

State of Idaho
License and Certificate of Water Right

Water License No. 1442 Amount 2.002 c.f.s.
Water District No. Priority May 29, 1937

THIS IS TO CERTIFY that RALPH KERR - Assignee - JAMES M. and BERNEECE M. SMITH
of Copeland, Idaho, made application for a permit to appropriate the
public waters of the State of Idaho, dated April 22, 1937; that Permit No. 18442
was issued under said application; that Certificate of Completion of works, with a carrying capacity of
3.0 second feet, was issued thereunder on March 24, 1942, showing that said works
were completed on the 12th day of March, 1942; and that on the 21st
day of June, 1948, RALPH KERR - Assignee - JAMES M. and
BERNEECE M. SMITH
of Copeland, State of Idaho, made proof to the satisfaction of the
State Reclamation Engineer of Idaho, of the right to use the waters of Fisher
Creek, a tributary of Kootenai River, for the purpose of irrigation, domestic
and power, under Use Permit No. 13442 of the Department 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 State Reclamation Engineer of Idaho and entered of record in Volume
13 of Licenses at page 4076, on the 19 day of January, 1965;
The right hereby confirmed dates from May 29, 1937;
The Point of Diversion is located

in the SE 1/4, NE 1/4, Sec. 23, T. 64 N., R. 1 W., B. M. Boundary 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 2.005 c.f.s. per second.

Description and location of use.

Twp.	Range	Sec.	Forty-acre Tract	No. Acres Described in Permit	No. Acres Actually Irrigated
64 N.	1 W.	23	For domestic, power and irrigation use in the NW 1/4, SE 1/4, SE 1/4, NE 1/4, SW 1/4, NW 1/4, SE 1/4, Sec. 23, T. 64 N., R. 1 W., B. M., the power house being in the NW 1/4, Sec. 23, T. 64 N., R. 1 W., B. M. 2.0 c.f.s. for power 0.005 c.f.s. for domestic and irrigation use		

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 State Reclamation Engineer, affixed at Boise, Idaho, this
19th day of January, 1965.
/s/ RALPH W. THOMAS
Deputy State Reclamation Engineer.
(SEAL)

IT IS FURTHER ORDERED, ADJUDGED AND DECREED that there is a
residue of the estate consisting of real property described as:

Section Twenty-three (23), Township Sixty-four (64)
North, Range One (1) ~~West~~ B.M., lying West of the
Kootenai River and containing 484 acres,

and that said residue be, and it is hereby distributed to the
aforesaid heir, **MARIE KERR**, ~~and~~ any other property not now known
or discovered, which may belong to the said estate or which said
estate may have an interest in, be and the same is hereby
distributed to the aforesaid heir.

Dated this 11 day of December, 1963.

GEO. H. UNTERNAHRER
Probate Judge.

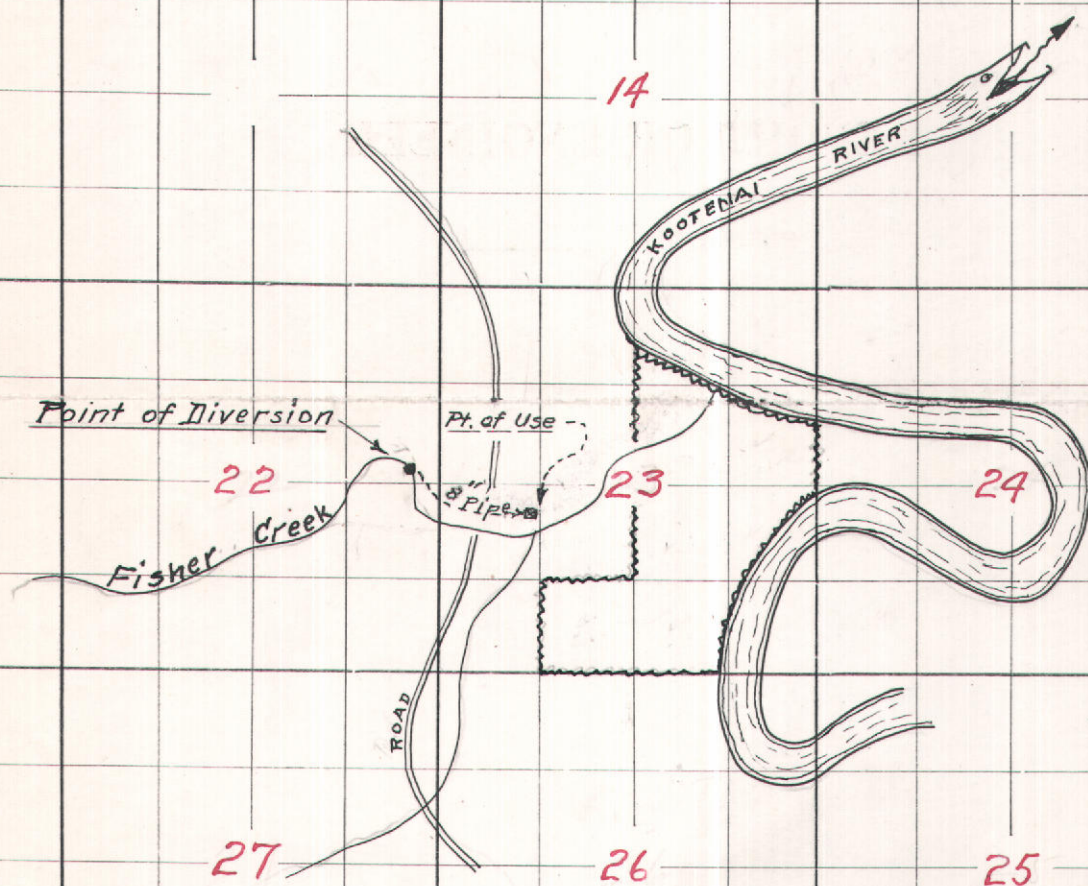
State of Idaho }
County of Boundary } ss.

This is to certify that the foregoing is a
true copy of the original now on file or
record in this office.

Geo. H. Unternahrer
Ex Officio Clerk of Probate Court

By _____
Deputy

FILED
1963
DEC 11
CLERK OF PROBATE COURT
STATE OF IDAHO
COUNTY OF BOUNDARY
FILED FOR RECORD AT THE CLERK'S OFFICE
ON THE 11th DAY OF DECEMBER 1963
18442



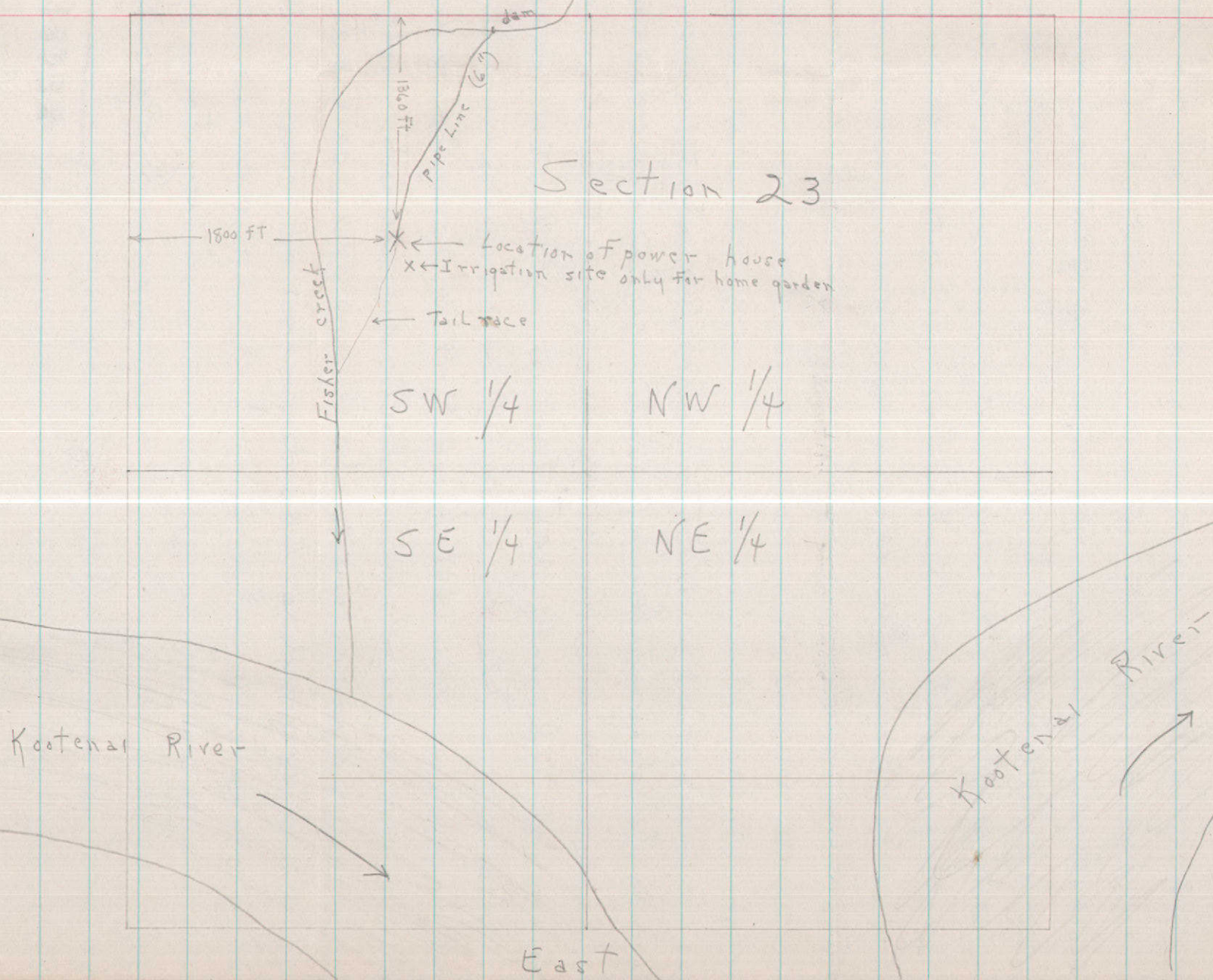
West

Forest Service
Section 22

Section 23

South

North



East

August 5, 1948

Re: Permit No. 18442

Mr. Ralph Kerr
Porthill, Idaho

Dear Mr. Kerr:

We are not quite sure from your letter of July 26 whether you mean that the water applied for under your Permit No. 18442 is to be used for irrigation on all land described in the Permit in Section 23, nemely the ~~W1/4~~^{W1/2}, ~~SE1/4~~^{SE1/2}, ~~N1/2~~^{N1/2} and ~~SW1/4~~^{SW1/2}, or only on the SW of Section 23 as stated in your deposition.

