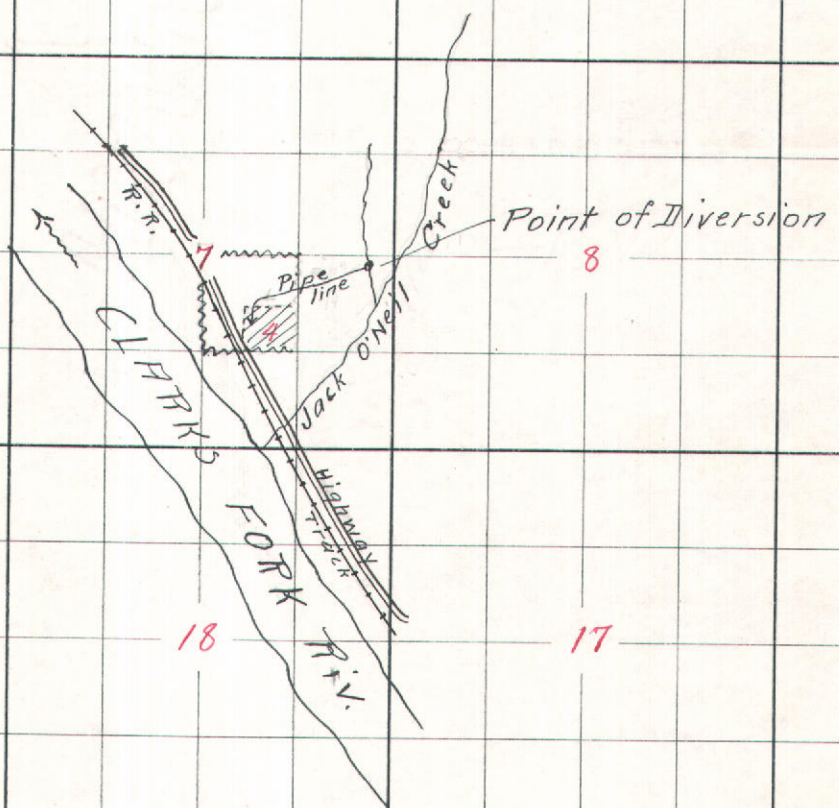




Fred W. Schilling

R2 EBM

T56N

State

N.P. RR.

Tract Point of Use

Conduit

Un-named Tributary

Point of Diversion

Jack O'Neill Creek

R.1E.

R.2E.

Permit Map No. **17430**

As Approved

MAR 4 1931

GEO. N. CARTER

Commissioner of Reclamation

State of Idaho

License and Certificate of Water Right

Water License No. 17430Amount 0.08

Water District No. _____

Priority February 26, 1931

THIS IS TO CERTIFY that **Fred W. Schilling**
 of **Hope, Idaho**, made application for a permit to appropriate the
 public waters of the State of Idaho, dated **February 26**, 19 **31**; that Permit No. **17430**
 was issued under said application; that Certificate of Completion of works, with a carrying capacity of
0.14 second feet, was issued thereunder on **May 5**, 19 **31**, showing that said works
 were completed on the **25th** day of **April**, 19 **31**; and that on the **4th**
 day of **March**, 19 **32**,

Fred W. Schilling
 of **Hope**, State of **Idaho**, made proof to the satisfaction of the
Commissioner of Reclamation of Idaho, of the right to use the waters of **Unnamed stream**
 , a tributary of **Jack O'Neill Creek**, for the purpose of **Irrigation and**
domestic use, under Use Permit No. **17430** of the **Commissioner of Reclamation**
 and that said right to the use of said waters has been perfected in accordance with the laws of Idaho, and is
 hereby confirmed by the Commissioner of Reclamation of Idaho and entered of record in Volume **7**
 of Licenses, at page **3711**, on the **21st** day of **October**, 19 **32**;

The right hereby confirmed dates from **February 26**, 19 **31**;

The Point of Diversion is located
 in the **NE ¼ SE ¼**, Sec. **7**, Tp. **56 N**, R. **2 E**, B. M. **Bonner**

That the amount of water to which such right is entitled and hereby confirmed, for the purposes aforesaid,
 is limited to an amount actually needed and beneficially used for said purposes, and shall not exceed **0.08**
 cubic feet per second.

Description and location of use:

Twp.	Range	Sec.	Forty-acre Tract	No. Acres Described in Permit	No. Acres Actually Irrigated
56 N	2 E	7	NW¼SE¼	7	4

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

WITNESS the seal and signature of the Commissioner of Reclamation, affixed at Boise, Idaho,
 this **21st** day of **October**, 19 **32**

R. W. FARIS
 Commissioner of Reclamation

(SEAL)

State of Idaho

License and Certificate of Water Right

Water License No. 17182

Amount 0.04

Water District No.

Priority October 2, 1929

THIS IS TO CERTIFY that E. P. Morgan
 of Soda Springs, Idaho, made application for a permit to appropriate the
 public waters of the State of Idaho, dated October 2, 1929; that Permit No. 17182
 was issued under said application; that Certificate of Completion of works, with a carrying capacity of
 0.04 second feet, was issued thereunder on October 3, 1930, showing that said works
 were completed on the 29th day of September, 1930; and that on the 3rd
 day of October, 1931, E. P. Morgan

of Soda Springs, State of Idaho, made proof to the satisfaction of the
 Commissioner of Reclamation of Idaho, of the right to use the waters of a spring
 stream, a tributary of a small unnamed stream for the purpose of domestic use
 under Use Permit No. 17182 of the Commissioner of Reclamation
 and that said right to the use of said waters has been perfected in accordance with the laws of Idaho, and is
 hereby confirmed by the Commissioner of Reclamation of Idaho and entered of record in Volume 7
 of Licenses, at page 3712, on the 7th day of December, 1932;

The right hereby confirmed dates from October 2, 1929;

The Point of Diversion is located
 in the SW $\frac{1}{4}$ NW $\frac{1}{4}$, Sec. 29, Tp. 7 S., R. 44 E., B. M. Caribou County

That the amount of water to which such right is entitled and hereby confirmed, for the purposes aforesaid,
 is limited to an amount actually needed and beneficially used for said purposes, and shall not exceed 0.04
 cubic feet per second.

Description and location of use: At applicant's home.

Twp.	Range	Sec.	Forty-acre Tract	No. Acres Described in Permit	No. Acres Actually Irrigated

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

WITNESS the seal and signature of the Commissioner of Reclamation, affixed at Boise, Idaho,
 this 7th day of December, 1932.

R. W. FARIS

Commissioner of Reclamation

(SEAL)

96-2129

APPLICATION FOR PERMIT TO APPROPRIATE THE PUBLIC WATERS OF THE STATE OF IDAHO

Application No. **24493**
Permit No. **17430**
District No.

1. Name of Applicant: **Fred W. Schilling,**

Postoffice address: **P. O. Box 292, Hope,** County: **Bonner,** 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 applicant are:
- (b) Treasury stock:
 - (d) Other resources:

- (a) Cash on hand:
- (c) Bonds to be issued:

2. Quantity of water claimed: **0.14** cubic feet per second.
3. Source of water supply: **unnamed stream** which is a tributary of **Jack O'Neill Creek**
4. Location of point of diversion: **About 800** feet distant from the **quarter** corner of Sections **7 & 8, T. 56 N., R. 2 E., B. M.,** and is in the **NE $\frac{1}{4}$** of the **SE $\frac{1}{4}$** of Section **7, T. 56 N., R. 2 E., B. M.,** County of **Bonner.**
5. Water is to be used for: **Irrigation and domestic purposes.**
6. If for mining, milling, power or manufacturing purposes, give:
- (a) Point of use of water: **feet distant from** corner of Section **T., R., B. M.,** in the **of Section, T., R., B. M.**
 - (b) Amount of power generated: **H. P., under** feet head.
 - (c) Water is to be returned to **at a point** feet distant from the **corner of Section, T., R., B. M.,** in the **of Section, T., R., B. M.**
7. Estimated cost of works: \$ **285.00**
8. Kind of works: **Diversion tank 4' x 5' x 5'; 1000' of 1" pipe, and 40' of flume.**
9. Height of dam **5** feet; length of dam at top **5** feet; length of dam at bottom **5** feet; material used in dam: **tongue and groove plank**
10. Size of headgate: Width **feet;** height **feet.**
11. Ditch: Width at bottom **feet;** width at water line **feet;** depth of water **4" to 6"**
~~feet;~~ dimensions of flume **8" V type**
Diameter of pipe **1** inches; length of conduit **1/4** miles.
Average grade per mile **about 50** feet.
12. The time required for the completion of such work is **6 months** years.
13. The time required for the complete application of the water to the proposed use is **6 months** additional years.
14. The land to be irrigated is described in the following tabulation: **See remarks.**

15. (a) Is reservoir to be used? No. If so, fill in (b) and (c) below.
- (b) Name of Reservoir and number of Storage Permit:
- (c) Date of filing of Application for Storage Permit and Name of Applicant:

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

Fred W. Schilling Applicant.

By Agent.

Date of first receipt at Department of Reclamation: 9 A. M., February 26, 1931

Returned to applicant for correction:

Corrected application received:

APPROVAL OF COMMISSIONER OF RECLAMATION

The number of this permit is 17430
Recorded in Book 63 Page 17430 Approved March 4, 1931
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 May 2, 1931 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 June 4, 1931
The whole of said work to be completed on or before September 4, 1931
Beneficial use of water appropriated in accordance herewith, to be made on or before March 4, 1932

Witness my hand this 4th day of March, 1931.

GEO. N. CARTER
Commissioner of Reclamation.

Remarks:

14.

Twp.	Range	Sec.	NE¼				NW¼				SW¼				SE¼				Totals
			NE¼	NW¼	SW¼	SE¼	NE¼	NW¼	SW¼	SE¼	NE¼	NW¼	SW¼	SE¼	NE¼	NW¼	SW¼	SE¼	
56 N.	2 E.	7																7	7
																		Total Number of Acres to be Irrigated	7

Remarks: This application is by way of legally noting and recording a water right that has been acquired by a long period of continuous beneficial use, dated from the year 1911.

By the records it is shown that Aloe A. Cook acquired the N½ of SE¼ and SE¼ of SE¼ of Sec. 7, T. 56 N., R. 2 E., B. M., June 2, 1908. Thereafter, Aloe A. Cook and J. M. Cook, (his father) diverted water from an unnamed tributary of Jack O'Neill Creek for beneficial use on the tract of land and as noted in this application in the year 1911. Subsequently, J. M. Cook acquired the specific tract herein noted, together with the necessary water, conduit and right of way therefor on August 7, 1917. The present owner, Fred W. Schilling, acquired said tract and water for irrigation and domestic purposes April 12, 1926.

A continuous beneficial use of the water herein specified has been maintained on this tract of land since the year 1911, which is the year construction of conduit was completed.

Permit No. 17430

CERTIFICATE OF COMPLETION OF WORKS.

