38 E. B. M. and East Half of Southeast Quarter of Section
26, Township 6 South, Range 38 E. B. M.

such waters that have been ordered transferred being more particularly
described as follows, to-wit:

24 inches (.48 c. f. s.)	of water right—July 1, 1882
36 " (.72 c. f. s.)	of water right dated June 17, 1902
30 "	of water right dated July 1, 1903
50.76"	of water right of June 1, 1910

and,

IT IS FURTHER ORDERED that the said last mentioned water
to-wit: 140.76 be and the same is hereby made appurtenant to the said
last described lands aforementioned and that the remaining waters
mentioned in such decree be made appurtenant to the remaining lands
mentioned in such Decree.

IN WITNESS WHEREOF, the said undersigned, as Commissioner
of Reclamation of the State of Idaho has caused this order to be
issued in the name of the State of Idaho, and the seal of his office
attached on this, the 12 day of December, 1933.

COMMISSIONER OF RECLAMATION

RECORDED

ORDER PERMITTING TRANSFER OF THE USE OF 140.76 inches OF THE WATER
OF THE PORTNEUF RIVER AND ITS TRIBUTARIES.

OFFICE OF COMMISSIONER OF RECLAMATION,
STATE OF IDAHO
COUNTY OF ADA

} ss.:

The FIRST TRUST COMPANY OF SAINT PAUL, MINN., applicant,
having heretofore applied to the undersigned, As Commissioner of
Reclamation of the State of Idaho for a certificate authorizing it
to transfer the use of 140.76 inches of water of the waters of the
Portneuf River and its tributaries, all as decreed in that certain
decree made and entered by the District Court of the Fifth Judicial
District of the State of Idaho in and for the County of Bannock in
that certain action entitled: "Union Grain and Elevator Company, a
corporation, plaintiff -vs- McCammon Ditch Company, et al, defendants,"
from the lands to which it was decreed, namely:

Northeast Quarter of Southwest Quarter ($NE\frac{1}{4}$ of $SW\frac{1}{4}$)
Northwest Quarter of Southeast Quarter ($NW\frac{1}{4}$ of $SE\frac{1}{4}$)
Lot Three (3), Southeast Quarter of the Southwest Quarter
($SE\frac{1}{4}$ of $SW\frac{1}{4}$), Southwest Quarter of the Southeast Quarter ($SW\frac{1}{4}$
of $SE\frac{1}{4}$), Lot Four (4) all in Section Twenty-five (25) Town-
ship Six (6) South Range Thirty-eight (38) E. B. N., Lot
One (1), Lot Two (2), Section Thirty-six (36), Township Six
(6) South, Range Thirty-eight (38) E. B. N., Lot Two (2)
and the North Half of the Northwest Quarter ($N\frac{1}{2}$ of $NW\frac{1}{4}$)
Section Thirty-one (31) Township Six (6) South, Range Thirty-
nine (39) E. B. N.

to the following described lands, to-wit:

Lots 18 and 20, and the Southwest Quarter, and the West Half
of Southeast Quarter of Section 25, Township 6 South,
Range 38 E. B. N. and East Half of Southeast Quarter of
Section 26, Township 6 South, Range 38 E. B. N.

such lands being a part or portion of the first described lands and
that there shall be transferred from such lands first herein described
the use of a portion of said waters to the said lands described herein
described, such water being more particularly described as follows, to-
wit:

24 inches (.48 c. f. s.) of water right—July 1, 1902
36 " (.72 c. f. s.) of water right dated June 17, 1902
30 " of water right dated July 1, 1902

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JUL 1 1902

(2)

50.76 inches of water right of June 1, 1910 all as referred to in said certain Decree aforementioned, thereby making appurtenant to the said lands last herein described the said 140.76 inches of such waters and that the said lands last herein described shall be entitled to the use of such waters and after such application was filed, a notice was issued, based upon such application and due publication made of such notice, and thereafter, a remonstrance having been filed signed by Jasper W. Perkins, Parley P. Jensen, I. R. Bowler, O. R. Brangham, Thomas E. Reese, Lester Smith, J. C. Evans, and thereafter, a hearing having been had before the undersigned as Commissioner of Reclamation of the State of Idaho, and all of the statutory requirements as provided by said Section 41-216, IDAHO CODE, ANNOTATED, having been complied with, and the Water Master of the said Portneuf River, ~~having given his~~ non-approval of such transfer and the undersigned, as Commissioner of Reclamation being fully advised in the premises, and it appearing to the undersigned, the Commissioner of Reclamation, that no one shall be injured by the transfer of the use of such water as applied for, and that the evidence does not disclose that the change of place of the use of waters as provided for in Section 41-216, IDAHO CODE, ANNOTATED, would, in any way, injure the persons remonstrating within the contemplation of the provisions of said section as amended, and that the right to transfer the use of such water comes within the purview of the rule announced in the case of GROCKITT, et al v. JONES, et al, 47 Idaho 427, 277 Pac. 550.

IT IS, THEREFORE, ORDERED that the said First Trust Company of St. Paul, Minn., a corporation, is hereby authorized to transfer and there is hereby transferred 140.76 inches of water and the right to the use of such water, to-wit: the right of the use of 140.76 inches of water of the waters of the Portneuf River, and its tributaries, all as is decreed in that particular decree made and entered by that certain Decree in the District Court of the Fifth Judicial District of the State of Idaho, in and for the County of Bannock, entitled:

RECORDED

(3)

"Union Grain and Elevator Company vs. McCammon Ditch Co., et al.,"
from the said land so referred to in such Decree, the same being
described as follows, to-wit:

Northeast Quarter of Southwest Quarter (NE $\frac{1}{4}$ of SW $\frac{1}{4}$)
Northwest Quarter of Southeast Quarter (NW $\frac{1}{4}$ of SE $\frac{1}{4}$)
Lot Three (3), Southeast Quarter of the Southwest Quarter
(SE $\frac{1}{4}$ of SW $\frac{1}{4}$), Southwest Quarter of Southeast Quarter (SW $\frac{1}{4}$
of SE $\frac{1}{4}$), Lot Four (4) all in Section twenty-five (25)
Township Six (6) South Range Thirty-eight (38) E. B. M.
Lot One (1), Lot Two (2), Section Thirty-six (36),
Township Six (6) South, Range Thirty-eight (38) E. B. M.,
Lot Two (2) and the North Half of the Northwest Quarter
(N $\frac{1}{2}$ of NW $\frac{1}{4}$) Section Thirty-one (31) Township Six (6)
South, Range Thirty-nine (39) E. B. M.

to the following described lands, to-wit:

Lots 19 and 20, and Southwest Quarter, and West Half of
Southeast Quarter of Section 25, Township 6 South, Range
38 E. B. M. and East Half of Southeast Quarter of Section
28, Township 6 South, Range 38 E. B. M.

such waters that have been ordered transferred being more particularly
described as follows, to-wit:

24 inches (.48 c. f. s.)	of water right—July 1, 1882
38 " (.72 c. f. s.)	of water right dated June 17, 1902
50 "	of water right dated July 1, 1905
50.76"	of water right of June 1, 1910

and,

IT IS FURTHER ORDERED that the said last mentioned water
to-wit: 140.76 be and the same is hereby made appurtenant to the said
last described lands aforementioned and that the remaining waters
mentioned in such decree be made appurtenant to the remaining lands
mentioned in such Decree.

IN WITNESS WHEREOF, the said undersigned, as Commissioner
of Reclamation of the State of Idaho has caused this order to be
issued in the name of the State of Idaho, and the seal of his office
attached on this, the _____ day of December, 1935.

COMMISSIONER OF RECLAMATION

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DEC 17 1935

568 8-6-32

IN THE DISTRICT COURT OF THE FIFTH JUDICIAL DISTRICT
OF THE STATE OF IDAHO IN AND FOR THE COUNTY OF
BANNOCK

ELEVATOR COMPANY, a corporation
Plaintiff,

numbered copy

-vs-

McCammon Ditch Co., a corporation, defendants

McCammon Ditch Company, a corporation; Portneuf Irrigating Company, a corporation; Sunnyside Ditch Company, a corporation; Topaz Irrigation Company, a corporation; Dempsey Irrigation Company, a corporation; Toponce Canal Company, Limited, a corporation; Portneuf-Marsh Valley Canal Company, Limited, a corporation; Portneuf Marsh Valley Irrigation Company, a corporation; Oregon Short Line Railroad Company, a corporation; Elizabeth Kinport, Administratrix of the estate of Harry B. Kinport, deceased; George Goodenough, William Lewis, Edward Murphy, C. C. Peoples, Charles West, A. J. Knollin, W. A. Hibner, Andrew Cutler, W. A. Barron, George Romriell, Frank Warner, John Symons, Joseph Simons, S. J. Palmer, W. W. Cooper, John Hall, Roe White, Willard Bell, Patrick Bell, J. F. Dunn, Charles J. McGuinn, Leslie Gillett, and Fish Creek Irrigating Company, a co-partnership composed of John Hall, Charles J. McGuinn, Frank C. Potter, J. F. Dunn and J. A. Eldredge,

Defendants.

