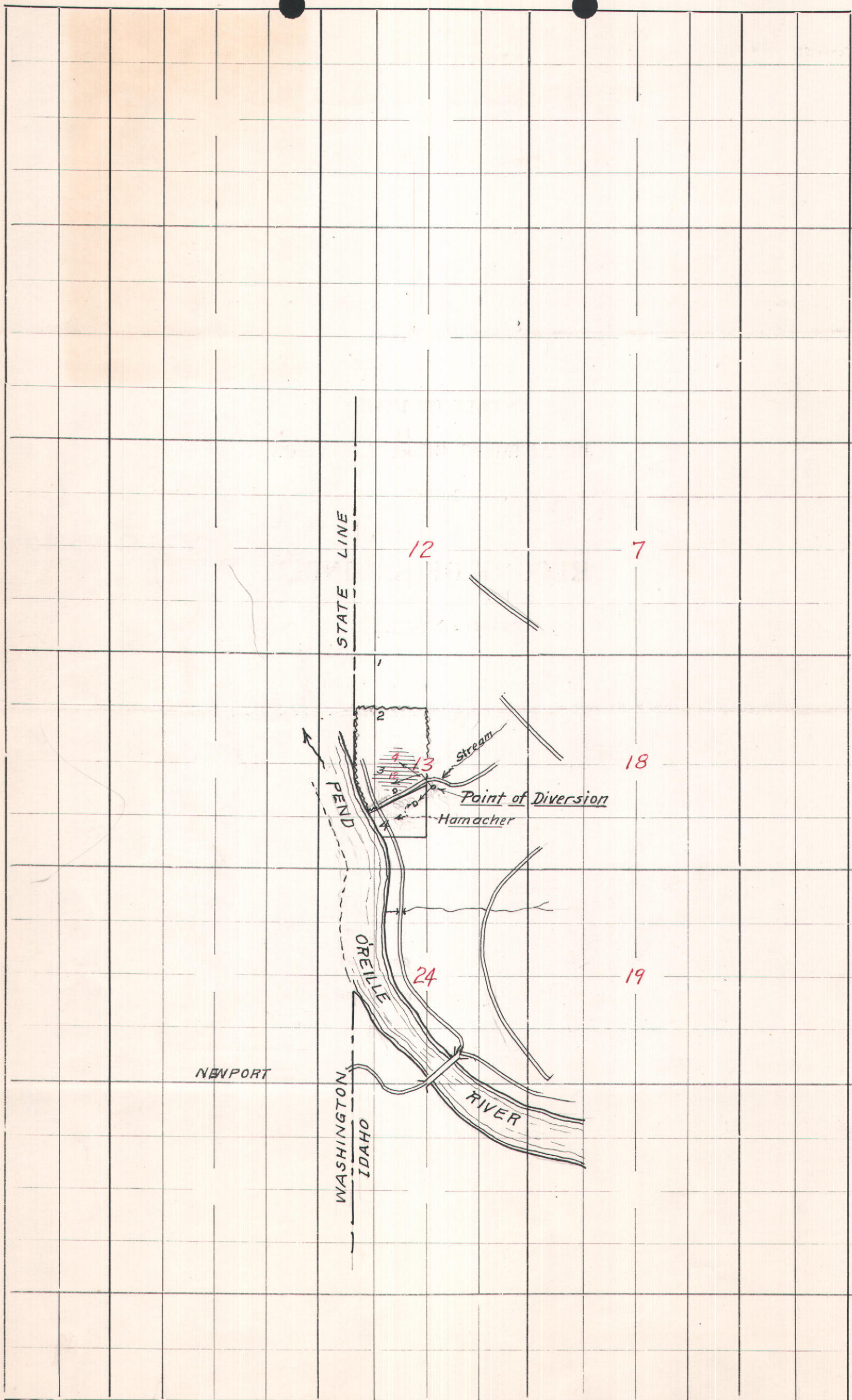




Section 13, Twp 56 N. Range 6 W.

N

Lot 1

Lot 2

Lot 3

Pend Oreille River

13 x spring underground

S.

Permit Map No. 19883

As Approved

JUL 26 1946

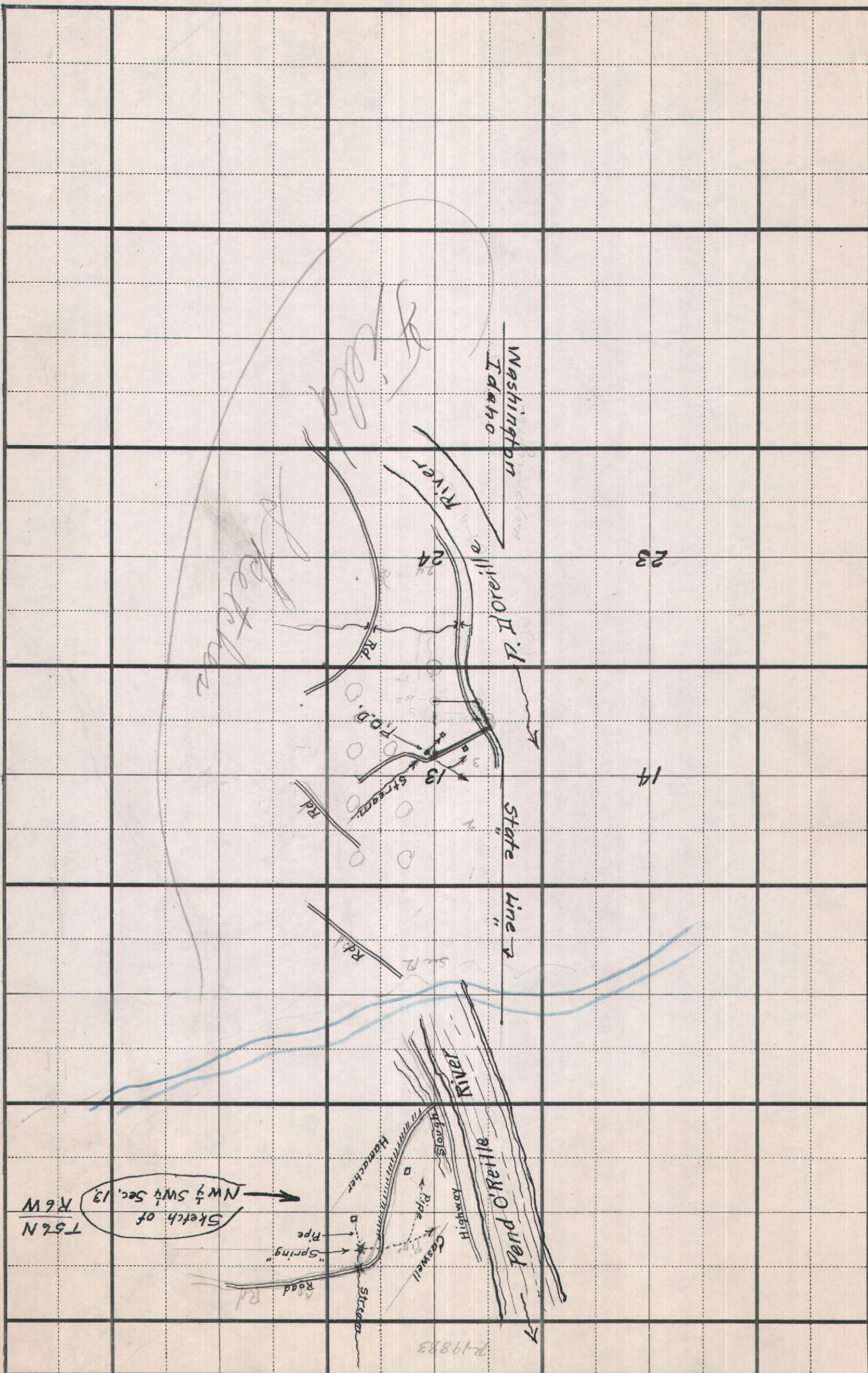
MARK R. KULP

Reclamation Engineer

19883

NAME OF APPLICANT _____

FORM No. 0



State of Idaho
License and Certificate of Water Right

Water License No. 19883

Amount 0.6 second foot

Water District No. _____

Priority July 15, 1946

THIS IS TO CERTIFY that **T. B. CASWELL**
of **Newport, Washington**, made application for a permit to appropriate the
public waters of the State of Idaho, dated **July 15**, 19 **46**; that Permit No. **19883**
was issued under said application; that Certificate of Completion of works, with a carrying capacity of
0.6 second feet, was issued thereunder on **August 8**, 19 **46**, showing that said works
were completed on the **5th** day of **August**, 19 **46**; and that on the **16th**
day of **September**, 19 **46**,

T. B. CASWELL

of **Newport**, State of **Washington**, made proof to the satisfaction of the
State Reclamation Engineer of Idaho, of the right to use the waters of a
spring, a tributary of _____, for the purpose of **irrigation and**
domestic uses, under Use Permit No. **19883** 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
8 of Licenses at page **4424**, on the **19th** day of **July**, 19 **46**;
The right hereby confirmed dates from **July 15**, 19 **46**;

The Point of Diversion is located
in the **NW 1/4 SE 1/4, Sec. 13**, Tp. **56 N.**, R. **6 W.**, **B. M. Bonner 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 **0.6** 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.	6 W.	13	SW 1/4 NW 1/4) NW 1/4 SW 1/4)	30	12

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 **July**, 19 **46**.

MARK R. KULP
State Reclamation Engineer

(SEAL)

Nº 19883
97-2032

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

Application No. 27427
Permit No. 19883
District No.

1. Name of Applicant: T. B. CASWELL

Postoffice address: Rte. 4, Newport

County: Oend Oreille

State: Washington

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:
- (b) Treasury stock:
- (c) Bonds to be issued:
- (d) Other resources:

2. Quantity of water claimed: 0.6 cubic feet per second.

3. Source of water supply: a spring in the NW $\frac{1}{4}$ SE $\frac{1}{4}$ Sec. 13, Twp. 56 N., Range 6 W., B.M., which is a tributary of

4. Location of point of diversion: 100 feet distant from the center corner of Section 13, T. 56 N., R. 6 W., B.M., and is in the NW $\frac{1}{4}$ SE $\frac{1}{4}$ of Section 13, T. 56 N., R. 6 W., 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: \$ 1,000 to 1,500

8. Kind of works: Dam

9. Height of dam 4 feet; length of dam at top 50 feet; length of dam at bottom 50 feet; material used in dam: Dirt

10. Size of headgate: Width Pipe line feet; height feet;

11. Ditch: Width at bottom Pipe line feet; width at water line feet; depth of water feet;

dimensions of flume:

Diameter of pipe inches; length of conduit miles.