To All Whom It May Concern:

This is to certify that Fred W. Schilling, of Hope, County of Bonner, and State of Idaho, the holder of Permit No. 17430, issued upon Application No. 24493, bearing date of priority of February 26, 1931, authorizing the diversion of 0.14 secondfeet of the waters of an Unnamed Stream, County of Bonner, 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 0.14 second feet of the waters of said Unnamed Stream; that the point of diversion of said waters is in the NE¼ of SE¼, Sec. 7, Twp. 56 N., R. 2 E., B.M.; and that the lands proposed to be irrigated by the use of said water are described as follows, to-wit: 7 acres in the NW¼ of SE¼, Sec. 7, Twp. 56 N., R. 2 E., B.M.

Witness my hand this 5th day of May, A. D. 1931.

R. W. Faris
Commissioner of Reclamation.

Proof of completion of works made Apr.25,1931
Certificate issued May 5, 1931

LICENSE ISSUED FOR 0.08 SEC. FT.
Vol. 7, Page 3711

December 13, 1932

Re: PERMIT No. 17430

Mr. M. J. DUNN,
Hope,
Idaho

Dear Sir:

We have your letter dated December 7, 1932, re Permit No. 17430.

You have been advised several times as to the handling of this permit, and since the Court has made a final determination of your rights and entered decree, the matter is entirely out of the hands of this Department and we can see no point in further pursuing a controversy with reference to it.

If you are not satisfied with the Court, the jurisdiction of which is superior to this Department, it would appear that your only relief was in an appeal from the judgment of the Court.

The fee for transcribing a copy of the Engineer's Report is \$1.00. If you wish a copy of the report and will mail the fee, we will prepare and send you a copy promptly.

Very truly yours,

Commissioner of Reclamation

RWF/mt

17430

ROOSEVELT-ROSS CLUB

OF BONNER COUNTY

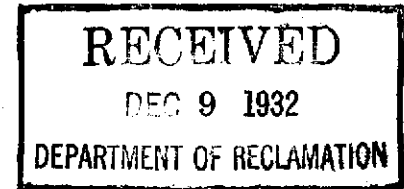
OFFICERS

MAX DUNN, PRESIDENT
L. C. RACICOT, VICE-PRESIDENT
MYRON E. ANDERSON, SECRETARY
JOHN P. BENNETT, TREASURER

EXECUTIVE COMMITTEE

DON C. D. MOORE, CHAIRMAN
J. A. MCGLYNN
O. J. LYNCH
VIRGIL C. GOODWIN
DR. F. B. EVANS

Hope,
SANDPOINT, IDAHO, Dec, 7-32



Mr. R. W. Faris,
Boise, Idaho.

Dear Sir,

Would you please give me the following information. Re: Permit No. 17430.
A copy of your engineers report?

- 1 Who was with him when he went over the ground?
- 2 Why he did not contact me as promised in your letter of August 17th?
- 3 Define the word tributary, as used by your office? 17430
- 4 Is water contributed by seepage considered a tributary by your office?
- 5 Did your engineer see the spring discharging directly into Mr. Schellings reservoir or not?
- 6 Did your engineer know that there is a water-right on Jack O'Neal Creek below the point of diversion of Mr. Schellings filing of more than 32 years standing and continuous (over)

use. An early reply would be appreciated

Yours truly,
M. J. Dunn.

for Mr. M. J. Green
Hope Idaho.

List questions asked in order Nos.
1-2-3-4-5-6

Answers

1. An elderly man - the only person on the place at time of inspection - who was Father or Father in law to the farm owner.
2. Because it was learned that a court decree had just been handed down settling the point at issue
3. Necessarily yes, as all streams are thus made up excepting for short periods when rapid precipitation or melting snow causes visible above the surface contributions.

5 yes as described in field report

6 The existence or non existence of other filings would have no effect upon the field examination as that matter is automatically taken care of by the laws and rules governing priorities

October 21, 1932

Re: Permit No. 17430

Mr. Fred W. Schilling
Hope, Idaho

Dear Sir:

We are enclosing herewith your License and Certificate of Water Right issued under the above permit for 0.08 second feet of the waters of an unnamed stream, tributary to Jack O'Neill Creek.

Very truly yours,

R. W. PERIS
Commissioner of Reclamation

By _____
Chief Clerk & Office Engr.

PLH:MC
Encl. Office receipt for \$2.00.

17430

17430

Hope, Ida
Oct - 13 - 1932

Department of Redemption
Poise, Ida.

Mr Paul L. Henry
(chief clerk)

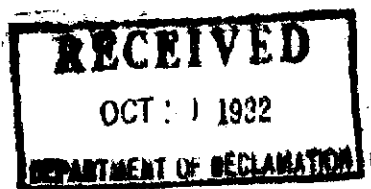
Re. Permit No. 17430
Dear Sir:-

Replying to your letter of Sept 20.
regarding the issuing of certificate
of proof of benefit. I see, I would
like to have you issue this certificate
in due form therefore I am inclosin
here with money order for ~~2~~ ^{2.00}
two dollars as requested and
ask that you mail me the license
at your early convenience.

And oblige

Very truly yours

Fred W. Schilling



17430

September 20, 1932

Re: Permit No. 17430

Mr. Fred W. Schilling
Hope, Idaho

Dear Sir:

This is to inform you that the Engineer's Report covering his examination in connection with BENEFICIAL USE proof on the above numbered permit has been received.

Since a court decree has been granted to you for the water claimed under this permit, perhaps you will not be desirous of getting your license. However, should you wish to carry this permit through to license, you should remit a fee of \$2.00 for BENEFICIAL USE proof. This fee is calculated at the rate of \$2.00 for each 40 acre legal subdivision or portion thereof that is being irrigated.

Since everything else in connection with this permit has been completed, the license will be issued upon receipt of the fee.

Very truly yours,

R. W. F. RIS
Commissioner of Reclamation

By _____
Chief Clerk & Office Engr.

PLH:MC

17430

September 19, 1932

Re: PERMIT No. 17430
Protest to issuance of License

Mr. FRED W. SCHILLING,
Box 292,
Hope, Idaho

Dear Sir:

We are enclosing herewith copy of Order made and filed in the matter of the protest of M. J. DUNN against the application of FRED W. SCHILLING to prove the application of water to beneficial use under the above numbered permit.

Very truly yours,

Commissioner of Reclamation

Enc.

17430

September 19, 1932

Re: PERMIT No. 17430
Protest to issuance of License

Mr. M. J. DUNN,
Hope,
I d a h o

Dear Sir:

We are enclosing herewith copy of Order made and filed in the matter of the protest of M. J. DUNN against the application of FRED W. SCHILLING to prove the application of water to beneficial use under the above numbered permit.

Very truly yours,

Commissioner of Reclamation

Enc.

17430

BEFORE THE DEPARTMENT OF RECLAMATION
OF THE STATE OF IDAHO

IN THE MATTER OF THE PROTEST OF)
M. J. DUNN AGAINST THE APPLICATION)
OF FRED W. SCHILLING TO PROVE THE)
APPLICATION OF WATER TO BENEFICIAL)
USE UNDER PERMIT NO. 17430.)

ORDER

Under date of February 26, 1931, there was received application No. 24493, by FRED W. SCHILLING, to appropriate 0.14 second feet of the waters of an unnamed stream, tributary to JACK O'NEILL CREEK, in Bonner County, Idaho, to irrigate seven acres of land in the

Northwest Quarter of the Southeast Quarter (NW $\frac{1}{4}$ SE $\frac{1}{4}$)
of Section Seven (7), Township Fifty-six (56) North,
Range Two (2) East, B. M.,

which application was approved March 4, 1931, and Permit No. 17430 issued to the applicant.

Under the terms and conditions of said permit work was to begin on or before May 2, 1931, one-fifth of the work completed on or before June 4, 1931, and the whole of the work completed on or before September 4, 1931.

Under date of April 25, 1931, proof of completion of works was offered without objection or protest from anyone; whereupon, under date of May 5, 1931, Certificate of Completion of Works was issued.

Notice of intention to submit proof of application of water to beneficial use under the said above mentioned permit was first published in the PRIEST RIVER TIMES, a newspaper of general circulation in the county in which the land is situated, on the 4th day of February, 1932, and thereafter on the 11th, 18th and 25th days of February, respectively, as required by law. Whereupon, protestant herein filed his protest against the issuance of license to the permit holder, as follows:

17430

"1. This protestant is the owner of the land upon which the diversion works of claimant, under said permit (Permit No. 17430) are located, and has been such owner and in possession thereof for several years.

2. That said diversion works of claimant were constructed and placed upon the land of this protestant without any authority or permission from this protestant, and entirely without the knowledge of this protestant at the time said diversion works and improvements were installed on said land.

3. That the waters attempted to be diverted and applied to beneficial use by claimant do not have their source in any unnamed tributary of Jack O'Neil Creek, or are not taken from any creek or stream at all, but the source of the water is attempted to be diverted is a spring or springs coming to the surface on the land of this protestant, and the attempt to divert and claim said water under said permit is the attempted diversion of the waters of springs wholly upon the land of this protestant.

4. That the claimant has no right-of-way over and across the land of this protestant from the place of said diversion to the land of the claimant, where it is claimed said water is used for irrigation and domestic purposes, and at no time has had a right-of-way over or across said land.

5. This protest is filed for the purpose of contesting the hearing in the above entitled matter before Robt. E. McFarland, a Notary Public, on the 4th day of March, 1932.

6. Protestant further alleges, in support of this protest, that there is now pending in the District Court of Bonner County, Idaho, an action in which the said Fred W. Schilling is defendant and this protestant is plaintiff, involving the right to use the identical waters that are claimed under this permit, and in which the issue is raised as to the trespass of the claimant herein on the land of this protestant in the construction of such diversion works, in which action Robt. E. McFarland is attorney for the said Fred W. Schilling, and the undersigned, E. W. Wheelan, is the attorney for this protestant."

It will be noted that in his protest the protestant alleges, among other things, that there was, at the time of the filing of such protest, an action pending in the District Court of the Eighth Judicial District of the State of Idaho, in and for the County of Bonner, in which he, the said protestant, was plaintiff, and FRED W. SCHILLING, the said permit holder, was defendant, involving all the questions

raised by the protest of the said protestant herein.

Under date of August 24, 1932, a judgment and decree was handed down by Honorable Judge of the said above mentioned court, in the action hereinabove referred to, as follows:

"NOW, THEREFORE, IT IS ORDERED, ADJUDGED AND DECREED That said plaintiff, M. J. Dunn, take nothing by his complaint, and that the same be and it is hereby dismissed, and IT IS FURTHER ORDERED, ADJUDGED AND DECREED that the defendant, Fred W. Schilling, be and he is hereby given the right to use the water of that certain creek which is an unnamed tributary of Jack O'Neill Creek, and situated on the Northwest Quarter of the Southeast Quarter of Section Seven (7), Township Fifty-six (56) North, Range Two (2), E. B. M., in Bonner County, State of Idaho, for domestic purposes, and that the said plaintiff be given the right to use the excess of said water not required for the domestic use of said defendant, and IT IS HEREBY ORDERED that you, the said M. J. Dunn, your servants, agents and employees, perpetually refrain from interfering with said defendant's use of said water, and refrain from molesting said flume, storage tank and pipe line, which convey said water to the premises of the said defendant, Fred W. Schilling."

From the foregoing it appears that protestant's objection to the issuance of a license to the permit holder, FRED W. SCHILLING, and his rights to the use of water, are fully determined, adjudicated and decreed by a court of jurisdiction superior to this Department.