The following parties were upon application of the attorneys for the plaintiff, by reason of the statute in such cases made and provided, afterwards brought in as parties defendant in order that a complete determination of the controversy could be had, to-wit:

Roy Faulkner, Kepler Sessions, Thomas J. Nipper, Stephen Grimm, George John, Emmel Byington, Frank Reed, Smith Ranch (Donald Monson and R. Monson), Charles Byington, James Byington, Noah Reese, Tom Hallinan, George A. Whitworth, J. T. Gittens, George Lewis, Joseph Cutler, Thomas E. Orgill, John Gooch, Fred Johnson, Ira Call, C. V. Call, Chris Call, Carl Loveland, Josiah Loveland, David Butterfield, Andrew Butterfield Osmond Call, Earl Holbrook, Chester Call Estate (Sarah Call, Administratrix), Arthur Naylor, Byrant Perkins, Parley Jensen, Forest Cornelison, West Side Canal Co., a corporation, I. E. Thompson, Ben D. Jensen, George Brangham, Jas. A. Eldredge, John Gooch, Robert Redford, Alma Hogan, Joseph Purvis, Dave Butterfield, Thomas J. Nipper, Thomas J. Nipper, M. Whitworth, John Whitworth, Neal Williams, J. Buckindorf, J. F. Corbett, Peter Zadron, Joseph Smith, Earl Moss, E. J. Dolbeer, Hall City Ditch, a co-partnership composed of C. J. McGuinn, Rebecca Warner, A. W. Hall, John Hall Estate, Thomas F. Terrell, Mrs. J. G. Bristol, Lesli Sharp, Lew White, Leslie Bowden, James Kofoed, David Aslett, James C. Allen, Mrs. Anna Norton, Lee Merrick, Rebecca Warner, John Potter, George Harrison, A. M. Boyce, J. H. Maughn, G. H. Maughn, F. D. Fagnant, Nephi Hemmingway, F. V. Briscoe, Clarence Avery, John N. Avery, John Byington W. R. Godfrey, Alonzo Avery, Jesse Avery, J. M. Jensen, W. Leo Jensen, Claud Jensen, Arthur Roswell, H. A. Weddell, Ray Bloxum, Charles Strom, Joseph Bell, Herbert Byington, John Ramsey, H. K. Ward, C. F. Potter, Adrian Campbell, Ira Byington, Alfred Baker, Charley Bell, Ernest Byington, D. A. Monroe Martin, O. K. Ekum, A. A. Kofoed, Tom Harper, Brady Stolpe, Spencer Godfrey, A. B. Cheney, Bert Lish, Archie Lish, James Higgins, John M. Fairchilds, Foster, Edward Wilmore, Edgar Beebe, James T. Benson, Arthur Fopront, Ray Kedley, James Roddy, George Chapman, D. K. Merrick, L. S. Wight, Leo

MICROFILMED

ELDREDGE, J. A. ✓
1902 June 17. (12 o'clock M)
29 0116 .70 c.f.s.
Up to July 1st of each irrigation season.

ELDREDGE, J. A. ✓
1902 June 17 .60 c.f.s.
(12 o'clock M.)
Up to July 1st of each irrigation season.

ELDREDGE, J. A. ✓
1902 June 17 1.70 c.f.s.
(12 o'clock M)
Up to July 1st of each irrigation season.

ELDREDGE, J. A. ✓
1902 June 17 2.1 c.f.s.
At 12 o'clock M.
for the entire irrigation season of each and every year.

ELDREDGE, J. A. ✓
1902 June 17 2.1 c.f.s.
(12 o'clock Noon)
Up to July 1st of each irrigation season.

29 0121 ✓ TOPONCE CREEK, NORTH FORK, TRIBUTARY TO THE PORTNEUF RIVER

92. KNOLLIN A. J. ✓
1882 July 1 .43 c.f.s.
(24 inches)

tion of 45 acres within the South half of the Sutheast quarter of Section 6, and the Northeast quarter of Section 7, Township 7 South, Range 39 East, B. M.

Said water to be diverted by means of a dam located at a point which bears South 80 degrees 45 minutes West, 3110 feet, from the Northeast corner of Section 7, Township 7 South, Range 39 East, for the irrigation of 35 acres of land lying within Lot 1, and the Northeast quarter of Section 7, Township 7 South, Range 39 East.

Said water to be diverted by means of a ditch having its intake at a point which bears North 25 degrees 30 minutes West, 2660 feet, from the Southwest corner of Lot 4, Section 36, Township 6 South, Range 38 East, B. M., for the irrigation of 30 acres of land lying within Lot 3, Section 36, Township 6 South, Range 38 East, Lot 3, and the East half of the Southwest quarter of Section 31, Township 6 South, Range 39 East B. M.

Said water to be diverted by means of a ditch having its intake at a point which bears North 49 degrees 15 minutes West, 1600 feet, from the South quarter corner of Section 36, Township 6 South, Range 38 East, for the irrigation of 85 acres of land lying within Lots 3 and 4, Section 36, Township 6 South, Range 38 East; Lot 4, and the Southeast quarter of the Southwest quarter of Section 31, Township 6 South, Range 39 East, and Lots 1, 2, and 3, Section 6, Township 7 South, Range 39 East.

Said water to be diverted by means of a ditch having its intake at a point which bears South 1000 feet from the South quarter corner of Section 36, Township 7 South, Range 38 East; for the irrigation of 105 acres of land lying within Lots 1, 2, 3, 4, and 5, and the Southeast quarter of Section 6, Township 7 South, Range 39 East.

Said water to be diverted by means of a ditch having its intake in Lots 4, Section 1, Township 7 South, Range 38 East, for the irrigation of 105 acres of land lying within Lots 4 and 5; and the South half of the South-east quarter of Section 6, and Lot 1, and the North half of the Northeast quarter of Section 7, Township 7 South, Range 39 East.

Said water to be diverted through Knollin ditch which diverts water from the North Fork of Toponce Creek, in the Northeast quar-

LAW OFFICES
BLACK & BAUM
POCATELLO, IDAHO

ROY L. BLACK
O. R. BAUM

December 4th, 1933.

HON. R. W. FARIS,
Commissioner of Reclamation,
State House,
Boise, Idaho

Re: Application for Transfer-First Trust
Co. of St. Paul, Minn.

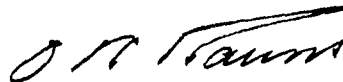
Dear Commissioner:

This will acknowledge receipt of your letter of the 21st in reference to the matter of the transfer of water in the above matter and may I say to you that you will find sub-joined hereto original draft of Order authorizing transfer and likewise, our check for \$1.00 in payment of the fee required under the section of the statute pertaining to such transfers.

May we have a signed copy with seal attached of the order and certificate?

I trust that I have drawn the order and certificate in conformity with the provisions of the statute, if not advise and I will make such corrections as you deem necessary.

Very truly yours,



O. R. BAUM

ORB:s

Enclosures

RECEIVED

November 21, 1933

Re: Application for transfer
First Trust Company of St. Paul, Minn.

Hon. O. R. BAUM,
Attorney,
Pocatello, Idaho

Dear Sir:

I have considered the application of the First Trust Company of St. Paul, Minn., to transfer certain water decreed to one A. J. Knollin to other lands, and have concluded that the application for transfer should be granted. If you will prepare a suitable Order covering the transfer I will sign it. In that connection I think there should be in it a statement that the question of abandonment is one for the Court and not for this Department. I think, also, that the Crockett-Jones case covers this situation, and that the only citations necessary in the order as grounds for the transfer are those contained in your brief from the Crockett case.

Very truly yours,

Commissioner of Reclamation

RWF/mt

November 14, 1933.

Re: Transferred Right No.

Mr. F. O. Nelson,
Watermaster,
Lava Hot Springs, Idaho.

Dear Mr. Nelson:

On November 2nd I sent you the original application of the First Trust Company of St. Paul, for a transfer of water right. In this letter I asked for your approval or disapproval of the application and requested that you return the application at once as the matter was at that time before the Commissioner.

Why haven't you complied with this request? Why haven't you either approved or disapproved of this application and returned it to this office? It is not our desire to take any drastic steps but the orders of this department must be obeyed.

KINDLY RETURN THIS APPLICATION AT ONCE.

Yours very truly

Director of Water Resources.

Chesterfield, Idaho

Nov. 9, 1933

Mr. R W Faris

Commissioner of Reclamation

Boise, Idaho

Dear Mr. Faris:

After receiveng your letter of the second asking correction or approval of your understanding of our protest I have talked with other protestants and will try to set before you again our objections to proposed transfer.

The proposed transfer would be a practical change of point of diversion, as you were able to see when you was on the grounds. There will be water down there next to the land in the north fork to irrigate the land from which is proposed to transfer water, which water cannot be put back up on higher ground. Under these conditions a transfer would not be a transfer of water but would be simply a matter of giving permission to use twice as much water as the decree has allowed.

Again let me call your attention to the third paragraph of our remonstrance.

We also feel that there^{ir} claim to waters through upper diversion has been forfeited by abandonment as they have not used this point of diversion to irrigate lower lands for at least eight years.

We feel that by some mistake there has been too much water decreed to these lands as in no other part of decree have I been able to find more than one inch per acre given by decree

while on Number 92 about one and one fifthe inches is decreed to each acre, and to permit transfer would add to the injustice already done.

The decree on this water is not c~~lear~~ as to where early water is to go, but all other early rights were decreed to early homesteads or other early dedeed land. If this is true in this case the early water would belong east of the road which divides the two places as the land to which it is proposed to transfer water was Indian Reservation until 1902, and was untouched by cultivation until about 1907.

We also feel that we would like to have the attorney-general go into testimony given at time of decreeing this water and clear this question up so you would have all facts bearing on case in your hands before issuing a transfer of this water..

If I can be of any further help to you in reaching a fair decission on this matter please let me know as I am anxious to prevent this transfer if getting all facts before you will do so.

Thanking you~~r~~ for past favors .

I am sincerely yours,

I. R. Bowler
I R Bowler

IRB?mj

MICROFILMED

132

Crocker et. al

2

James et. al.

47 Idaho

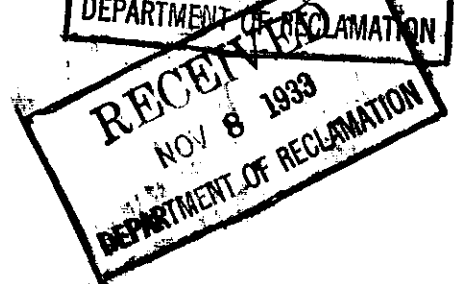
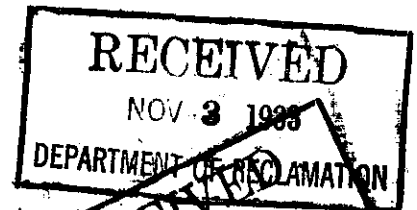
497,



LAW OFFICES
BLACK & BAUM
POCATELLO, IDAHO

ROY L. BLACK
O. R. BAUM

November 6th, 1933.