Please also advise the point of diversion for power, that is the location of your power plant.

Very truly yours,

MARK R. KULP
State Reclamation Engineer
By

Chief Clerk

A/gt

18442

The Bonners Ferry Herald

PUBLISHERS AND COMMERCIAL PRINTERS

Bonners Ferry, Idaho

NOTICE FOR PUBLICATION NOTICE OF PROOF APPLICATION OF WATER TO BENEFICIAL USE

Notice is hereby given that at 10 A. M. on the 12th day of May, 1948, at Bonners Ferry, County of Boundary, State of Idaho, before H. I. Monks, Notary Public, proof will be submitted of the application to beneficial use of 3.0 cubic feet per second of the waters of Fisher Creek in accordance with the terms and conditions of Permit No. 18442 heretofore issued by the Commissioner of Reclamation of the State of Idaho.

The name and post office address of the person or corporation holding said permit are Ralph Kerr, Port-hill, Idaho.

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

The amount applied to beneficial use is 3.0 second feet.

The place where said water is used: W $\frac{1}{2}$ NE $\frac{1}{4}$, SE $\frac{1}{4}$ NE $\frac{1}{4}$, SE $\frac{1}{4}$ SW $\frac{1}{4}$, N $\frac{1}{2}$ SE $\frac{1}{4}$, SW $\frac{1}{4}$ SE $\frac{1}{4}$, Sec. 23, Twp. 64 No. Range 1 West B. M.

The name of the canal or ditch or other works by which said water is conducted to such place of use is none.

The right to take water from such works is based upon Permit No. 18442.

The source of supply from which such water is diverted is Fisher Creek.

The date of priority which said user is prepared to establish is April 22, 1937.

MARK R. KULP,
State Reclamation Engineer.
First publication April 15, 1948.
Last publication May 6, 1948.

AFFIDAVIT OF PUBLICATION

State of Idaho ss
County of Boundary

R. L. Myers, being first duly sworn upon his oath, deposes and says: That he is the co-publisher of the Bonners Ferry Herald, a newspaper of general circulation, published weekly at Bonners Ferry, Boundary County, State of Idaho; that the said Bonners Ferry Herald has been continuously and uninterruptedly published in said Boundary County during a period of 18 months or 78 weeks prior to the first publication of the hereto attached notice; that the advertisement of State Reclamation Engineer, a Notice of Proof Application of Water to Beneficial Use, Notice for Publication, a printed copy of which is attached hereto was published in said newspaper and not in a supplement thereof for four consecutive issues, commencing with the issue dated April 15, 1948, and ending with the issue dated May 6, 1948.

R. L. Myers
Co-Publisher

Subscribed and sworn to before me this

21 day of June, 1948.

H. I. Monks
Notary Public in and for the County of Boundary, State of Idaho, residing at Bonners Ferry, Idaho.



PUBLISHED EVERY THURSDAY

COMPLETE NEWSPAPER COVERAGE OF BOUNDARY COUNTY

18442

March 26, 1942

Re: 18442

Mr. Ralph Kerr
Copeland, Idaho

Dear Mr. Kerr:

We are enclosing a Certificate of Completion of Works on the above numbered permit for the use of 3.0 second feet of the waters of Fisher Creek to be used for irrigation of the $\frac{1}{4}$ NE $\frac{1}{4}$, SE $\frac{1}{4}$ NE $\frac{1}{4}$, SE $\frac{1}{4}$ SW $\frac{1}{4}$, N $\frac{1}{4}$ SE $\frac{1}{4}$, SW $\frac{1}{4}$ SE $\frac{1}{4}$, Sec. 23, Twp. 64 N., Rge. 1 W.B.M.

Very truly yours,
E. V. BERG.
Commissioner of Reclamation

BY: Chief Clerk.

ml.
encl.

18442

78076 ✓

State of Idaho License and Certificate of Water Right

Water License No. 1842

Amount 2.005 c.f.s.

Water District No.

Priority May 29, 1937.

THIS IS TO CERTIFY that RALPH KERR - Assignee - JAMES M. and BERNICE M. SMITH of Copeland, Idaho, made application for a permit to appropriate the public waters of the State of Idaho, dated April 22, 1937; that Permit No. 1842 was issued under said application; that Certificate of Completion of works, with a carrying capacity of 3.0 second feet, was issued thereunder on March 24, 1942, showing that said works were completed on the 12th day of March, 1942; and that on the 21st day of June, 1943, RALPH KERR - Assignee - JAMES M. and BERNICE M. SMITH

of Copeland, State of Idaho, made proof to the satisfaction of the State Reclamation Engineer of Idaho, of the right to use the waters of Fisher Creek, a tributary of Kootenai River, for the purpose of irrigation, domestic and power, under Use Permit No. 1842 of the Department 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 State Reclamation Engineer of Idaho and entered of record in Volume

13 of Licenses at page 8076, on the 19 day of January, 1965.

The right hereby confirmed dates from May 29, 1937.

The Point of Diversion is located

in the SE 1/4 of NE 1/4 of T. 6N., R. 1W., B. M. Boundary County

That the amount of water to which said 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 2.005 c.f.s. per second.

Description and location of use.

Twp.	Range	Sec.	Forty-acre Tract	No. Acres Described in Permit	No. Acres Actually Irrigated
64 N.	1 W.	23	For domestic, power and irrigation use in the NE 1/4, SE 1/4, SW 1/4, NW 1/4, SW 1/4, Sec. 23, T. 6N., R. 1W., B. M., the power being in the NW 1/4, Sec. 23, T. 6N., R. 1W., B. M. 3.0 c.f.s. for power 2.005 c.f.s. for domestic and irrigation use		

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 State Reclamation Engineer, affixed at Boise, Idaho, this

19th day of January, 1965.

/s/ RALPH W. THOMAS
Deputy State Reclamation Engineer.

(SEAL)

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

98-2053

Application No. 25730
Permit No. 18442
District No.

Assigned to *James M. Bernese* *Th. Smith*

1. Name of Applicant: RALPH KERR

Postoffice address: Copeland

County:

Boundary

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:

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

- (b) Treasury stock
- (d) Other resources:

2. Quantity of water claimed: 3 cubic feet per second.

3. Source of water supply: Fisher Creek which is a tributary of Kootenai River

4. Location of point of diversion: 2700 feet distant from the SE

corner of Section 22, T. 64 N., R. 1 W., B. M., and is in the SE $\frac{1}{4}$ NE $\frac{1}{4}$

of Section 22, T. 64 N., R. 1 W., B. M., County of Boundary

5. Water is to be used for: Irrigation, domestic purposes and power plant

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

(a) Point of use of water: 2400 feet distant from SW corner of Section 23

T. 64 N., R. 1 W., B. M., in the NW $\frac{1}{4}$ SW $\frac{1}{4}$ of Section 23, T. 64 N., R. 1 W., B. M.

(b) Amount of power generated: 25 H. P., under 170 feet head.

(c) Water is to be returned to Fisher Creek at a point 2500 feet

distant from the SW corner of Section 23, T. 64 N., R. 1 W., B. M., in the

SE $\frac{1}{4}$ SW $\frac{1}{4}$ of Section 23, T. 64 N., R. 1 W., B. M.

7. Estimated cost of works: \$4,000.00

8. Kind of works: Pipe, dam and ditch

9. Height of dam 2 feet; length of dam at top 12 feet; length of dam at bottom 12

feet; material used in dam: Logs

10. Size of headgate: Width 2 feet; height 2 feet.

11. Ditch: Width at bottom 2 feet; width at water line 2 $\frac{1}{2}$ feet; depth of water .8

feet; dimensions of flume:

Diameter of pipe 6 Length of ditches 3/4 miles each

inches; length of ~~main~~ pipe 1960 ft.

~~main~~

Average grade per mile 10 feet.

12. The time required for the completion of such work is 5 years.

13. The time required for the complete application of the water to the proposed use is 6 additional years.

14. The land to be irrigated is described in the following tabulation: See remarks.

Twp.	Range	Sec.	NE¼				NW¼				SW¼				SE¼				Totals
			NE¼	NW¼	SW¼	SE¼	NE¼	NW¼	SW¼	SE¼	NE¼	NW¼	SW¼	SE¼	NE¼	NW¼	SW¼	SE¼	
64 N.	1 W.	23		10	30	10							40		20	30	10	150	

			In testimony whereof, we, BARZILLA W. CLARK, Governor of the State of Idaho, and IRA H. MASTERS, Secretary of State of the State of Idaho, have hereunto caused this instrument to be executed in the name of the State of Idaho, and caused the Great Seal of the State of Idaho to be hereunto affixed this 14th day of May, 1937.																
			STATE OF IDAHO																
			By BARZILLA W. CLARK Governor																
(SEAL)			Countersigned:																
			By IRA H. MASTERS Secretary of State																

			PERMIT NO. 18442																
			CERTIFICATE OF COMPLETION OF WORKS.																
TO ALL WHOM IT MAY CONCERN:																			
This is to certify that RALPH KERR of Copeland, County of Boundary, and State of Idaho, the holder of Permit issued upon application No. 25730 bearing date of priority of April 22, 1937, authorizing the diversion of 3.0 sec of the waters of Fisher Creek, tributary of Kootenai River, County of Boundary, State of Idaho, for irrigation, do power purposes, has fully complied with the provisions of the laws of the State of Idaho relating to the proof of the works of diversion set out and described in said Permit; that said works are adequate for diverting and convey place of intended use 3.0 second feet of the waters of Fisher Creek, that the point of diversion of said waters is Sec. 22, Twp. 64 N., Rge. 1 W., B. M., and that the lands proposed to be irrigated by the use of said water are de follows, to-wit: W½NE¼, SE¼NE¼, SE¼SW¼, N½SE¼, SW¼SE¼, Sec. 23, Twp. 64 N., Rge. 1 W.B.M.																			
Witness my hand this 24th day of March, 1942.																			
E. V. BERG, Commissioner of Reclamation.																			
Completion made: March 12, 1942.																			
Certificate issued: March 24, 1942																			

A S S I G N M E N T

See FINAL DISTRIBUTION OF ESTATE and CONTRACT - REAL ESTATE to JAMES M. AND BERNEECE H. SMITH. in file.

LICENSE ISSUED FOR 2005 SEC. FT.
LICENSE PAGE NO. 8076

NOTICE FOR PUBLICATION
NOTICE OF PROOF / LICA-
TION OF WATER 1 JENE-
FICIAL USE

Notice is hereby given that at 10 A. M. on the 12th day of May, 1948, at Bonners Ferry, County of Boundary, State of Idaho, before H. I. Monks, Notary Public, proof will be submitted of the application to beneficial use of 3.0 cubic feet per second of the waters of Fisher Creek in accordance with the terms and conditions of Permit No. 18442 heretofore issued by the Commissioner of Reclamation of the State of Idaho.