WHEREFORE, The protest of said M. J. DUNN must be disallowed and dismissed, and it is so ordered.

DATED This 19th day of September, 1932.



Commissioner of Reclamation

17430

BEFORE THE DEPARTMENT OF RECLAMATION
OF THE STATE OF IDAHO

IN THE MATTER OF THE PROTEST OF)
M. J. DUNN AGAINST THE APPLICATION)
OF FRED W. SCHILLING TO PROVE THE)
APPLICATION OF WATER TO BENEFICIAL)
USE UNDER PERMIT NO. 17430.)

ORDER

Under date of February 26, 1931, there was received application No. 24493, by FRED W. SCHILLING, to appropriate 0.14 second feet of the waters of an unnamed stream, tributary to JACK O'NEILL CREEK, in Bonner County, Idaho, to irrigate seven acres of land in the

Northwest Quarter of the Southeast Quarter (NW SE¹/₄)
of Section Seven (7), Township Fifty-six (56) North,
Range Two (2) East, B.-M.,

which application was approved March 4, 1931, and Permit No. 17430 issued to the applicant.

Under the terms and conditions of said permit work was to begin on or before May 2, 1931, one-fifth of the work completed on or before June 4, 1931, and the whole of the work completed on or before September 4, 1931.

Under date of April 28, 1931, proof of completion of works was offered without objection or protest from anyone; whereupon, under date of May 5, 1931, Certificate of Completion of Works was issued.

Notice of intention to submit proof of application of water to beneficial use under the said above mentioned permit was first published in the FRIENT RIVER TIMES, a newspaper of general circulation in the county in which the land is situated, on the 4th day of February, 1932, and thereafter on the 11th, 18th and 25th days of February, respectively, as required by law. Whereupon, protestant herein filed his protest against the issuance of license to the permit holder, as follows:

BEFORE THE DEPARTMENT OF RECLAMATION
OF THE STATE OF IDAHO

IN THE MATTER OF THE PROTEST OF)
M. J. DUNN AGAINST THE APPLICATION)
OF FRED W. SCHILLING TO PROVE THE)
APPLICATION OF WATER TO BENEFICIAL)
USE UNDER PERMIT NO. 17430.)

ORDER

Under date of February 26, 1931, there was received application No. 24493, by FRED W. SCHILLING, to appropriate 0.14 second feet of the waters of an unnamed stream, tributary to JACK O'NEILL CREEK, in Bonner County, Idaho, to irrigate seven acres of land in the

Northwest Quarter of the Southeast Quarter (NW $\frac{1}{4}$ SE $\frac{1}{4}$)
of Section Seven (7), Township Fifty-six (56) North,
Range Two (2) East, B. M.,

which application was approved March 4, 1931, and Permit No. 17430 issued to the applicant.

Under the terms and conditions of said permit work was to begin on or before May 2, 1931, one-fifth of the work completed on or before June 4, 1931, and the whole of the work completed on or before September 4, 1931.

Under date of April 23, 1931, proof of completion of works was offered without objection or protest from anyone; whereupon, under date of May 5, 1931, Certificate of Completion of Works was issued.

Notice of intention to submit proof of application of water to beneficial use under the said above mentioned permit was first published in the PRIEST RIVER TIMES, a newspaper of general circulation in the county in which the land is situated, on the 4th day of February, 1932, and thereafter on the 11th, 18th and 25th days of February, respectively, as required by law. Whereupon, protestant herein filed his protest against the issuance of license to the permit holder, as follows:

BEFORE THE DEPARTMENT OF RECLAMATION
OF THE STATE OF IDAHO

IN THE MATTER OF THE PROTEST OF)
M. J. DUNN AGAINST THE APPLICATION)
OF FRED W. SCHILLING TO PROVE THE)
APPLICATION OF WATER TO BENEFICIAL)
USE UNDER PERMIT NO. 17430.)

ORDER

Under date of February 26, 1931, there was received application No. 24493, by FRED W. SCHILLING, to appropriate 0.14 second feet of the waters of an unnamed stream, tributary to JACK O'NEILL CREEK, in Bonner County, Idaho, to irrigate seven acres of land in the

Northwest Quarter of the Southeast Quarter (NW $\frac{1}{4}$ SE $\frac{1}{4}$) of Section Seven (7), Township Fifty-six (56) North, Range Two (2) East, B. M.,

which application was approved March 4, 1931, and Permit No. 17430 issued to the applicant.

Under the terms and conditions of said permit work was to begin on or before May 2, 1931, one-fifth of the work completed on or before June 4, 1931, and the whole of the work completed on or before September 4, 1931.

Under date of April 26, 1931, proof of completion of works was offered without objection or protest from anyone, whereupon, under date of May 5, 1931, Certificate of Completion of Works was issued.

Notice of intention to submit proof of application of water to beneficial use under the said above mentioned permit was first published in the PRIEST RIVER TIMES, a newspaper of general circulation in the county in which the land is situated, on the 4th day of February, 1932, and thereafter on the 11th, 18th and 25th days of February, respectively, as required by law. Whereupon, protestant herein filed his protest against the issuance of license to the permit holder, as follows:

"1. This protestant is the owner of the land upon which the diversion works of claimant, under said permit (Permit No. 17430) are located, and has been such owner and in possession thereof for several years.

2. That said diversion works of claimant were constructed and placed upon the land of this protestant without any authority or permission from this protestant, and entirely without the knowledge of this protestant at the time said diversion works and improvements were installed on said land.

3. That the waters attempted to be diverted and applied to beneficial use by claimant do not have their source in any unnamed tributary of Jack O'Neil Creek, or are not taken from any creek or stream at all, but the source of the water is attempted to be diverted is a spring or springs coming to the surface on the land of this protestant, and the attempt to divert and claim said water under said permit is the attempted diversion of the waters of springs wholly upon the land of this protestant.

4. That the claimant has no right-of-way over and across the land of this protestant from the place of said diversion to the land of the claimant, where it is claimed said water is used for irrigation and domestic purposes, and at no time has had a right-of-way over or across said land.

5. This protest is filed for the purpose of contesting the hearing in the above entitled matter before Robt. E. McFarland, a Notary Public, on the 4th day of March, 1932.

6. Protestant further alleges, in support of this protest, that there is now pending in the District Court of Bonner County, Idaho, an action in which the said Fred W. Schilling is defendant and this protestant is plaintiff, involving the right to use the identical waters that are claimed under this permit, and in which the issue is raised as to the trespass of the claimant herein on the land of this protestant in the construction of such diversion works, in which action Robt. E. McFarland is attorney for the said Fred W. Schilling, and the undersigned, E. W. Wheelan, is the attorney for this protestant."

It will be noted that in his protest the protestant alleges, among other things, that there was, at the time of the filing of such protest, an action pending in the District Court of the Eighth Judicial District of the State of Idaho, in and for the County of Bonner, in which he, the said protestant, was plaintiff, and FRED W. SCHILLING, the said permit holder, was defendant, involving all the questions

"1. This protestant is the owner of the land upon which the diversion works of claimant, under said permit (Permit No. 17430) are located, and has been such owner and in possession thereof for several years.

2. That said diversion works of claimant were constructed and placed upon the land of this protestant without any authority or permission from this protestant, and entirely without the knowledge of this protestant at the time said diversion works and improvements were installed on said land.

3. That the waters attempted to be diverted and applied to beneficial use by claimant do not have their source in any unnamed tributary of Jack O'Neil Creek, or are not taken from any creek or stream at all, but the source of the water is attempted to be diverted is a spring or springs coming to the surface on the land of this protestant, and the attempt to divert and claim said water under said permit is the attempted diversion of the waters of springs wholly upon the land of this protestant.

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raised by the protest of the said protestant herein.

Under date of August 24, 1932, a judgment and decree was handed down by Honorable Judge of the said above mentioned court, in the action hereinabove referred to, as follows:

"NOW, THEREFORE, IT IS ORDERED, ADJUDGED AND DECREED That said plaintiff, M. J. Dunn, take nothing by his complaint, and that the same be and it is hereby dismissed, and IT IS FURTHER ORDERED, ADJUDGED AND DECREED that the defendant, Fred W. Schilling, be and he is hereby given the right to use the water of that certain creek which is an unnamed tributary of Jack O'Neill Creek, and situated on the Northwest Quarter of the Southeast Quarter of Section Seven (7), Township Fifty-six (56) North, Range Two (2), E. B. M., in Bonner County, State of Idaho, for domestic purposes, and that the said plaintiff be given the right to use the excess of said water not required for the domestic use of said defendant, and IT IS HEREBY ORDERED that you, the said M. J. Dunn, your servants, agents and employees, perpetually refrain from interfering with said defendant's use of said water, and refrain from molesting said flume, storage tank and pipe line, which convey said water to the premises of the said defendant, Fred W. Schilling."

From the foregoing it appears that protestant's objection to the issuance of a license to the permit holder, FRED W. SCHILLING, and his rights to the use of water, are fully determined, adjudicated and decreed, by a court of jurisdiction superior to this Department.

WHEREFORE, The protest of said M. J. DUNN must be disallowed and dismissed, and it is so ordered.

DATED This 19th day of September, 1932.

R. H. PARIS
Commissioner of Reclamation

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DATED This 19th day of September, 1932.

R. W. FARIS
Commissioner of Reclamation

E. J. Taylor Pres
A. E. Taylor
V. J.

September 14, 1932

Re: Permit No. 17430

Mr. M. J. Dunn
Boise, Idaho

Dear Sir:

In reply to yours of the 12th inst. in which you take exceptions to the non-arrival of the Department Field Engineer on September 1st, 1932, for the purpose of making examination of water filing made under permit no. 17430 by Fred W. Schilling, and investigating a protest thereon filed with this department by yourself wherein you state:

"1. This protestant is the owner of the land upon which the diversion works of claimant, under said permit are located, and has been such owner and in possession thereof for several years.

2. That said diversion works of claimant are constructed and placed upon the land of this protestant without any authority or permission from this protestant, and entirely without the knowledge of this protestant at the time said diversion works and improvements were installed on said land.

3. That the waters attempted to be diverted and applied to beneficial use by claimant do not have their source in any unnamed tributary of Jack O'Neil Creek, or are not taken from any creek or stream at all, but the source of the water is attempted to be diverted is a spring or springs coming to the surface on the land of this protestant, and the attempt to divert and claim said water under said permit is the attempted diversion of the waters of springs wholly upon the land of this protestant.

4. That the claimant has no right-of-way over and across the land of this protestant from the place of said diversion to the land of the claimant, where it is claimed said water is used for irrigation and domestic purposes, and at no time has had a right-of-way over or across said land."

The field examination was made by the Engineer on the 28th day of August and the points raised in your protest were carefully checked up with the following conclusions:

First: That while you may have owned the property upon which the diversion works are located "for several years", yet the rotted out works of the original diversion were evidently in use for many years before the present diversion works and improvements were installed and in such case a valid and legal right of way may have been in existence at and before the time you acquired your land.

Second: That instead of being "a spring or springs" rising upon your land, the water in question is from a well defined water course having visible surface flow to a considerable distance above your land and that the description of source

September 14, 1932

of water, viz: "An unnamed tributary of Jack O'Neill Creek" as given in Permit No. 17430 is correct.