HON. R. W. FARIS,
Commissioner of Reclamation,
State House,
Boise, Idaho

Dear Commissioner:

Re: Application of First Trust Co.
for change of place of use of water

Subjoined hereto, you will find Memorandum, which I
trust that you will find helpful.

Sincerely yours,

O. R. BAUM

ORB*s

Enclosure-

Dec 4-1922

Union Grain & Elevator Co.

MoCannon & Co.
Dec. 4-1922

Microfilm

LAW OFFICES
BLACK & BAUM
POCATELLO, IDAHO

ROY L. BLACK
O. R. BAUM

November 6th, 1933.

HON. R. W. FARIS,
Commissioner of Reclamation,
State House,
Boise, Idaho

Re: Application Change of Place of Use of
Waters pursuant to provisions of Section
41-216, IDAHO CODES, ANNOTATED--First
Trust Company of St. Paul

BRIEF ON BEHALF OF
APPLICANT

Dear Commissioner:

The application for change of place of use is made pursuant to the provisions of Section 41-216, IDAHO CODES, ANNOTATED, AND THIS SECTION, AMONG OTHER THINGS, provides, as follows:

"* * *Such application shall describe the land the use of water to which is to be abandoned, and shall describe the land to which it is desired to have such right transferred * * *"

And, the section, likewise, contains the following provision:

"* * *That any person owning any land to which water has been made appurtenant either by a decree of the Court or under the provisions of this Chapter, may voluntarily abandon the use of such water in whole or in part on the land which is receiving the benefit of the same and transfer the same to other land. * * *"

To the application for change of place of use, objection termed "Remonstrance" was filed, signed by several property owners, and, as we understand it, these property owners are water users who reside up-stream from the lands to which the water that is sought to

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NOV 10 1933

be transferred was made appurtenant as well as the lands to which the water is sought to be transferred, and possess later rights, in the main, from the rights that are sought to be transferred.

The lands of the applicant are described as follows:

Northeast Quarter of Southwest Quarter ($NE\frac{1}{4}$ of $SW\frac{1}{4}$)
Northwest Quarter of Southeast Quarter ($NW\frac{1}{4}$ of $SE\frac{1}{4}$)
Lot Three (3), Southeast Quarter of the Southwest Quarter ($SE\frac{1}{4}$ of $SW\frac{1}{4}$), Southwest Quarter of Southeast Quarter ($SW\frac{1}{4}$ of $SE\frac{1}{4}$), Lot Four (4), all in Section Twenty-five (25) Township Six (6) South Range Thirty-eight (38) E. B. M., Lot One (1) Lot Two (2), Section Thirty-six (36) Township Six (6) South, Range Thirty-eight (38) E. B. M. Lot Two (2) and the North Half of the Northwest Quarter ($N\frac{1}{2}$ of $NW\frac{1}{4}$) Section Thirty-one (31) Township Six (6) South, Range Thirty-nine (39) E. B. M. Situated in Bannock County, Idaho

and the water that was decreed to such lands is as follows:

1882—July 1	.48 c. f. s. (24 inches)
1902—June 17 (at noon)	.72 c. f. s. (36 inches)
1903—July 1	1.10 c. f. s. (55.24) = <i>55 inches</i>
1908—July 1	2.68 c. f. s. (134.10 inches) = <i>134"</i>
1910—June 1	1.08 c. f. s. (54 inches) <i>52.24</i>
TOTAL 6.06 c. f. s. = <i>309 inches</i>	

and that the said waters were decreed to all of the lands, that is, no particular water of any particular year was made appurtenant to any particular subdivision but the decree provides as follows:

5 acres in the Northeast quarter of the Southwest quarter; 10 acres in the Northwest quarter of the Southeast Quarter, 5 acres in Lot 3; 2 acres in the Southeast quarter of the Southwest quarter; 30 acres in the Southwest Quarter of the Southeast quarter; 38 acres in Lot 4, all in Section 25, Township 6 South, Range 38 East; 35.4 acres in Lot 1; 33.4 acres in Lot 2; Section 36, Township 6 South, Range 38 East; 40 acres in Lot 2; 55.44 acres in the North Half of the Northwest Quarter, Section 31, Township 6 South, Range 39 East

RECEIVED

That the applicant desires certain waters now made appurtenant to certain lands, in this, the certain water being as follows:

24 inches (.48 c. f. s.) of water right—July 1, 1882
36 " (.72 c. f. s.) of water right dated June 17, 1902
30 " of water right dated July 1, 1903
50.76 " of water right of June 1, 1910

140.76
and the lands to which it is sought to make the same particularly appurtenant are as follows, to-wit:

B
Lots Nineteen (19) and Twenty (20), and Southwest Quarter (SW $\frac{1}{4}$) and West Half of Southeast Quarter (W $\frac{1}{2}$ of SE $\frac{1}{4}$) of Section 25, Township 6 South, Range 38 E. B. M. and East Half of Southeast Quarter (E $\frac{1}{2}$ of SE $\frac{1}{4}$) of Section 26, Township 6 South, Range 38 E. B. M.

thereby leaving to the remaining lands, the following waters:

25.24 inches of the right of July 1, 1905
134.10 inches of the water right of July 1, 1908
3.24 inches of the water right of June 1, 1910

and you will note that the waters that are left to the remaining lands are rights of 1905, 1908 and 1910.

Some of the protestants, perhaps, have succeeded to the rights of some of the other decreed water users, as in the decree in the case of Union Grain and Elevator Company, plaintiff -vs- McCammon Ditch Company, et al, defendants, evidenced, and just as to which rights certain ones succeeded to, I cannot say, but we find that the right of Parley P. Jensen is the right known as No. 72, 74, 79, 80 and these rights are dated May 19, 1905, June 18, 1902, May 19, 1905 and May 19, 1905 and the Brangham right, No. 75 in the Decree, is dated June 18, 1902, as well as Right No. 84, bearing a like date.

It appears that none of the protestant water users use water from the ditch that the water that is being sought to be transferred is being diverted through and by-the-way, it might not be amiss, at this time, to say that permission is not sought to change the point of diversion, the same ditch will be utilized by the water user to transport the water to the lands that he seeks to utilize the water upon, as is now being used to transport such water and the lands that he seeks to have the water particularly made appurtenant to are adjacent to, adjoining and a part of the lands to which the water was decreed. The general slope of all of the lands is the same and the seepage from the lands to which the water is sought to be made appurtenant to will be identical with the seepage, if there is any, from the lands upon which the water has been heretofore used.

RECORDED

The applicant does not seek to transfer the water to new, other and entirely different lands but seeks to have the water made appurtenant to a part of the lands to which it was decreed "in bulk". so to speak, and then to a few additional "forties" immediately adjoining the lands upon which it has been used. The Petition to transfer shows that no change of point of diversion is requested, hence if a transfer is ordered, the applicant can only use the water upon lands that can be irrigated from the ditch through which the water has always been diverted and the acreage on the lands that have never been irrigated and that lie below the present ditch are so few in number, five to ten, that the water will be used upon the lands upon which it has always been used, or, at least, upon which a part of it has always been used.

We take it that under the decree, the First Trust Company could use all of the water rights, so to speak, upon any part or portion of the lands to which it was decreed and that it what has been done for a great number of years. The protestants, as we understand, take the position that:

"* * *the natural accumulation of water from pick-up, seepage, and small springs assures water at all times at this point in sufficient amount to irrigate the lands from which it is proposed by applicant to transfer the water * * *"

and if that is the "gist" of their objection, we can answer the same by saying that the lands to which the water is sought to be transferred will be watered in the same manner. The Decree of the Court makes no reference to seepage, etc. and the contention of the protestant, we think, is not well founded as it appears to be self evident to us that the water known as "pick-up", "seepage", or from "small springs" will be the same in both instances, that is, before transferring and after transferring.

Some question was raised as to the right of the applicant to transfer it to other lands other than that to which a part of the water had been applied to, and we do not find any restriction upon an applicant to transfer the water to lands already irrigated or to lands that have not been irrigated, the one stated test being "Are the subsequent appropriators injured?"

Just how subsequent appropriators, owning lands up stream, can be injured in the present instance, I am at a loss to know

UNRECORDED

One of the latest cases decided by the Supreme Court of the state of Idaho is the case of "IN RE: JOHNSON, ET AL, 50 Idaho 573 (this case is entitled in the Idaho Reports "In the matter of an appeal from the DEPARTMENT OF RECLAMATION OF THE STATE OF Idaho. In re Transfer of Water Rights of ENOCH and THORGER JOHNSON), 300 Pac. 492" (decided April 23, 1931).

In this case, the appropriator sought to transfer the water to be used upon other lands lying some six miles from the lands upon which the water had been used and by so doing, sought to take it out of the water shed, so to speak, and to convey it through a different canal and one of the objections raised by the protestants in the Johnson case was:

"And would deprive the lands of the stockholders of your petitioner from the use, waste, run-off, etc. of said waters when not otherwise used by the applicants for transfer of water rights, and would furthermore constitute a waste of water in that the lands to which said water is sought to be conveyed already have, as appears from said petition, a satisfactory water right.* * *"

The Court, in passing upon the matter, had the following to say:

"Generally speaking, the evidence is to the effect that respondents occupy the same canal with appellant; that appellant has a right to convey 80 cubic feet per second of time of water through said Soda canal and respondents 3.9 cubic feet per second of time of water, both taking their water from the same point of diversion, and each having the same priority of use; that the change ordered will deprive appellant annually of \$200 to be paid by respondents for use of the canal, and that the additional maintenance charge of keeping up said canal is very small on account of respondents' use thereof; that, under the state court's decree, appellant is entitled to be repaid \$2,450 for prior use of the canal by them, which sum will be lost to it if the change is affirmed; and that there is a greater proportionate loss from seepage and evaporation on account of the use of said canal by appellant only."

and, likewise, defined the term "injured" as follows:

"The term 'Injured', as used in the sections of the statute referred to (C. S. Sec. 5563, and C. S. Sec. 5582, as amended by Sess. Laws 1921, c. 146) applied

MICROFILMED

to the injury to the water right of another. It has no application to any damage or injury that may accrue to another growing out of the fact that he is a tenant in common of the same conduit with the owner of the water transferred. In other words, the proximate cause of the injury to appellant is not the change of point of diversion, or the place of use, but the failure of respondents to longer use the Soda canal in common with appellant. Such injury, if compensable in damages, is not cognizable in this proceeding, and does not prevent the sale of the water, or change in the means of conveyance point of diversion, or place of use."

and, likewise, had the following to say:

"However, in the case at bar, the protest and the evidence does not disclose that the change of the place of use of the water in question, under C. S. Sec. 5582, as amended (supra) would in any way 'injure' appellant within the contemplation of the provisions of said section as amended, nor would the change of the point of diversion (C. S. Sec. 5563) 'injure' any one by the change within the meaning of the word as used in said section."