The name and post office address of the person or corporation holding said permit are Ralph Kerr, Port-hill, Idaho.

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

The amount applied to beneficial use is 3.0 second feet.

The place where said water is used: W $\frac{1}{2}$ NE $\frac{1}{4}$, SE $\frac{1}{4}$ NE $\frac{1}{4}$, SE $\frac{1}{4}$ SW $\frac{1}{4}$, N $\frac{1}{2}$ SE $\frac{1}{4}$, SW $\frac{1}{4}$ SE $\frac{1}{4}$, Sec. 23, Twp. 64 No. Range 1 West B. M.

The name of the canal or ditch or other works by which said water is conducted to such place of use is none.

The right to take water from such works is based upon Permit No. 18442.

The source of supply from which such water is diverted is Fisher Creek.

The date of priority which said user is prepared to establish is April 22, 1937.

MARK R. KULP,
State Reclamation Engineer.
First publication April 15, 1948.
Last publication May 6, 1948.

January 19, 1965

RE: Permit No. 18442

James M. Smith
Flying S Ranch
Star Route 1
Copeland, Idaho 83822

Dear Mr. Smith:

Enclosed is the License and Certificate of Water Right on
the above numbered permit.

Also enclosed is departmental receipt No. 32593 in the
amount of \$5.50 covering the fee for the license and for
recording the assignment.

Very truly yours,

CARL E. TAPPAN
State Reclamation Engineer
By

(Mrs.) Edna P. Rule
Chief Clerk

EPR:mr

Enc. license
receipt

18442

7-10-1963
1963

CONTRACT - REAL ESTATE

THIS AGREEMENT, Made the 26th day of September, 1963, between KAREN MARIE KERR, a widow, of Bonners Ferry, County of Boundary, State of Idaho, hereinafter called the seller, and JAMES M. SMITH and BERNEECE H. SMITH, husband and wife, of Redmond, State of Oregon, hereinafter called the purchaser;

WITNESSETH: That in consideration of the stipulations herein contained and the payments to be made as hereinafter specified, the seller hereby agrees to sell to the purchaser and the purchaser agrees to purchase from the seller the following described real estate, together with the tenements, hereditaments and appurtenances thereunto belonging or in anywise appertaining, situate in the County of Boundary, State of Idaho, to-wit:

All that part of Section Twenty-three (23), Township Sixty-four (64) North, Range One (1) West, B.M., lying West of the Kootenai River.

for the sum of Thirty-five Thousand and no/100 (\$35,000.00) Dollars (hereinafter called the purchase price), on account of which Fifteen Thousand Five Hundred and no/100 (\$15,500.00) Dollars is paid on the execution hereof (the receipt of which is hereby acknowledged), and the remainder to be paid to the order of the seller at the dates and in amounts as follows: One Thousand Nine Hundred Fifty and no/100 (\$1,950.00) Dollars on November 1, 1964, and a like amount on the first day of November of each year thereafter until paid in full, provided, however, that in any year in which the crop lands upon said premises are inundated by flood waters of the Kootenai River or that a crop loss of more than fifty (50) per cent from seepage water occurs no principal payment shall be required and interest only shall be paid.

It is an express condition hereof that buyer shall have the right to make advance payments of any kind or amount on said outstanding principal and interest at any and all times, and each time such advance payments accumulate to an amount equal to an annual payment, such accumulation shall be considered the annual payment for the nearest year for which no payment has been made; and all deferred balances of said purchase price shall bear interest at the rate of five (5) per cent per annum from this date until paid, interest to be paid yearly in addition to the minimum regular payments above required. Taxes on said premises for the current year (1963) shall be paid by seller.

1. The agreement also includes all fixtures permanently attached to the buildings on said premises, and it is further agreed that all harvestable crops for 1963 are reserved to and shall be removed by the seller not later than October 1, 1963.

2. The purchaser, in consideration of the premises, hereby agrees that he will pay all taxes hereafter levied against said property, and all liens and charges which hereafter may be lawfully imposed upon said premises, all promptly and before the same or any part thereof becomes past due, and that all buildings, now or hereafter erected on said premises, will be kept insured in favor of the seller against loss or damage by fire in an amount not less than

\$8000.00 Extended Ins. Dollars in a company or companies satisfactory to seller, all policies of insurance on said property to be made payable to the seller as his interest may appear, and that he will deliver all policies of insurance on said premises to the seller as soon as insured. Should buyer fail to pay any taxes or assessments as herein provided, or fail to keep said property insured, seller may, at his option, from time to time, pay all or

any of said taxes and assessments agreed herein to be paid by buyer, and obtain such insurance , and buyer agrees to repay to seller, on demand, the amount of all moneys paid out by seller on account of such taxes, assessments or insurance, together with interest thereon from date of payment until repaid, at the rate of six (6) per cent per annum.

3. The purchaser shall be entitled to possession of said lands as soon as the 1963 crops have been removed by seller and in no event later than October 1, 1963, and may retain said possession so long as he is not in default in the performance of his obligations under the terms of this contract. While any part of said purchase price remains unpaid, the purchaser agrees to keep the buildings and improvements on said premises, now or hereafter erected, in good condition of repair and not to suffer any waste thereof. The purchaser agrees to keep said premises free of mechanics' and other liens, to save the seller harmless therefrom and to reimburse the seller for all costs and attorneys' fees incurred by him in defending against any such liens.

4. The seller agrees that at his expense and within thirty (30) days from the date hereof he will furnish purchaser with a title insurance policy in standard form issued by The Title Insurance Co. of Boise, Idaho, dated on or subsequent to the date of this agreement (in an amount equal to said purchase price), insuring a fee simple title in and to said premises in the seller, save and except the usual printed exceptions in said policy and easements now of record, if any, and except purchaser shall have ten (10) days within which to examine said title insurance policy, within which time he shall either accept said title or advise seller by written notice of any defects to said title and seller shall thereafter have a reasonable time within which to correct the same.

5. Seller also agrees that when said purchase price is fully paid and upon request and upon surrender of this agreement, he will deliver a good and sufficient deed conveying said premises in fee simple unto the purchaser, his heirs and assigns, free and clear of encumbrances as of the date hereof excepting, however, the said easements now of record, restrictions and all liens and encumbrances created by the purchaser or assigns.

6. The seller within thirty (30) days from the date of this contract will deposit in escrow in the Bank of Idaho at Bonners Ferry, Idaho, a good and sufficient deed together with an executed copy of this contract, and such other documents including abstract of title or title insurance policy and fire insurance policies which shall pertain to this contract, to be by such bank held in escrow until the terms of this contract shall be completely executed, or until default is made under the same. Buyer shall deposit in escrow a quitclaim deed from buyer to seller to be delivered to seller by the escrow holder in the event of forfeiture of this contract by buyer pursuant to the terms and conditions of forfeiture as hereinafter set forth in this contract. The terms of such deposit in escrow shall be given by separate escrow agreement to be at said time executed. All escrow fees and charges shall be shared equally by the parties. The buyer shall pay all recording costs except instruments to be recorded by seller to clear title.

7. The seller reserves the right to convey his interest in said premises, and his conveyance thereof shall not be a cause for rescission of this agreement.

8. And it is understood and agreed between said parties that time is of the essence of this contract, and in case the pur-

chaser shall fail to make the payments above named, or any of them, punctually within thirty (30) days of the time limited therefor, or fail to keep any agreement herein contained, then the seller at his option shall have the right to declare this contract null and void, and in either of such cases all rights and interests created or then existing in favor of the purchaser as against the seller hereunder shall utterly cease and determine and the right to the possession of the premises above described and all other rights acquired by the purchaser hereunder shall revert to and re-vest in said seller without any act of re-entry, or any other act of said seller to be performed and without any right of the purchaser to return, reclamation or compensation for moneys paid on account of the purchase of said property as absolutely, fully and perfectly as if the contract and such other payments had never been made; and in case of such default all payments theretofore made on this contract are to be retained by and belong to said seller as the agreed and reasonable rent of said premises up to the time of such default. And the said seller in case of such default shall have the right immediately, or at any time thereafter, to enter upon the land aforesaid, without any process of law, and take immediate possession thereof, together with all the improvements and appurtenances thereon or thereto belonging. Provided, that nothing contained in this paragraph shall prevent the seller from exercising concurrently or from time to time any other remedy or remedies to which he may be entitled hereunder or at law or in equity.

9. The purchaser further agrees that failure by the seller at any time to require performance by the purchaser of any provision hereof shall in no way affect his right hereunder to enforce the

same, nor shall any waiver by said seller of any breach of any provision hereof be held to be a waiver of any succeeding breach of any such provision, or as a waiver of the provision itself.

10. If seller shall fail to comply with any of the covenants on his part to be kept and performed, then buyer, at his option, shall be released from all obligations in law or equity to perform in any way hereunder, and seller shall pay to buyer, upon demand of buyer, an amount equal to any and all payments buyer has made pursuant to the terms of this agreement plus interest at the rate of six (6) per cent per annum on each such payment from the date of each such payment. Provided, that nothing contained in this paragraph shall prevent buyer from exercising concurrently or from time to time any other remedy or remedies to which he may be entitled hereunder or at law or in equity.

11. The buyer and the seller agree that should either of them default in any of the covenants and agreements contained herein, the party against whom judgment is entered will pay all costs and expenses that may arise from enforcing this agreement, either by suit or otherwise, including a reasonable attorney's fee.

12. The mailing by certified or registered mail of a written notice by depositing it in any post office, station or letterbox enclosed in a postpaid envelope, addressed to the escrow holder shall be sufficient notice in any case under this instrument, and such notice must be given for any breach of any provision hereof. This agreement shall be deemed forfeited from the date of such deposit, but the recipient of such notice shall have thirty (30) days from the date said notice arrives at the escrow holder to rectify said breach.

13. In construing this contract, it is understood that the seller or the purchaser may be more than one person; that if the context so requires, the singular pronoun shall be taken to mean and include the plural, the masculine, the feminine and the neuter, and that generally all grammatical changes shall be made, assumed and implied to make the provisions hereof apply equally to corporations and to individuals.

14. The terms, conditions and covenants of this agreement shall be binding upon, and shall inure to the benefit of, the heirs, executors, administrators and assigns of the respective parties hereto.

15. At the time of entering into this agreement it is understood by all parties that the property herein is the subject of a probate proceeding in the estate of Ralph Kerr, deceased husband of seller, and there are certain expenses and debts in connection therewith. In addition thereto there are outstanding debts of seller and her son, Ralph T. Kerr. Therefore, the parties agree that the downpayment of Fifteen Thousand Five Hundred and no/100 (\$15,500.00) Dollars shall be placed with the firm of Prather & Wilson, Attorneys at Law, Bonners Ferry, Idaho, and said attorneys are hereby authorized to expend and disburse therefrom necessary sums to complete and close the probate proceedings and satisfy said personal debts hereinabove mentioned.

