

9/10/2019

Cancelled
Closed

IDAHO DEPARTMENT OF WATER RESOURCES
Proof Report

11/15/2019

Water Permit 37-2794

<u>Owner Type</u>	<u>Name and Address</u>
Current Owner	W A MC CLURE , ZZ

Status: Cancelled

<u>Source</u>	<u>Tributary</u>
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<u>Beneficial Use</u>	<u>From</u>	<u>To</u>	<u>Diversion Rate</u>	<u>Volume</u>
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Source and Point(s) of Diversion

Place Of Use

Conditions of Approval:

Comments:

Dates and Other Information

Water District Number: TBD
Mitigation Plan: False

Combined Use Limits

N/A

SubCase:

N/A

Water Supply Bank:

N/A

BEFORE THE DEPARTMENT OF WATER RESOURCES

OF THE

STATE OF IDAHO

RECEIVED

SEP 17 1986

Department of Water Resources
Sawtooth District Office

IN THE MATTER OF CANCELLATION OF
PERMIT NO. 9783/37-2794 IN THE
NAME OF W. A. MCCLURE

ORDER OF CANCELLATION

This matter having come before the Department of Water Resources, the Department finds, concludes, and orders as follows:

FINDINGS OF FACT

1. On November 28, 1913, the applicant, W. A. McClure was granted Permit No. 9783/37-2794 to appropriate one cubic foot per second of water from the Iron Mine Branch of Fish Creek and an unnamed tributary of Fish Creek, located in the SW1/4SE1/4 and NW1/4SW1/4, Sec. 32, Twp. 3N, Rge. 23E, B.M., Blaine County.

2. The permit issued to the applicant imposed a condition that proof of beneficial use was due on November 28, 1914 but the applicant failed to file proof of application to beneficial use.

3. On June 18, 1986, a certified letter was sent to the applicant informing him that Permit No. 9783/37-2794 was subject to cancellation for failure to submit proof of application of water to beneficial use and that he must show cause before the Department of Water Resources on or before July 18, 1986, why the permit should not be cancelled.

4. The certified letter was returned unclaimed and, as a result, no response was received by the department.

CONCLUSIONS OF LAW

1. Prior to July 1, 1986, Sec. 42-311, Idaho Code, provided that the

37-2794

Department of Water Resources could cancel permits for failure or neglect to comply with the law and the requirements of the permits.

2. On July 1, 1986, Sec. 42-311, Idaho Code, was amended to allow the Department of Water Resources to cancel permits, where, on the basis of available information, the Department finds that the permittee has wilfully and intentionally failed to comply with the conditions of the permit.


3. By failing to file proof of beneficial use, the applicant has failed or neglected to comply with requirements of the permit and the law. Further, the expiration of seventy-four (74) years since proof was due is an inordinate length of time giving rise to a conclusion that failure to properly file proof of beneficial use was both wilful and intentional.

4. Permit No. 9783/37-2794 should be cancelled.

ORDER

IT IS HEREBY ORDERED that pursuant to provisions of Section 42-311, Idaho Code, Permit No. 9783/37-2794 is CANCELLED.

Dated this 9th day of September, 1986.


A. KENNETH DUNN
Director

37-2794

W.A. Mc Clure

This is a "Moldy Oldie" discovered
in the State Office & referred to the
Region for completion.

37-2794

45-2135

9783

37-2794

No. 14610

APPLICATION FOR PERMIT
To Appropriate the Public Waters of the State of Idaho

1. Name of applicant: W. A. McClure

Postoffice address: Crooks

County: Blaine

State: Idaho

I. If applicant is a corporation, give

(a) Date and place of incorporation:

(b) The amount of capital stock:

(c) The amount paid in:

(d) Names and addresses of directors:

II. The financial resources of the applicant are: (a) Cash on hand:

(b) Treasury stock:

(c) Bonds to be issued:

(d) Other resources:

2. The quantity of water claimed is 1 cubic feet per second.

3. Source of water supply: Iron Mine branch of Fish Creek and another unnamed tributary of Fish Creek (See Remarks)

4. Location of point of diversion: SW $\frac{1}{4}$ of SE $\frac{1}{4}$ Sec. 32 and NW $\frac{1}{4}$ of SW $\frac{1}{4}$ Sec. 32 Twp. 3 N. Range 23 East.

County of Blaine

5. To be used for:

I. Irrigation and domestic use: (a) Amount of land to be irrigated: 50 acres.

(b) In the following legal subdivisions: 30 acres in SE $\frac{1}{4}$ of SW $\frac{1}{4}$ and 20 acres in NW $\frac{1}{4}$ SW $\frac{1}{4}$ Sec. 32, All in Twp. 3 N. Range 23 East.