In the case of CROCKETT v. JONES, 47 Idaho 497, another case of interest, one of the contentions made by the protestants in that case was as follows:

"They insist that since there is now ample water below their respective diversion points for the irrigation of the Jones ranch, the present flow being attributable to seepage or springs, Jones should be required to use such water as now flows in the stream, regardless of its source, and should not be permitted to transfer * * *"

and the Court, in passing upon the matter, said that such waters were uncertain, changeable and negligible in amount and, likewise, said, as follows, to-wit:

(The protestants)

"They are not concerned with what may be done with seepage water below their diversions. Jones had a vested property right in sixty inches of Rock Creek water with 1880 priority, which he could use upon his own land or sell to Turner for use elsewhere."

In the Jones case, the transfer was sought to be made up stream at a point where the water would be used above the point where

RECEIVED
NOV 10 1914

the protestants received their water.

In the case of Crockett v. Jones, the same case found in 42 Idaho at page 658, the Court held:

"And it is such a property right that cannot be taken from him without his consent by the substitution of an uncertain seepage or back-flow right."

Most of the Idaho cases deal with an application for change of the point of diversion and we only have one or two cases where the change of the place of use is sought.

And, about the only cases that we find where the protestants have been able to succeed is where they are lower down the stream and the change would take from them the surplus.

In the case of BENNETT v. NORRIS, 22 Idaho 249, 253, we find the Court quoting Wiel on Water Rights, as follows:

"Wiel on Water Rights, 3d Ed., sec. 302, states as follows:

'A subsequent appropriator has a vested right against his senior to insist upon the continuance of the conditions that existed at the time he made his appropriation. "A second appropriator has a right to have the water continue to flow as it flowed when he made his appropriation." The subsequent appropriator is entitled to the surplus, and any attempt of the prior appropriator to make a sale of such surplus to someone else to the injury of existing appropriators, though subsequent, is of no avail.'"

There is no showing, in the present record, that the subsequent appropriators would be injured by the change. If they were located down stream from the lands in question, we doubt, very seriously, that they could successfully maintain their position that they were injured by the change.

In the case of HALL v. BLACKMAN, 22 Idaho 556, the Court was considering the protest of a subsequent appropriator and one whose lands were located down stream and in this case, it was held that the later appropriator would be deprived of some return flow, but, in the instant case, of course, the return flow will be the same.

In the case of HARD v. BOISE CITY IRRIGATION CO., et al, 9 Idaho at page 595, the Court said, among other things, the follow-

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NOV 10 1914

ing:

"If, however, he can use it upon other lands more beneficially, where could there be a well-founded objection to such change."

holding that, unless there was a detriment shown, the change should be made.

The only matter that is before the Commissioner is the change of place of use; the question of abandonment of the right is not before the Commissioner at this time. This is in accordance with the rule established in the case of FARMERS' HIGH LINE CANAL COMPANY v. WOLFF, 131 Pac. 291, the same being a Colorado case.

It, likewise, was held in a Colorado case, LOWER LATHAM DITCH COMPANY v. BIJOU IRRIGATION CO., 93 Pac. 483, that it was no defense that consumers in another District, who were not parties to the proceeding would be injured by the change, and we call this case to the Commissioner's attention by reason of the objections made by the Water Master that someone, somewhere else, might be injured.

The Court held, in the case case, that the right to change the point of diversion or place of use of water is one of the incidents of ownership and the only limitation upon it is that the rights of others be not infringed.

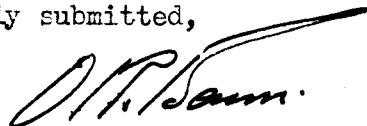
If we apply the definition of the term "injured" as it is used by the Court in 50 Idaho at page 580, we do not find that the water rights of the protestants are "injured".

In conclusion, therefore, we maintain that applicant is entitled to have a certificate issued in accordance with the prayer of its petition, the same to be to the effect that such waters are appurtenant to and made a part of the following described lands:

Lots 19 and 20, and Southwest Quarter, and West Half of Southeast Quarter of Section 25, Township 6 South, Range 38 E. B. M. and East Half of Southeast Quarter of Section 26, Township 6 South, Range 38 E. B. M.

using the point of diversion as referred to in the Decree.

Respectfully submitted,

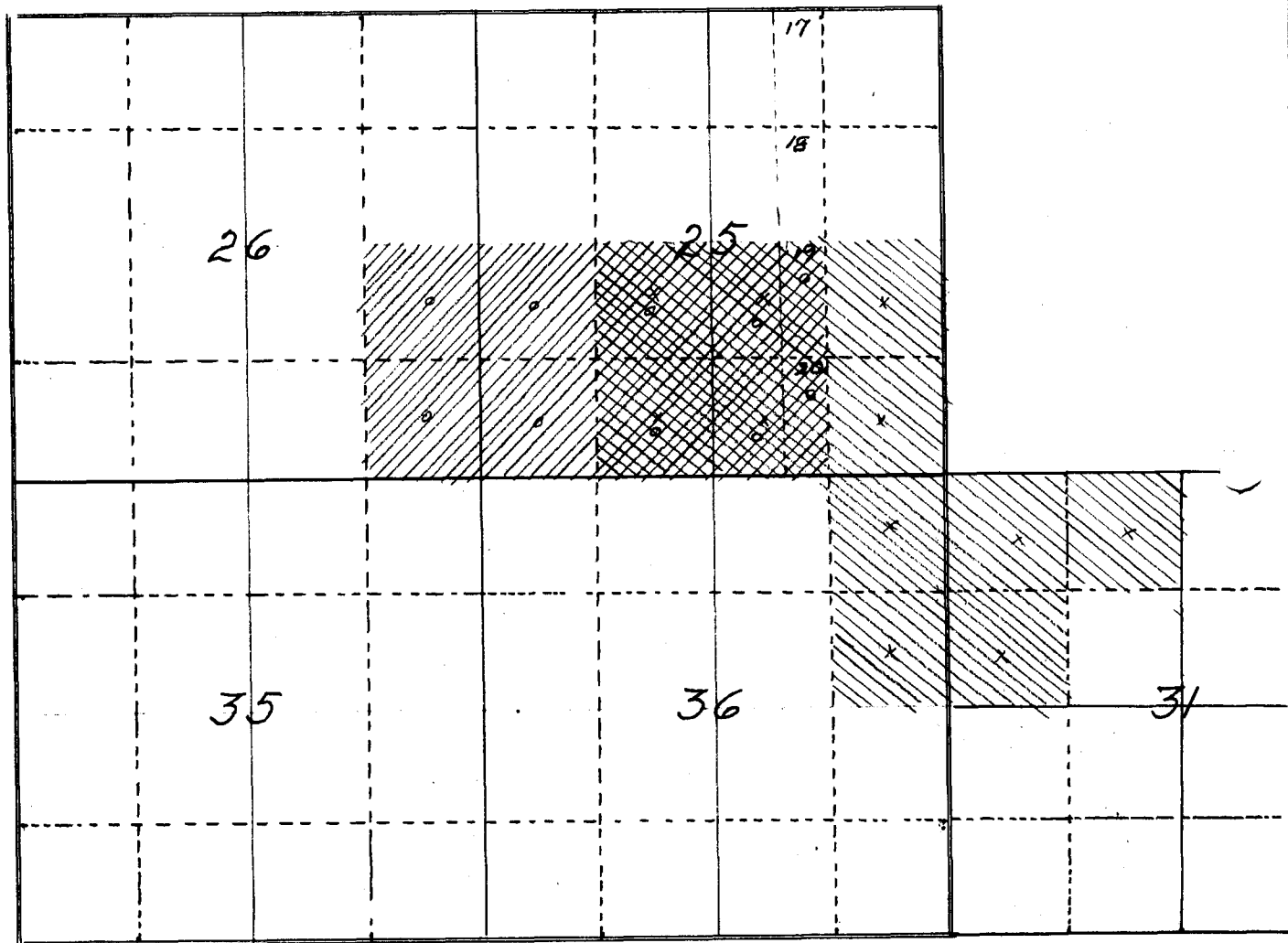


ORB*s

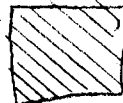
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I. Name First Trust Co. of St. Paul

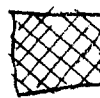
II. T. 6 S. R. 38 E. Section _____



Remarks:

 Lands to which 303.34 inches was decreed, and to which 162.58 is still appertenant.

 Lands to which 140.76 is hereby transferred.

 Lands that have some portion of the 162.58 inches not transferred, and also a portion of the 140.76 that is transferred.

Form B

MICROFILMED

Transfer 525

December 13, 1933

Re: Application for Transfer
FIRST TRUST COMPANY OF ST. PAUL, MINN.

Mr. I. R. BOWLER,
Chesterfield,
I d a h o

Dear Sir:

After full consideration and investigation, it has been decided to grant the transfer requested by the applicant. We are enclosing herewith copy of Order Granting Transfer and copy of Certificate of Transfer.

Very truly yours,

Commissioner of Reclamation

RWF/mt
Enc.

RECEIVED
DEC 14 1933

December 13, 1933.

Re: Transferred Right No. 525.

Hon. O. R. BAUM,
Pocatello,
Idaho.

