

IDAHO DEPARTMENT OF WATER RESOURCES
Proof Report

11/15/2019

Water Application 37-2771

<u>Owner Type</u>	<u>Name and Address</u>
Current Owner	FRANKLIN D WAGNER , ZZ

Status: Closed

<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

Number of Protests: 0
Water District Number: TBD
Application Type: New Appropriation
Mitigation Plan: False

Combined Use Limits

N/A

SubCase:

N/A

Water Supply Bank:

N/A

9/10/2019

Cancelled
Closed

BEFORE THE DEPARTMENT OF WATER RESOURCES

OF THE

STATE OF IDAHO

RECEIVED

SEP 17 1986

Department of Water Resources
Southern District Office

IN THE MATTER OF CANCELLATION OF)

PERMIT NO. R426/37-2771 IN THE)

NAME OF FRANKLIN D. WAGNER)

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 May 19, 1933, the applicant, Franklin D. Wagner, was granted Permit No. R426/37-2771 to appropriate 600 acre feet of water from the Little Wood River, located in the SW1/4NW1/4, Sec. 6, Twp. 3S, Rge. 21E, B.M., Lincoln County

2. The permit issued to the applicant imposed a condition that proof of beneficial use was due on May 8, 1937, 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. R426/37-2771 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 Department of Water Resources could cancel permits for failure or neglect to

37-2771

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 forty-nine (49) 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. R426/37-2771 should be cancelled.

ORDER

IT IS HEREBY ORDERED that pursuant to provisions of Section 42-311, Idaho Code, Permit No. R426/37-2771 is CANCELLED.

Dated this 9th day of September, 1986.


A. KENNETH DUNN
Director

37-2771

Franklin D. Wagner

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

37-277/

APPLICATION FOR PERMIT

To Construct a Reservoir and Store and Appropriate
The Public Waters of the State of Idaho

Application No. R 23827

Permit No. R 426

37-277/

1. Name of Applicant: Franklin D. Wagner,
Postoffice address: Picabo, County Blaine, State Idaho.

I. If applicant is a corporation, give:

- (a) Date and place of incorporation: (b) Amount of Capital Stock: \$
(c) Amount paid in: \$ (d) Names and addresses of directors:

II. The financial resources of the corporation are:

- (a) Cash on hand: \$ (b) Treasury Stock: \$
(c) Bonds to be issued: \$ (d) Other resources:

2. Quantity of water to be stored: 600 acre feet per annum.
3. Source of water supply is Little Wood (Creek) (River) (Spring), a tributary of Snake River.
4. The outlet of the proposed reservoir is located (bearing) feet, distant from the corner of Section , Township , Range , B. M. and is in the SW $\frac{1}{4}$ of NW $\frac{1}{4}$ of Section 6 , Township 3 S. , Range 21 E. , B. M. County of Lincoln.

5. Fill out either (a) or (b).

- (a) The reservoir is located in the channel of Little Wood River (Creek) (River).
(b) The reservoir is to be filled through a feeder canal, the point of diversion for which is located (bearing) feet distant from the corner of Section , Township , Range , B. M., and is in the NW $\frac{1}{4}$ of NW $\frac{1}{4}$ of Section 32 , Township 2 S. , Range 21 E. , B. M.; width at bottom $4\frac{1}{2}$ feet, width at top 8 feet, depth of water 2 feet; average grade per mile 5 feet; Capacity 12 cubic feet per second.

6. (a) The area of the high water line of the reservoir is 60 acres.

1448-48

the corner of Section , Township , Range , B. M., and is in the $\frac{1}{4}$ of $\frac{1}{4}$ of Section 32 , Township 2 S. , Range 21 E. , B. M.; width at bottom $4\frac{1}{2}$ feet, width at top 8 feet, depth of water 2 feet; average grade per mile 5 feet; Capacity 12 cubic feet per second.

6. (a) The area of the high water line of the reservoir is 60 acres.
(b) The reservoir capacity is 600 acre feet.

7. Height of reservoir dam 9 feet, length at top 600 feet, length at bottom 600 feet, size of outlet 2 feet by $1\frac{1}{2}$ feet. The dam is to be constructed of materials as follows: clay and earth.

(If height will exceed 10 feet, plans must be approved by Department of Reclamation, before beginning construction.)

8. (a) Will water stored in reservoir be diverted to canal or aqueduct, thence to land to be irrigated without commingling with natural flow of (Creek) (River) ?
- (b) Water stored in reservoir will be carried in the channel of Little Wood (Creek,) (River,) a distance of $1\frac{1}{4}$ miles to point of diversion located Lower Little Wood River. feet, distant from the corner of Section (bearing) Township , Range , B. M., and in the $\frac{1}{4}$ of $\frac{1}{4}$ of Section , Township , Range B. M.
9. Amount of water claimed from Lower Little Wood River and Silver (Creek) (River) (Spring) in addition to that for that stored in reservoir 7.7 exchange cubic feet per second.