Average grade per mile feet.

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

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

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

14-A. Existing water rights and/or valid permits appurtenant to the lands to be irrigated are:

15. (a) Is reservoir to be used? 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.

T. B. CASWELL *Applicant.*

By

Agent.

Date of first receipt at Department of Reclamation: 9:00 A. M. July 15, 1946

Returned to applicant for correction: July 16, 1946

Corrected application received: July 23, 1946

Approval of State Reclamation Engineer

The number of this permit is 19883

Recorded in Book 71 Page 19883 Approved July 26, 1946

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 _____ Completed _____ 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

The whole of said work to be completed on or before October 26, 1946

Beneficial use of water appropriated in accordance herewith, to be made on or before October 26, 1946

Witness my hand this 26th day of July, 1946

MARK R. KULP
State Reclamation Engineer.

IN TESTIMONY WHEREOF, We, ARNOLD WILLIAMS, Governor of the State of Idaho,
and IRA H. MASTERS, Secretary of State of the State of Idaho, have 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 26th
day of July, 1946

STATE OF IDAHO

STATE OF IDAHO

Countersigned:

(SEAL)

By IRA H. MASTERS

Secretary of State.

By ARNOLD WILLIAMS

Governor.

Remarks :

14.

Twp.	Range	Sec.	NE ¹ / ₄				NW ¹ / ₄				SW ¹ / ₄				SE ¹ / ₄				Totals
			NE ¹ / ₄	NW ¹ / ₄	SW ¹ / ₄	SE ¹ / ₄	NE ¹ / ₄	NW ¹ / ₄	SW ¹ / ₄	SE ¹ / ₄	NE ¹ / ₄	NW ¹ / ₄	SW ¹ / ₄	SE ¹ / ₄	NE ¹ / ₄	NW ¹ / ₄	SW ¹ / ₄	SE ¹ / ₄	
56 N.	6 W.	13					X				X							30	
14-A: Existing water rights and/or valid permits appurtenant to the lands to be irrigated are.. as previously applied for																			
			PERMIT NO. 19883 Certificate of Completion of Works																
To All Whom it May Concern:																			
This is to certify that T. B. CASWELL, of Newport, County of Pend Oreille, and State of Washington, the holder of Permit No. 19883, issued upon Application No. 27427, bearing date of priority of July 15, 1946, authorizing the diversion of 0.6 second foot of the waters of a spring, 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 0.6 second foot of the waters of said spring; that the point of diversion of said waters is 100 feet distant from the center of Section 13, Township 56 North, Range 6 West, B.M., and in the NW ¹ / ₄ SE ¹ / ₄ of said Section 13; and that the lands proposed to be irrigated by the use of said water are described as follows, to-wit: SW ¹ / ₄ NW ¹ / ₄ and NW ¹ / ₄ SW ¹ / ₄ Section 13, Township 56 North, Range 6 West, B.M.																			
Witness my hand this 8th day of August, A. D. 1946.																			
Proof of completion of works made August 5, 1946 Certificate of completion of works issued August 8, 1946.			MARK R. KULP State Reclamation Engineer																

RECEIVED JUL 10 1946 SEC. 13

P. 4424

May 27, 1949

Re: Permit No. 19883

Mr. T. B. Caswell
Route 4
Newport, Washington

Dear Mr. Caswell:

I have your letter of May 5, 1949, concerning Permit No. 19883, on which a license was issued and sent you on July 20, 1948.

Your license is evidence of a water right for 0.6 cubic foot per second, with a priority of July 15, 1946, but it does not fix your right in relation to other rights from the same source of supply.

The only way in which the state can administer a stream or source of supply is to form a water district, and a water district cannot be formed except when a court of competent jurisdiction has issued a decree fixing every right in relation to all others.

If your right is being interfered with illegally your recourse is through the courts.

Very truly yours,

MARK R. KUTP

K:A

State Reclamation Engineer

14883

Newport Wash
May 5 - 1949.

Mr Mark Kulp
Boise Idaho.

Dear Sir: I am writing you in regards to our water right. Permit no 19883.

Carl Hamacher and wife went above the spring and flumed it to change the course of the water.

After we received the permit and license we asked them to remove the flume and they refused.

For the last two years I have lost most of my alfalfa for lack of water. Would it be lawful for me to remove flume. Or what can I do about it.

I asked them if they heard from you and they said they did, but that didn't help any.

I would like to know if my permit is any good or not. After it is on record it should be a law one could go by. Please write and advise me as early as possible. Sincerely. Lobe B. Caswell. 19883 Newport, W. 2 B. 4

19883

WM. S. HAWKINS
ATTORNEY - AT - LAW
320-321 WIGGETT BLDG.
COEUR D'ALENE, IDAHO

July 19, 1948

RECEIVED

Department of Reclamation

Department of Reclamation
Attention: Mr. Mark R. Kulp
State Reclamation Engineer
Boise, Idaho

In re: CASWELL vs. HAMACHER

Dear Mr. Kulp:

I acknowledge receipt of your letter of July 13th, a copy of which was sent to Mr. Hunt, enclosing your decision, in connection with permit number 19883.

I did not make you a part to the pending action in the District Court at Sandpoint, because of the understanding that no action would be taken by your department, pending the decision of the District Court.

That was likewise discussed with Mr. Hunt at the same time.

Relying upon that understanding, I do not seek injunctive relief from taking action on the permit.

However, it will now be necessary to appeal to the District Court and join the appeal with the trial of the pending action on its merits.

Apparently, somebody sent on the premises and inspected this spring. It was likewise our understanding that when that event occurred my clients, the Hamachers, would be notified, so that they could give the benefit of their knowledge to the inspecting engineer.

Very truly yours,

Wm. S. Hawkins
H.A.

WSH:h

19883

July 20, 1948

RE: Permit No. 19883

Mr. T. B. Goswell
Route #4
Newport, Washington

Dear Mr. Goswell:

We enclose license and certificate of water right issued under your Permit No. 19883 confirming your right to the use of 0.6 of a second foot of water from a spring on the NW 1/4 SW 1/4, Sec. 13, Twp. 56 N., Rge. 6 W., B.M. for irrigation and domestic uses on the SW 1/4 NW 1/4 and NW 1/4 SW 1/4, Sec. 13, Twp. 56 N., Rge. 6 W., B.M.

We also enclose departmental receipt No. 20745 for the \$4.00 fee paid by you in connection with beneficial use proof.

Very truly yours,

MARK H. KULP
State Reclamation Engineer
By

A/gt

Enc. 2

Chief Clerk

19883

Newport, Wash.
July 18, 1988

Dear Sir-

We are mailing our fee
of \$4.00 for license on ~~it~~
water Permit No. 19883

Yours Truly
L. B. Crowell

R-4

RECEIVED

Department of Reclamation

19883

19883

July 13, 1948

✓ Re: Permit No. 19883

Mr. T. B. Caswell
Route 4
Newport, Washington

Dear Mr. Caswell:

We are this morning in receipt of a letter from Mr. E. Elmer Jones, in which he inquires as to the status of your Permit No. 19883.

In reply, we enclose copy of the decision of the State Reclamation Engineer in regard to this matter, and also order approving proof of beneficial use made thereunder.

Therefore, upon receipt of the statutory fee of \$4.00a license will be issued for 0.6 cubic foot per second of water from a spring, with point of diversion in the NW $\frac{1}{4}$ SE $\frac{1}{4}$ Section 13, Township 56 North, Range 6 West, B. M.

Very truly yours,

MARK R. KULP
State Reclamation Engineer

K: A
encls.

CC to E. Elmer Jones

19882

E. ELMER JONES

Real Estate & Insurance

NEWPORT, WASHINGTON

July 9, 1948.



Department of Reclamation,
Boise, Idaho.

Dear Sirs:-

RE*Water permit No. 19883.

I am writing you at the request of Mr. & Mrs.
T. B. Caswell and in connection with the above permit.

Some time last fall, you sent a man to make an
inspection of this property affected by the permit
but we have never had any report from you as to whether
or not the permit was regular and in good standing.

Another party is now building a flume to take this
water and they wish a letter from you as to whether or
not their permit now holds for this water.

Kindly reply to this letter direct to Mr. Caswell
at Route 4, Newport, Wash. just as soon as possible.

Yours sincerely,

E. E. Jones

19883

19883

July 13, 1948

Mr. Wm. S. Hawkins
320-321 Wiggett Bldg.
Coeur d'Alene, Idaho

Dear Mr. Hawkins:

We enclose herewith copy of the decision of the State Reclamation Engineer in the matter of the protest filed by Carl J. and Ruth Hamacher against "Proof of Application of Water to Beneficial Use, under Permit No. 19883, in the name of T. B. Caswell; and also Order of the State Reclamation Engineer in connection therewith.

Similar copies have also been sent directly to Mr. and Mrs. Hamacher.

Very truly yours,

MARK R. KULP

State Reclamation Engineer

K: A
Encls.

CC to E. E. Hunt
Sandpoint

19883

19883

July 13, 1948

Carl J. & Ruth Hamacher
Route 4
Newport, Washington

Dear Mr. and Mrs. Hamacher:

We enclose herewith copy of the decision of the State Reclamation Engineer in the matter of your protest against "Proof of Application of Water to Beneficial Use", under Permit No. 19883, in the name of T. B. Caswell; Also order of the State Reclamation Engineer in connection therewith.

Very truly yours,

MARK R. KULP

State Reclamation Engineer

K: A
Encls.