It is noted that in your protest dated February 23, 1932, you state that this matter was at that time pending in the District Court of Bonner County and this condition could appear to have rendered any hearing on the part of this department superfluous. However, in view of the fact that the said Court has under date of August 24th, 1932, handed down a decree in the following language and with which this department agrees fully:

"NOW, THEREFORE, IT IS ORDERED, ADJUDGED AND DECREED that said plaintiff, M. J. Dunn, take nothing by his complaint, and that the same be and it is hereby dismissed, and IT IS FURTHER ORDERED, ADJUDGED AND DECREED that the defendant, Fred W. Schilling, be and he is hereby given the right to use the water of that certain creek which is an un-named tributary of Jack O'Neill Creek, and situated on the Northwest quarter of the Southeast quarter of Section Seven (7), Township Fifty-six (56), North, Range Two (2), E. S. M., in Bonner County, State of Idaho, for domestic purposes, and that the said plaintiff be given the right to use the excess of said water not required for the domestic use of said defendant, and IT IS HEREBY ORDERED that you, the said M. J. Dunn, your servants, agents and employees, perpetually refrain from interfering with said defendant's use of said water, and refrain from molesting said flume, storage tank and pipe line, which convey said water to the premises of the said defendant, Fred W. Schilling."

It may be added by way of explanation that the fact of issuance of the said decree was not known by the examiner until after the field inspection and then after obtaining the provisions thereof by a reading at the Court House in Sandpoint there appeared no possible benefit could result from a second trip to the premises.

Very truly yours,


Fred H. Johnson
Field Engineer

FAT:DEA

STATE OF IDAHO
DEPARTMENT OF RECLAMATION

MEMORANDUM

September 14, 1932

Subject: PROTEST OF M. J. DUNN TO ISSUANCE OF PERMIT

File: PERMIT No. 17430 - FRED W. SCHILLING

Upon the 28th day of August, 1931, a visit was made to the premises in question for the purpose of an inspection of the water filing itself, with a view of ascertaining the actual facts by a field examination of existing conditions and then of interviewing the various parties and attorneys in interest.

Before completion of the field examination it was learned that the matter of the protest had, in the meantime, been taken before the Court where the matter had been subjected to the hearing of witnesses, arguments of attorneys and a decision thereon rendered in the form of a decree. Whereupon, a visit was made to the County court house and a copy of the decree read in the office of the Prosecuting Attorney, Mr. Robt. K. McFarland, who had represented the Schilling side of the question.

The language of the decree is as follows, viz.:

"NOW, THEREFORE, IT IS ORDERED, ADJUDGED AND DECREED That said plaintiff, M. J. Dunn, take nothing by his complaint, and that the same be and it is hereby dismissed, and IT IS FURTHER ORDERED, ADJUDGED AND DECREED that the defendant, Fred W. Schilling, be and he is hereby given the right to use the water of that certain creek which is an unnamed tributary of Jack O'Neill Creek, and situated on the Northwest Quarter of the Southeast Quarter of Section Seven (7), Township Fifty-six (56) North, Range Two (2), S. B. M., in Bonner County, State of Idaho, for domestic purposes, and that the said plaintiff be given the right to use the excess of said water not required for the domestic use of said defendant; and IT IS HEREBY ORDERED that you, the said M. J. Dunn, your servants, agents and employees, perpetually refrain from interfering with said defendant's use of said water, and refrain from molesting said flume, storage tank and pipe line, which convey said water to the premises of the said defendant, Fred W. Schilling.

"Dated this 24th day of August, A. D. 1932.

Everett E. Hunt, District Judge"

17430

STATE OF IDAHO
DEPARTMENT OF RECLAMATION

MEMORANDUM

September 14, 1932

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17430

STATE OF IDAHO
DEPARTMENT OF RECLAMATION

MEMORANDUM

September 14, 1932

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Everett E. Hunt, District Judge" 17430

STATE OF IDAHO
DEPARTMENT OF RECLAMATION

MEMORANDUM

September 14, 1932

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Everett E. Hunt, District Judge"

17430

Page 2

Re: PERMIT No. 17430

In view of this decision by the Court, the matter appeared settled so far as the protest was affected, and any further interviews were omitted as they would merely have been a review of the case which had already been finally disposed of by a higher authority and would have involved the expenditure of more time and money without the possibility of benefit to any of the parties or interests involved.

Respectfully submitted,

A handwritten signature in cursive script, reading "Fred A. Tolman".

FRED A. TOLMAN
Field Engineer

174 30

Page 2

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174 30

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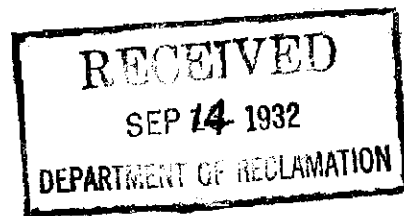
Respectfully submitted,

FRED A. TOLMAN
Field Engineer

17430

Hope, Idaho. Sept. 12-1932

Dept. of Reclamation,
Boise, Idaho



Dear Sirs;

Re- Permit 17430.

It is now more than six months since a protest was filed in your office.

I have your letter of July 11-1932 saying your engineer would be here in about 30 days. I also have your letter of Aug. 17 saying your engineer would leave Boise on Aug 29-, and would be here on Sept 1st. He hasn't arrived yet. I have business that takes me away from home. I have waited at home for 12 days expecting your engineer, he hasn't come. This has cost me money and a lot of inconvenience.

I want to know just why he hasn't come. I am not satisfied with your excuses. I am entitled to just as much consideration as the other fellow, and I am going to demand it. This is the last letter I will write your office in regards to this matter.

Yours truly, M. J. Drenn 17430

STATE OF IDAHO
DEPARTMENT OF RECLAMATION
BOISE, IDAHO

REPORT OF ENGINEER

Permit No. 17430

This proof is for Ben. use

In Water District No.

1. Name of applicant FRED W. SCHILLING
2. Source of water supply: An unnamed tributary of Jack O'Neil Creek
3. Location of point of diversion: Is in the NE $\frac{1}{4}$ SE $\frac{1}{4}$ of Section 7,
T. 56 N., R. 2 E. B.M. County of Bonner
4. Describe works as they exist, giving dimensions and capacities of same: A check dam 1 ft. high x 12 ft long, 20 ft of 6 inch "V" flume leads thence to a 50' bbl galv. tank from which about 1500 ft. of 1" pipe leads to house and irrigated land
5. Water is used for: Irrigation and Domestic
6. State whether or not water has been turned into works of diversion: yes
7. List legal subdivisions of lands to be irrigated. If proof is for beneficial use, give exact number of acres under cultivation in each forty-acre tract. (Describe manner and place of use if for other than irrigation): NW $\frac{1}{4}$ SE $\frac{1}{4}$ Sec. 7, Twp. 56 N., R. 2 E. B. M.

This water is used for house, lawn, and garden & orchard, being distributed by hose principally and thereby doing very high duty. Such use being confined to possibly 4 acres

(Submit map on attached plat, showing location and details of above description.)

8. What large stream would the water here appropriated finally reach? Clarks Fork River

Remarks: In view of an outstanding protest this stream was followed up from the P.O.D. of Schilling across land of the Protestant Dunn and onto land of Prince, thereby proving the source of this water to be derived from a stream and not from a spring on the Dunn land as alleged in the filed protest

This examination was made on the 28th day of August, 1932.

(Signed) Fred S. Johnson
Examiner.

FRED W. SCHILLING,
Hope, Idaho

74

Permit No. 17430

Examination for BEN. USE

County Bonner

There has been a protest
filed on this proof by
M. J. Dunn.

INSTRUCTIONS TO EXAMINERS

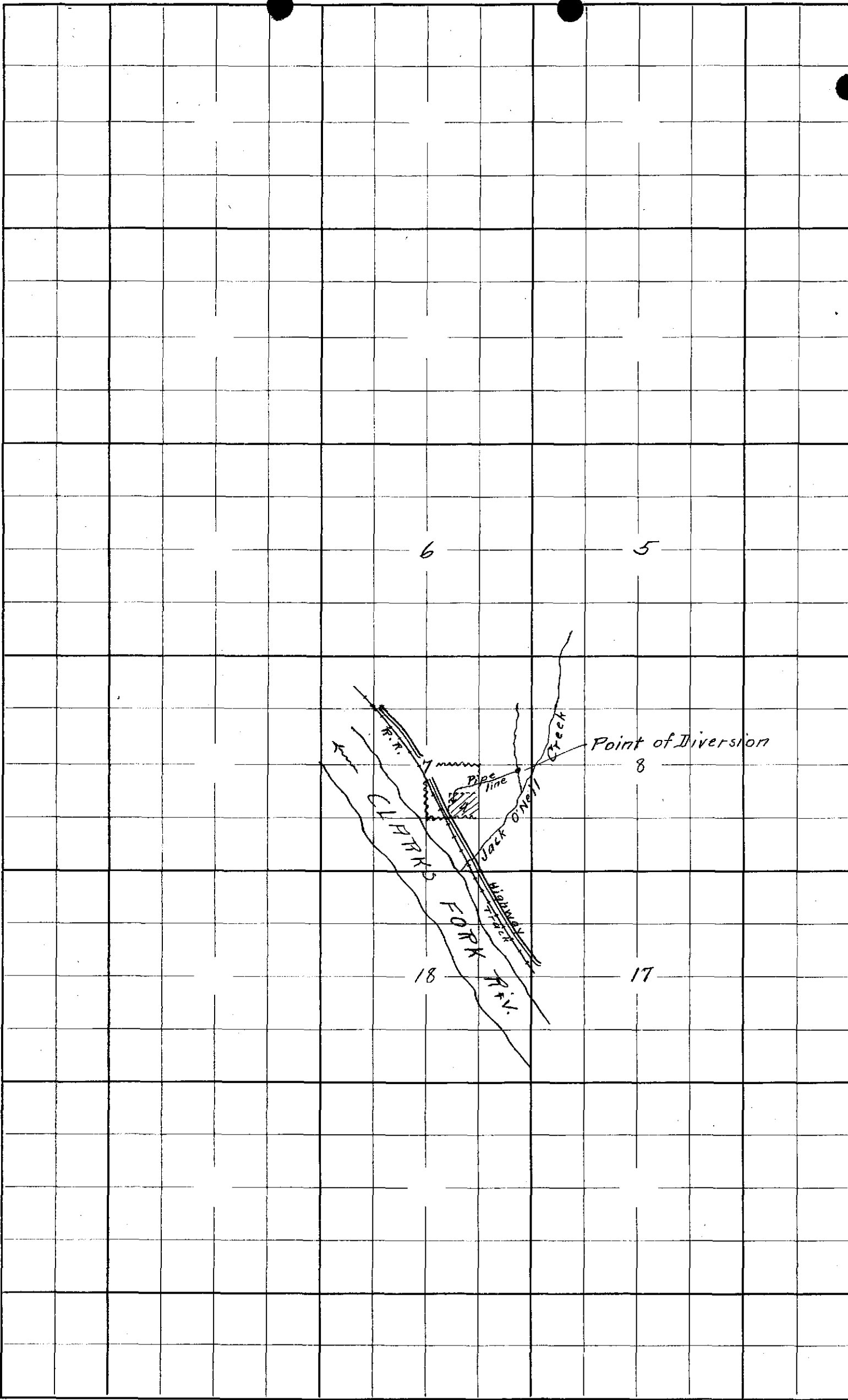
1. Always carefully note the location of the point of diversion and accurately plat same.
 2. When proof is for beneficial use, carefully check up the number of acres actually irrigated in each forty and accurately plat same.
 3. Make a map showing the correct location of streams and ditches, and the irrigated lands, and any adjacent permanent landmarks, such as towns, lakes, large streams and public roads.
 4. If any unusual conditions are discovered, make a plain statement of them under remarks.
 5. Always see the holder, if possible, and go over the whole ground with him and make your report only upon actual existing facts and conditions.
-

STATE OF IDAHO
DEPARTMENT OF RECLAMATION
BOISE

REPORT OF ENGINEER

PERMIT NO. 17430

REPORT ON PROOF OF BEN. USE



Re: PERMIT No. 17430

August 26, 1932

Mr. Fred A. Tolman
Ponderay Hotel
Sandpoint, Idaho

Dear Fred:

In response to your letter of August 22 we are
herewith enclosing the protest in the matter of proof
of application of water to BENEFICIAL USE by Fred W.
Schilling, which was filed by W. J. Dunn.