Dear Sir:

We are enclosing herewith copy of Order Granting Transfer and Certificate of Transfer, designated as Transferred Right No. 525, which we trust you will find in order and satisfactory.

I am also returning your check in the amount of \$1.00, issued to this Department on December 4th, in payment of this Certificate. Under date of October 13th we received, from you, a check in this same amount for this purpose, and receipt for same is enclosed.

Yours very truly

Commissioner of Reclamation.

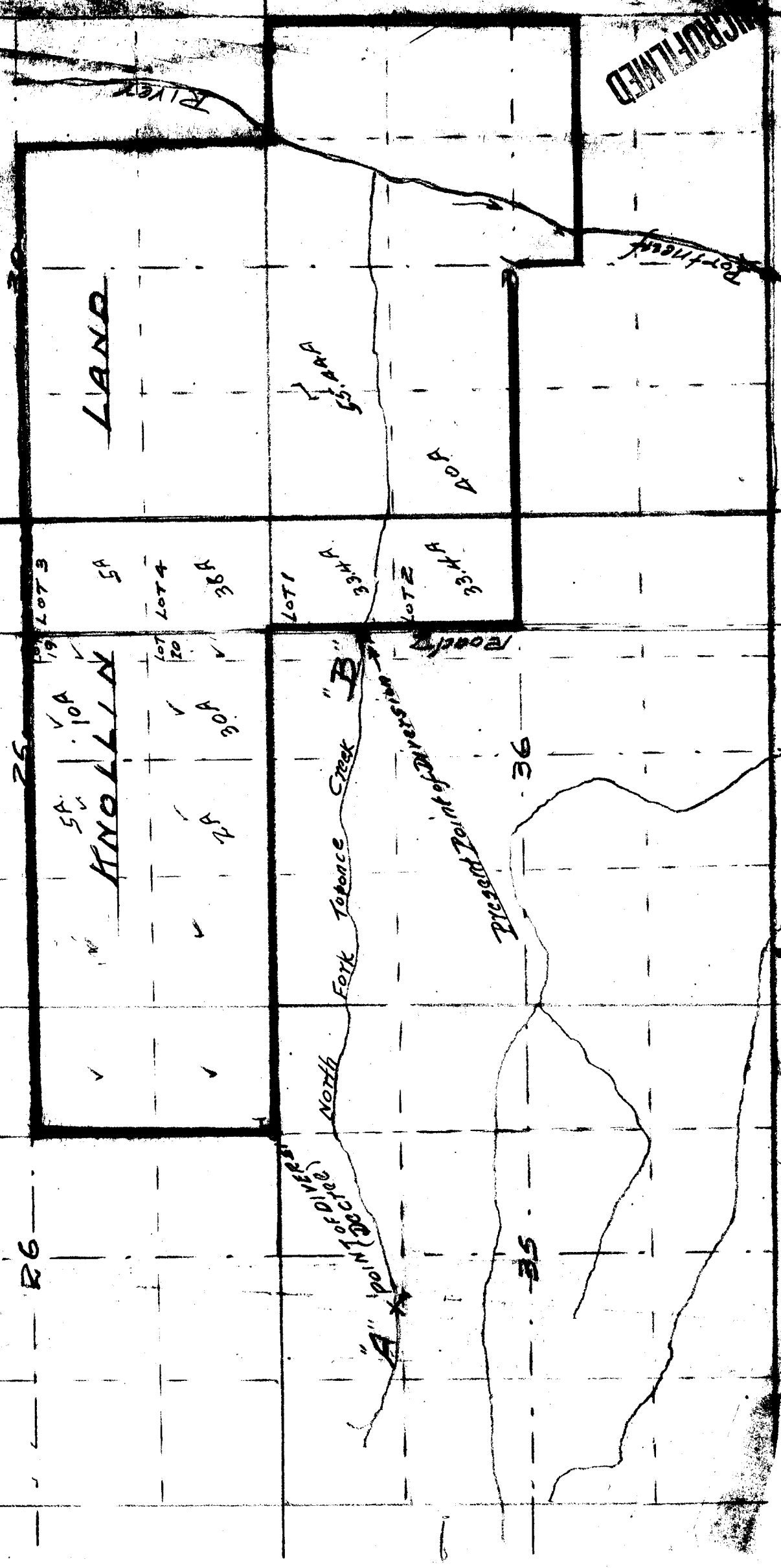
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DEC 14 1933
U.S. DEPT. OF AGRICULTURE
WASHINGTON, D.C.

765. P 38E

765. P 38E

MAP
OF
KNOLLIN LANDS
IN
BANNOCK COUNTY
IDAHO
(First Trust Co. of Idaho
Successor in interest)

RECORDED



July 6-38

6-39

Kneller G2
Rd 95

SEC.

SEC.

SEC.

SEC.

SEC.

SEC.

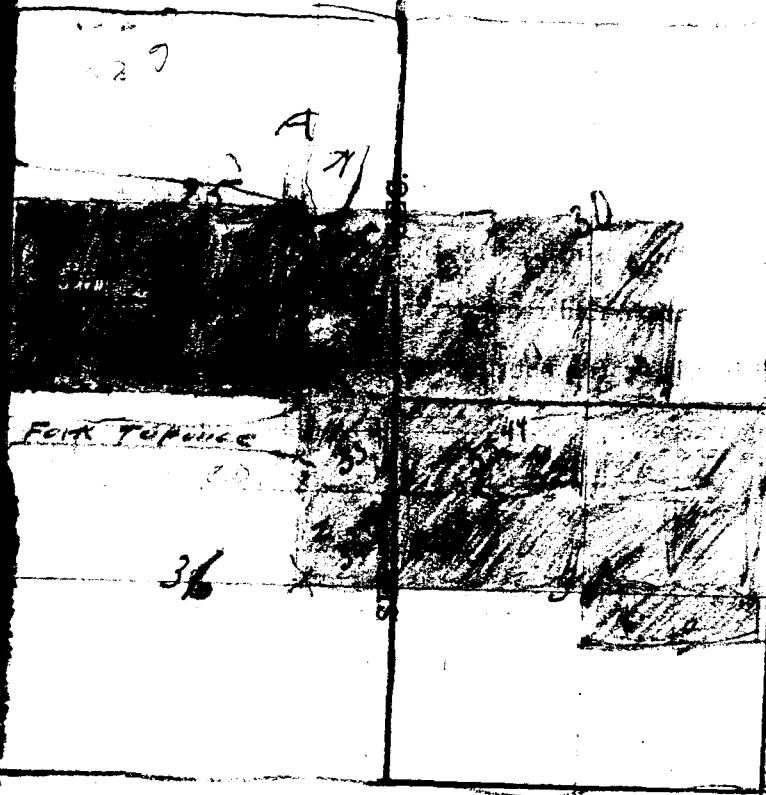
SEC.

5 acres NW SW
10 " NW SE
5 " Set 3
2 " SE SW
30 " SW SE
38 Set 4 6-38

33.4 acres Set
33.4 acres Set 2 6-38
40 acres Set 2
55 acres NW NW 31-6
1.2. Acres per acre of water

Legend. - Int. figures. Secs.
and. original area
Land ~~Call~~ purchasing
from 1st Trust.
1st. Trust Lands.

Water appurtenant to
Call Land. 77-56.4
Desire to transfer. 9376
84.36



MICROFILMED

STATE OF IDAHO,

County of.....

} SS.

and

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.....

that he is a user of water from....., in Water District No.....

County of....., State of Idaho; that he has read or heard read the foregoing affidavit and

petition of..... 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.

Subscribed and sworn to before me this.....day of.....

A. D. 19.....

STATE OF IDAHO,

County of.....

} SS.

I, ..., Watermaster of.....

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

is....., have read or heard read the foregoing affidavit and petition

of....., 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:.....

Watermaster Dist. No.....

Dated at....., Idaho, this.....day of....., 19.....

MICROFILMED

STATE OF IDAHO,

County of _____

} SS.

and _____

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 _____

that he is a user of water from _____, in Water District No. _____

County of _____, State of Idaho; that he has read or heard read the foregoing affidavit and

petition of _____ 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 trans-

fer therein petitioned.

Subscribed and sworn to before me this _____ day of _____

A. D. 19 _____

STATE OF IDAHO,

County of _____

} SS.

I, _____, Watermaster of _____

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

is _____, have read or heard read the foregoing affidavit and petition

of _____, 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: _____

Watermaster Dist. No. _____

Dated at _____, Idaho, this _____ day of _____, 19 _____

Name of Applicant.....

6-38

44
24

SEC.

SEC.

SEC.

SEC.

SEC.

SEC.

SEC.

SEC.

SEC.

SEC.

SEC.

SEC.

61 - 27

SEC.

SEC.

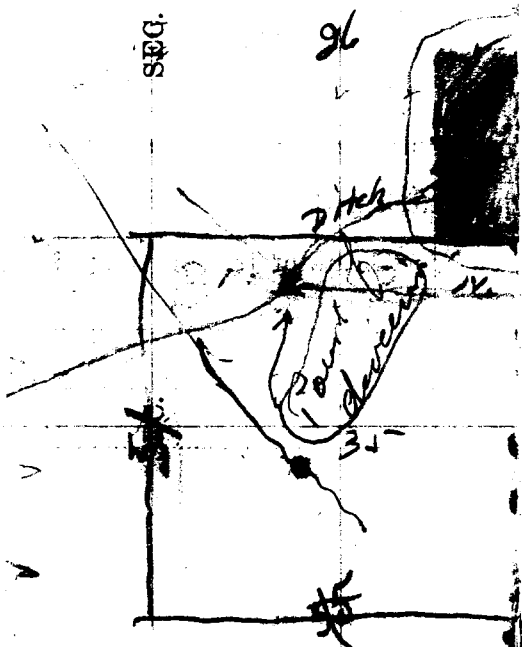
SEC.

96

SEC.

SEC.

SEC.



November 2, 1933.

Re: Transferred Right No. 523

Mr. F. O. Nelson,
Watermaster,
Lava Hot Springs, Idaho.