19883

STATE OF IDAHO

DEPARTMENT OF RECLAMATION

In the Matter of the Protest)
against "Proof of Application) ORDER APPROVING PROOF OF APPLICATION
of Water to Beneficial Use".) OF WATER TO BENEFICIAL USE..
Permit No. 19883)

WHEREAS, T. B. Caswell, Route #4, Newport, Washington, made application for permit to appropriate the public waters of the State of Idaho, on July 15, 1946, under which Permit No. 19883 was issued to him on July 26, 1946; and,

WHEREAS, Proof of Completion of Works was made on August 5, 1946; and,

WHEREAS, Notice of Proof of Application of Water to Beneficial Use was published as required by law, and proper proof submitted at the place and on the date specified in the published notice; and,

WHEREAS, A protest was received by the State Department of Reclamation from Carl J. and Ruth Hamacher; and

WHEREAS, The Field Engineer for the Department made an inspection, following which, decision was made by the State Engineer rejecting the protest.

THEREFORE, I NOW ORDER, That the proof of Application of water to Beneficial Use be accepted and a license issued thereto, to T. B. Caswell for the use of 0.6 of a cubic foot of water per second with the point of diversion located in the NW $\frac{1}{4}$ SE $\frac{1}{4}$, Section 13, 56 North, Range 6 West, B. M. and the place of use of said water to be the SW $\frac{1}{4}$ NW $\frac{1}{4}$ and NW $\frac{1}{4}$ SW $\frac{1}{4}$ Section 13, Township 56 North, Range 6 West, B. M. The date of priority is set as July 15, 1946.

IN WITNESS WHEREOF, I have hereunto set my hand, and caused the official seal of the Department of Reclamation of the State of Idaho, to be hereunto affixed at Boise, Idaho, this 13th day of July, A. D., 1948.

Mark R. Kulp

MARK R. KULP

State Reclamation Engineer

19883

STATE OF IDAHO

DEPARTMENT OF RECLAMATION

In the Matter of the Protest)
Against "Proof of Application) DECISION OF THE STATE RECLAMATION
of Water to Beneficial Use.") ENGINEER.
Permit No. 19883.)

Application for permit to appropriate the public waters of the State of Idaho, was received July 15, 1946, sent back for correction, and returned. It was approved July 26th, 1946. Permit No. 19883 was issued to T. B. Caswell, Route #4, Newport, Washington, to appropriate 0.6 cubic feet per second of the waters from an unnamed spring, with point of diversion in the NW $\frac{1}{4}$ SE $\frac{1}{4}$, Section 13, Twp. 56 N, Rge. 6 West, B. M., and place of use in the SW $\frac{1}{4}$ NW $\frac{1}{4}$, NW $\frac{1}{4}$ SW $\frac{1}{4}$, Section 13, Twp. 56 N., Range 6 West., B. M.

Proof of Completion of Works was made August 5, 1946, and Certificate of Completion of Works issued on August 8, 1946.

Beginning August 15, 1946, and continuing for four consecutive issues notice of Proof "Application of Water to Beneficial Use" was published in the Priest River Times stating that such proof would be submitted on the 16th day of September for use of 0.6 cubic feet per second before E. E. Jones, a Notary Public, in Newport, Washington.

On September 4, 1946, a protest against this proof made by Carl J. and Ruth Hamacher, was received and acknowledged in the office of the State Department of Reclamation.

On September 16, 1946, in the town of Newport, before E. E. Jones a Notary Public, T. B. Caswell, Route #4, Newport, Washington, a farmer, submitted "Proof of Application of Water to Beneficial Use", supported by the deposition of two witnesses, as required by law, and as published in the notice in the Priest River Times.

On October 10, 1946, the Field Engineer of the Department of Reclamation made an inspection.

After careful consideration of the proofs, protest, and report of the Field Engineer, it is the decision of the State Reclamation Engineer that:

1. That the waters in question are public and not private waters.
2. That the protest is rejected.
3. And that the holder of Permit No. 19883 is entitled to a license for 0.6 cubic feet of water per second, with a priority date of July 15, 1946.

Any person, or persons, feeling themselves aggrieved by this decision may appeal therefrom to the District Court for the County of Bonner within sixty days.

WITNESS MY HAND, and the official seal of the Department of Reclamation of the State of Idaho, hereunto affixed, at Boise, Idaho, this 13th day of July, A. D., 1946.

Mark R. Kulp
MARK R. KULP
State Reclamation Engineer

1948

STATE OF IDAHO

DEPARTMENT OF RECLAMATION

In the Matter of the Protest)
against "Proof of Application) ORDER APPROVING PROOF OF APPLICATION
of Water to Beneficial Use".) OF WATER TO BENEFICIAL USE..
Permit No. 19883)

WHEREAS, T. B. Caswell, Route #4, Newport, Washington, made application for permit to appropriate the public waters of the State of Idaho, on July 15, 1946, under which Permit No. 19883 was issued to him on July 26, 1946; and,

WHEREAS, Proof of Completion of Works was made on August 5, 1946; and,

WHEREAS, Notice of Proof of Application of Water to Beneficial Use was published as required by law, and proper proof submitted at the place and on the date specified in the published notice; and,

WHEREAS, A protest was received by the State Department of Reclamation from Carl J. and Ruth Hemmcher; and

WHEREAS, The Field Engineer for the Department made an inspection, following which, decision was made by the State Engineer rejecting the protest.

THEREFORE, I NOW ORDER, That the proof of Application of water to Beneficial Use be accepted and a license issued thereto, to T. B. Caswell for the use of 0.6 of a cubic foot of water per second with the point of diversion located in the NW $\frac{1}{4}$ SE $\frac{1}{4}$, Section 13, 56 North, Range 6 West, B. M. and the place of use of said water to be the SW $\frac{1}{4}$ NE $\frac{1}{4}$ and NW $\frac{1}{4}$ SW $\frac{1}{4}$ Section 13, Township 56 North, Range 6 West, B. M. The date of priority is set as July 15, 1946.

IN WITNESS WHEREOF, I have hereunto set my hand, and caused the official seal of the Department of Reclamation of the State of Idaho, to be hereunto affixed at Boise, Idaho, this 13th day of July, A. D., 1948.

Mark R Kulp

MARK R. KULP

State Reclamation Engineer

19883

STATE OF IDAHO

DEPARTMENT OF RECLAMATION

In the Matter of the Protest)
Against "Proof of Application) DECISION OF THE STATE RECLAMATION
of Water to Beneficial Use.") ENGINEER.
Permit No. 19883.)

Application for permit to appropriate the public waters of the State of Idaho, was received July 15, 1946, sent back for correction, and returned. It was approved July 26th, 1946. Permit No. 19883 was issued to T. B. Caswell, Route #4, Newport, Washington, to appropriate 0.6 cubic feet per second of the waters from an unnamed spring, with point of diversion in the NW $\frac{1}{4}$ SE $\frac{1}{4}$, Section 13, Twp. 56 N., Rge. 6 West., B. M., and place of use in the SW $\frac{1}{4}$ NW $\frac{1}{4}$, NW $\frac{1}{4}$ SW $\frac{1}{4}$, Section 13, Twp. 56 N., Range 6 West., B. M.

Proof of Completion of Works was made August 5, 1946, and Certificate of Completion of Works issued on August 8, 1946.

Beginning August 15, 1946, and continuing for four consecutive issued notice of Proof "Application of Water to Beneficial Use" was published in the Priest River Times stating that such proof would be submitted on the 18th day of September for use of 0.6 cubic feet per second before E. E. Jones, a Notary Public, in Newport, Washington.

On September 4, 1946, a protest against this proof made by Carl J. and Ruth Hamacher, was received and acknowledged in the office of the State Department of Reclamation.

On September 16, 1946, in the town of Newport, before E. E. Jones a Notary Public, T. B. Caswell, Route #4, Newport, Washington, a farmer, submitted "Proof of Application of Water to Beneficial Use", supported by the deposition of two witnesses, as required by law, and as published in the notice in the Priest River Times.

On October 10, 1946, the Field Engineer of the Department of Reclamation made an inspection.

After careful consideration of the proofs, protest, and report of the Field Engineer, it is the decision of the State Reclamation Engineer that:

1. That the waters in question are public and not private waters.
2. That the protest is rejected.
3. And that the holder of Permit No. 19883 is entitled to a license for 0.6 cubic feet of water per second, with a priority date of July 15, 1946.

Any person, or persons, feeling themselves aggrieved by this decision may appeal therefrom to the District Court for the County of Bonner within sixty days.

WITNESS MY HAND, and the official seal of the Department of Reclamation of the State of Idaho, hereunto affixed, at Boise, Idaho, this 13th day of July, A. D., 1946.

Mark R. Kulp
MARK R. KULP
State Reclamation Engineer

14883

✓
May 19, 1947

Re: Permit No. 19883

Mr. W. S. Hawkins
320-321 Wiggett Bldg.
Coeur d'Alene, Idaho

Dear Mr. Hawkins:

In reply to your letter of May 17th in
regard to the above numbered permit:

I expect to be in Coeur d'Alene on May
27th, and will call at your office, in the interest
if adjusting the Caswell-Hamacher differences regard-
ing Permit No. 19883.

Very truly yours,

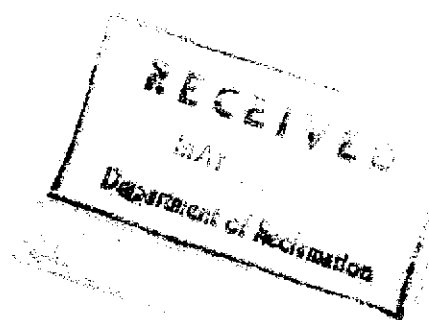
MARK R. KULP
State Reclamation Engineer

R:R

19883

WM. S. HAWKINS
ATTORNEY - AT - LAW
320-321 WIGGETT BLDG.
COEUR D'ALENE, IDAHO

May 17, 1947



Idaho Department of Reclamation
State House
Boise, Idaho

In Re: Permit No. 19883

Gentlemen:

Mr. and Mrs. Hamacher have consulted with me concerning the above numbered water permit and the differences existing between them and Caswells.