IN WITNESS WHEREOF, said parties have hereunto set their hands and seals on this, the day and year first above written.

Kerr, Marie Kerr

James M. Smith

Bernard D. Smith

18442

STATE OF IDAHO }
County of Boundary } ss.

On this 26 day of September, 1963, before me, the undersigned Notary Public, personally appeared KAREN MARIE KERR, a widow, to me known to be the person whose name is subscribed to the within instrument, and acknowledged to me that she executed the same.

Alice L. Kruegel
Notary Public for Idaho
Residing at Bonners Ferry
Comm. Exp.: May 18, 1965

STATE OF Oregon }
County of Deschutes } ss.

On this 11th day of ~~September~~ ^{OCTOBER}, 1963, before me, the undersigned Notary Public, personally appeared JAMES M. SMITH and BERNEECE H. SMITH, husband and wife, to me known to be the persons whose names are subscribed to the within instrument, and acknowledged to me that they executed the same.

Norman I. Swanson
Notary Public for Oregon
Residing at Redmond
Comm. Exp.: Dec. 29, 1964

I hereby certify that this is a true and exact copy of the original Contract of Sale in our files.

M. D. Hill
M. D. Hill, Ass't. Vice President
and Manager
Bonners Ferry Office
Bank of Idaho
Bonners Ferry, Idaho

January 4, 1965

Re: Permit No. 18442
Ralph Kerr

Mrs. James M. Smith
Flying S Ranch
Star Route #1
Copeland, Idaho

Dear Mrs. Smith:

We return herewith the copy of Contract-Real Estate which we received with Probate Court decree of final distribution of the Ralph Kerr Estate and check for \$5.50, fee for license and to record the assignment.

The contract cannot be accepted as it is an unsigned copy. It must be a copy of signed contract, with Notary Public acknowledgement.

We will retain the check and Court Order for the present.

Very truly yours,

RALPH W. THOMAS, Deputy
State Reclamation Engineer

RT:ew

Enc. copy of Contract - Real Estate

18442 RT ✓

RECEIVED

IN THE PROBATE COURT OF THE COUNTY OF BOUNDARY, STATE OF IDAHO

In the Matter of the Estate of }
RALPH KERR, Deceased. } DECREE SETTTLING FINAL ACCOUNT OF
ADMINISTRATOR, AND FINAL DISTRIBUTION

RALPH KERR, the Administrator of the Estate of Ralph Kerr, deceased, having on the 5th day of November, 1968, rendered and filed herein a full account and report of his administration of said estate, which said account was for a final settlement, and having with said account filed a petition for the final distribution of said estate, and said account and petition this day coming on regularly to be heard, and proof having been given to the satisfaction of the Court that the clerk had given notice of the settlement of said account, and the hearing of said petition, in the manner and for the time required by law, the Court finds:

1. That said account is in all respects true and correct and that it is supported by proper voucher; that the residue of the money and real and personal property in the hands of the Administrator at the time of filing said account was the sum of Forty-five Thousand Six Hundred Nine and 96/100 (\$45,609.96) Dollars.

2. That due and legal notice to creditors of said estate has been given in the manner and for the time required by law.

3. That all claims and debts against said decedent and against said estate, all inheritance taxes due from the distributees and all personal property taxes due and payable by the estate, and all debts, expenses, and charges of administration have been fully paid and discharged, and that said estate is ready for distribution and now in a condition to be closed.

This is to certify that the foregoing is a true copy of the original, now on file or record in this office.

[Signature]
Judge and
in Office Clerk of Probate Court

18442

4. That since the rendition of said account there has been received by said Administrator the sum of NOTHING; that the sum of Thirty-two Thousand Nine Hundred Twenty-four and 14/100 (\$32,924.14) Dollars has been expended by him as necessary expenses of administration, and the statements required by law thereof are now presented and filed for settlement and allowance; and that the estimated expense of closing the estate will amount to Five and no/100 (\$5.00) Dollars.

5. That the whole of said estate was the community property of said decedent and KAREN MARIE KERR.

6. That the Administrator waives the statutory commission due him; that the statutory fees payable to the attorney for said Administrator is the sum of One Thousand Four Hundred Ninety and no/100 (\$1,490.00) Dollars; and that said fee is now presented for settlement and allowance.

7. That the names, relationships, and postoffice addresses of the heirs of said decedent are as follows:

MARIE KERR, widow, Copeland, Idaho.

RALPH KERR, son, Copeland, Idaho.

IT IS THEREFORE ORDERED, ADJUDGED AND DECREED that the final account of said Administrator be, and the same is hereby, finally settled, allowed and approved.

IT IS FURTHER ORDERED, ADJUDGED AND DECREED that the commission allowed by law to the Administrator be and it is hereby deemed waived; and the sum of One Thousand Four Hundred Ninety and no/100 (\$1,490.00) Dollars attorneys fees allowed by law to Prather & Wilson, attorneys for the Administrator, and the expenses of administration be, and they are hereby, allowed, approved, authorized and ordered to be paid.

IT IS FURTHER ORDERED, ADJUDGED AND DECREED that there is a
residue of the estate consisting of real property described as:

Section Twenty-three (23), Township Sixty-four (64)
North, Range One (1) ~~West~~ B.M., lying West of the
Kootenai River and containing 484 acres,

and that said residue be, and it is hereby distributed to the
aforesaid heir, ~~MARIE KERR~~, ~~KERR~~ any other property not now known
or discovered, which may belong to the said estate or which said
estate may have an interest in, be and the same is hereby
distributed to the aforesaid heir.

Dated this 11 day of December, 1963.

GEO. H. UNTERMAHRER
Probate Judge.

State of Idaho)
County of Boundary) ss

This is to certify that the foregoing is a
true copy of the original now on file or
record in this office.

Geo. H. Untermahrer
Ex Officio Clerk of Probate Court

By _____
Deputy

FILED
COUNTY OF BOUNDARY
DECEMBER 11 1963
CLERK OF PROBATE COURT
IDAHO

18442

Flying S. Ranch
STAR ROUTE 1
COPELAND, IDAHO 83822

Dec. 31, 1964

JAN 9 1965

Department of Reclamation

Dept. of Reclamation
107 State House
Boise, Idaho

Dear Mr. Thomas,

Since Mr. Kerr has passed away, his wife is in a nursing home & not able to sign any papers and their son, who is the administrator of the estate, isn't around, we would like to know if the proof of our purchase of this property wouldn't be enough to transfer Mr. Kerr's permit to us - Permit # 18442

We are enclosing a check for the Water License and the recording assignment and hope this meets with your approval.

Sincerely yours,

Mrs. James M. Smith

Flying S. Ranch

Star Rt. 1

Copeland, Idaho

83822

18442

December 4, 1964

RE: Permit No. 18442
Ralph Kerr

C
O
P
Y
Mrs. J. M. Smith
Flying S Ranch
Star Route 1
Copeland, Idaho 83822

Dear Mrs. Smith:

Mr. Kerr was notified by letter dated February 12, 1949 that Water License No. 18442 would be issued showing 2.005 cubic feet per second of water from Fisher Creek, priority May 29, 1948, for power and domestic uses in the NW $\frac{1}{4}$ SW $\frac{1}{4}$, Sec. 23, T. 6N., R. 1W., B.M. upon payment of \$5.00 statutory fee.

Enclosed is a form for assignment of a permit. The water license can be issued in the name of Ralph Kerr, or you can obtain the assignment from Mr. Kerr and it will be issued in your name. There is a fee of \$0.50 for recording an assignment.

Very truly yours,

RALPH W. THOMAS
Deputy State Reclamation Engineer

RWT:mr

18442

Flying S. Ranch
STAR ROUTE 1
COPELAND, IDAHO 83822

RECEIVED
DEC 4 1964

December 2, 1964

Department of Reclamation

State Reclamation Engineer

State House

Boise, Idaho

Dear Sir:

We would like to know if there are any existing water rights on Fisher Creek, located in Section Twenty-three (23), Township Sixty-four (64) North, Range One (1) West, B. M., lying West of the Kootenai River, in Boundary County, Idaho, if not we would like to make application for domestic, power and irrigation permit?

We just recently purchased the land described herein and would appreciate your advise on this. Thank you.

Sincerely yours,

Joseph J. M. Smith

18442 c/w - Ralph Kerr

Apr. 22, 1937

3.0 cfs for dom & power

SENE 22-64N-1W

W²NE, SENE, SESW, N²SE SWSE 23-64N-1W

✓
February 12, 1949

Re: Permit No. 18442

Mr. Ralph Kerr
Porthill, Idaho

Dear Mr. Kerr:

We now have on file the report of our Field Engineer on examination of Beneficial Use under your Permit No. 18442.

Therefore, upon receipt of the statutory fee of \$5.00, a license will be issued for two cubic feet per second of the water of Fisher Creek for power purposes and 0.005 cubic foot per second for irrigation and domestic uses.

Very truly yours,

MARK R. KULP
State Reclamation Engineer
By

Chief Clerk

A:bh

18442

STATE OF IDAHO

DEPARTMENT OF RECLAMATION

BOISE, IDAHO

REPORT OF ENGINEER

Permit No. 18442

This proof is for Beneficial use

In Water District No.

1. Name of applicant Ralph Kerr, Porthill, Idaho
2. Source of water supply: Fisher Creek
3. Location of point of diversion: Is in the SE $\frac{1}{4}$ NE $\frac{1}{4}$ of Section 22
T. 64 N. R. 1 W. County of Boundary
4. Describe works as they exist, giving dimensions and capacities of same: Diversion is by rock and log check, with a shear structure of plank three feet high, and 16 feet long as a high water check against creek velocity ahead of the pipe intake. A pipe line of 8" diameter discharges through a 48 inch Pelton wheel which is connected to a General Electric 11 K.W. generator by an 8 inch belt.
5. Water is used for: Irrigation, domestic and power
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 other than irrigation):
W $\frac{1}{2}$ NE $\frac{1}{4}$, SE $\frac{1}{4}$ NE $\frac{1}{4}$, SE $\frac{1}{4}$ SW $\frac{1}{4}$, N $\frac{1}{2}$ SE $\frac{1}{4}$, SW $\frac{1}{4}$ SE $\frac{1}{4}$ Section 23;
Township 64 North, Range 1 West, B. M.