Sincerely,

FLH:MC

17430

Dining Room Unexcelled for
Meals and Service

IMPERIAL HOTEL

C. R. CAMPBELL

North Idaho's Best Hotel

Grangeville, Idaho

Aug 22 1932

Mr. Paul Henry
Boise

Dear Paul:-

Please mail to me at
Ponderay Hotel Sandpoint

The protest against P-17430
of Fred W. Schilling, Hope Ida.

Hastily Yours

Fred H. Adams

17430

August 17, 1932

Re: PERMIT No. 17430

Mr. M. J. DUNN,
Box 154,
Hope, Idaho

Dear Sir:

We have your letter of August 15th re the above permit. I am sorry that a field examination under this permit has been delayed so long, but, as you have been heretofore advised, we have only one Field examiner and have to bunch his work according to locality as much as possible, and have for some time been trying to arrange a trip to the north. We have now arranged to have Mr. F. A. TOLMAN, Field Engineer, leave Boise on Monday, the 29th, and he will probably reach your vicinity about the 1st of September and will give attention to your matter.

Very truly yours,

Commissioner of Reclamation

RWF/mt

17430

ROOSEVELT-ROSS CLUB

BOX 28 154
Hope,
SANDPOINT, IDAHO, Aug. 15-1932

Mr. R. W. Paris, Comm. Reclamation,
Boise, Idaho.

Dear Sir;

I wrote you on July 2nd, Re:
Permit No. 17430 Fred. W. Schellings.

You said your field engineer
would be here in about 30 days
to examine the water rights.
So far as I know he hasn't been
here yet. This delay is causing me
considerable inconvenience and
some money. Can you set a definite
date for your field engineer to arrive
here, and that date to be not later than
September 1st.

Very truly yours,

M. J. Dunn,
17430 Box 154, Hope, Idaho

July 11, 1932

RE: PERMIT NO. 17430
Fred W. Schilling

MR. M. J. DUNN
Hope, Idaho

Dear Sir:

Reference is made to your letter of the 2nd inst.; I have conferred with the field engineer regarding the examination to be made on the above numbered permit. He expects to be in that part of the state in about 30 days, and at that time he will contact both Mr. Schilling and yourself. The Department has only one field engineer and he has to examine permits all over the state; therefore, the examinations have to be arranged to the best advantage.

Very truly yours,

R. W. PARIS
Commissioner of Reclamation

By _____
Chief Clerk

PLH/lwp

17430

ROOSEVELT-ROSS CLUB

BOX 28 / 54

Hope,
SANDPOINT, IDAHO, July 2-1932

Dept. of Reclamation,
Boone, Idaho.

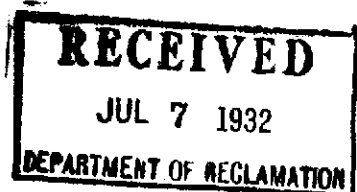
Dear Sirs,

I protested a permit
issued by your office to Fred St.
Schillings, to appropriate water on
my land the NE 1/4 of SE 1/4 - Sec. 7-56-2E,

You were to send an engineer to
examine this water. What have
you done about it?

Very truly yours

M. J. Dunn.



17430

April 5, 1932

Re: PERMIT NO. 17430

Mrs. FRED SCHILLING,
Hope,
I d a h o

Dear Mrs. Schilling:

Replying to your letter of the 2nd inst., would say that it will be impossible for our Field Engineer to make an examination on the above numbered permit before sometime during the late summer months. The Department has only one employee to make examinations on permits all over the State, and he has to arrange his trips to the best advantage so that he can cover the whole State during the course of the year.

However, at the time field examination is made our Field Engineer will communicate with both you and Mr. Dunn.

Very truly yours,

R. W. FARIS,
Commissioner of Reclamation

By _____
Chief Clerk

PH/mt

17430

Sept. of Reclamation
Boise.

Hope Idaho
April - 2 - 1932

Dear Commissioner Reclamation:-

We have been waiting
patiently for one of your engineers
to come & do the field examination
as we have been informed
we do not know what to do
whether we could start our
spring work or not it is
getting late & are getting very
anxious to begin.

I am forced to write to
you as we are almost crazy
we do sincerely hope you can
say the water is bad if not
I don't know what would
happen to us, we would
have to sacrifice our dear
little home that's all it will
kill us I know as we have
invested every penny we
have now with this water
& our little family trying
to make a home

I simply cannot see why we should not have or get a right to this water being used so long for this place.

I don't know what will be come of us especially now thru' this depression we could be comfortable here if we get the water further up the river than neighbor of ours has enough water as it is where we absolutely would be with out.

Hoping you could have this man come out very soon so we know what is what this way it drives us wild.

Whatever advice you can give us will be highly appreciated.

17430

Truly yours
Mrs Fred Schilling

March 16, 1932

Re: PERMIT NO. 17430
Fred W. Schilling

Mr. Robert E. McFarland
Attorney at Law
Sandpoint, Idaho

Dear Sir:

Replying to your letter of March 7, will say that the field engineer will communicate with both Mr. Schilling and yourself at the time the examination is made for the application of water to BENEFICIAL USE under the above numbered permit. The field engineer does not ordinarily question any witnesses at the time the examination is made. However, it would probably help to settle the matter if such an arrangement could be conveniently made.

After the engineer's report is filed in this department, there will be a hearing if the Department deems it necessary. If such hearing is held all interested parties will be notified as to the time and place.

Very truly yours,

R. W. FARIS
Commissioner of Reclamation

By _____
Chief Clerk

PH
LP

17430

ROBT. E. MCFARLAND
ATTORNEY-AT-LAW
COURT HOUSE
SANDPOINT, IDAHO

March 14, 1932

Honorable R. W. Faris
Commissioner of Reclamation
Boise, Idaho

Dear Sir:

Re: Permit No. 17430
Schilling, Fred W.

Your letter of March 7, relative
to the above, was received by me.

I shall be glad if you will write
and inform me of the usual procedure
at the field examination, and whether
or not any witnesses will be heard by
the engineer regarding the length of
time the water has been diverted, and
so forth.

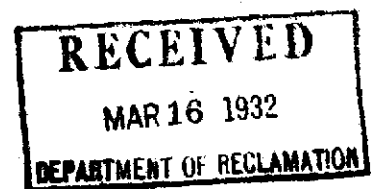
Thanking you for any information
you may give me, I remain

Very truly yours,

Robt. E. McFarland

Robt. E. McFarland

REM/g



17430

March 7, 1932

Re: PERMIT NO. 17430

Mr. ROBERT E. McFARLAND,
Attorney at Law,
Sandpoint, Idaho

Dear Sir:

The following papers in connection with the above mentioned permit, issued to FRED W. SCHILLING:

Deposition of Holder
Deposition of two Witnesses
Affidavit of Publication,

have been received.

A protest has been filed by E. W. Wheelan, attorney for M. J. Dunn, of Hope, Idaho. There will be a field examination as soon as weather conditions will permit, and at that time the case will be decided upon its merits. Our field engineer will communicate with Mr. Schilling and also with Mr. Dunn at the time the field examination is made, so that both sides of the case may be heard.

Very truly yours,

R. W. FARIS,
Commissioner of Reclamation

By _____
Chief Clerk

17430

ROBT. E. MCFARLAND
ATTORNEY-AT-LAW
COURT HOUSE
SANDPOINT, IDAHO

March 4, 1932

Honorable R. W. Faris
Commissioner of Reclamation
Boise, Idaho

Dear Sir:

I am herewith enclosing the papers relative to proof of application to beneficial use of water, of Permit No. 17430, which includes the depositions of the holder, Fred W. Schilling, of witness Frank Cook and witness Paul Parenteau, together with affidavit of publication of the notice of proof.

I wish to state that on June 20, 1931, one M. J. Dunn, a neighbor of Fred W. Schilling, started suit against him to enjoin him from entering upon his land and diverting the water, and asking that Dunn's right to the water be established as prior to Schilling's. He also sued Schilling for damages. Schilling filed an answer and cross-complaint and alleged that the dam and irrigation works have been used for over twenty years by his predecessors interest, and that when Dunn purchased his property he did it with a notice that said dam and irrigation works had been used for that length of time, and that the easement over his place had been used with the consent of Dunn's predecessors for over ten years. The case has not been tried.

I understand that Dunn is protesting Schilling's application. I would like to know if there is going to be a hearing before a representative of the Commission, or whether they are just going to take the affidavits of Dunn and his witnesses and send a representative up here to investigate.

Thanking you for any information you may give me, I remain

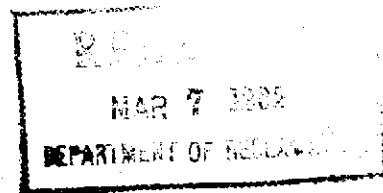
Very truly yours,

Robt. E. McFarland

Robt. E. McFarland

REM/g
Enclosures 4

17430



AFFIDAVIT OF PUBLICATION

- STATE OF IDAHO, }
- County of Bonner, } ss.

S. A. Wickware being duly sworn, says that he is the Publisher of the

PRIEST RIVER TIMES,

a weekly newspaper printed and published at Priest River, Bonner County, Idaho, and that said newspaper during all the time herein mentioned is, and was, a newspaper of general circulation, published weekly, and that the annexed is a true copy of the notice for publication in the case of

Notice of Proof Application of Water to Beneficial Use

as it was published in the regular and entire issue of said paper for a period of Four consecutive weeks, commencing on the 4th day of February 1932 and ending on the 25th day of February 1932 and that the said notice was published in said newspaper proper, and not in supplement form.

S. A. Wickware

Subscribed and sworn to before me
this 29th day of February
A. D. 1932.

[Signature]
NOTARY PUBLIC, Residing at
PRIEST RIVER, IDAHO

Notice for Publication NOTICE OF PROOF APPLICATION OF WATER TO BENEFICIAL USE

Notice is hereby given that at 10:00 a. m. on the 4th day of March, 1932, at Sandpoint, County of Bonner, State of Idaho, before Robt. E. McFarland, a Notary Public, proof will be submitted of the application to beneficial use of Fourteen one-hundredths cubic feet per second of the waters of un-named tributary of Jack O'Neil Creek in accordance with the terms and conditions of Permit No. 17430 heretofore issued by the Commissioner of Reclamation of the State of Idaho.