On May 10, Caswells filed an action in the District Court at Bonner County alleging that they have the above numbered water right showing them to be the owners of 0.6 second foot of water to the spring located 100 feet distant from the center of Sections 13-56-6, in Bonner County, Idaho. The Caswells have filed an action for a permanent injunction restraining Hamachers from interfering with the waters granted to Caswells under their water right, together with the judgment for costs and damages.

From a careful reading of the files in correspondence, it appears that there has been considerable confusion in this matter and that, in all probability, it can be cleared up if the parties can be gotten together and your department is represented.

I am referring to your letter of May 14, which indicated that a decision has not yet been made. If such is the case, then Caswell's action is not predicated upon any decision of your department. Do you plan on having a field engineer in the near future? If so, I would like to talk with him merely for the purpose of getting all of the facts before the department.

In the meantime, an appropriate appearance will be entered in the District Court action already filed.

Very truly yours,

W. S. Hawkins

WSH:me

19883

May 14, 1947

Re: Permit No. 19883

Carl J. & Ruth Hamacher
Route 4
Newport, Washington

Dear Mr. and Mrs. Hamacher:

We have your letter of April 26, 1947.

A field engineer from this Department did make an examination in October, 1946, in regard to the proof for beneficial use under Permit No. 19883 being made by T. B. Caswell, Route 4, Newport, Washington.

I am not certain of the reason why you were not contacted at that time, but my understanding is that you were not at home on the day of the examination, and the engineer could not find you.

A decision will be made within the next two weeks, at which time you will be notified.

Enclosed is your letter from former Governor Williams.

Very truly yours,

MARK R. KULP
State Reclamation Engineer
By

E. N. Humphrey
Deputy State Reclamation Engineer

H:A
Incl.

19883

CLASS OF SERVICE

This is a full-rate Telegram or Cablegram unless its deferred character is indicated by a suitable symbol above or preceding the address.

WESTERN UNION

JOSEPH L. EGAN
PRESIDENT

1201

SYMBOLS

DL = Day Letter

NL = Night Letter

LC = Deferred Cable

NLT = Cable Night Letter

Ship Radiogram

The filing time shown in the date line on telegrams and day letters is STANDARD TIME at point of origin. Time of receipt is STANDARD TIME at point of destination.

PRA 37 NL PD=NEWPORT WASH 12

BUREAU OF RECLAMATION= 7951

BOISE=

REQUEST IMMEDIATE REPLY ON LETTER OF APRIL 26 PERTAINING TO
WATER PERMIT NO 19883=

CARL J AND RUTH E HAMACHER.

RECEIVED

Department of Reclamation

26 19883.

Route 4
Newport, Wash.
April 26, 1947

Mark R. Kulp
State Reclamation Eng.
Boise, Idaho

Dear Mr. Kulp: -

In reference to water permit
No. 19883, we would like to know if
a field engineer from your department
has made an investigation, and
O.K. been given for issuance of same
permit.

If so, why were we not consulted?
You have our formal protest in your
files; and I am inclosing a letter
from former Governor Williams, saying
that such a permit could not be
issued. Please return same.

Would appreciate an answer as
soon as possible.

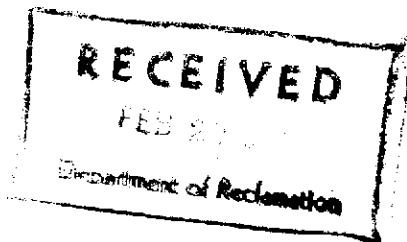
Very sincerely yours,
Ruth E. Hamacher
Carl J. Hamacher

19883

19883
E. ELMER JONES

Insurance
NEWPORT, WASHINGTON

February 14, 1947.



Bureau of Reclamation,
Boise, Idaho.

Dear Sirs:-

RE:Water permit of T. B. Caswell.

Some time last fall, you made a re-survey of the land of Mr. Caswell as to a water permit but so far he has heard nothing from you in regard to the matter.

It appears now that a neighbor has made a ditch and is taking this water and wasting it, and Mr. Caswell wishes to have some report from you by return mail. You may reply direct to him.

Yours sincerely,

E. E. Jones

19883

1. No Permit to file on Spring.
2. Spring locations do not coincide.
3. Both parties could get together and make proof.
4. If they disagree Court is best medium to establish rights.

S. H. H.

Stump here

Write a decision for me
to sign to the effect that
inspection shows that the
water in question was not
private water and that
the protest is dismissed
and license will issue

STATE OF IDAHO

DEPARTMENT OF RECLAMATION

BOISE, IDAHO

REPORT OF ENGINEER

Permit No. 19883

This proof is for Beneficial use

In Water District No.

1. Name of applicant T. B. Caswell, Route 4, Newport, Washington

2. Source of water supply: A spring in NW $\frac{1}{4}$ SE $\frac{1}{4}$ Section 13, Twp. 56 N., Range 6 West, B.M.3. Location of point of diversion: Is in the NW $\frac{1}{4}$ SE $\frac{1}{4}$ of Section 13

T. 56 N. R. 6 W. County of Bonner

4. Describe works as they exist, giving dimensions and capacities of same: A small Earth Dam 30 feet long X 4-5 feet high. Two iron pipes lead therefrom, one pipe, of four inches diameter leads across a public road to the Caswell land; while the other pipe, of two inches leads to land of Hamacher.

5. Water is used for: Irrigation and domestic purposes.

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):

Lots 2 and 3 (SW $\frac{1}{4}$ NW $\frac{1}{4}$ and NW $\frac{1}{4}$ SW $\frac{1}{4}$) Section 13, Township 56 North,

Range 6 West, B.M.

Notes: - The original house was back in the middle of the Caswell field on "west side of creek". All visible water noted in creek was being taken by pipes (one one flow). A party by name of Keys formerly owned land which is now held by Caswell and Hamacher. Old timer who present stated he knew the place in early days when only one party owned & lived on Caswell place & irrigated it.

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

8. What large stream would the water here appropriated finally reach? probably None

Remarks: The "Spring" so called appears to be located at or near the point where a small surface stream presumably sinks during the dry part of the season.

At the time of this examination, a streamflow of 0.4 Sec.Ft. was observed a short distance above the points of diversion where a culvert crossed the roadway.

The estimated areas served to a greater or less extent by the four, and two inch pipes mentioned above are 16, and three acres respectively.

This examination was made on the 10th. day of October, 1946.

(Signed)

Fred L. Delmon
Examiner.

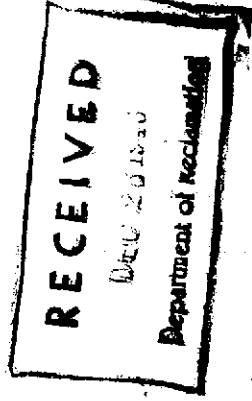
19883

T. B. Caswell, Route 4, Newport, Wash.
(E. Elmer Jones, Ins. Agent, " ")

Permit No. 19883

Examination for Beneficial use

County Bonner



INSTRUCTIONS TO EXAMINERS

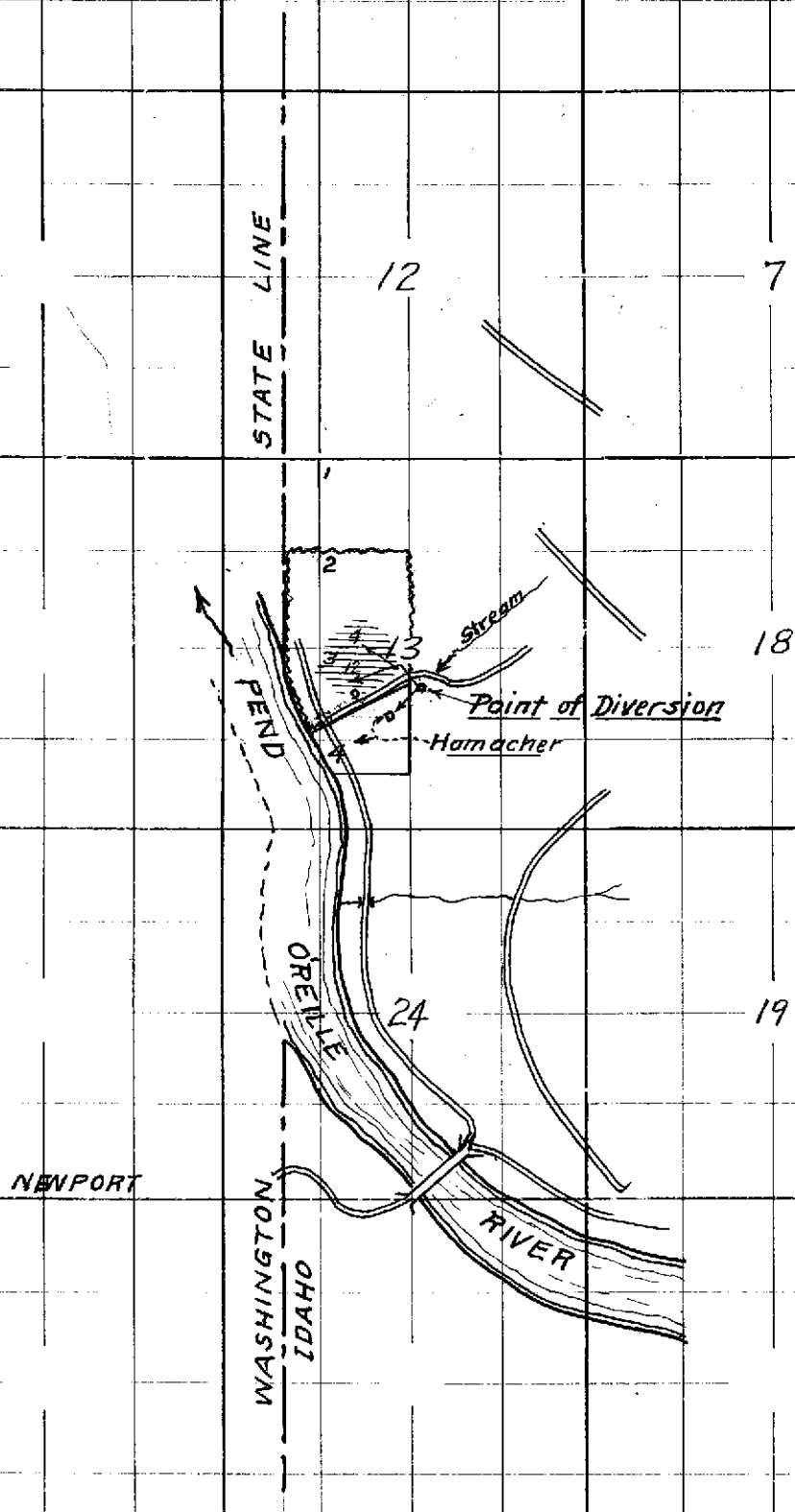
1. Always carefully note the location of the point of diversion and accurately plat same.
2. When proof is for beneficial use, carefully check up the number of acres actually irrigated in each forty and accurately plat same.
3. Make a map showing the correct location of streams and ditches, and the irrigated 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. 19883

REPORT ON PROOF OF Beneficial use



October 5, 1946

Hon. Arnold Williams
Governor of Idaho
Building

Dear Governor Williams:

Regarding the letter of Mrs. Ruth Hamacher, of Newport, Washington, her interests will be fully considered by this Department.