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

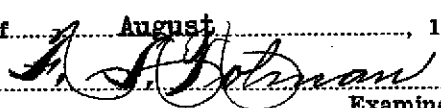
8. What large stream would the water here appropriated finally reach? Kootenai River

Remarks: No ditch diversions were observed. Estimated flow at end of pipe line was approximately one second foot. Irrigation included lawn and garden areas. No adults were home at time of examination.

* Creek grade = 1000 ft per mile

This examination was made on the 27th day of August, 1948

(Signed)



Examiner.

18442

Ralph Kerr
Porthill, Idaho

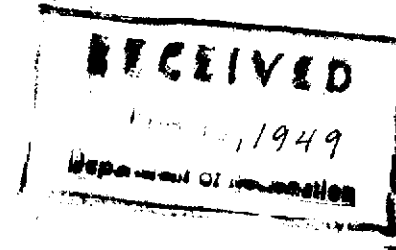
Permit No. 18442

Examination for Beneficial use

County Boundary

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 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.
 6. Give general characteristics of soils, topography, and crops raised.
-



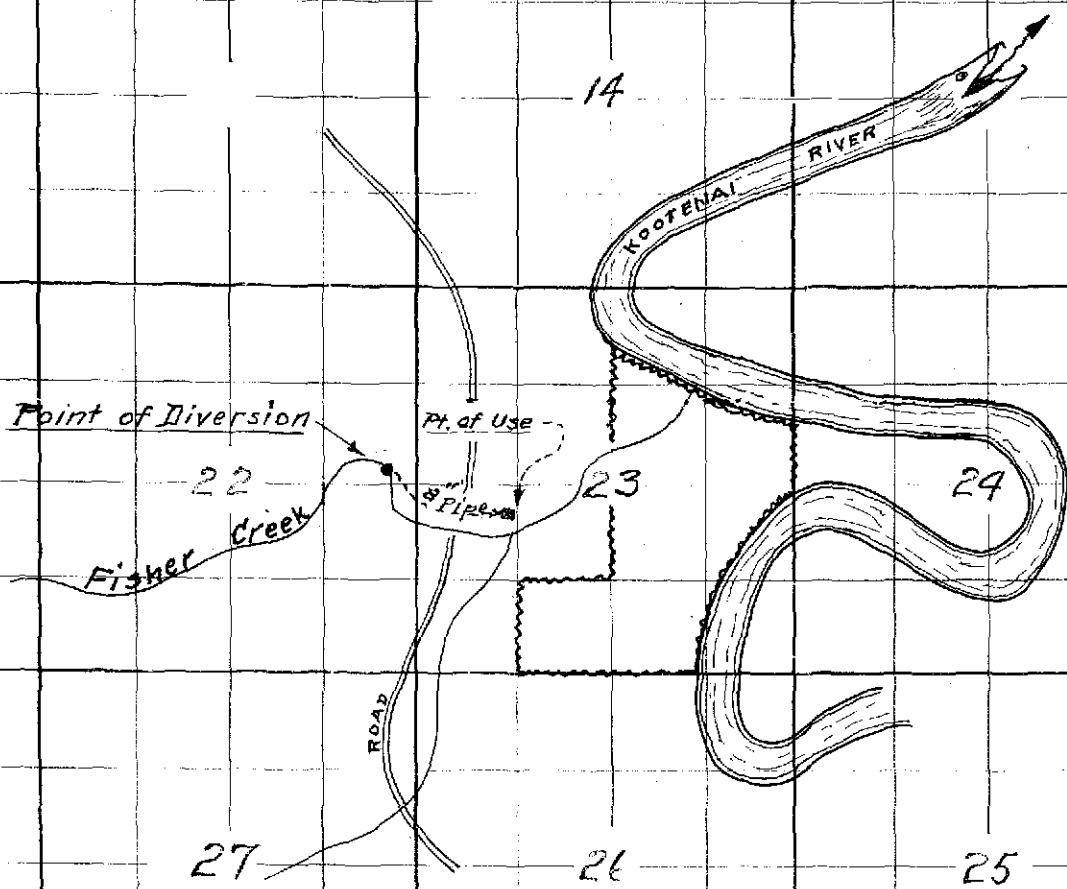
STATE OF IDAHO
DEPARTMENT OF RECLAMATION
BOISE

REPORT OF ENGINEER

PERMIT NO. 18442

REPORT ON PROOF OF Beneficial use

Power. 2.cfs
Dry Ditch .005



August 12, 1948

Re: Permit No. 18442

Mr. Ralph Kerr
Portaill, Idaho

Dear Mr. Kerr:

We acknowledge receipt of your letter of August 9 which clarifies your proof of beneficial use under Permit No. 18442.

Before final action is taken in the matter the law requires that a field examination be made by an Engineer from this Department.

We are unable to say just when this examination will be made as this Department has but one Field Engineer who makes examinations all over the State.

However, Mr. Tolman, Field Engineer for this Department, will try and contact you at the time he makes the examination in order that you may arrange to show him over the grounds.

Very truly yours,

MARK R. KULP
State Reclamation Engineer
By

Chief Clerk

A/gt

18442

Porthill Idaho
August 7, 1948

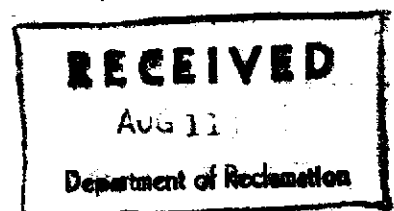
Mark R. Kulp
State Rec. Engineer
Dept of Reclamation
Boise Idaho

Sir;

In regard to your August 3, inquiry about disposition of water rights for holder of permit No. 18442 we wish to state that the only irrigation is on the SW $\frac{1}{4}$ of Sec. 23.

The location of our power plant is also in the SW $\frac{1}{4}$ of Section 23 - On the reverse side of this sheet, as accurately as I can draw, will be drawn the pertinent facts regarding the disposition of this water right.

Very truly yours
Mark R. Kulp



18442

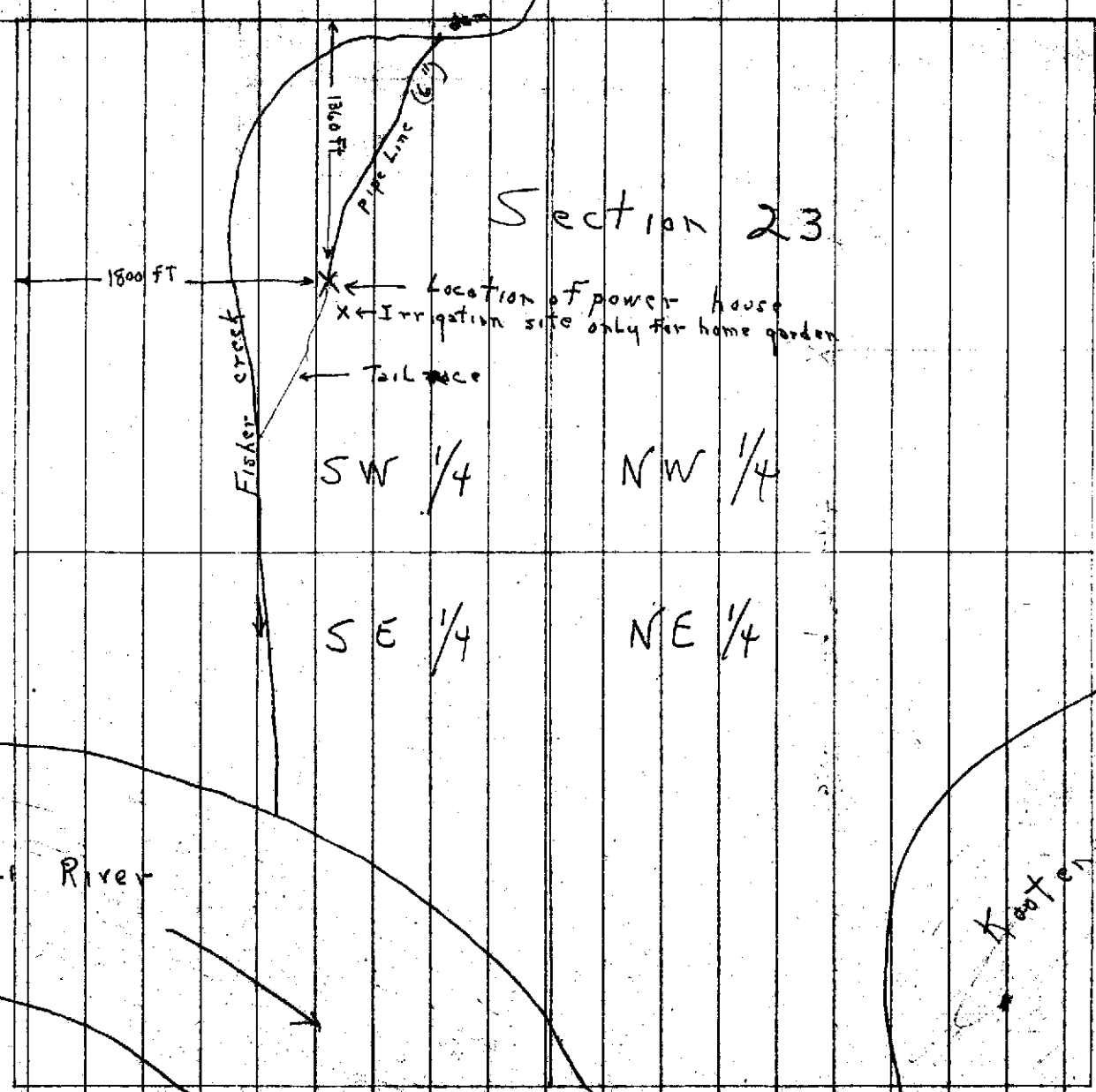
West

Forest Service
Section 22

Section 23

South

North



Kootenai River

Kootenai River

1800 FT

August 3, 1948

Re: Permit No. 18442

Mr. Ralph Kerr
Porthill, Idaho

Dear Mr. Kerr:

We are not quite sure from your letter of July 26 whether you mean that the water apportioned for under your Permit No. 18442 is to be used for irrigation on all land described in the Permit in Section 23, namely the ~~WENT~~, ~~SE 1/4~~, ~~SW 1/4~~, ~~NE 1/4~~ and ~~SE 1/4~~, or only on the ~~SW~~ of Section 23 as stated in your deposition.

Please also advise the point of diversion for power, that is the location of your power plant.