Dear Mr. Nelson:

I am enclosing the original application of the First Trust Company of St. Paul, for transfer of Water.

On page three of this application I have typed the blank for the approval, or dis-approval of the watermaster of the District. You will kindly fill in this affidavit, either approving or dis-approving, and return to this office at once, as the application is, at this time, receiving the consideration of the Commissioner.

Yours very truly

Director of Water Resources.

MICROFILMED

525
November 2, 1933

Mr. I. R. BOWLER,
Chesterfield,
I d a h o

Dear Mr. Bowler:

Following conference at the Toponoe Church house last Monday, October 30, 1933, re the application of the First Trust Company of St. Paul, Minnesota, for a permit to transfer the place of use of certain waters decreed to it or its predecessors in interest, and the remonstrance or protest filed by certain water users, including yourself, against the transfer of such water, upon further examination of the application and the protest and the testimony adduced at the hearing it appears to me that the sole and only ground of protest is that if the transfer were permitted more water would have to be diverted at the point of diversion fixed by the decree, in the NE $\frac{1}{4}$ NW $\frac{1}{4}$ of Sec. 35, Twp. 6 N., R. 37 E. B. M., than is required to be diverted under present conditions, on which account owners of lands and water rights above the point of diversion would be injured.

Please advise as to whether or not I am correct in my conclusions as to the grounds of protest.

Very truly yours,

Commissioner of Reclamation

RWF/mt

MICROFILMED



C. BEN ROSS, GOVERNOR

STATE OF IDAHO
DEPARTMENT OF RECLAMATION
R. W. FARIS, COMMISSIONER
BOISE

BUREAU OF WATER RESOURCES
MANS H. COFFIN
DIRECTOR

November 2, 1933

Mr. LESTER SMITH,
Chesterfield,
Idaho

Dear Sir:

You signed a remonstrance or protest against the issuance of a permit to the First Trust Company of St. Paul, Minnesota, to transfer the place of use of certain water decreed to it or its predecessors in interest to other lands.

Hearing was held on this application and protest at the church-house at Toponce on Monday, October 30, 1933, notice of which hearing I understand you had, but you did not appear. It was stated at the hearing that you did not desire to pursue your protest further.

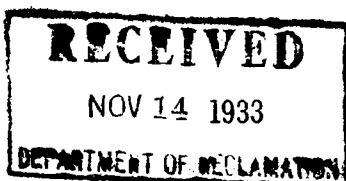
Please advise as to whether or not I am correctly informed with reference to this matter.

Very truly yours,

Commissioner of Reclamation

RWF/mt

*I was misinformed on the protition
I do not care to go any farther
I was not informed about the meeting
Very truly Lester Smith*



MICROFILMED

5 -
November 2, 1933

Mr. LESTER SMITH,
Chesterfield,
Idaho

Dear Sir:

You signed a remonstrance or protest against the issuance of a permit to the First Trust Company of St. Paul, Minnesota, to transfer the place of use of certain water decreed to it or its predecessors in interest to other lands.

Hearing was held on this application and protest at the church-house at Toponee on Monday, October 30, 1933, notice of which hearing I understand you had, but you did not appear. It was stated at the hearing that you did not desire to pursue your protest further.

Please advise as to whether or not I am correctly informed with reference to this matter.

Very truly yours,

Commissioner of Reclamation

RWF/mt

MICROFILMED

LAW OFFICES
BLACK & BAUM
POCATELLO, IDAHO

ROY L. BLACK
O. R. BAUM

October 20th, 1933.

HON. MANS H. COFFIN,
Director of Water Resources,
Department of Reclamation,
Boise, Idaho

Dear Mr. Coffin:

Re: Lava Irrigation Company Proposed Reservoir

I am preparing an application through the Idaho Advisory Committee for a loan for this unit, the funds to be used to construct a reservoir on the Portneuf River some five or six miles above the intake of the Lava Irrigation Company.

Dean Crawford advises that we should supplement our application with data as to the "run-off". The reservoir will be a small one, holding 1833 acre feet. I understand that there is a measuring gauge at Topaz, and one at the Gamble Ranch, Topaz being below, and Gamble's being above.

I talked to Mr. Faris and he thought that this office could obtain this data from a geological survey, so I arranged with Dean Crawford that if your office could furnish the same, that you could prepare it in the form of an exhibit and it would be attached to the application and we would not need to withhold filing our application, awaiting this information. Kindly advise.

You realize that we must make a showing, of possible, that there is a sufficient "run-off" to fill the reservoir. The water flow, of course, will be sufficient for a reservoir of that size, but I presume that will require some other and additional data.

Would you please ask your office to send us some more application blanks for reservoir applications?

Thanking you, we are,

Very truly yours,

ORB-s

O. R. BAUM

MICROFILMED

LAW OFFICES
BLACK & BAUM
POCATELLO, IDAHO

ROY L. BLACK
O. R. BAUM

October 13th, 1933.

HON. MANS H. COFFIN,
Director Water Resources,
State House,
Boise, Idaho

Dear Coffin:

This will acknowledge receipt of
your letter of October 11th in reference to the transfer
of the water as requested by the First Trust Company of
St. Paul.

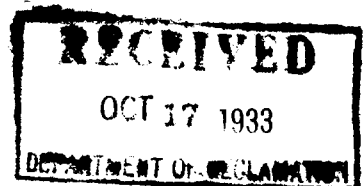
I might say that the First Trust Company
was dividing up this right and we would like to have a hearing
at as early a date as it is possible unless the same would
inconvenience you too much.

I have written to Mr. Call, who is residing
on the premises and who has been using the water, to call
at the office. If he does, I will write you and perhaps some-
time before the first of the week, you will be in this vicinity
and we could hear the matter.

Very sincerely yours,


O. R. BAUM

ORB-s



MICROFILMED

October 11, 1933.

Mr. I. R. Bowler,
Chesterfield, Idaho.

Dear Sir:

The protest, signed by yourself and six other purported interested parties, against the granting of a transfer of the point of use of certain waters of Toponce Creek, as requested by The First Trust Company of St. Paul, has been received.

As per your request the granting of this transfer will be held in abeyance for the time being and the hearing, which had been set for this day will be postponed until some future time most convenient to all parties concerned. This hearing will be held either in Pocatello or Lava Hot Springs and you will be given ample notice so that you may arrange to be present to enter any evidence that you may care to.

I trust that you will notify the other signers of this protest of the action taken by this Department.

Yours very truly

Director of Water Resources.

MICROFILMED

October 11, 1935.

Judge O. R. Baum,
Pocatello, Idaho.

Dear Judge Baum:

A protest has been filed with this Department against the granting of a transfer of water as requested by the First Trust Company of St. Paul. A hearing upon this transfer was set for this day, but in view of this protest it will be postponed until such time as is most convenient to all parties concerned.

A copy of the protest is enclosed. Unless you are particularly anxious to have this matter settled at once the postponed hearing will not be held until such time as other matters call some member of this Department to that vicinity, but in ample time for the next irrigation season.

Yours very truly

Director of Water Resources.

MICROFILMED



REMONSTRANCE

R.W.Faris
Commissioner of Reclamation
Boise, Idaho

WHEREAS, on the 27th day of September, 1933, The first Trust Company, St. Paul, Minn., filed with the office of the Department of Reclamation of Idaho, R.W. Faris, Commissioner, its application for a certificate authorizing the transfer of 140.76 miners inches of water decreed to certain lands from the North Fork of Toponce Creek, a tributary of Portneuf River, the number of which in the final decree of said stream is 92, to other lands.

Comes now, we the undersigned, owners of decreed water rights on the said stream and of rights on other forks of Toponce Creek who believe they will be adversely affected if the proposed change of the place of use of said water is granted, and hereby remonstrate against the granting of said application ~~therein~~ for a certificate permitting a change of use of said water to certain other specified lands, for the following reasons, to-wit:

Ever since the time when the aforementioned Final Decree was made by the Hon. U.R. Baum, and previous to this time, lots one and two of section thirty-six, and lot four of section twenty-five, all in Township six south, Range thirty-eight east of the Boise Meridian, Idaho, have been, and now are irrigated by water diverted from said North Fork of Toponce, but the water for these lands is diverted at a point adjacent to said lands, which point is about one and three-fourths miles in an easterly direction, and down-stream from the point of diversion described in said decree. The reason for this diversion is selfevident. No canal is here needed, and the natural accumulation of water from pick-up, seepage, and small springs assures water at all times at this point in sufficient amount to irrigate the lands from which it is proposed by applicant to transfer the water. Your remonstrators further call your attention to the fact that Toponce Creek is a stream whose water recedes and is very short for the latter half of the irrigating season when it is most needed, and the taking of this water and transfer thereof to the proposed new lands will take from your remonstrators water which they have enjoyed without adverse claims, and in peaceful possession since the initiating of the first filings, and further they believe will controvert and defeat the purpose and intent of the aforesaid Decree.

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Dated this 9th day of Oct, 1933.

Respectfully submitted,

J. C. Evans

MICROFILMED

STATE OF IDAHO
DEPARTMENT OF RECLAMATION
BOISE, IDAHO

Date.....**September 27, 1935.**

POCATELLO TRIBUNE,
POCATELLO, IDAHO.

DEAR SIR:

Enclosed you will find notice for publication once a week for ~~four~~^{two} consecutive weeks prior to October 11, 1935., the date set for proof, the expense of the publication to be paid by the applicant, First Trust Co. of St. Paul through its agent C. E. Baum, of Postelle. to whom you should furnish proof of publication on or prior to the date set for proof.

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

Very truly yours,

A. W. FARIS

Commissioner of Reclamation

By _____
Director of Water Resources.