While the State cannot grant rights to private water (springs and small ponds), there is some question in this case as to whether permission to use the spring was given by a former owner, and whether the Hamachers acquired the land subject to this permission.

Very truly yours,

MARK R. KULP
State Reclamation Engineer

A:A

19883

October 5, 1946

Re: Permit No. 19883

Mr. T. B. Caswell
Route 4
Newport, Washington

Dear Mr. Caswell:

We acknowledge receipt of the depositions of yourself and two witnesses, also affidavit of publication in the Priest River Times, all being submitted in proof of beneficial use under the above numbered permit.

We also have on file the formal protest of Carl J. Hamacher and Ruth Hamacher against the issuance of a license under this permit.

No final action will be taken in the matter until after a full investigation and examination has been made by a field engineer from this department.

You will be notified later after this examination has been made, and the engineer's report filed.

Very truly yours,

A
CC to Carl J. & Ruth Hamacher

MARK R. KULP
State Reclamation Engineer

19883

AFFIDAVIT OF PUBLICATION

STATE OF IDAHO

County of Bonner.

ss.

Kenneth L. Woods

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 has been continuously and uninterruptedly published in said County during a period of 78 consecutive weeks prior to the first publication of the annexed notice for publication, is a newspaper of general circulation made up of at least eight pages of at least six columns each, printed from typematter or stereotyped forms of at least nineteen and three-fourths inches depth, has at least 650 bona fide subscribers living within said Bonner County, and is published at regular weekly intervals. That the annexed is a true copy of the notice for publication in the case of

Notice for Publication

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 15th day of August, 1946, and ending on the 5th day of September, 1946, and that said notice was published in said newspaper proper, and not in supplement form.

Kenneth L Woods

Subscribed and sworn to before me this 7th day of September, 1946.

Richard H. Lean
Notary Public for Idaho,
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 16th day of September, 1946, at Newport, County of Pend Oreille, State of Washington, before E. E. Jones, a Notary Public, proof will be submitted of the application to beneficial use of 0.6 cubic feet per second of the waters of spring in accordance with the terms and conditions of Permit No. 19883 heretofore issued by the State Reclamation Department of the State of Idaho.

The name and postoffice address of the person or corporation holding said permit are T. B. Caswell, Route 4, Newport, Washington.

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

The amount applied to beneficial use is 0.6 cubic feet per second.

The place where said water is used: SW 1/4 NW 1/4 and NW 1/4 SW 1/4 Section 13, Township 56 North, Range 6 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. No name for it.

The right to take water from such works is based upon Permit No. 19883.

The source of supply from which such water is diverted is a spring, in the NW 1/4 SE 1/4 Section 13, Twp. 56 N., Range 6 W., B. M.

The date of priority which said user is prepared to establish is July 15, 1946.

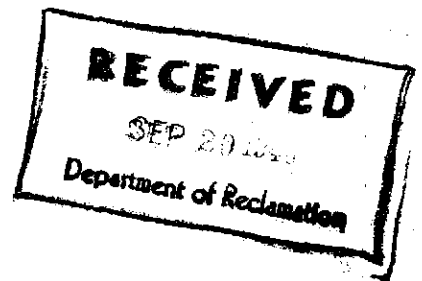
MARK R. KULP
State Reclamation Engineer

19883

33-41

AFFIDAVIT OF PUBLICATION

STATE OF IDAHO
DEPARTMENT OF RECLAMATION
BOISE, IDAHO



Permit No. 19883

Proof of Application of Water to Beneficial Use

Deposition of Holder

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

Ans. J. B. Caswell - Route 4, Newport, Washington
Farmer.

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. 19883- July 26, 1946- Sept. 16, 1946

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

Ans. Spring in N W 1/4 of Sec 13, T36N-6W - Diverted from dam
with pipe line.

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. Dirt dam - with pipeline 0.5 cubic feet per second.

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 + domestic use - Cultivated land for
grain and hay - to irrigate approximately 30 acres in Lots
2 + 3 of Section 13, Twp. 36N. Range 6 West.

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

Ans. Only for residence purpose and water for livestock.

14883

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

Ans. 0.6 foot.

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. Water used at all times for domestic and irrigating to full extent of water diverted.

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) T B Haswell

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 Newport, County of Peruville

State of Washington on this 16th day of September, A. D. 1946.

E. E. Jones

My commission expires May 14, 1947

✓
September 24, 1946

Re: Permit No. 19883

Mr. E. Elmer Jones
Notary Public
Newport, Washington

Dear Mr. Jones:

We acknowledge return of the depositions in beneficial use proof under the above numbered permit, but the deposition of Mr. Caswell is still incomplete, as it does not give the legal description of the land irrigated, nor the acreage, as called for in Question 6.

We are therefore returning it herewith for this purpose.

Very truly yours,

MARK R. KULP
State Reclamation Engineer
By

A
Encl.

Chief Clerk

19883

STATE OF IDAHO
DEPARTMENT OF RECLAMATION
BOISE, IDAHO

PERMIT NO.

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. Dan R. Fiedler, age 69, Newport, Washington
Retired farmer.

Ques. 2. Are you acquainted with J. B. Caswell, the holder of Permit No. 19883? How long have you known him and where does he reside?

Ans. Yes 40 years. Rte 4, Newport, Wash.

Ques. 3. Have you read or heard read said Permit No. 19883, 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. Spring in NW 1/4 of SE 1/4 - Diverted from dam - wood pipe
to place of use.

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. 0.5 cubic ft per second - Full amount of creek

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. Irrigation and domestic, also power - all cultivated
land - Land in NE 1/4 of SE 1/4 and Lots 2 & 3, Sect 12-56 N-6 W
Bonner County Ida., approximately 50 acres in all.

19883

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

Ans. None at present

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. Sandy loam soil - all used.

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. All used for domestic and irrigation

(Signed) Don R. Fiedler

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 Newport, County of Pend Oreille,

State of ~~Idaho~~ ^{Washington} on this 16th day of September, A. D. 1946

E. E. Jones
Notary Public.

My commission expires May 14, 1947.

STATE OF IDAHO
DEPARTMENT OF RECLAMATION
BOISE, IDAHO

PERMIT NO.

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. Louis S. Pearsall, age 46, Route 4, Newport
Wash. - Farmer

Ques. 2. Are you acquainted with L. B. Caswell, the holder of Permit No. 19883? How long have you known him and where does he reside?

Ans. 13 years - Route 4, Newport, Wash.

Ques. 3. Have you read or heard read said Permit No. 19883, 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. Spring in NE 1/4 of SE 1/4 - Diverted from dam
wood pipe to place of use.

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. 0.5 cubic ft per second - Full amount of creek.

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. Irrigation and domestic - also power -
all cultivated land - Land in NE of SW and Lots 2 & 3.
Sect. 13 - SE 1/4 - 6W, Bonner Co., Ida., approximately 50
acres in all.

19883

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

Ans. None ^{other} at this time.

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. Sandy loam soil - all used.

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. All used for domestic and irrigation.

(Signed) Louis S. Pearson

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 Newport, & County of Pend Oreille, State of Washington ~~Idaho~~, on this 16th day of September, A. D. 1946

E. C. Jones

Notary Public.

My commission expires May 14, 1947.

September 20, 1946

Re: Permit No. 19883

Mr. E. Elmer Jones
Notary Public
Newport, Washington.

Dear Mr. Jones:

We acknowledge receipt of the depositions of
Mr. T. B. Caswell and two witnesses submitted
in proof of beneficial use under the above numbered
permit.

However, none of these depositions give the legal
description by subdivision, section, township and
range, on which the water has been used- as called
for under Question 6, so we are returning the depo-
sitions herewith for such completion.

We also call attention to the fact that the deposition
of Mr. Caswell does not bear your notarial signature.

Very truly yours,

MARK R. KULP
State Reclamation Engineer
By

Chief Clerk

A
Encl.

19883

✓
September 9, 1946

Re: Permit No. 19883
T. B. Caswell

Mr. E. Elmer Jones
Notary Public
Newport, Washington

Dear Mr. Jones:

We are in receipt of your letter of September 6th, in regard to beneficial use proofs to be made on the above numbered permit on September 16th.

At the time set for these proofs you, as Notary Public, should see that the proofs of the holder and two witnesses, sent you on September 6th, are properly filled out and executed.

If any protests are filed with you you should accept them, also- and they should be duly sworn to, the same as the other depositions.

All these documents- the proofs, and protests, if any- are to be promptly transmitted to this department, together with the affidavit of publication, which the Priest River Times was instructed to send Mr. Caswell.

For your information will state that a protest has already been filed in this office from Mr. and Mrs. Carl J. Hamacher.

The entire matter will be thoroughly investigated by this department before any final action is taken in the matter.

Very truly yours,

MARK R. KULP
State Reclamation Engineer
By

Chief Clerk

A

19883

E. ELMER JONES

Real Estate & Insurance
NEWPORT, WASHINGTON

September 6, 1946.

State Reclamation Dept.,
Boise, Idaho.

Dear Sirs:-

RE:Permit No. 19883 - Caswell.