The name and postoffice address of the person or corporation holding said permit are Fred W. Schilling, Hope, Idaho.

The use to which said water has been applied is Domestic and Irrigation.

The amount applied to beneficial use is 0.14 second feet.

The place where said water is used is 7 acres of the NW $\frac{1}{4}$ SE $\frac{1}{4}$ of Sec. 7, Twp 56 N, Range 2 E.

The name of the canal or ditch or other works by which said water is conducted to such place of use is.....

The right to take water from such works is based upon Permit No. 17430.

The source of supply from which such water is diverted is un-named tributary of Jack O'Neil Creek.

The date of the priority which said user is prepared to establish is Feb. 26, 1931.

R. W. FARIS

Commissioner of Reclamation.
1st. pub. Feb. 4—11, 1932 5-4tx

17430

STATE OF IDAHO
DEPARTMENT OF RECLAMATION
BOISE, IDAHO

Permit No. 17430

Proof of Application of Water to Beneficial Use

Deposition of Holder

Ques. 1. State your name, residence, occupation and postoffice address.

Ans. Fred W. Schilling; Hope, Idaho; U. S. Forestry
Service; Hope, Idaho

Ques. 2. If acting in behalf of corporation, state its name, principal place of business (if a foreign corporation, give name of postoffice of statutory agent), your position with reference to same, and your authority for appearing in its behalf.

Ans. -

Ques. 3. State number and date of permit, and date of priority you propose to establish under the permit.

Ans. Number 17430; dated March 4, 1931; Priority February 26, 1931

Ques. 4. State source of water supply and give exact location of point of diversion.

Ans. An unnamed tributary of Jack O'Neil Creek; Diversion about 800 feet distant from the 14th corner of Section 7, Township 56, North, Range 2, E. B. M., and in the NE $\frac{1}{4}$ of the SE $\frac{1}{4}$ of said Section and Township.

Ques. 5. Describe your works of diversion, and state amount of water they are capable of conveying from point of diversion to place of use, and give name of canal or ditch or other works by which water is conducted to such place of use.

Ans. Round diversion tank, 6 feet by 5 feet; 40 feet of flume; 1500 feet of 1 inch pipe; a dam made of 12" planks, approximately 1 foot high; Amount of water capable of conveying is 0.14 second feet of water; No canal or ditch, but water is conducted by 1500 feet of 1 inch pipe.

Ques. 6. State for what purpose water is used and describe place of use. (If for irrigation, name each subdivision in which used, and number of acres in each subdivision that have actually been irrigated with said water.) State whether cultivated or natural meadow land and the nature of all improvements which have been made as a direct result of said use.

Ans. Irrigation and domestic use; Water used on a 7 acre tract, in the NW $\frac{1}{4}$ of SE $\frac{1}{4}$ of Section 7, Township 56, North, Range 2, E. B. M.; Cultivated land; Planted orchards and garden.

Ques. 7. If for other than for irrigation purposes; state how applied, amount of horse power generated, etc.

Ans. -

17430

Ques. 8. What is the minimum amount of water required for the purpose specified above?

Ans. 0.14 second feet of water

Ques. 9. If you are not the person or representative of the corporation to whom above mentioned permit was originally issued, please state how ownership was acquired by present holder.

Ans. -

Ques. 10. State when, how, in what amount and to what extent the water diverted under above mentioned permit has been used.

Ans. Since 1911; Conveyed by same works; Amount of 0.14 second feet of water; Used to full capacity for irrigation and domestic purposes.

Ques. 11. State when, how, in what amount and to what extent waters other than those diverted under the above mentioned permit have been diverted and applied to beneficial use upon the lands herein described. Give full particulars regarding such other appropriations and rights claimed thereunder.

Ans. No other waters.

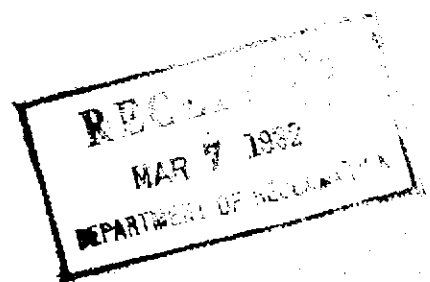
(Sign)

Fred W. Schilling

I hereby certify that the foregoing testimony was read to the above subscribed before its signing, that I believe him to be the person he represents himself to be, and that said testimony was subscribed and sworn to before me, at my office in Sandpoint, County of Bonner, State of Idaho, on this 4th day of March, A. D. 1932.

Roll E. McLaughlin
Notary Public in and for the
State of Idaho
Residing at Sandpoint, Idaho

My commission expires March 3, 1936



STATE OF IDAHO
DEPARTMENT OF RECLAMATION
BOISE, IDAHO

PERMIT NO. 17430

Proof of Application of Water to Beneficial Use
Deposition of Witness

The deposition of two witnesses, on this form, taken separately, required in each case.

Ques. 1. State your name, age, residence, occupation and postoffice address.

Ans. Frank Cook; 54; Hope, Idaho; Farmer; Hope, Idaho.

Ques. 2. Are you acquainted with Fred W. Schilling, the holder of Permit No. 17430? How long have you known him and where does he reside?

Ans. Yes; Approximately 7 years; Hope, Idaho, on a small farm.

Ques. 3. Have you read or heard read said Permit No. 17430, and are you familiar with its provisions and conditions?

Ans. Yes.

Ques. 4. State source of water supply, place of diversion, and describe works for conveying water from point of diversion to place of use.

Ans. An unnamed tributary of Jack O'Neil Creek; Diversion about 800 feet distant from the $\frac{1}{4}$ corner of Section 7, Township 56, North, Range 2, E. B. M.; A round tank, 6 feet by 5 feet; 40 feet of flume; dam about 1 foot high, made of 12" planks; 1500 feet of pipe.

Ques. 5. How many second feet of water do you estimate said works will safely conduct to place of use, and how much water have you seen being so conveyed?

Ans. 0.14 second feet of water; 0.14 second feet, the full amount

Ques. 6. State for what purpose water is used and at what place. (If for irrigation, give each sub-division in which water has been used and number of acres irrigated in each subdivision.) State whether cultivated or natural meadow land and the nature of all improvement which have been made as a direct result of said use.

Ans. Irrigation and domestic use on the farm of the holder; This water used on a 7 acre tract; Cultivated land; Holder has planted a garden and orchard.

17430

Ques. 7. If for power or other purposes than irrigation, state how water has been applied and to what extent

Ans. -----

Ques. 8. (If for irrigation) state character of land that has been reclaimed, and give your estimate of the amount of water required for its profitable cultivation.

Ans. ----- The land is logged off yellow soil; the holder needs the full amount of 0.14 second feet for the cultivation of this land. -----

Ques. 9. Have you any interest in the works, water or lands above mentioned? If so, in what way and to what extent?

Ans. ----- No interest whatever. -----

Ques. 10. State when, how, in what amount and to what extent you have witnessed the application to beneficial use of water diverted under said permit.

Ans. ----- Since 1911; water converted by same works; in the full capacity of 0.14 second feet, used for domestic and irrigation purposes. -----

(Signed)

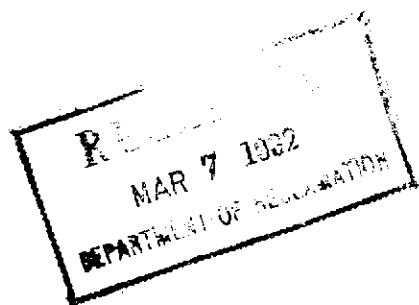
Frank Cook

I hereby certify that the foregoing testimony was read to the above subscriber before its signing, that I believe him to be the person he represents himself to be, and that said testimony was subscribed and sworn to before me in ----- Sandpoint -----, County of ----- Bonner -----, State of Idaho, on this day of ----- March 4th -----, A. D. 1932..

Roll E. M. Loomis

Notary Public.

My commission expires ----- March 3, 1936 ----- Residing at Sandpoint, Idaho



STATE OF IDAHO
DEPARTMENT OF RECLAMATION
BOISE, IDAHO

PERMIT NO. 17430

Proof of Application of Water to Beneficial Use
Deposition of Witness

The deposition of two witnesses, on this form, taken separately, required in each case.

Ques. 1. State your name, age, residence, occupation and postoffice address.

Ans. Paul Parenteau; 32; Clarksfork, Idaho; Miner; Clarksfork,
Idaho.

Ques. 2. Are you acquainted with Fred W. Schilling, the holder of Permit No. 17430? How long have you known him and where does he reside?

Ans. Yes; 4 years; Hope, Idaho.

Ques. 3. Have you read or heard read said Permit No. 17430, and are you familiar with its provisions and conditions?

Ans. Yes.

Ques. 4. State source of water supply, place of diversion, and describe works for conveying water from point of diversion to place of use.

Ans. An unnamed tributary of Jack O'Neil Creek; Diversion about
800 feet distant from the $\frac{1}{4}$ corner of Section 7, Township 56, North,
Range 2, E. B. M.; a round tank, 6 feet by 5 feet; 40 feet of flume;
dam about 1 foot high, made of 12" planks; 1500 feet of pipe.

Ques. 5. How many second feet of water do you estimate said works will safely conduct to place of use, and how much water have you seen being so conveyed?

Ans. 0.14 second feet of water; 0.14 second feet of water

Ques. 6. State for what purpose water is used and at what place. (If for irrigation, give each sub-division in which water has been used and number of acres irrigated in each subdivision.) State whether cultivated or natural meadow land and the nature of all improvement which have been made as a direct result of said use.

Ans. Irrigation and domestic use on the farm of the holder at
Hope, Bonner County, State of Idaho; Used on a 7 acre tract;
Cultivated land; Holder has planted a garden and orchard.

17430

Ques. 7. If for power or other purposes than irrigation, state how water has been applied and to what extent

Ans. -----

Ques. 8. (If for irrigation) state character of land that has been reclaimed, and give your estimate of the amount of water required for its profitable cultivation.

Ans. The land is logged off yellow soil; the holder needs the
full amount of 0.14 second feet for the cultivation of this land.

Ques. 9. Have you any interest in the works, water or lands above mentioned? If so, in what way and to what extent?

Ans. No interest whatever.

Ques. 10. State when, how, in what amount and to what extent you have witnessed the application to beneficial use of water diverted under said permit.

Ans. Since October, 1927; water converted by same works; the
full capacity of 0.14 second feet; used for irrigation and domestic
purposes.

(Signed)

Paul J. Jantzen

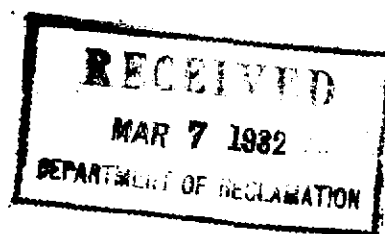
I hereby certify that the foregoing testimony was read to the above subscriber before its signing, that I believe him to be the person he represents himself to be, and that said testimony was subscribed and sworn to before me in Sandpoint, County of Benner, State of Idaho, on this day of March 4th, A. D. 1932.

Roll E. McLeary

Notary Public.

My commission expires March 3, 1936

Residing at Sandpoint, Idaho.