10. Water is to be used for irrigation purposes.

11. If for mining, milling, power or manufacturing purposes give:

- (a) Point of use of water (bearing) feet, distant from Corner of Section , Township , Range B. M. and is in the $\frac{1}{4}$ of $\frac{1}{4}$ of Section , Township , Range , B. M.
- (b) Amount of power generated: H. P., under feet head.
- (c) Water is to be returned to (Creek) (River) (Spring) at a point feet distant from the corner of Section , Township , Range , B. M., in the $\frac{1}{4}$ of $\frac{1}{4}$ of Section , Township , Range B. M.

12. Water stored in accordance with this Permit will be carried to place of use through a canal heretofore constructed under the terms of Permit No. , which is hereby referred to and made a part hereof.

13. Kind of diversion works: canals and dam and headgates. (Dam, canal, flume, pipe, etc.)

14. Height of diversion dam: 3 feet, length at top 35 feet, length at bottom feet. The dam is to be constructed of materials as follows: stone and lumber

(If height will exceed 10 feet, plans must be approved by Department of Reclamation, before beginning construction.)

15. Size of headgates Width 3 feet, Height 1 1/2 feet.

16. Diversion Canal: Width at bottom 4 1/2-2 feet, width at water line 8-4 feet, depth of water 2'-1' feet, Dimensions of Flume Diameter of Pipe inches; Length of Conduit 5 miles. Average grade per mile 5 feet.

17. Estimated cost of Works: Storage Works: \$1000.00. Diversion Works: \$500.00.

18. Time required for completion of work 2 years.

19. Time required for complete application of water to proposed beneficial use is 4 years.

20. The land to be irrigated is described in the following tabulation:

(Give Irrigable acreage in each 40-acre subdivision.)

Twp.	Range	Sec.	NE 1/4				NW 1/4				SW 1/4				SE 1/4				Totals
			NE 1/4	NW 1/4	SW 1/4	SE 1/4	NE 1/4	NW 1/4	SW 1/4	SE 1/4	NE 1/4	NW 1/4	SW 1/4	SE 1/4	NE 1/4	NW 1/4	SW 1/4	SE 1/4	
3 S.	21 E.	18		30			30	40	40	25									165
3 S.	21 E.	7															40	35	75
3 S.	20 E.	1													12	25	18		55
3 S.	20 E.	12	5			10									10				25
3 S.	21 E.	7		5	30						30								65
Total Number of Acres to be Irrigated																			385

Water stored in this reservoir will be carried in a natural channel of Little Wood River 1300 ft. and diverted into Lower Little Wood River, from whence it will be taken out as follows:

Point of diversion No. 1 (1.1 sec. ft.) SW 1/4 SW 1/4, Sec. 31, T. 2 S., R. 21 E. Pt. of diversion No. 2 (1.8 sec. ft.) SW 1/4 SE 1/4, Sec. 1, T. 3 S., R. 20 E. Pt. of diversion No. 3, (4.8 sec. ft.) NW 1/4 SW 1/4, Sec. 29 T. 2 S., R. 21 E., B.M. Idaho, as shown on map to accompany this application.

Reservoir is to be filled through the natural channel of Little Wood River partly and partly by

Water stored in this reservoir will be carried in a natural channel of Little Wood River 1300 ft. and diverted into Lower Little Wood River, from whence it will be taken out as follows: Point of diversion No. 1 (1.1 sec. ft.) SW $\frac{1}{4}$ SW $\frac{1}{4}$, Sec. 31, T. 2 S., R. 21 E. Pt. of diversion No. 2 (1.8 sec. ft.) SW $\frac{1}{4}$ SE $\frac{1}{4}$, Sec. 1, T. 3 S., R. 20 E. Pt. of diversion No. 3, (4.8 sec. ft.) NW $\frac{1}{4}$ SW $\frac{1}{4}$, Sec. 29 T. 2 S., R. 21 E., B.M. Idaho, as shown on map to accompany this application.

Reservoir is to be filled through the natural channel of Little Wood River partly and partly by the feeder canal designated on map.

From diversion of feeder canal the water runs down a natural channel 1/4 of a mile and is diverted into the Strunk and Ragsdale Canal, thence down the canal to a point in the SE $\frac{1}{4}$ NE $\frac{1}{4}$, Sec. 6, T. 3 S., R. 21 E; thence by way of new ditch, directly west to Reservoir.

Total Number of Acres to be Irrigated

Remarks:

By this application for permit it is meant to direct water from Little Wood River to Lower Little Wood River and use an equivalent amount from Lower Little Wood River and Silver Creek.

BE IT KNOWN That the undersigned hereby makes application for permit to construct a reservoir and store and appropriate the public waters of Idaho as herein set forth, and that the enclosed map is hereby made a part of this application.

Franklin D. Wagner,

Applicant.

By

Agent.