MICROFILMED

PROOF OF PUBLICATION

STATE OF IDAHO } ss.
County of Bannock }

**NOTICE OF APPLICATION FOR
CHANGE OF PLACE OF USE OF
WATER IN PURSUANCE TO PRO-
VISIONS OF SECTION 41-216,
IDAHO CODES, ANNOTATED.**

NOTICE IS HEREBY GIVEN that the First Trust Company of St. Paul Minnesota, a corporation, has applied to the Commissioner of Reclamation of the State of Idaho for a certificate authorizing it to transfer the use of 140.76 inches of water of the waters of the Portneuf River, and its tributaries, all as is decreed in that certain decree made and entered by the District Court of the Fifth Judicial District of the State of Idaho in and for the County of Bannock in that certain action entitled: "Union Grain and Elevator Company, a corporation, plaintiff, versus McCommon Ditch Company, et al, defendants" from the land upon which it is now being used, namely:

Northeast Quarter of Southwest Quarter (NE $\frac{1}{4}$ of SW $\frac{1}{4}$) North-
west Quarter of Southeast Quarter (NW $\frac{1}{4}$ of SE $\frac{1}{4}$) Lot Three (3),
Southeast Quarter of the South-
west Quarter (SE $\frac{1}{4}$ of SW $\frac{1}{4}$),
Southwest Quarter of Southeast Quarter (SW $\frac{1}{4}$ of SE $\frac{1}{4}$), Lot Four
(4) all in Section Twenty-Five
(25) Township Six (6) South
Range Thirty-eight (38) E. B. M.,
Lot One (1), Lot Two (2), Section
Thirty-six (36), Township Six (6)
South, Range Thirty-eight (38)
E. B. M., Lot Two (2) and the
North Half of the Northwest Quar-
ter (N $\frac{1}{2}$ of NW $\frac{1}{4}$) Section Thirty-
one (31) Township Six (6) South,
Range Thirty-nine (39) E. B. M.,
to the following described lands, to-
wit:

Lots 19 and 20, and Southwest
Quarter, and West Half of South-
east Quarter of Section 25, Town-
ship 6 South, Range 38 E. B. M.,
and East Half of Southeast Quar-
ter of Section 26, Township 6
South, Range 38 E. B. M.

that is to say, of the waters so de-
creed to the lands first herein de-
scribed, there shall be transferred
from such lands the use of a portion
of said waters, the same being par-
ticularly described as follows:

24 inches (.48 c. f. s.) of water
right—July 1, 1882.

36 inches (.72 c. f. s.) of water
right dated June 17, 1902.

30 inches—of water right dated
July 1, 1903.

50.76 inches—of water right
dated of June 1, 1910.

so that of the said waters so decreed
to the said lands first herein describ-
ed, such waters as last herein de-
scribed shall be appurtenant to and
the right of the said lands last here-
in described, and the said lands last
herein described shall be entitled to
the use of the said waters last here-
in mentioned and that, on the 11th
day of October, 1933, at the hour of
10:00 A. M., in the forenoon of said
day, at Boise, Idaho, before the Com-
missioner of Reclamation, or his
authorized agent, the opportunity
will be given to any and all persons
to appear and present for considera-
tion any reason or reasons why a cer-
tificate should be not issued author-
izing such transfer.

DATED: September 27, 1933.

R. W. FARIS,

Commissioner of Reclamation, Res-
idence: State House, Boise, Idaho.

T-229 ed.

being first duly sworn on oath deposes and says: That

was at all times herein mentioned a citizen of the United States of America,
more than 21 years of age, and the Principal Clerk of The POCA TELLO
T R I B U N E, a daily newspaper, printed and published at Pocatello,
Bannock County, Idaho, and having a general circulation therein.

That the document or notice, a true copy of which is attached, was
published in the said The POCA TELLO TRIBUNE on the following
dates, to-wit:

September 29, 1933

, 19

October 6, 1933

, 19

, 19

, 19

, 19

, 19

, 19

, 19

That said paper has been continuously and uninterruptedly published
in said County for a period of seventy-eight weeks prior to the publication
of said notice or advertisement and is a newspaper within the meaning of
the laws of Idaho.

Subscribed and sworn to before me this

day of October, 1933

Notary Public, State of Idaho

Residence:

Pocatello, Idaho

PROOF OF PUBLICATION

STATE OF IDAHO }
County of Bannock }

ss.

Muriel Ruggles
she

being first duly sworn on oath deposes and says: That

was at all times herein mentioned a citizen of the United States of America, more than 21 years of age, and the Principal Clerk of The POCATELLO TRIBUNE, a daily newspaper, printed and published at Pocatello, Bannock County, Idaho, and having a general circulation therein.

That the document or notice, a true copy of which is attached, was published in the said The POCATELLO TRIBUNE on the following dates, to-wit:

September 29, 19 *33* _____, 19____
October 6, 19 *33* _____, 19____
_____, 19____, 19____
_____, 19____, 19____
_____, 19____, 19____

That said paper has been continuously and uninterruptedly published in said County for a period of seventy-eight weeks prior to the publication of said notice or advertisement and is a newspaper within the meaning of the laws of Idaho.

Muriel Ruggles

Subscribed and sworn to before me this _____
day of *October*, 19 *33*

[Signature]
Notary Public, State of Idaho

Residence: *Pocatello, Idaho*

RECEIVED

OCT 9 1933

DEPARTMENT OF RECLAMATION

NOTARIZED

	Decreased inches	Transferred	Balance
July 1, 1882	24.00	24.00	0.0
June 18, 1902	36.00	36.00	0.0
July 1, 1903	55.24	30.00	25.24
July 1, 1908	134.10		134.10
June 1, 1910	54.00	50.76	3.24
	<u>303.34</u>	<u>140.76</u>	<u>162.58</u>

MICROFILMED

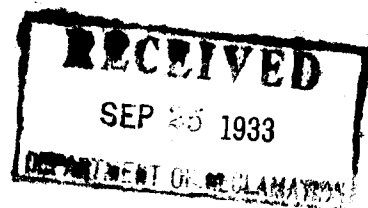
Sec. 20. 1. 60, 17. 30 E.

			Lot 17	Lot 1
			Lot 18	Lot 2
	25		Lot 19	Lot 3
			Lot 20	Lot 4.

MIDDELMER

Bdy Fort Hall Indian Res.

NOTICE OF APPLICATION FOR CHANGE OF PLACE
OF USE OF WATER IN PURSUANCE TO PROVISIONS
OF SECTION 41-216, IDAHO CODES, ANNOTATED



NOTICE IS HEREBY GIVEN that the First Trust Company of St. Paul, Minnesota, a corporation, has applied to the Commissioner of Reclamation of the State of Idaho for a certificate authorizing it to transfer the use of 140.76 inches of water of the waters of the Portneuf River, and its tributaries, all as is decreed in that certain decree made and entered by the District Court of the Fifth Judicial District of the State of Idaho in and for the County of Bannock in that certain action entitled: "Union Grain and Elevator Company, a corporation, plaintiff, versus McCammon Ditch Company, et al, defendants" from the land upon which it is now being used, namely:

Northeast Quarter of Southwest Quarter ($NE\frac{1}{4}$ of $SW\frac{1}{4}$)
Northwest Quarter of Southeast Quarter ($NW\frac{1}{4}$ of $SE\frac{1}{4}$)
Lot Three (3), Southeast Quarter of the Southwest Quarter ($SE\frac{1}{4}$ of $SW\frac{1}{4}$), Southwest Quarter of Southeast Quarter ($SW\frac{1}{4}$ of $SE\frac{1}{4}$), Lot Four (4) all in Section Twenty-five (25) Township Six (6) South Range Thirty-eight (38) E. B. M., Lot One (1), Lot Two (2), Section Thirty-six (36), Township Six (6) South, Range Thirty-eight (38) E. B. M., Lot Two (2) and the North Half of the Northwest Quarter ($N\frac{1}{2}$ of $NW\frac{1}{4}$)
Section Thirty-one (31) Township Six (6) South, Range Thirty-nine (39) E. B. M.

to the following described lands, to-wit:

Lots 19 and 20, and Southwest Quarter, and West Half of Southeast Quarter of Section 25, Township 6 South, Range 38 E. B. M. and East Half of Southeast Quarter of Section 26, Township 6 South, Range 38 E. B. M.

that is to say, of the waters so decreed to the lands first herein described, there shall be transferred from such lands the use of a portion of said waters, the same being particularly described as follows:

24 inches	(.48 c. f. s.)	of water right—July 1, 1882
36 "	(.72 c. f. s.)	of water right dated June 17, 1902
30 "		of water right dated July 1, 1903
50.76 "		of water right of June 1, 1910

so that of the said waters so decreed to the said lands first herein described, such waters as last herein described shall be appurtenant to

MICROFILMED

(2)

and the right of the said lands last herein described, and the said lands last herein described shall be entitled to the use of the said waters last herein mentioned and that, on the 11th day of October, 1933, at the hour of 10:00, A.M. in the forenoon of said day, at 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 consideration any reason or reasons why a certificate should not be issued, authorizing such transfer.

DATED: SEPTEMBER 27, 1933.

R. W. FARIS

COMMISSIONER OF RECLAMATION,

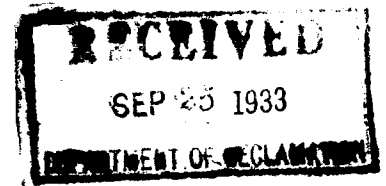
Residence: State House, Boise, Idaho

MICROFILMED

LAW OFFICES
BLACK & BAUM
POCATELLO, IDAHO

ROY L. BLACK
O. R. BAUM

September 19, 1933.