March 3, 1932

Re: PERMIT NO. 17430

MR. M. J. DUNN
Hope, Idaho

Dear Sir:

Your protest in the matter of the application of water to BENEFICIAL USE under the above numbered permit has been received. Under date of March 2nd, we wrote to your attorney, MR. E. W. WHEELAN, informing him that your protest would be given consideration at the time the field examination is made by an engineer from this Department. It is hard to say just when the field examination will be made due to weather conditions and the large number of permits which have to be examined.

Very truly yours,

R. W. FARIS
Commissioner of Reclamation

By _____
Office Engineer

PH/lp

17430

March 2nd
1932

Re: PERMIT NO. 17430

MR. E. W. WHEELAN
Attorney at Law
Sandpoint, Idaho

Dear Sir:

The protest of Mr. M. J. DUNN in connection with the application of water to BENEFICIAL USE under the above numbered permit has been received. After Mr. Fred W. Schilling has filed his depositions for BENEFICIAL USE proof there will be a field examination made by an engineer from this Department at a later date, before a license is granted. Mr. Dunn's protest will be given careful consideration at the time such examination is made.

Very truly yours,

R. W. FARIS
Commissioner of Reclamation

By _____
Chief Clerk

PH/LP

17430

E. W. WHEELAN

LAWYER

SANDPOINT, IDAHO

February 29, 1932

17430

Commissioner of Reclamation
Boise, Idaho

Dear Sir:

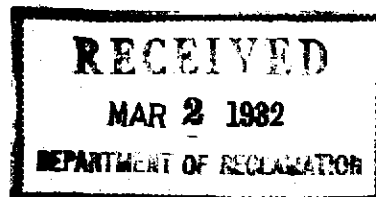
I inclose herewith protest of M. J. Dunn in connection with the application of Fred W. Schilling, to make proof of the application of water to beneficial use under permit No. 17430.

If there are any fees to be paid in connection with this matter please advise me and I will remit.

Yours very truly,

E. W. Wheelan

EWV:EO
Inclosure



17430

IN THE MATTER OF PROOF OF APPLICATION OF WATER TO
BENEFICIAL USE BY FRED W. SCHILLING, UNDER PERMIT
No. 17430, BEFORE THE DEPARTMENT OF RECLAMATION.

P R O T E S T.

Comes now M. J. DUNN and files this protest against the application of Fred W. Schilling to prove the application of water to beneficial use under permit No. 17430, issued by the Commissioner of Reclamation of the State of Idaho, under which application their permit No. 17430, the said Fred W. Schilling claims .14 second feet of water for domestic and irrigation use on seven (7) acres of land in the,

Northwest quarter (NW $\frac{1}{4}$) of the Southeast Quarter (SE $\frac{1}{4}$) of Section Seven (7), Township Fifty-six (56), North Range Two (2) East B. M. in Bonner County, Idaho,

and states as follows:

1. This protestant is the owner of the land upon which the diversion works of claimant, under said permit are located, and has been such owner and in possession thereof for several years.
2. That said diversion works of claimant were constructed and placed upon the land of this protestant without any authority or permission from this protestant, and entirely without the knowledge of this protestant at the time said diversion works and improvements were installed on said land.
3. That the waters attempted to be diverted and applied to beneficial use by claimant do not have their source in any unnamed tributary of Jack O'Neil Creek, or are not taken from any creek or stream at all, but the source of the water is attempted to be diverted is a spring or springs coming to the surface on the land of this protestant, and the attempt to divert and claim said water under said permit is the attempted diversion of the waters of springs wholly upon the land of this protestant.
4. That the claimant has no right-of-way over and

across the land of this protestant from the place of said diversion to the land of the claimant, where it is claimed said water is used for irrigation and domestic purposes, and at no time has had a right-of-way over or across said land.

5. This protest is filed for the purpose of contesting the hearing in the above entitled matter before Robt. E. McFarland, a Notary Public, on the 4th day of March, 1932.

6. Protestant further alleges, in support of this protest, that there is now pending in the District Court of Bonner County, Idaho, an action in which the said, Fred W. Schilling is defendant and this protestant is plaintiff, involving the right to use the identical waters that are claimed under this permit, and in which the issue is raised as to the trespass of the claimant herein on the land of this protestant in the construction of such diversion works, in which action Robt. E. McFarland is Attorney for the said Fred W. Schilling, and the undersigned, E. W. Wheelan is the Attorney for this protestant.

Dated this 29th day of February, 1932.

M. J. Quinn
PROTESTANT.

E. W. Wheelan

Attorney for Protestant.

STATE OF IDAHO,)
 : SS
County of Bonner,)

M. J. Dunn, being first duly sworn on oath, deposes and says, that he is the protestant in the above entitled protest and that he has read the above and foregoing protest and knows the contents thereof and that he believes the facts therein stated to be true.

M. J. Dunn

Subscribed and sworn to before me this 29th day of February, 1938.

E. W. Wheelan

Notary Public for Idaho,
Residing at: Sandpoint, Idaho.

17430

Hope, Idaho, Mar. 1-1931

Dept. of Reclamation
Borise, Idaho.

Dear Sir;

Re- beneficial use of water
by Fred W. Schelling on the N.E. 1/4 of S.E. 1/4,
Sec 7 T.P. 56. R. 2 E. B. N.

He made his application for the water
while I was in St. Lukes Hospital in
Spokane during the months of Feb and March
1931 without my knowledge or consent
and advertised it in the Priest River
Times, he also advertised the hearing
for Mar. 4-1931 in the Priest River Times.

This paper is printed in the extreme
~~western~~ ^{eastern} end of Bonner Co, and I live
in the east end of the county.

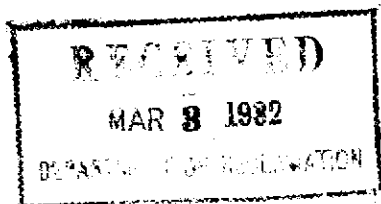
This paper has no circulation in
or near where the land is located

The hearing is also advertised to be held
before Robt M Farland his attorney 17430

in a suit I have pending against him in the District Court for trespass etc. They tried to pull a fast one on me by advertising in the Breat River Times thinking they could put it over without my finding it out. I did not know of the hearing being set for Mar. 4, -1934 until a friend of mine from Breat River told me a few days ago, that is the reason I did not protest sooner. I have filed formal protest of the hearing thru my attorney.

Very truly yours

M. J. Dunn
Box 154
Hope, Idaho



State of Idaho

DEPARTMENT OF RECLAMATION

BOISE

INSTRUCTIONS

PROOF OF BENEFICIAL USE OF WATER

BOISE, IDAHO,

February 29, 1932

ROBERT E. McFARLAND
Notary Public
Sandpoint, Idaho

DEAR SIR:

I enclose herewith the following forms to be used in connection with proof of beneficial use of water under Permit No. 17430

DEPOSITION OF PERMIT HOLDER, DEPOSITIONS OF TWO WITNESSES.

In submitting this proof the following instructions should be CAREFULLY followed out, since failure to do so may result in the loss of rights:

1. On March 4, 1932, the date set for proof, the enclosed forms (one for permit holder and one each for two disinterested witnesses) should be filled out and sworn to, at Sandpoint, Idaho before Robert E. McFarland

2. When the depositions have been taken, they should be mailed to this office, together with affidavit of publication of notice.

When these have been received, together with report of the examining engineer, if everything is properly executed, you will be further advised as to fees due, etc., before certificate is issued.

Yours truly,

R. W. PARIS
Commissioner of Reclamation.

17430

January 28, 1932

Re: Permit No. 17430

Mr. Fred W. Schilling
HOPE, IDAHO

Dear Sir:

With reference to your communication of the 27th, would say that an Extension of Time for offering BENEFICIAL USE proof on the above permit is not necessary. Under ordinary circumstances, we like to have the notice for publication in this Department 60 days prior to the time when proof is being made. However, there is still ample time for publication prior to March 4th, the date when your proof is due.

One copy of the notice has been forwarded to the PRIEST RIVER TIMES for publication. Depositions will be mailed to Mr. Robert E. McFarland, Notary Public, Sandpoint, Idaho, February 29th.

We are enclosing the affidavit submitted by you for an Extension of Time on your BENEFICIAL USE proof. Also your \$5.00 postal money order, as there is no fee at this time. Your fee for BENEFICIAL USE proof will be due after the field examination has been made.

Very truly yours,

R. W. FARIS
Commissioner of Reclamation

By _____
Chief Clerk

IH/LP

17430

Hope, Idaho
January 25, 1932

Mr. R. W. Faris
Commissioner of Reclamation
Boise, Idaho

Dear Sir:

I am herewith enclosing two notices of proof of application of water to beneficial use, under Permit No. 17430.

Owing to a change of circumstances, I was unable to have these in sixty (60) days before the date set for the proof, as set forth in the permit.

I have made an affidavit to have an extension of time, so that these notices will be in the sixty (60) days previous to that time, and so that the regular publication can be made.

Will you kindly, therefore, insert in the notice the date to which you postponed the proof?

Thanking you, I remain

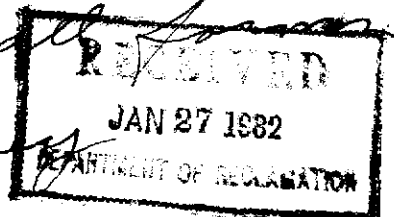
Very truly yours,

Fred W. Schilling
Fred W. Schilling

Enclosures

1 P 31

*Please send me all papers
and blank messages*



17430

Post Office Department

OFFICIAL BUSINESS

REGISTERED ARTICLE

No. 32110

INSURED PARCEL

No. _____

PENALTY FOR FAILURE TO PREPAY POSTAGE, \$300

RECEIVED

JAN 22 1932

DEPARTMENT OF RECLAMATION

POSTAGE OF DELIVERY

1932

JAN

20

P.M.

DATE OF DELIVERY

BOISE, IDAHO

Return to

Street and Number,
or Post Office Box,

(NAME OF SENDER)

BOISE,

IDAHO.

RETURN RECEIPT

Received from the Postmaster the Registered or Insured Article, the original number of which appears on the face of this Card.

Fred R. Schilling

(Signature or name of addressee.)

Harold Schilling

(Signature of addressee's agent.)

Date of delivery,

Jan 20, 193*32*

Form 3811

STATE OF IDAHO
DEPARTMENT OF RECLAMATION
BOISE, IDAHO

Date January 28, 1932

Priest River Times
Priest River, Idaho

DEAR SIR:

Enclosed you will find notice for publication once a week for four consecutive weeks prior to March 4th, 1932, the date set for proof, the expense of the publication to be paid by the applicant, Fred W. Schilling, Hope, Idaho

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,

R. W. FARIS
Commissioner of Reclamation

17430

Form No. 9

**STATE OF IDAHO
DEPARTMENT OF RECLAMATION
BOISE**

January 15, 1932

Fred W. Schilling

HOPE, IDAHO

Dear Sir:—

I enclose herewith blank notice of proof of application of water to beneficial use under your permit No. 17430, which should be filled out and returned to this office at least 60 days before the date upon which you wish to make proof. The date for proof, as set out in your permit, is 3/4/32, and, if proof is submitted subsequent to said date, your priority will be brought down a length of time equal to the time elapsing between the date proof should have been made and the date proof is actually made.

