

Water Rights

June 27th 1899.

F. Burbridge,

Manager, ect.

Malaga, Idaho.

Dear Sir:

As to the location made by yourself of certain water in Government Creek I think your notice is sufficient, and the change in the direction which you suggest by way of amendment will not invalidate the original location if you have complied in other respects with the law.

Assuming that you have a copy of the late law, P 380 - seq, I do not deem it necessary to call your attention to any except the requirements of Sec. 5 on Pages 380-381. If you amend the notice I would describe with reasonable accuracy the point of division and as near as may be the place where you propose to use it.

The point of division, general course of the ditch, and instead of fixing five years time for completion leave that indefinite because the law requires the work to be completed with reasonable diligence unless temporarily interrupted by the weather. Work must be begun within 60 days, Page 381, Sec. 6.

change of the
The courts hold that the purpose of the diversion, and the place of use, does not forfeit the right, any useful purpose will maintain the appropriation.

The right of way over the Public lands on mineral lands before patent, is granted by U.S. Statute and the late law grants right of way over state lands. It also provides by State Statute for condemning private lands for a right of way for ditches, but my opinion ~~the~~ is the law is invalid, as it would amount to taking private property for private use. If you wish to acquire the right of way over the lands of private parties you must bargain for it.

As to the location of Jacquet:

I think it too indefinite to rely upon. It neither gives direction or the place, or the approximate line of the ditch. A conveyance of his homestead would not take the water right unless it was included in the deed, it would not pass by any general words such as "appurtenances". It's possible this location can be made good by amendment reciting the necessary facts omitted in this notice, and stating the actual construction of the ditch under the old natize. The entire thing is too defective as it is to permit any reliance that would involve a contest.

Yours truly - *Wm. H. Bond*

P.S. This letter was intended for record of 20th but was not copied by oversight.

W. H. Bond