Very truly yours,

MARK R. KULP
State Reclamation Engineer
BY

Chief Clerk

A/Gt

18442

Porthall Idaho
July 26, 1948

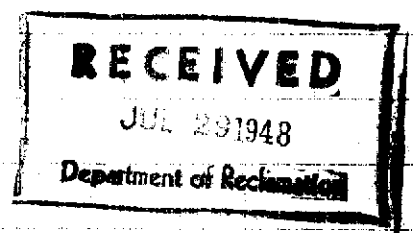
Mark P. Fulp
State Reclamation Engineer
Dept. of Reclamation
 Boise Idaho

Sir:

In reference to Permit No. 18442 issued to Mr. Ralph Furr, Porthall Idaho. The place of use is as given in the permit, that is, in Section 23, none in Section 22.

We are sorry for the mistakes in the applications and advise permit to be correct.

Sincerely
Ralph Furr
Porthall Idaho



18442

July 6, 1948

Re: Permit No. 18442

Mr. Ralph Kerr
Porthill, Idaho

Dear Mr. Kerr:

We acknowledge return of the depositions of yourself and two witnesses in proof of beneficial use under Permit No. 18422.

However, Question 6 in all of these applications describes the place of use as in Section 22 and the SW $\frac{1}{4}$ of Section 23 which is different from the description given in the Permit and the published notice which describes the place of use as in the W $\frac{1}{2}$ NE $\frac{1}{4}$, SE $\frac{1}{4}$ NE $\frac{1}{4}$, SE $\frac{1}{4}$ SW $\frac{1}{4}$, NE $\frac{1}{4}$ SE $\frac{1}{4}$, and SW $\frac{1}{4}$ SE $\frac{1}{4}$ of Section 23, Township 64 N., Range 1 W. B.M.

Please advise if there is to be a change in the place of use or if it is a mistake in the depositions.

Very truly yours,

MARK R. KULP
State Reclamation Engineer
By

Chief Clerk

A/dm

18442

STATE OF IDAHO
DEPARTMENT OF RECLAMATION
BOISE, IDAHO

PERMIT NO. 18442**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. A. Stoneklift Farmer

Bonniers Ferry Idaho

Ques. 2. Are you acquainted with Ralph Kerr, the holder of Permit No. 18442? How long have you known him and where does he reside?

Ans. Yes - Have known him 17 years - he resides at Porthill Idaho.

Ques. 3. Have you read or heard read said Permit No. 18442, 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.

2 Ans. From Fisher Creek. Same diverted by log and earth dam at a point about the SE $\frac{1}{4}$ of the NE $\frac{1}{4}$ of Section 22 in --- 23 Twp 64 N R 1 West B.M. thence by a 6 in pipe to point of usage.

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. 3.0 cu ft. sec.

Ques. 6. State for what purpose water is used and at what place. (If for irrigation, give each subdivision 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 improvements which have been made as a direct result of said use.

Ans. Mostly for domestic use. Some for power and igrigation.

2 Water is used in SE $\frac{1}{4}$ /NE $\frac{1}{4}$ of Sec 22 and SW $\frac{1}{4}$ Sec 23 all in Twp 64 N

R1 West B.M.

18442

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

Ans. For Domsestic use.

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. Only a small amount- has been used in garden and yard.

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.

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. I have known of its use for many years since I have known applicant.

(Signed) C. Starkblift

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 Bonnors Ferry, County of Boundary, State of Idaho, on this 21 day of June, A. D. 19 48

[Signature]
Notary Public.

My commission expires.....

Notary Public for the State of Idaho
Residing at Bonnors Ferry.
Commission Expires 7/6 1951

STATE OF IDAHO
DEPARTMENT OF RECLAMATION
BOISE, IDAHO

PERMIT NO. 18442

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. Ray H. Sims- Farmer

Bonnere Ferry Idaho

Ques. 2. Are you acquainted with Ralph Kerr, the holder of Permit No. 18442? How long have you known him and where does he reside?

Ans. Have known him 18 years- He resides at Forthill Idaho.

Ques. 3. Have you read or heard read said Permit No. 18442, 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. From Fisher Creek. Same is diverted from an earth and log dam at point about the SE $\frac{1}{4}$ / NE $\frac{1}{4}$ of Section 22 in Twp 64 N R 1 West B.M. thence by 6 in pipe to place where used on his farm.

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. 3.0 cu ft second.

Ques. 6. State for what purpose water is used and at what place. (If for irrigation, give each subdivision 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 improvements which have been made as a direct result of said use.

Ans. For domestic use. Some for power and irrigation.

Water is used in SE $\frac{1}{4}$ / NE $\frac{1}{4}$ Sec 22 and SW $\frac{1}{4}$ Sec 23 all in Twp 64 N R 1 West B.M.

18442

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

Ans. For domestic use.

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. Only a small amount- garden and yard.

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

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. Have known of its use for many years since I have known Mr Kerr.

(Signed)

Ray H. Sims

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 Bonniers Ferry, County of Boundary, State of Idaho, on this 21 day of June, A. D. 19 48.

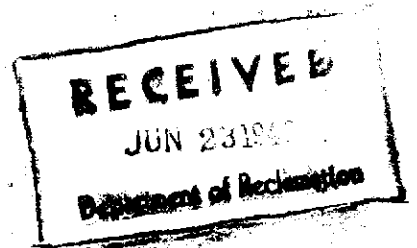
[Signature]

Notary Public.

My commission expires

Notary Public for the State of Idaho
Residing at Bonniers Ferry.
Commission Expires 2/6 1951

STATE OF IDAHO
DEPARTMENT OF RECLAMATION
BOISE, IDAHO



18442
Permit No. 18442

Proof of Application of Water to Beneficial Use

Deposition of Holder

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

Ans. Ralph Kerr - Farmer
Porthill 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. none

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

Ans. Permit No. 18442- Date of Priority April 22 1937

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

Ans. Fisher Creek Diversion in SE 1/4 NE 1/4 of Section 22 Twp 64 North
Range 1 West B.M.

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. Log and earth dam, diverted into 6 inch pipe line to point of
usage, all in Sec 22 Twp 64 N R 1 West B.M.

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. For domestic power purposes and domestic use, some used for irrigation.

Principally for domestic use. In Sec 22 and the SW 1/4 of Sec 23
Twp 64 N Range 1 West B.M.

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

Ans. Used for domestic hydro elec plant developing about 15 H.P.

18442

Ans.

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

Ans. 3.0 cubic ft sec.

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. none

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

Ans. Having been using same as indicated since 1933.

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. None.

(Sign)

Ralph Kest

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 Bonniers Ferry, County of Boundary,

State of Idaho, on this 21 day of June, A. D. 19 48.

[Signature]

My commission expires.....

Notary Public for the State of Idaho
Residing at Bonniers Ferry.
Commission Expires 7/6 1947

June 23, 1948

Re: Permit No. 18442

Mr. Ralph Kerr
Porthill, Idaho

Dear Mr. Kerr:

We acknowledge receipt of the depositions of yourself and two witnesses, also affidavit of publication in the Bonners Ferry Herald submitted in proof of beneficial use under Permit No. 18442.

However, Question 4 in all of these depositions describes the point of diversion as being "500 feet West of the section line of the SW $\frac{1}{4}$ of Section 23, Township 64 North, Range 1 West, B.M.," whereas the permit describes it as in the SE $\frac{1}{4}$ NE $\frac{1}{4}$, Section 22, same township and range."

If the description in the depositions is correct it will be necessary to amend the permit; or if the description in the permit is correct the depositions should be changed accordingly.

Question 6 should give the legal description of the land to be irrigated with the water claimed under this permit.

We are returning the depositions for the above corrections.

Very truly yours,

MARK R. KULP
State Reclamation Engineer
By

Chief Clerk

A/dm
Enc.

cc: H. I. Monks

18442

The Bonners Ferry Herald

PUBLISHERS AND COMMERCIAL PRINTERS

Bonners Ferry, Idaho

NOTICE OF APPLICATION OF WATER TO BENEFICIAL USE

Notice is hereby given that at 10 A. M. on the 12th day of May, 1948, at Bonners Ferry, County of Boundary, State of Idaho, before H. I. Monks, Notary Public, proof will be submitted of the application to beneficial use of 3.0 cubic feet per second of the waters of Fisher Creek in accordance with the terms and conditions of Permit No. 18442 heretofore issued by the Commissioner of Reclamation of the State of Idaho.

The name and post office address of the person or corporation holding said permit are Ralph Kerr, Port-hill, Idaho.

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

The amount applied to beneficial use is 3.0 second feet.

The place where said water is used: W $\frac{1}{2}$ NE $\frac{1}{4}$, SE $\frac{1}{4}$ NE $\frac{1}{4}$, SE $\frac{1}{4}$ SW $\frac{1}{4}$, N $\frac{1}{2}$ SE $\frac{1}{4}$, SW $\frac{1}{4}$ SE $\frac{1}{4}$, Sec. 23, Twp. 64 No. Range 1 West R. M.

The name of the canal or ditch or other works by which said water is conducted to such place of use is none.

The right to take water from such works is based upon Permit No. 18442.

The source of supply from which such water is diverted is Fisher Creek.

The date of priority which said user is prepared to establish is April 22, 1937.

MARK R. KULP,

State Reclamation Engineer.

First publication April 15, 1948.

Last publication May 6, 1948.

AFFIDAVIT OF PUBLICATION

State of Idaho ss
County of Boundary

R. L. Myers, being first duly sworn upon his oath, deposes and says: That he is the co-publisher of the Bonners Ferry Herald, a newspaper of general circulation, published weekly at Bonners Ferry, Boundary County, State of Idaho; that the said Bonners Ferry Herald has been continuously and uninterruptedly published in said Boundary County during a period of 18 months or 78 weeks prior to the first publication of the hereto attached notice; that the advertisement of State Reclamation Engineer, a Notice of Proof Application of Water to Beneficial Use, Notice for Publication, a printed copy of which is attached hereto was published in said newspaper and not in a supplement thereof for four consecutive issues, commencing with the issue dated April 15, 1948, and ending with the issue dated May 6, 1948.

R. L. Myers
Co-Publisher

Subscribed and sworn to before me this

21 day of June, 1948.

H. I. Monks
Notary Public in and for the County of Boundary, State of Idaho, residing at Bonners Ferry, Idaho.



PUBLISHED EVERY THURSDAY

COMPLETE NEWSPAPER COVERAGE OF BOUNDARY COUNTY

18442

STATE OF IDAHO
DEPARTMENT OF RECLAMATION

BOISE, IDAHO

Date: April 9, 1948

Re: Permit No. 18442

Bonnere Ferry Herald

Bonnere Ferry, Idaho

Gentlemen:

Enclosed you will find notice for publication once a week for four consecutive weeks prior to May 12, 1948. the date set for proof, the expense of the publication to be paid by the applicant, Ralph Kerr of Porthill, 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, in order that we may check same.