Yours truly,

R. W. FARIS

~~GEORGE W. FARIS~~

Commissioner of Reclamation.

17430

NOTICE TO ACCOMPANY THIS LETTER MUST BE MADE IN DUPLICATE

(Date) January 25, 1932

(P. O.) Hope, Idaho

TO THE COMMISSIONER OF RECLAMATION:

Boise, Idaho.

Dear Sir:

You are hereby authorized to have the attached notice published at my expense in the Priest River Times of Priest River, Idaho, published in the county in which the works are situated.

Fred W. Schilling

(In case of canals or other works designed to divert and carry more than 50 cubic feet of water per second, the following certificate must be signed by a well-known and competent engineer.)

I hereby certify that the facts set forth in the attached notice are true.

Engineer.

17430

NOTICE FOR PUBLICATION

NOTICE OF PROOF APPLICATION OF WATER TO BENEFICIAL USE

Notice is hereby given that at 10:00 a. m. on the 4th day of March, 1931,
 at Sandpoint, County of Bonner, State of Idaho,
 before Robt. E. McFarland, a Notary Public, proof will be submitted
 of the application to beneficial use of Fourteen one-hundreths cubic feet per second of the
 waters of un-named tributary of Jack O'Neil Creek in accordance with the terms and conditions of
 Permit No. 17430 heretofore issued by the Commissioner of Reclamation
 of the State of Idaho.

The name and postoffice address of the person or corporation holding said permit are
Fred W. Schilling, Hope, Idaho

The use to which said water has been applied is Domestic and Irrigation

The amount applied to beneficial use is 0.14 second feet

The place where said water is used (if for irrigation, give full and accurate description of the lands
 irrigated) Beginning at the SE corner of NW $\frac{1}{4}$ of SE $\frac{1}{4}$ of Sec. 7, T 56 N,
R 2 EBM, thence West 648 feet, thence North 462 feet, thence East
648 feet, thence South 462 feet to the point of beginning.

7 acres of the NW $\frac{1}{4}$ SE $\frac{1}{4}$ of Sec 7, Twp 56 N, Rg 2 E

The name of the canal or ditch or other works by which said water is conducted to such place of use
 is _____

The right to take water from such works is based upon Permit No. 17430

The source of supply from which such water is diverted is an un-named tributary
of Jack O'Neil Creek

The date of the priority which said user is prepared to establish is _____

1915 Feb 26, 1931

R. W. PARIS

Commissioner of Reclamation.

17430

November 18, 1931

Mr. M. J. Dunn
Hope, Idaho

Dear Mr. Dunn:

Enclosed herewith is certified copy of Permit
No. 17430; also check of R. W. Faris for \$3.50, as the
amount of the certified copy was \$1.50.

Very truly yours,

R. W. FARIS
Commissioner of Reclamation

By

LP

17430

RECEIVED

NOV 10 1931

DEPARTMENT OF RECLAMATION

Hope, Idaho, Nov. 6 - 1931

Department of Reclamation,
17430 Boise, Idaho.

Dear Sirs,

Would you please send me a certified copy of the application of Fred W. Schelling for the use of water on the N.E. 1/4 of the S.E. 1/4 of Sec. 7 T. 56 R. 2 E. B. M. Also a certified copy of the permit you issued to him.

This land belongs to me, is fenced and partly cultivated.

He built flumes, ditches, laid pipe line and installed a tank ~~which~~ on my land without my knowledge or permission. I started action in the District Court against him for trespass. In his answer to the complaint he claims the right under a permit issued from your office to appropriate the water, lay pipe lines construct flumes ditches etc.

Enclosed find check for \$5.00.

Yours truly, M J Dunn
17430 Box 154

COPY

STATE OF IDAHO
DEPARTMENT OF RECLAMATION
BOISE

17430
STATE OF IDAHO)
: SS:
County of Ada)

I, R. W. Faris, Commissioner of Reclamation of the State of Idaho, hereby certify that the above and foregoing is a full, true and correct copy of Permit to appropriate the public waters of the State of Idaho, No. 17430, as the same appears of record in the Department of Reclamation of Idaho, at Boise, in Book 63 of Permits at page 17430.

IN WITNESS WHEREOF, I have hereunto set my hand and affixed the seal of my office at Boise, Idaho, this 16th day of November, 1931

Commissioner of Reclamation

17430

June 24, 1931.

Re: Permit No. 17430.

Mr. Fred W. Schilling
Hope, Idaho

Dear Sir:-

Referring to your letter of the 22nd inst. would say that there is no way whereby this office could give you protection in a legal procedure. It is evidently a case to be settled in court and I would suggest that you consult an attorney in the matter. You have your permit and certificate of completion of works, showing that the permit is in good standing in this office.

Very truly yours,
R. W. FARIS
Commissioner of Reclamation.
By
Chief Clerk.

17430

Hopkida

6/92-31

Hon. Commissioner, Reclamation
Boise, Ida.

Dear Sir:-

I have my water right use
permit No 17430 and have my
certificate of completion, as you
can see by referring to the
records.

I could also prove my
beneficial use, anytime now
as my witnesses are now
available, who know of this
construction and use
of water from the beginning.

1) Notwithstanding, two
days ago a summons and
complaint were served
on me by a man named
M. J. Huggins who seems to
claim he had the water

17430

himself and he prays for
the water because he has
lands adjacent and for
drainages of 1000⁰⁰ - although
he has never used it.

What should I do?

Seems like I will have
to get an attorney and
defend it, can you give
me any help in this matter
or any suggestions?

The water means the
salvation of my place and
right now it I cannot raise
the berries, Orchard and other
crops I now have.

This water has always
been used on this particular

tract and on no other as
I am prepared to prove.
Any help you can
render in defending
my rights will be
deeply appreciated.

Yours very truly
Fred W. Schilling

May 5, 1931.

Re: Permit No. 17430.

Fred W. Schilling
Hope, Idaho, P.O.Box 292.

Dear Sir:-

Enclosed you will find certificate of completion of works issued under the above permit, with receipt for fee paid.

Very truly yours
R. W. FARIS
Commissioner of Reclamation.
By

Chief Clerk.

CCW-R13948

17430

Permit No.

STATE OF IDAHO
Department of Reclamation

Proof of Completion of Works

AFFIDAVIT OF HOLDER

STATE OF IDAHO,

County of

Bonner

} SS

Fred W. Schilling

, being first duly sworn, upon his oath deposes and says:

First: That he is the holder and owner of Permit to appropriate the Public Waters of the state of Idaho, No. 17430, and that his postoffice address is Hope, State of Idaho.

Second: That the name of the stream from which said water is to be diverted is an unnamed tributary of Jack O'Neill Creek.

Third: That the point of diversion of said water is about 800 feet from the N.E. corner of sections 7/8, T 56 N of R 2 E B.M.

Fourth: That under the terms and conditions of said permit, construction thereunder was required to be completed by Sept. 4, 1931.

Fifth: That the use for which said water is intended is Domestic and Irrigation.

Sixth: That on the date above mentioned, the works constructed under said permit were (or were not) fully completed and consisted of the following:

I. Kind of works: Tank, dam, flume, and pipe,
(Reservoir, dam, ditch, flume, pipe or otherwise.)

II. Dimensions of work:

(a) Height of dam 1 feet, length of dam at top 6 feet, length of dam at bottom 4 feet. Material used in construction 2" planks wood.

(State whether wood, earth, stone or concrete.)

(b) Capacity of reservoir 0.0023 acre feet.

(c) Size of headgate: Width feet, height feet.

(d) Conduit 1" Pipe width at bottom feet, width at water line feet, depth of water feet; diameter of pipe 1 inches, average grade per mile is about 75 feet. Length of conduit is 1/4 miles.

(State whether ditch, flume or pipe.)

Seventh: That said works are capable of conducting to the place of intended use 14 second feet of water.

Eighth: That water appropriated under said permit is available for 7 acres of land described as follows: Tract known as Tax No. 13 in the N.W. 1/4 of the SE 1/4 of Sec. 7, T 56 N of R 2 E B.M.

Ninth: Remarks: That the intake, or point of diversion, is in the NE 1/4 of SE 1/4 of Sec. 7, T 56 N of R 2 E B.M.

Fred W. Schilling
(Sign here)

Subscribed and sworn to before me this 25th day of April, 1931.

My commission expires Mar. 9, 1932

Roll E. M. Larkins
Notary Public.

17430

Hope Idaho, Apr. 25, 1931.

Hon. Commissioner of Reclamation
Boise, Ida,
Dear Sir:

No Permit No. 17430.

Herewith find affidavit and "Proof
of Completion of Works", together with fee of
\$5.00, as per your instructions and letter
of the 18th.

yours very truly

Paul W. Schilling

P.O. Box 292
Hope, Idaho.

17430

April 18, 1931.

Re: Permit No. 17430.

Fred W. Schilling
Box 292, Hope, Idaho

Dear Sir:-

In accordance with your request the 15th inst., you will find enclosed affidavit form for proof of completion of works, together with blank notices for proof of beneficial use of water under your above permit.

All that is required for proof of completion under permits claiming 6.4 sec.ft., or less, is the affidavit of holder, with fee of \$5.00.

For proof of beneficial use of the water the notice is required to be published for a period of four weeks prior to the date of making proof and, on the date set out in the notice by the holder, he is required to appear before the notary public, or other officer designated by him to take the proof, together with his two witnesses, and fill out deposition blanks which will be furnished the officer by the office.

Very truly yours,
R. W. FARIS
Commissioner of Reclamation
By

Encl.

Chief Clerk

17430

F 5-6

F 10-11

Hope Idaho, 4/15 '31.

Hon. Commissioner of Reclamation
Boise, Idaho.

Dear Sir:

Please send me the proper blanks
for making "Proof of Completion" of construction
of Irrigation and Domestic System, filed under
your Water Right Permit No. 17430, if
such papers are required to be filed in
this particular case.

This System is fully completed and
the water is being beneficially used as
noted in application.

yours very truly

address:

Box 292

Hope, Idaho.

Fred W. Schilling

17430

State of Idaho
DEPARTMENT OF RECLAMATION
BOISE

Permit No. 17430

Mr. Fred W. Schilling
Hope, Idaho

Boise, Idaho,
March 4, 1931

Dear Sir:

I enclose herewith above numbered permit. BE SURE AND
NOTE LIMITATIONS AND CONDITIONS OF SAME as
given under approval of the Commissioner of Reclamation on
the third page.

P. O. Box 292

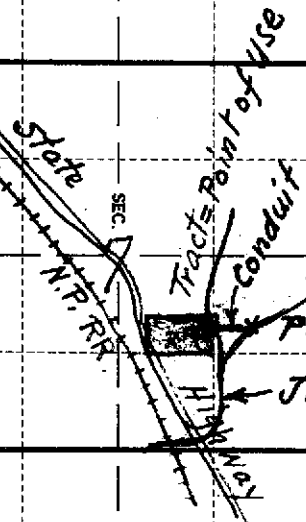
17430

Commissioner of Reclamation.

Fred W. Schilling

R2 EBM

T56N



R1E.

R2E.

Permit Map No. 17430

As Approved

MAR 4 1931

GEO. N. CARTER
Commissioner of Reclamation