Please refer to the above permit and you will find that proof is to be made before me on September 6th.

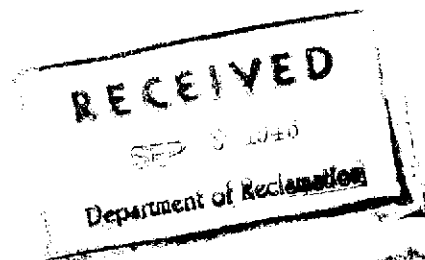
It seems that there is some dissension between Caswell and a neighbor regarding this permit, so kindly advise what is to be done as far as I, as Notary Public, am concerned should the neighbor appear and make some complaint in the matter.

I am trying to get them to-gether and determine who is right in the matter, but it now appears that they cannot agree on it.

Further word from you will be appreciated.

Yours sincerely,
E. E. Jones,

E. E. Jones



14852

State of Idaho

DEPARTMENT OF RECLAMATION

BOISE

INSTRUCTIONS

PROOF OF BENEFICIAL USE OF WATER

BOISE, IDAHO,

September 6, 1946

Re: Permit No. 19883

Mr. E. Elmer Jones
Notary Public
Newport, Washington

DEAR SIR:

I enclose herewith the following forms to be used in connection with proof of beneficial use of water under Permit No. 19883

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 September 16, 1946, 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 Newport, Washington before E. Elmer Jones, Notary Public

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,

MARK R. KULP
Commissioner of Reclamation.
State Reclamation Engineer

14883

Print 19882

MEMO FOR MR. TOLMAN IN RE. HAMACHER PROTEST ON T. B. CASWELL PERMIT NO. 19883

In May, 1946, Carl J. Hamacher sent in a "deed and water right"- stating that the water had been used continuously since 1910, and asking as to its standing.

The files showed Permit No. 6281, issued to J.C. Langille, of Newport, Wash. June 3, 1910- completion of works proof made, but beneficial use proof not made- for spring in SW $\frac{1}{4}$ NE $\frac{1}{4}$ Section 13, 56 N., 6 W., B.M.

The deed was not very definite as to the amount of water, etc.

In June, 1946, E. Elmer Jones, Real Estate and Insurance, Newport, Wash., inquired as to water right for Lots 1, 2 & 3 Sec. 13, same twp and range- and refers to a water right from "a creek that has no name", and is "supposed to have been filed on by J.C. Langille about 35 years ago", His letter stated that the present owner of the land was T.B. Caswell.

On July 16, Jones filed an application for T.B. Caswell, for water from a spring- but describing the location as in the NW $\frac{1}{4}$ SE $\frac{1}{4}$ of Sec. 13 (See report form)

Carl J. and Ruth Hamacher have filed a protest to issuance of license under this Permit, stating that for five years they have owned certain land, including parts of Lots 3 and 4 of Section 13, and that they have during all that time used the water from a spring on the NW $\frac{1}{4}$ SE $\frac{1}{4}$ of that section; and that their predecessors in interest have used water from this spring since 1910.

Also that they are now purchasing on contract, the NE $\frac{1}{4}$, N $\frac{1}{2}$ SE $\frac{1}{4}$ and SE $\frac{1}{4}$ SE $\frac{1}{4}$ of Section 13, upon which land the spring rises.

6281 - 0.5 cfs. in lots 3, (B.C.H.) and (20 A. in #2) down 5' x 35'
P.O.D. in SW NE 13

19883 - "P.O.D. in 100 ft. cts of Sec 13, in NW SE $\frac{1}{4}$ "

19883

P-19883

PERMIT NO. 19883

T. B. Caswell

Bonner County

In re Protest from Carl J. & Ruth
Hatcher

one 100' by 100' formerly
owned both places + later
sold to different parties
who are now under the
Caswell + Hatcher name
The Hatcher originally
lived on the present
Caswell place before the
division into 2 places
dividing the right to
+ bridge the right to
owning the right to
(2 miles to bridge +)

MEMO FOR MR. TOLMAN IN RE. HAMACHER PROTEST ON T. B. CASWELL PERMIT NO. 19883

In May, 1946, Carl J. Hamacher sent in a "deed and water right"- stating that the water had been used continuously since 1910, and asking as to its standing.

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The deed was not very definite as to the amount of water, etc.

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Carl J. and Ruth Hamacher have filed a protest to issuance of license under this Permit, stating that for five years they have owned certain land, including parts of Lots 3 and 4 of Section 13, and that they have during all that time used the water from a spring on the NW $\frac{1}{4}$ SE $\frac{1}{4}$ of that section; and that their predecessors in interest have used water from this spring since 1910.

Also that they are now purchasing on contract, the NE $\frac{1}{4}$, NW $\frac{1}{4}$ and SE $\frac{1}{4}$ SE $\frac{1}{4}$ of Section 13, upon which land the spring rises.

19583

September 5, 1946

Re: Permit No. 19883

Carl J. Hamacher & Ruth Hamacher
Newport, Washington

Dear Mr. and Mrs. Hamacher:

We acknowledge receipt of your protest against the issuance of a license under Permit No. 19883, to T. B. Caswell.

This has been placed on file, and the matter will be given full consideration, and no final action is taken until after a field examination by an engineer from this department.

Very truly yours,

MARK R. KULP
State Reclamation Engineer

A

19883

IN THE SUPERIOR COURT OF THE STATE OF WASHINGTON,
IN AND FOR THE COUNTY OF PEND OREILLE

In the matter of the application
of T.B. Caswell for proof of water
for beneficial use - Permit No. 19883

Permit No. 19883

PROTEST

Comes now Carl J. Hamacher and Ruth Hamacher, his wife, and
make and file their protest against the application of the said
T.B. Caswell and show as follows, to-wit:

1.

That Carl J. Hamacher and Ruth Hamacher, his wife, are the
owners of the following described real estate situate in Bonner
County, State of Idaho, to-wit:

That part of Lots 3 and 4 of Section 13, Township 56 North,
Range 6 W.B.M. described as follows: beginning at a point
1252 feet North of the Southwest corner of the Southeast
Quarter of said Section 13; thence West 1110 feet, thence
Northwesterly along the bank of the Pend Oreille River on
the meander line 175 feet, thence Northeasterly 1430 feet
to the East line of said Lot 3, thence South 848 feet to
place of beginning; also that part of said Lot 4 described
as follows: beginning at a point 817 feet North of the
Quarter corner between Sections 13 and 24 said Township and
Range; thence North 435 feet, thence West 1110 feet to the
meander line of Pend Oreille River, thence southerly along
said meander line 458 feet, more or less, to a point due
west of the point of beginning, thence East 330 feet to the
place of beginning, together with rights of way and water
rights appurtenant; being the property described in deed
recorded in Book 55 of Deeds, page 364, Recorder's Office,
Bonner County, Idaho;

That they have owned the above described real estate for
more than five years and during that period have used the waters
from a certain spring located in the Northwest Quarter of the
Southeast Quarter of Section 13, Township 56 North, Range 6, W.B.M.,
for domestic purposes and for irrigation, that their predecessors
in interest have used the waters from said spring ever since the
year 1910; that Carl J. Hamacher and Ruth Hamacher, his wife,
have purchased on a contract:

The Northeast Quarter, the North Half of the Southeast
Quarter; and the Southeast Quarter of the Southeast Quarter
of Section 13, Township 56 North, Range 6, W.B.M.;

19883

the lands upon which the said spring rises; that in addition to the use of the waters from said spring for domestic uses and for irrigation for a period of more than ten years, they now own the real estate upon which said spring rises;

That the said T.B. Caswell owns numerous springs on his own property with a sufficient flow of water to irrigate the tillable land on the property that he now owns;

WHEREFORE, your protestants pray that the application of the said T.B. Caswell be denied.

Carl J. Hamacher
Ruth E. Hamacher

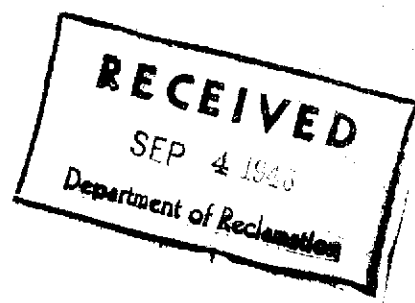
STATE OF WASHINGTON,)
County of Pend Oreille)

Carl J. Hamacher and Ruth Hamacher, his wife, each being first duly sworn on oath, depose and say, that they have read the above and foregoing protest, know the contents thereof, and that the same are true.

Carl J. Hamacher
Ruth E. Hamacher

Subscribed and sworn to before me this 3rd day of September, 1946.

E. L. Sheldon
Notary Public residing
at Newport, Washington.



19883

August 27, 1946

Re: Permit No. 19883

Carl J. & Ruth E. Hamacher
Route 4
Newport, Washington

Dear Mr. and Mrs. Hamacher:

I have your letters of August 14th and August 17th, in regard to rights in a certain spring in Section 13, Twp. 56 North, Range 6 West, B.M.

The situation seems to be confused, and I am not sure that I understand it well enough to answer your questions satisfactorily.

Generally, a spring is considered private water and belongs to the land on which it is located. Water from springs is appropriable if the appropriator has permission from the land owner to file on them. However, our Supreme Court has ruled that a water right acquired through trespass is invalid.

The State Department of Reclamation can issue permits only for unappropriated public water, but cannot determine whether or not unappropriated public water exists, nor can the Department determine the relative rights of appropriators from the same source of supply. Only a court of competent jurisdiction can make this determination.

You may protest the issuance of a license under Permit No. 19883, by submitting a sworn statement to this office on or before the date set for the hearing of proof of application to beneficial use (September 16, 1946), basing the protest on statements made by the applicant in the published notice.

It appears from the files that water has been appropriated and used for some years and that certain valid rights might be established by proof before the District Court.

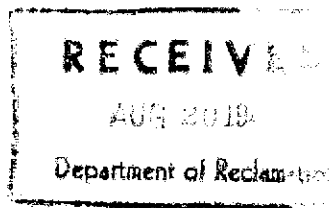
After proof of beneficial use has been made, a field examination must be made before a license can be issued. The examination will be for the purpose of determining the physical condition, as to the fulfillment of the conditions of the permit, and cannot settle any legal controversies.