II. Mining, milling, power, manufacturing, transportation or other purposes:

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(b) In the following legal subdivisions: 30 acres in SE $\frac{1}{4}$ of SW $\frac{1}{4}$ and 20 acres in NW $\frac{1}{4}$ SW $\frac{1}{4}$ Sec. 32, All in Twp. 3 N. Range 23 East.

II. Mining, milling, power, manufacturing, transportation or other purposes:

[a] At what point:

[b] Amount of power to be generated:

H. P. under ft. head

[c] Is water to be returned to any stream?
return:

[d] If so, name stream and locate point of

6. Estimated cost of works: \$100.00

7. Description of works for diversion:

I. Kind of works: Ditch and small division dam.

II. Dimensions of works:

[a] Height of dam 2 feet, length of dam at top 1 - 6 feet and
1-4 ft. 1 - 15 feet,

length of dam at bottom 1-10 feet. Material used in construction: earth, boards and
brush

[b] Capacity of reservoir None acre feet. (c) Size of headgate, width 2 feet,

Height 1 feet. (d) Conduit ditch width at bottom 2 feet,

width at water line 2 $\frac{1}{2}$ feet, depth of water $\frac{1}{2}$ feet; diameter of pipe

inches; average grade per mile is feet. Length of conduit is $\frac{1}{4}$ miles,
and it crosses the following quarter sections: SE $\frac{1}{4}$ and SW $\frac{1}{4}$ of Sec. 32, Twp. 3 N. R.
23 East.

8. The time required for the completion of the construction of such work is 1 years.

9. Time required for the complete application of the water to the proposed use is 1
additional years.

BE IT KNOWN That the undersigned hereby makes application for a permit to appropriate the public
waters of the State of Idaho as herein set forth.

W. A. McClure,

Applicant.

By C. W. Wilson

Agent.

Date of first receipt at office of State Engineer 9.00 A. M. November 6, 1913.

Returned to applicant for correction

Corrected application received

APPROVAL OF STATE ENGINEER

The number of this permit is 9783

Recorded in Book 32 Page 9783 Approved November 28, 1913.

This is to certify that I have examined the within application for a permit to appropriate the public waters of the State of Idaho, and hereby approve the same, subject to the following limitations and conditions.

Bond in the sum of to be filed on or before

Work to begin on or before January 27, 1914 and to continue diligently and uninterruptedly to completion, unless temporarily interrupted by circumstances over which permit holder has no control.

One-fifth of the work above specified to be completed on or before May 28, 1914.

The whole of said work to be completed on or before November 28, 1914.

Beneficial use of water appropriated in accordance herewith, to be made on or before November 28, 1915.

Witness my hand this 28th day of November, 1913.

F. P. King, State Engineer.

Remarks: The amount claimed from each source of supply is 25 inches; that is $\frac{1}{2}$ cu. ft. from Mine branch and $\frac{1}{2}$ cu. ft. from the unnamed tributary, both being tributaries of Fish Creek.

Proof of Completion made Nov. 6, 1914.

Certificate issued Dec. 15, 1914.

PERMIT NO. 9783

CERTIFICATE OF COMPLETION OF WORKS.

To All Whom It May Concern:

This is to certify that W. A. McClure of Crooks, County of Blaine, and State of Idaho, the holder of Permit No. 9783, issued upon Application No. 14610, bearing date of priority of November 6, 1913, authorizing the diversion of 1 second foot of the waters of Iron Mine Branch of Fish Creek and an unnamed tributary of Fish Creek, County of Blaine, Idaho.

This is to certify that W. A. McClure of Crooks, County of Blaine, and State of Idaho, the holder of Permit No. 9783, issued upon Application No. 14610, bearing date of priority of November 6, 1913, authorizing the diversion of 1 second foot of the waters of Iron Mine Branch of Fish Creek and an unnamed tributary of Fish Creek, County of Blaine, State of Idaho, for irrigation and domestic purposes, has fully complied with the provisions of the laws of the State of Idaho relating to the proof of completion of the works of diversion set out and described in said Permit; that said works are adequate for diverting and conveying to the place of intended use $\frac{1}{2}$ second-foot of the waters of Iron Mine Branch of Fish Creek, and $\frac{1}{2}$ second-foot of an unnamed tributary of Fish Creek; that the point of diversion of said waters is at a point in the SW $\frac{1}{4}$ of SE $\frac{1}{4}$ Sec. 32, and NW $\frac{1}{4}$ SW $\frac{1}{4}$ Sec. 32, Tp. 3 N. R. 23 E.B.M., and that the lands proposed to be irrigated by the use of said water are described as follows, to-wit: SE $\frac{1}{4}$ SW $\frac{1}{4}$ and NW $\frac{1}{4}$ SW $\frac{1}{4}$ Sec. 32, all in Tp. 3 N. R. 23 E.B.M., containing 50 acres.

Witness my hand this 15th day of December, A. D. 1914.

Herbert Wing,

Acting State Engineer of the State of Idaho.

Recorded by
Checked by

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