Very truly yours,

MARK R. KUIP

State Reclamation Engineer

By

Chief Clerk

*Ack. April 10 -
Letter in file R796*

18442

NOTICE TO ACCOMPANY THIS LETTER MUST BE MADE IN DUPLICATE

(Date) April 1 1948

(P. O.) Porthill Idaho

STATE RECLAMATION ENGINEER:
TO THE ~~COMMISSIONER OF RECLAMATION~~

Boise, Idaho.

Dear Sir:

You are hereby authorized to have the attached notice published at my expense in the
Bonnors Ferry Herald of Bonnors Ferry, Idaho, published in
the county in which the works are situated.

Ralph Kerr

(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.

18442

NOTICE FOR PUBLICATION
NOTICE OF PROOF APPLICATION OF WATER
TO BENEFICIAL USE

Notice is hereby given that at 10 A. M. on the 12th day of May, 19 48
at Bonniers Ferry, County of Boundary, State of Idaho, before
H.I. Monks, Notary Public, proof will be submitted of the
application to beneficial use of 3.0 cubic feet per second of the waters of Fisher
Creek in accordance with the terms and conditions of Permit No. 18442
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 _____

Ralph Kerr, Porthill, Idaho

The use to which said water has been applied is Irrigation, Domestic & Power

The amount applied to beneficial use is 3.0 second feet

The place where said water is used (if for irrigation, give full and accurate description of the
~~lands irrigated~~ W $\frac{1}{4}$ NE $\frac{1}{4}$, SE $\frac{1}{4}$ NE $\frac{1}{4}$, SE $\frac{1}{4}$ SW $\frac{1}{4}$, NE $\frac{1}{4}$ SE $\frac{1}{4}$, S $\frac{1}{4}$ SE $\frac{1}{4}$, Sec 23 Twp 64 No
Range 1 West B.M.

The name of the canal or ditch or other works by which said water is conducted to such place of
use is none

The right to take water from such works is based upon Permit No. 18442

The source of supply from which such water is diverted is Fisher Creek

The date of priority which said user is prepared to establish is April 22, 1937

MARK R. KULP

State Reclamation Engineer.

18442

April 9, 1948

Re: Permit No. 18442

Mr. Ralph Kerr
Porthill, Idaho

Dear Mr. Kerr:

We have sent to the Bonners Ferry Herald a copy of notice of beneficial use proof to be made under your Permit No. 18442, at 10 A.M. May 12, 1948, before H. I. Monks, Notary Public, with instructions to publish same once a week for four consecutive weeks prior to that date and to send you the affidavit of publication, together with statement of costs.

By this same mail we are sending Mr. Monks the necessary forms of deposition, consisting of one for yourself and one for each of two witnesses.

At the time set for proof you should appear before Mr. Monks together with two disinterested witnesses who are familiar with the terms of your permit and the work done thereunder, for the purpose of executing the depositions.

Very truly yours,

MARK R. KULP
State Reclamation Engineer
By

Chief Clerk

A/dm

cc: Mr. H. I. Monks
Bonners Ferry, Idaho

18442



C. A. ROBINS
GOVERNOR

STATE OF IDAHO
DEPARTMENT OF RECLAMATION

MARK R. KULP, STATE RECLAMATION ENGINEER

BOISE

April 5, 1948

Re: Permit No. 18442

Mr. H. I. Monka, Notary Public
Bonners Ferry, Idaho

Dear Mr. Monka:

We are in receipt of notice of beneficial use proof to be made before you on May 12, 1948, under Permit No. 18442, in the name of Ralph Kerr.

The notice does not give the name and address of the permit holder and we would like to have you advise whether Mr. Kerr's address is at Copeland where we sent the notice or Porthill, Idaho as given on the envelope enclosing the notice.

We shall appreciate this information by return mail if possible so that we may complete the notice and send it to the newspaper for publication.

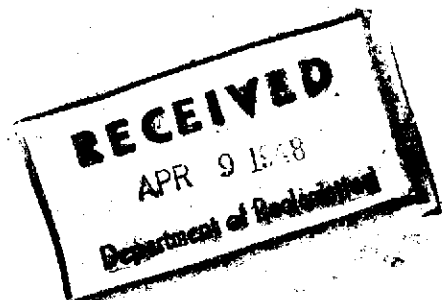
Very truly yours,

MARK R. KULP
State Reclamation Engineer
By

Jeane L. Anderson
Chief Clerk

Mr Kerrs present address is Porthill Idaho- it was formerly Copeland. The correct address is as given -Porthill Idaho

DM



18442

April 5, 1948

Re: Permit No. 18442

Mr. H. I. Monks, Notary Public
Bonners Ferry, Idaho

Dear Mr. Monks:

We are in receipt of notice of beneficial use proof to be made before you on May 12, 1948, under Permit No. 18442, in the name of Ralph Kerr.

The notice does not give the name and address of the permit holder and we would like to have you advise whether Mr. Kerr's address is at Copeland where we sent the notice or Port-hill, Idaho as given on the envelope enclosing the notice.

We shall appreciate this information by return mail if possible so that we may complete the notice and send it to the newspaper for publication.

Very truly yours,

MARK R. KULP
State Reclamation Engineer
By

Chief Clerk

A/dm

18442

STATE OF IDAHO

DEPARTMENT OF RECLAMATION

Boise, Idaho

March 1, 1948

Mr. Ralph Kerr

Copeland, Idaho

Dear Sir:

We enclose herewith blank notice for proof of application of water to beneficial use under your Permit No. 18442. This notice should be filled out in duplicate and returned to this office at least 40 days before the date upon which you wish to make this proof, in order to allow time for the four weeks' publication required by law.

This proof must be submitted before a Notary Public or other officer authorized by law to administer oaths.

The date for proof, as set out in your permit, is not later than May 14, 1948, and if proof is submitted later than said date, your priority will be brought down a length of time equal to the time elapsing between the date the proof is due and the date proof is actually made.

Very truly yours,

MARK R. KULP

State Reclamation Engineer

18442

March 26, 1942

Re: 18442

Mr. Ralph Kerr
Copeland, Idaho

Dear Mr. Kerr:

We are enclosing a Certificate of Completion of Works on the above numbered permit for the use of 8.0 second feet of the waters of Fisher Creek to be used for irrigation of the $\frac{1}{4}$ NE $\frac{1}{4}$, SE $\frac{1}{4}$ NE $\frac{1}{4}$, SE $\frac{1}{4}$ SW $\frac{1}{4}$, NE $\frac{1}{4}$ SW $\frac{1}{4}$, Sec. 23, Twp. 64 N., Rge. 1 W.B.M.

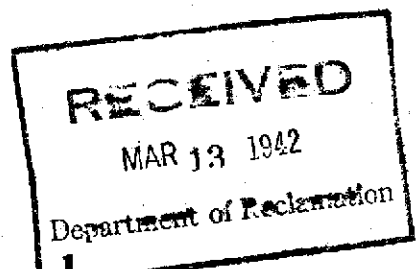
Very truly yours,
E. V. BERG.
Commissioner of Reclamation

BY: Chief Clerk.

ml.
encl.

18442

Permit No. 18442

STATE OF IDAHO
Department of Reclamation

Proof of Completion of Works

AFFIDAVIT OF HOLDER

STATE OF IDAHO

County of Boundary } ss.

Ralph Kerr

, 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. 18442, and that his postoffice address is Copeland State of Idaho.

Second: That the name of the stream from which said water is to be directed is Fisher Creek.

Third: That the point of diversion of said water is 2700 ft distant from S.E. corner of Section 22, T. 64 N., Range 1 W and is in the SE 1/4 NE 1/4 of said section.

Fourth: That under the terms and conditions of said permit, construction thereunder was required to be completed by May 14, 1942.

Fifth: That the use for which said water is intended is Irrigation power plant.

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

1. Kind of works: Pipe & dam & ditch
(Reservoir, dam, ditch, flume, pipe or otherwise.)

II. Dimensions of work:

(a) Height of dam 2 feet, length of dam at top 12 feet, length of dam at bottom 12 feet. Material used in construction logs.

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

(b) Capacity of reservoir _____ acre feet.

(c) Size of headgate: Width 2 feet, height 2 feet.

(d) Conduit pipe width at bottom _____ feet, width at water line _____ feet, depth of water 8 feet; diameter of pipe 6 inches, average grade per mile is 10.70 in. Length of conduit is 1/4 miles.

Seventh: That said works are capable of conducting to the place of intended use 2 + second feet of water.

Eighth: That water appropriated under said permit is available for 150 acres of land described as follows: 64 N Range 1 W Sec. 23 NE 1/4 50 acres SE 1/4 100 acres

Ninth: Remarks: That due to difficulty of securing materials we have been unable to complete the project outside the limits of our own place but that for the present anyway the power seems adequate.

Ralph Kerr
(Sign here)

Subscribed and sworn to before me this 12th day of March, 1942

My commission expires Sept 20th 1944

Notary Public.

(turn over)

OK - Fee \$5.00
18442

Sire,

We have completed 1360 of the 1960 feet originally intended, however the amount completed lies wholly on our own place. If we could secure an extension of time to complete operations outside of our boundary it would be more suitable for us due to difficulty, at the present time, of securing materials.

Yours truly
Gale
L. Kern

RECEIVED
JAN 10 1961
U.S. DEPT. OF AGRICULTURE
WASHINGTON, D.C.

State of Idaho
DEPARTMENT OF RECLAMATION
BOISE

Mar. 5, 1942

Re: 18442

Ralph Kerr
Copeland, Idaho

INSTRUCTIONS
PROOF OF COMPLETION OF WORKS

Boise, Idaho,

Dear Sir:—

Under the terms of your permit No. 18442.....you are required to complete your diversion works on or before May 14, 1942..... I enclose herewith blank affidavit to be filled out, sworn to by you before a Notary Public or a Justice of the Peace, and returned to this office on or before the above date, or within ten days thereafter, for the purpose of making proof of completion under the permit. Upon receipt of this affidavit in this office, provided the same satisfactorily shows the completion of the works substantially in accordance with the terms of the permit, together with a fee of \$5.00, a Certificate of Completion will be issued to you.

The certificate to be issued under this proof will not give a perpetual right to the use of water for which application was made, as it only confirms the completion of works of a capacity to divert and convey to the place of intended use a certain amount of water. The law requires that another proof be submitted when the water has been fully applied to a beneficial use, at which time license is issued for the amount of water actually in use. Information in regard to this last proof will be furnished on request.

Yours truly,

E. V. BERG

Commissioner of Reclamation.

18442

August 28, 1937

Re: Permit 18442.

Mr. Ralph Kerr
Copeland, Idaho

Dear Sir:

In reply to your letter of August 17th, please be advised that no other permit has been issued to appropriate the waters of Fisher Creek in Boundary County.