Very truly yours,

MARK R. KULP
State Reclamation Engineer

K:A

19883



R 4

Newport, Wash.
Aug. 17, 46

Mark R. Kulp
State Reclamation Eng.
Boise, Idaho

Dear Mr. Kulp: -

In yesterday's Priest River Times, we saw your notice of application for proof of beneficial use on Mr. Caswell's water permit. His permit calls for more water than comes from the spring; and he informed us this morning that early this spring he sold the piece of property this water crossed. He ~~now~~ then has to cross the county road, another man's property, and come on to our place to get this water. Is it legally possible to do this; and if so, what rights does it leave us, or are we left high and dry?

Sincerely,

Ruth E. + Carl J. Hamacher 19882

PRIEST RIVER TIMES

K. L. WOODS, Publisher
PRIEST RIVER, IDAHO

19883

First published
August 15, 1946



19883

August 17, 1946

Carl J. & Ruth E. Hamacher
Route 4
Newport, Washington

Dear Mr. and Mrs. Hamacher:

Your letter of August 14th has reached the office during the absence of the State Reclamation Engineer, and will be brought to his attention upon his return the latter part of next week.

Very truly yours,

MARK R. KULP
State Reclamation Engineer
By

Chief Clerk

A

19883

Newport, Wash.
Aug. 14, 1946

Mark R. Gulp
State Reclamation Engineer
Boise, Idaho

Dear Sir: -

On May 13, I wrote you concerning water rights on our property. Received your reply dated May 16.

We are now having papers drawn up, and are buying the property on which the spring is located. Yesterday, we heard that our neighbor had obtained a water right on this spring that starts on our place, crosses a corner of his, and did sink on our place until he diverted the stream this spring. Permit #6281 was issued to J. C. Langille, left incomplete, as of your records, and has never been used for irrigation as far

1988

as we know. Definitely not the last ten years, except this past season. Years ago water was flumed from a spring much larger on his own place, for irrigation on some property, which is now running into the river unused. For about three weeks this spring, the stream entering our yard was ditched down the county road. When they needed it, same was taken through their pipe. When not needed, it was again, and still is, running down the county road in such a manner that we are unable to use it. However, we do have our two inch pipe in, but they fool with the water so it is muddy every few days or oftener. Is it possible for them to obtain and hold a ~~water~~ right on this water as it runs, or is a spring dedded property, and can we use all water if it does not come across his land?

19883

If a permit has been applied for on this water or spring, we would like to have the opportunity to contest it.

We also have written permission from former owners of spring for complete use of this water. Is this of any value?

There are several parties around here that will vouch for this stream being used for irrigation on our property since 1910 or 1913.

Sincerely,

+ Carl J. Hamacher
+ Ruth E. Hamacher
Route 4
Newport, Wash

1988³

19883

PRIEST RIVER TIMES

K. L. WOODS, Publisher
PRIEST RIVER, IDAHO

August 10, 1946

Department of Reclamation
State Reclamation Engineer
State House
Boise, Idaho

Dear Sir:

This is to acknowledge receipt of publication of Permit No. 19383 to be published four consecutive weeks in the Times. First publication will be August 15.

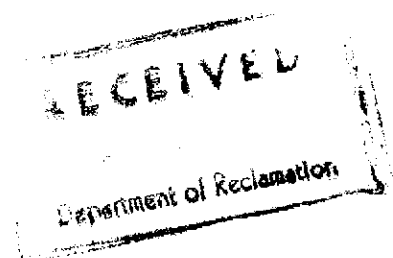
Thanking you for this notice we are

Very truly yours,



K. L. Woods, Publisher
Priest River Times

KLW/dm



19883

✓
August 9, 1946

Re: Permit No. 19883

Mr. T. B. Caswell,
Route 4
Newport, Washington

Dear Mr. Caswell:

We enclose herewith Certificate of completion of works issued under the above numbered permit, to appropriate 0.6 second foot of water from a spring on the NW $\frac{1}{4}$ SE $\frac{1}{4}$ Section 13, Township 56 North, Range 6 West, B.M., for irrigation and domestic use on the SW $\frac{1}{4}$ NW $\frac{1}{4}$ and NW $\frac{1}{4}$ SW $\frac{1}{4}$ of said Section, in Bonner County, Idaho, with priority of July 15, 1946; also Departmental Receipt # 19576 for the \$5.00 fee paid by you in connection with this proof.

A copy of the notice of beneficial use proof to be made under this permit on September 16th, has been sent to the Priest River Times, with instructions to publish it once a week for four consecutive weeks prior to that date, and to send you the affidavit of publication, together with statement of publication costs.

About ten days prior to the date set for proof, we shall send to Mr. E. E. Jones, Notary Public, the proper forms of deposition, consisting of one for yourself and one for each of two witnesses, so that he may have them in ample time for the proof.

At the time set you should appear before Mr. Jones, with two disinterested witnesses, who are familiar with the terms of the permit, and the works constructed thereunder, for the purpose of executing the depositions.

Very truly yours,

MARK R. KULP
State Reclamation Engineer
By

A
Encls.

Chief Clerk

19883

STATE OF IDAHO

DEPARTMENT OF RECLAMATION

BOISE, IDAHO

Date: August 9, 1946

Re: Permit No. 19883

Priest River Times

Priest River, Idaho

Gentlemen:

Enclosed you will find notice for publication
once a week for four consecutive weeks prior to September 16,
1946 the date set for proof, the expense of the
publication to be paid by the applicant, T. E. Caswell,
Route 4 of Newport, Washington, to whom
you should furnish affidavit 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,

MARK R. KULP

State Reclamation Engineer

By

Chief Clerk

19883

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

Notice is hereby given that at 10:00 A. M. on the 16th day of September, 1946,
at Newport, County of Pend Oreille, State of Washington, before
E. E. Jones, a Notary Public, proof will be submitted of the
application to beneficial use of 0.6 cubic feet per second of the waters of spring
in accordance with the terms and conditions of Permit No. 19883
heretofore issued by the State Reclamation Department of the State of Idaho.

The name and postoffice address of the person or corporation holding said permit are

T. B. Caswell, Route 4, Newport, Washington

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

The amount applied to beneficial use is 0.6 cubic feet per second.

The place where said water is used (~~if for irrigation, give full and accurate description of the~~
~~land irrigated~~ Part of NW 1/4 of Section 13, Township 56N, Range 6W
SW 1/4 NW 1/4 and NW 1/4 SW 1/4 Section 13, Township 56 North, Range 6 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 No name for it.

The right to take water from such works is based upon Permit No. 19883

The source of supply from which such water is diverted is a spring in the NW 1/4 SE 1/4
Section 13, Twp. 56 N., Range 6 W., B.M.

The date of priority which said user is prepared to establish is July 15
September 16, 1946.

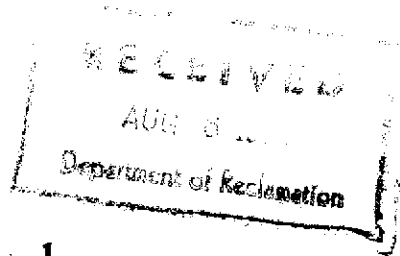
MARK R. KULP

State Reclamation Engineer.

19883

Permit No.

STATE OF IDAHO
Department of Reclamation



Proof of Completion of Works

AFFIDAVIT OF HOLDER

STATE OF Washington }
County of Pend Oreille } ss.

J. B. Leaswell, 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. 19883, and that his postoffice address is Route 4, Newport State of Washington

Second: That the name of the stream from which said water is to be directed is Spring only

Third: That the point of diversion of said water is 100 ft distant from center corner of Sect. 13 - 56 N 6 W

Fourth: That under the terms and conditions of said permit, construction thereunder was required to be completed by {already completed several years ago.}

Fifth: That the use for which said water is intended is Irrigation & domestic

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: Dam
(Reservoir, dam, ditch, flume, pipe or otherwise)

II. Dimensions of work:

(a) Height of dam 4 feet, length of dam at top 50 feet, length of dam at bottom 50 feet. Material used in construction Earth

(State whether wood, earth, stone or concrete)

(b) Capacity of reservoir 10000 acre feet.

(c) Size of headgate: Width none feet, height feet.

(d) Conduit Pipe width at bottom feet, width at water line
(State whether ditch, flume or pipe)

feet, depth of water feet; diameter of pipe 4 inches, average grade per mile is feet. Length of conduit is 1/4 miles.

Seventh: That said works are capable of conducting to the place of intended use 0.6 second feet of water.

Eighth: That water appropriated under said permit is available for 30 acres of land described as follows: Part in S 1/4 of NW 1 and part in NW 1/4 of S 1 - Sect. 13 Township 56 N 6 W.

Ninth: Remarks: That

J B Leaswell

(Sign here)

Subscribed and sworn to before me this 5th day of August, 1946

My commission expires May 14, 1947

E. E. Jones

Notary Public.

14883

NOTICE TO ACCOMPANY THIS LETTER MUST BE MADE IN DUPLICATE

(Date) August 5, 1946.

(P. O.) Route 4, Newport, Washington

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
Priest River Times of Priest River, Idaho, published in
the county in which the works are situated.

F B Caswell

(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.

19882

July 31, 1946

Re: Permit No. 19883

Mr. E. Elmer Jones
Newport Washington.

Dear Mr. Jones:

We enclose herewith Permit to appropriate the Public Waters of the State of Idaho, No. 19883, in the name of T. B. Caswell, of Newport, Washington.

The application states that the works are completed, and we have therefore allowed the minimum of three months within which to make the statutory proofs required to complete the water right and obtain a license.

The first proof, or proof of completion of works, is made by executing the enclosed affidavit- Form 6- and returning to this Department with a fee of \$5.00, upon receipt and approval of which a Certificate of Completion of Works will be issued.

The final or beneficial use proof requires publication once a week for four consecutive weeks in the county where the water is diverted. This notice should be made out in duplicate on Form 10 enclosed- setting the date far enough ahead to allow for the four weeks' publication- naming a Notary Public or other official authorized by law to administer oaths, before whom the proof will be made.