Date of first receipt at office of Commissioner of Reclamation 9 A. M., May 4, 1928.

Returned to applicant for correction

Corrected application received

APPROVAL OF COMMISSIONER OF RECLAMATION

The number of this permit is R 426.

Recorded in book R 2, page 426. Approved May 8, 1928.

This is to certify that I have examined the within application for a permit to construct a reservoir and store and 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 July 7, 1928 and to continue diligently and uninterruptedly to completion, unless temporarily interrupted by circumstances over which the permit holder has no control.

One fifth of the work above specified to be completed on or before May 8, 1929.

The whole of said work to be completed on or before May 8, 1930.

Beneficial use of water stored in accordance herewith, to be made on or before May 8, 1934.

Witness my hand this 8th day of May, 1928.

GEO. N. CARTER.

Commissioner of Reclamation.

Permit No. R-426
EXTENSION OF TIME.

Upon proper application of the holder of the above numbered permit (No. R-426) I have this 13th day of August, 1930, extended the time for proof of completion of works to May 8, 1933.

GEO. N. CARTER
Commissioner of Reclamation

PERMIT NO. R-426
CERTIFICATE OF COMPLETION OF RESERVOIR
and RIGHT TO STORE WATER

Amount: 600 Acre Feet

Priority: May 4, 1928

This is to certify that Franklin D. Wagner of Picabo, County of Blaine, and State of Idaho, the holder of Permit No. R-426 issued upon Application No. R-23827, bearing date of priority of May 4, 1928, authorizing the construction of a reservoir and the right to store the waters of Little Wood River, a tributary of Snake River, County of Lincoln, State of Idaho, for irrigation purposes, has fully complied with the provisions of the laws of the State of Idaho relating to the proof of completion of the works as set out and described in said Permit; that said works are adequate for the storage of 600 acre feet of water annually; that the location of the outlet of said reservoir is in the SW $\frac{1}{4}$ of NW $\frac{1}{4}$ of Section 6, Township 3 S., Range 21 E., Boise, Meridian; that a right to store the said waters has been perfected in accordance with the laws of Idaho and is hereby confirmed by the Commissioner of Reclamation and entered of record in Volume 2, of Permits, at page 426, records of the Department of Reclamation on the 19th day of May, 1933; that the right hereby confirmed dates from May 4, 1928; and that the amount of water to which said right is, by this certificate, entitled to store annually shall not exceed 600 acre feet.

Witness the seal and signature of the Commissioner of Reclamation, affixed at Boise, Idaho, this 19th day of May, A. D. 1933.

(Seal)

R. W. FARIS
Commissioner of Reclamation

Proof of completion of works made May 11, 1933.

APPLICATION FOR PERMIT

To Corporation of the State of Idaho
The Public Works of the State of Idaho

Application No. 11 23 27
1901 and No. 11 436

State of Idaho, 27 April D. C. 1901.

County

Blaine, ✓

State

I, the undersigned, hereby certify that the above named

corporation is duly organized and is authorized to

construct the works herein described.

(b) Amount of Capital Stock \$

(c) Names and addresses of directors:

1. The following members of the corporation are:

(a) Name of the corporation

(b) Name of the person

(c) Name of the person

(d) Name of the person

(e) Name of the person

(f) Name of the person

(g) Name of the person

(h) Name of the person

(i) Name of the person

(j) Name of the person

(k) Name of the person

(l) Name of the person

(m) Name of the person

(n) Name of the person

(o) Name of the person

(p) Name of the person

(q) Name of the person

(r) Name of the person

(s) Name of the person

(t) Name of the person

(u) Name of the person

(v) Name of the person

(w) Name of the person

(x) Name of the person

(y) Name of the person

(z) Name of the person

2. The following members of the corporation are:

(a) Name of the corporation

(b) Name of the person

(c) Name of the person

(d) Name of the person

(e) Name of the person

(f) Name of the person

(g) Name of the person

(h) Name of the person

(i) Name of the person

(j) Name of the person

Limb or

-23- Feeds: vetch, alfalfa, water, lucerne, lucerne

ers: 1,000,000 ; Division Works : 500,000

Aspirin, 100 mg

of water to proposed beneficial use is:

25

the following calculations:

(Give tillable acreage in each 40-acre subdivision.)

Total Number of Acres to be Irrigated

Franklin D. Roosevelt, 1933-1945.

Aristotle, *Nicomachean Ethics*, 114.
$$\mathbb{Q} \oplus \mathbb{A} \oplus \mathbb{B} = \frac{\mathbb{Q} \oplus \mathbb{A} \oplus \mathbb{B}}{\mathbb{Q} \oplus \mathbb{A} \oplus \mathbb{B}} = \frac{\mathbb{Q} \oplus \mathbb{A} \oplus \mathbb{B}}{\mathbb{Q} \oplus \mathbb{A} \oplus \mathbb{B}}.$$

AL OF COMMISSIONER OF RECLAMATION

may not be the best