It is quite possible that someone may file upon the waters of this stream in the future, but we can't agree to keep you posted with reference to this situation, because of the fact that there are nearly 19,000 permits on record in this office which cover hundreds of creeks, rivers, lakes, wells, springs, etc.

However, you will very likely know it if anyone else seeks to take water from this creek, in which case you can make inquiry from this department as to whether or not the party seeking to take the water has a permit.

At any rate, I can't see why it would make any particular difference to you if someone else does secure a permit, since in that case your right would be prior and the subsequent appropriator wouldn't be entitled to any water until you had obtained the amount authorized by your permit.

Very truly yours,

Deputy Commissioner of Reclamation

PLH:jl

18442

Cope land Idaho

August 17 1937

RECEIVED

AUG 20 1937

Department of Reclamation

R. H. Farris

Dept of Reclamation

Boise, Idaho

Dear Sir,

I have permit no 18442
for the use of water on
Hicks Creek, Boundary County
Idaho. Will you advise
me if any additional
permit has been granted
for use of water on this
creek? If in the future
there should be a permit
granted would you notify me?
What would be your charge
for this service?

Yours truly

18442 Ralph E. Farris

State of Idaho
DEPARTMENT OF RECLAMATION
BOISE

Permit No. 18442

May 20, 1937

Boise, Idaho,

Dear Sir:

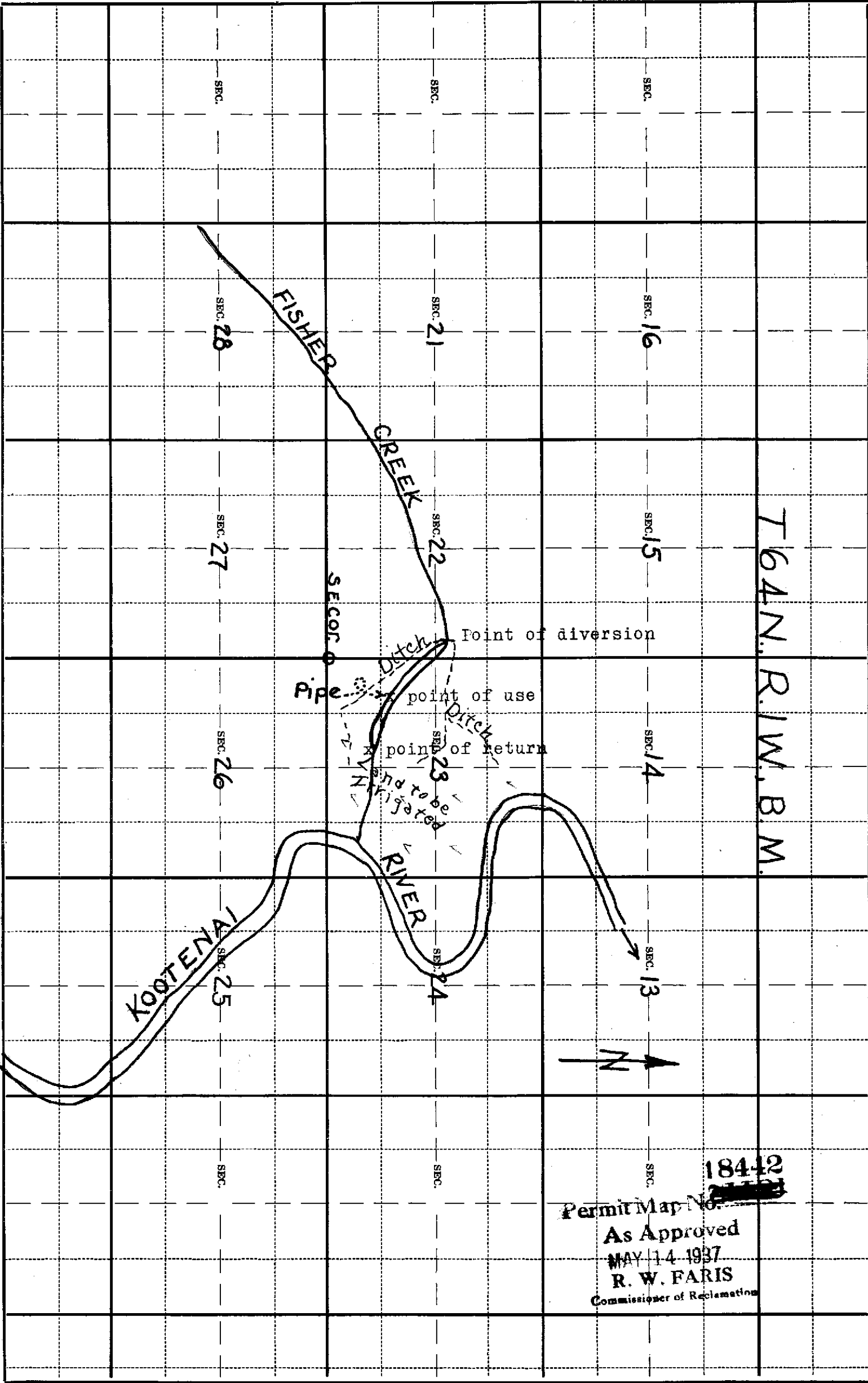
I enclose herewith above numbered permit. BE SURE AND
NOTE LIMITATIONS AND CONDITIONS OF SAME as
given under approval of the Commissioner of Reclamation on
the third page.

RALPH KERR
Copeland, Idaho

R. W. FARIS

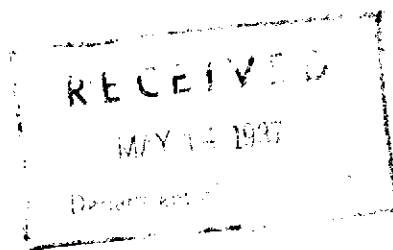
Commissioner of Reclamation.

18442



Solon B. Clark
ATTORNEY AT LAW
BONNERS FERRY, IDAHO

May 11, 1937



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

Dear Sir:

I enclose herewith application for permit of
Ralph Kerr with the additional information
suggested.

Very truly yours,

Solon B. Clark

Solon B. Clark

sbc ib
enclosure

18442

18442
May 12, 1937

Re: Application No. 25730

RALPH KERR
Copeland, Idaho

Dear Sir:

In reply to your letter of recent date, please be advised that while your application was accompanied by the application of J. A. Dalton, also to appropriate water from Fisher Creek, it clearly has the first date of priority as it was originally filed on April 22nd, while Mr. Dalton's application was first received on May 6th.

Perhaps your attorney, Mr. Clark, has not yet contacted you with reference to certain phases of the application which are not yet complete so if that is the case, it would be well for you to communicate with him in the near future so that he will be in a position to complete the application.

Very truly yours

Deputy Commissioner of Reclamation

PLH/ej

18442

Department of Reclamation
Boise
Idaho

Dear Sirs;

About three weeks ago I mailed you an application for a water right on Fisher Creek. You returned it for corrections. A Mr. J. A. Baltan asked me if he could mail a second and later application and we would mail them together, which we did.

We had an attorney help us in filling out the application, and he was instructed by us to have mine filed first. If he did not so instruct you kindly advise me and defer issuing the applications.

18442

until you hear from us.
I can easily straighten up
the matter here

Yours very truly
Ralph K. K.

May 6, 1937

Re: Application No. 25730
Ralph Kerr

SOLON B. CLARK
Attorney at Law
Bonners Ferry, Idaho

Dear Sir:

We just received Mr. Kerr's application for a permit to appropriate water from Fisher Creek in Boundary County, with certain corrections which this office requested. We also received the application of J. A. Dalton, likewise to appropriate water from Fisher Creek.

Mr. Kerr's application is now complete insofar as the diversion of water for power purposes is concerned. However, it does not show the manner in which water will be diverted for irrigation purposes. According to the application, he proposes to irrigate a total of 150 acres situated in the NE $\frac{1}{4}$, SE $\frac{1}{4}$ SW $\frac{1}{4}$, and the SE $\frac{1}{4}$ of Sec. 22, whereas he gives his works as consisting of nothing more than a pipe and a dam, the pipe line to be 1960 ft. long and which apparently will parallel the creek to the point where the power plant will be located. The only way in which he could irrigate the land that he described, would be to construct another pipe line or else a ditch from the point of diversion to the lands to be irrigated. Will you kindly reconcile these land descriptions with the map? When this matter has been satisfactorily adjusted, if you will return the application to this department, it will be approved.

Insofar as Mr. Dalton's application is concerned, it will have to be held until we receive instructions from the Attorney General's office with regard to Senate Bill 154 which was passed in the last session of the Legislature. We do not have an extra copy of this bill but you very likely have received the 1937 Session Laws so that you can see the provisions of this act. It did not become a law until today and therefore will not affect Mr. Kerr's application as it was filed the first time several days ahead of that date.

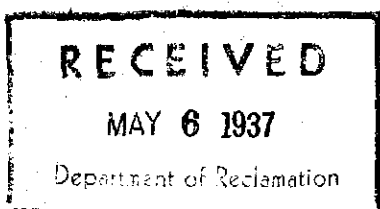
Very truly yours

Deputy Commissioner of Reclamation

PLH/ej
encl

18442

Solon B. Clark
ATTORNEY AT LAW
BONNERS FERRY, IDAHO



May 5th, 1937

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

Dear Mr. Ferris:

I am enclosing herewith application of Ralph Kerr for permit for the use of water for irrigation, domestic and power purposes; also, that of J. A. Dalton for power purposes, together with draft for \$7.25, filing fee in the Dalton application. Mr. Kerr has your receipt for the filing fee on his application.

Both of these gentlemen are taking their water from Fisher Creek, but it is understood that Mr. Kerr shall have the prior right, and it is the desire of these parties that your records show that to be the fact, even though they are both enclosed herewith.

In case any further correspondence is necessary relative to either of these application, would you kindly address me?

Very truly yours,

Solon B. Clark

SBC/ag
enc. - 3

18442

May 1, 1937

Re: Application No. 25730

RALPH KERR
Copeland, Idaho

Dear Sir:

Your application for a permit to appropriate water from Fisher Creek in Boundary County for irrigation, domestic and power purposes, is herewith being returned for some additional information.

With reference to the point of use of water for power, kindly give the 40 acre legal subdivision where such point will be or in other words, where the power plant will be located. Give the same information for the point of return.

Inasmuch as irrigation is also included in this application, you must show the number of acres in each 40 acre legal subdivision which you propose to irrigate. This information should go in the tabulated form under Paragraph 14.

Also kindly show on the plat which we are herewith enclosing, the location of your pipe line.

When this application has been completed in accordance with the foregoing, kindly return it to this office.

Very truly yours

Deputy Commissioner of Reclamation

PLH/cj
encl
Office Receipt No. 16189, \$5.50

18442