HON. R. W. FARIS,
Commissioner of Reclamation,
State House,
Boise, Idaho

Re: Application First Trust Company of St.
Paul, Change of use of waters Right No. 92
as set forth in that certain Decree entitled:
"Union Grain and Elevator Company, plaintiff,
-vs- McCammon Ditch Co., et al, Defendants,"
entered in the District Court of the Fifth
Judicial District of the State of Idaho in and
for the County of Bannock

Dear Commissioner:

Right No. 92 is as follows:

"92. KNOLLIN A. J.: Said water to be diverted through Knollin
1882—July 1 .48 c.f.s. Ditch, which diverts water from the North
(24 in.) Fork of Toponce Creek, in the Northeast
1902—June 17.72 c.f.s. Quarter of the Northwest Quarter, Section
at noon (36 in.) 35, Township 6 South, Range 38 East.
1903—July 1 1.10 c.f. From the Northwest corner of Section 35,
s. (55.24 in.) said Township and Range, the point of
1908—July 1 2.68 c.f. diversion bears South 71 degrees and 10
s. (134.10 in.) minutes East, 1748 feet, for the irrigation
1910—June 1 1.08 c.f. of land described as follows: 5 acres in
s. (54 inches) the Northeast quarter of the Southwest
quarter; 10 acres in the Northwest quar-
ter of the Southeast quarter, 5 acres in
Lot 3; 2 acres in the Southeast quarter of
the Southwest quarter; 30 acres in the
Southwest quarter of the Southeast quar-
ter; 38 acres in Lot 4, all in Section 25,
Township 6 South, Range 38 East; 33.4
acres in Lot 1; 33.4 acres in Lot 2; Section
36, Township 6 South, Range 38 East; 40

TOTAL 6.06 c.f.s.

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LAW OFFICES
BLACK & BAUM
POCATELLO, IDAHO

ROY L. BLACK
O. R. BAUM

Page Two-Commissioner of Reclamation-September 19, 1933

acres in Lot 2; 55.44 acres in the
North half of the Northwest quarter,
Section 31, Township 6 South, Range
39 East."

and you will note that while water that was made appurtenant to the
lands has definite priority dates, no particular water was made appur-
tenant to any of the particular lands, that is, the right of 1882 was
not made appurtenant to any particular lands and it is the desire of
the owner of these premises to have certain of the waters transferred
from the area as a whole to particular described lands, to-wit:

Lots 19 and 20, and Southwest Quarter, and West half of
Southeast Quarter of Section 25, Township 6 South, Range
38 E. B. M. and East Half of Southeast Quarter of Section
26, Township 6 South, Range 38 E. B. M.

and the water that is to be transferred to the use of the above described
lands is described as follows:

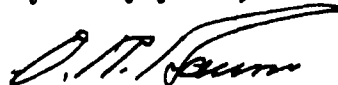
24 inches (.48 c. f. s.)	of water right--July 1, 1882
36 " (.72 c. f. s.)	of water right dated June 17, 1902
30 "	of water right dated July 1, 1903
50.76"	of water right of June 1, 1910

We are enclosing herewith petition for the transfer of this water
and have prepared for you a notice which we hope is in due form so that
the publication can issue.

The transfer does not cause a change of the point of diversion
nor cause an injury to any other appropriator of the stream; the First
Trust Company of St. Paul, being the owner of all the lands, is in a
position to sell a part of the lands if certain water is made a part
thereof, hence this request.

If you will advise me the cost of filing the application, we
will immediately remit, and if you will forward the notice, I will see
that it is published in the Pocatello Tribune, of this city, it being
the paper most likely to give notice.

Very truly yours,



O. R. BAUM

ORB*s

Encls.

MICROFILMED

APPLICATION FOR CHANGE OF PLACE OF USE OF WATER IN
PURSUANCE TO PROVISIONS OF SECTION 41-216, IDAHO

CODES. ANNOTATED

TO: R. W. FARIS, COMMISSIONER OF RECLAMATION OF THE STATE OF IDAHO:

Your applicant, First Trust Company of Saint Paul, a corporation, of St. Paul, Minnesota, is the owner of and in possession of the following described lands, to-wit: situated in Bannock County, Idaho:

Northeast Quarter of Southwest Quarter ($NE\frac{1}{4}$ of $SW\frac{1}{4}$)
Northwest Quarter of Southeast Quarter ($NW\frac{1}{4}$ of $SE\frac{1}{4}$)
Lot Three (3), Southeast Quarter of the Southwest Quarter ($SE\frac{1}{4}$ of $SW\frac{1}{4}$), Southwest Quarter of Southeast Quarter ($SW\frac{1}{4}$ of $SE\frac{1}{4}$), Lot Four (4) all in Section Twenty-five (25) Township Six (6) South Range Thirty-eight (38) E. B. M., Lot One (1), Lot Two (2), Section Thirty-six (36), Township Six (6) South, Range Thirty-eight (38) E. B. M., Lot Two (2) and the North Half of the Northwest Quarter ($N\frac{1}{2}$ of $NW\frac{1}{4}$) Section Thirty-one (31) Township Six (6) South, Range Thirty-nine (39) E. B. M.

and that, in accordance with the terms of that certain decree made and entered in the District Court of the Fifth Judicial District of the State of Idaho, in and for the County of Bannock in that certain action entitled "Union Grain and Elevator Company, a corporation, plaintiff, versus McCammon Ditch Company, et al, defendants, there was decreed to, and made appurtenant to the above described lands the following described water rights:

1882—July 1	.48 c. f. s. (24 inches)
1902—June 17 (at noon)	.72 c. f. s. (36 inches)
1903—July 1	1.10 c. f. s. (55.24 inches)
1908—July 1	2.68 c. f. s. (134.10 inches)
1910—June 1	1.08 c. f. s. (54 inches)
TOTAL 6.06 c. f. s.	

and that such waters were to be diverted through a ditch known as the "Knollin Ditch" described as follows:

Which diverts water from the North Fork of Toponce Creek, in the Northeast quarter of the Northwest quarter, Section 35, Township 6 South, Range 38 East. From the Northwest corner of Section 35, said Township and Range, the point of diversion bears South 71 degrees and 10 minutes East, 1748 feet, for the irrigation of land described * * *

(2)

and of such waters, no particular water of any priority date was made appurtenant to any particular described land but that the said waters were to be used upon the above described premises in the following manner:

5 acres in the Northeast quarter of the Southwest quarter; 10 acres in the Northwest quarter of the Southeast quarter, 5 acres in Lot 3; 2 acres in the Southeastquarter of the Southwest quarter; 30 acres in the Southwest quarter of the Southeast quarter; 38 acres in Lot 4, all in Section 25, Township 6 South, Range 38 East; 33.4 acres in Lot 1; 33.4 acres in Lot 2; Section 36, Township 6 South, Range 38 East; 40 acres in Lot 2; 55.44 acres in the North half of the Northwest quarter, Section 31, Township 6 South, Range 39 East

that is to say, that the water bearing date of July 1, 1882 was not made appurtenant to any particular described subdivision but that all of the said water so decreed to A. J. Knollin and as described hereinbefore was made appurtenant to all of the said lands, or any portion of said lands that was irrigable.

That your applicant herein succeeded to the rights of the said A. J. Knollin, the same known as "Right No. 92" in the said decree, aforementioned, and now desires to have certain of the said waters so decreed to the said lands made appurtenant to certain particular lands, in this, to-wit:

To Lots 19 and 20, and Southwest Quarter, and West Half of Southeast Quarter of Section 25, Township 6 South, Range 38 E. B. M. and East Half of Southeast Quarter of Section 26, Township 6 South, Range 38 E. B. M.

the following described waters, to-wit:

24 inches (.48 c. f. s.)	of water right—July 1, 1882
36 " (.72 c. f. s.)	of water right dated June 17, 1902
30 "	of water right dated July 1, 1905
50.76 "	of water right of June 1, 1910

such lands having enough irrigable acreage thereon to utilize the water so sought to be transferred, thereby leaving as appurtenant to the remaining tract of land the following described water rights:

25.24 inches of the right of July 1, 1905³
134.10 inches of the water right of July 1, 1908 ✓
3.24 inches of the water right of June 1, 1910

and all of the said waters so sought to be transferred, at certain times, having been used upon the irrigable portions of the said premises to which it is now sought to be made particularly appurtenant;

(3)

That, by the making of such change of the use of said water as hereinbefore petitioned, will not require a new or different point of diversion and that it will permit your said petitioner herein to better utilize the said lands and that no other appropriator of the waters of the said Portneuf River, or its tributaries, will be injured by such transfer, the permission sought being that merely of having waters of the particular priority made appurtenant to particular described lands, all of which such water being a part of the water that was decreed and all of the lands being a part of the lands to which the said water was decreed, so that the said particular lands to which your applicant desires the water made appurtenant will have a saleable and marketable value.

DATED: SEPTEMBER 19, 1933.

FIRST TRUST COMPANY OF ST. PAUL, MINN.,
A corporation,

BY: C. T. Nelson
Its Attorney,

STATE OF IDAHO
County of BANNOCK

I, F. O. NELSON, Watermaster of the PORTNEUF RIVER, Water District No. 17, County of Bannock, State of Idaho, whose postoffice address is LAVA HOT SPRINGS, IDAHO, have read or heard read the foregoing affidavit and petition of the FIRST TRUST COMPANY OF ST. PAUL, 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: I do not approve the issuance of this certificate of transfer for the following reasons: The early decrees have supplied water for the lower lands ever since the date of their granting. It will injure this lower land. The uplands to which it is proposed to transfer the water will require much more water for cover, and this will further decrease the water available to all other users of water from Toponee Creek. F. O. Nelson
Watermaster, District No. 17.

Dated at Brian Idaho, this 6th day of December 1933.

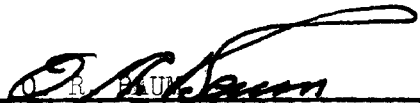
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(4)

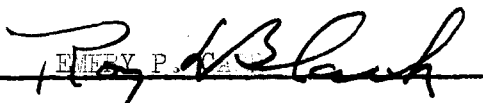
STATE OF IDAHO)
)
COUNTY OF BANNOCK) SS.:

O. R. BAUM, being first duly sworn, on his oath, states:

That he is in the employ of the FIRST TRUST COMPANY OF ST. PAUL, MINN., a corporation, and that said corporation is the owner of the premises described in the above and foregoing Petition and that it desires to transfer the use of certain of the said waters to the lands as therein described and that he has been authorized by said applicant to make this application and to present the same to the Commissioner of Reclamation of the State of Idaho and that he has read the above and foregoing petition and that the facts therein stated, he verily believes to be true.



Subscribed and sworn to before me this _____ day of September,
1933.



NOTARY PUBLIC IN AND FOR IDAHO,
Residence: Pocatello, Idaho

(S E A L)

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