Both copies of the notice to be returned to this Department, together with Form 11, which is authorization for us to have the notice published in the designated newspaper, at permit holder's expense. We shall then send a copy of the notice to the newspaper with instructions in regard to publishing same.

The proof is made by affidavits of the permit holder and two disinterested witnesses, who are familiar with the terms of the permit, and the works constructed thereunder. These forms will be sent to the Notary Public about ten days prior to the date set, so that he may have them in ample time for the proof.

Very truly yours,

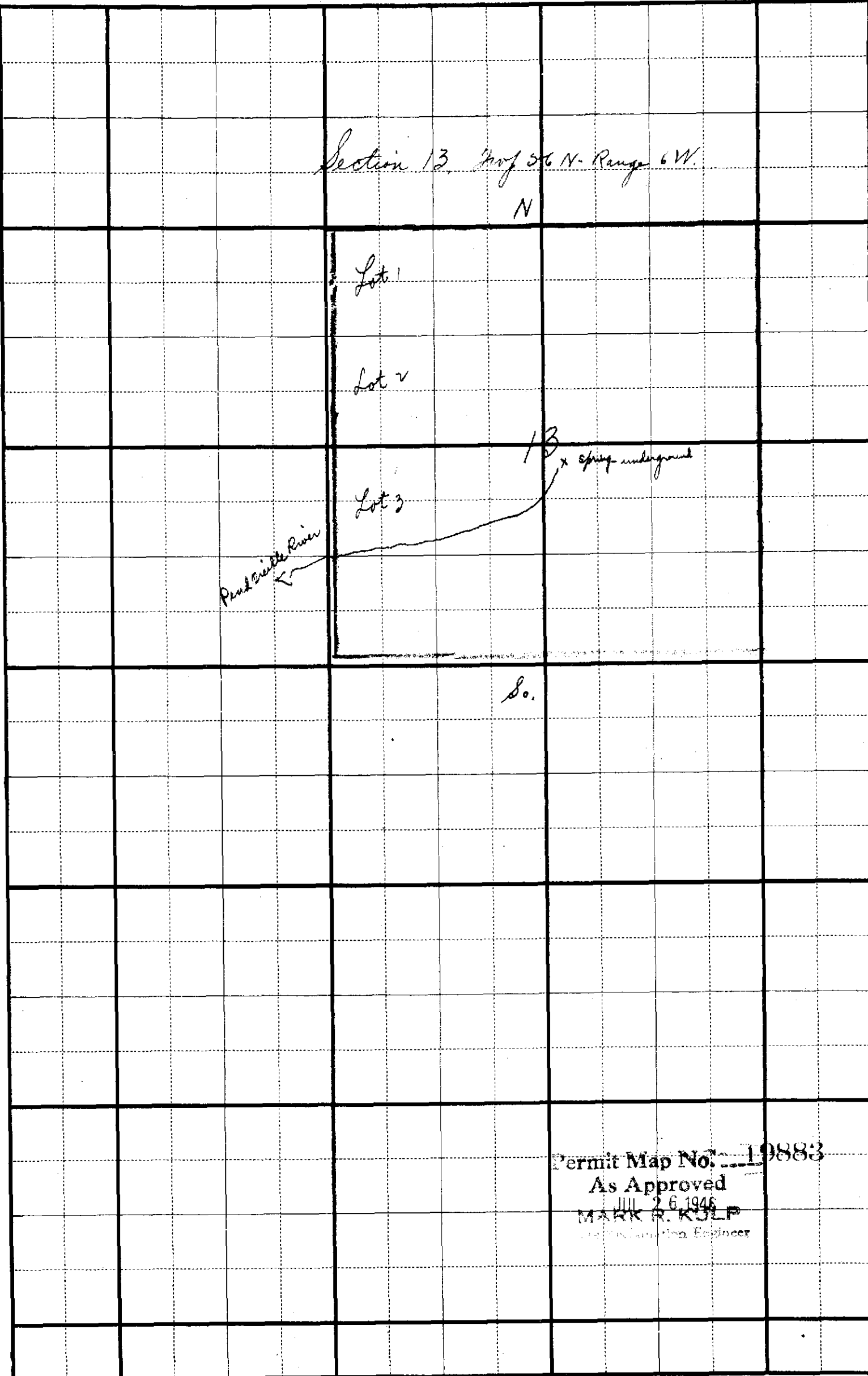
MARK R. KULP
State Reclamation Engineer
By

Chief Clerk

A
Encls.

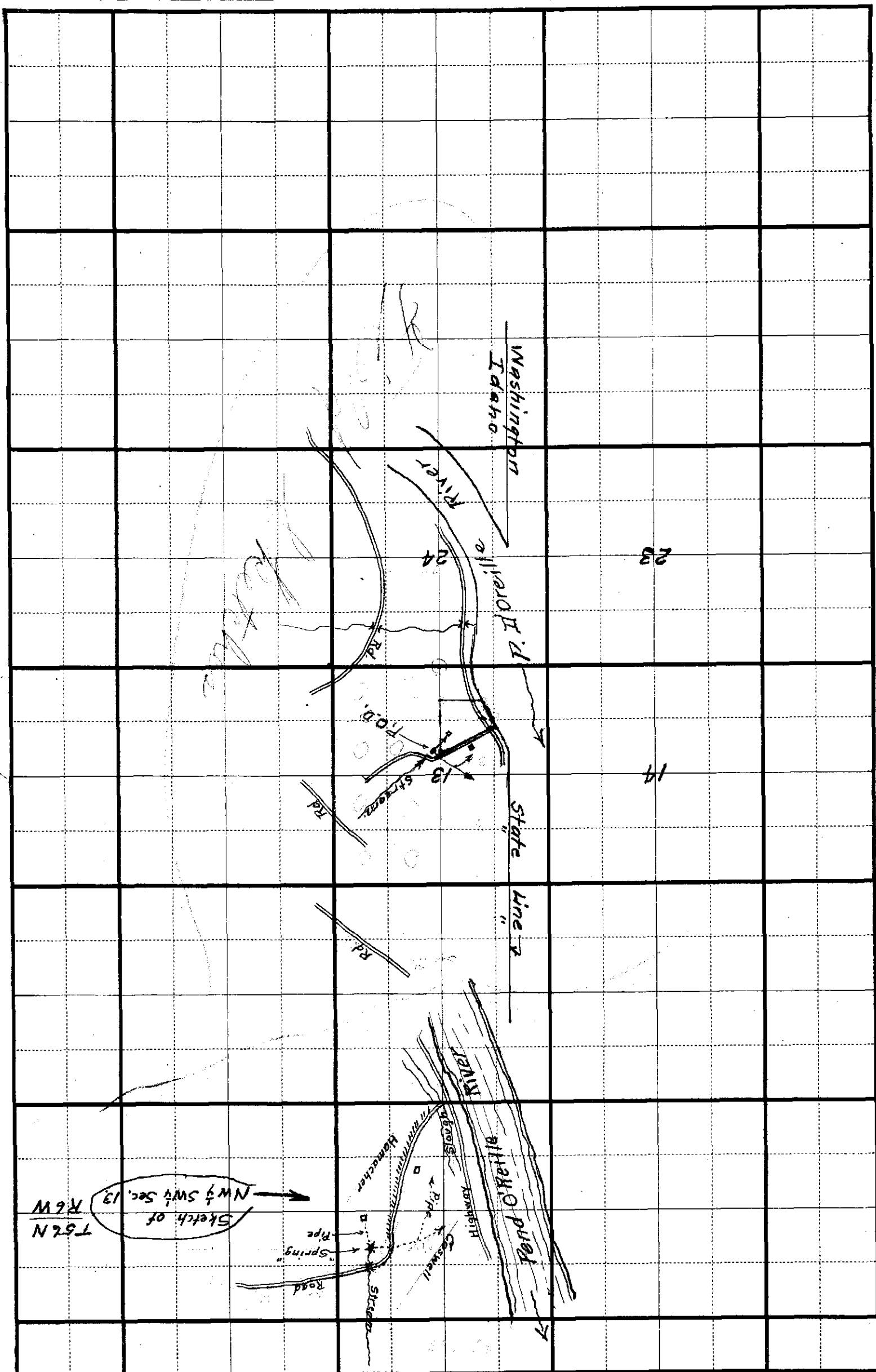
19883

J. B. Caswell



Permit Map No. 19883
As Approved
JUL 26 1946
MARK R. KULP
Professional Engineer

19883



SCALE: 2 INCHES EQUALS 1 MILE. DRAW PLAN IN INK.

July 16, 1946

Re: Application No. 27427

Mr. E. Elmer Jones
Newport, Washington

Dear Mr. Jones:

We acknowledge receipt of your letter of July 12th, enclosing the application of T. B. Caswell for permit to appropriate 0.5 of a second foot of water from a spring- together with his check for the \$5.00 filing fee, for which we enclose Departmental Receipt No. 19530.

However, the application is incomplete, in that it does not answer Questions 7 to 14-A inclusive- or at least such parts as apply to the application in question.

We understand that the necessary works are already completed,- but it is still necessary to describe the works, etc., as indicated in these questions.

Under Question 14, you have not described the land irrigated, but we assume it is the 30 acres in Lots 2 and 3 of Section 13, as mentioned in previous correspondence, and if so we can fill this in accordingly.

Also, if the entire 30 acres have been irrigated, you may apply for 0.6 of a second foot, or one inch to the acre instead of only 0.5second foot.

Please complete the application, and return to this department for approval and issuance of use permit.

Very truly yours,

MARK R. KULP
State Reclamation Engineer
By

Chief Clerk

A
Encl.

19883

FOUNDED A. D. 1792

Insurance Company of North America

HEAD OFFICE
PHILADELPHIA

CAPITAL
\$12,000,000

E. ELMER JONES

RESIDENT AGENT

NEWPORT, WASHINGTON

July 12, 1946.

Department of Reclamation,
Boise, Idaho.

Dear Sirs:-

Kindly refer to your letter of the 3rd re the water right filed on by Mr. J. C. Langille on lands in Section 13-56N, Range 6W.

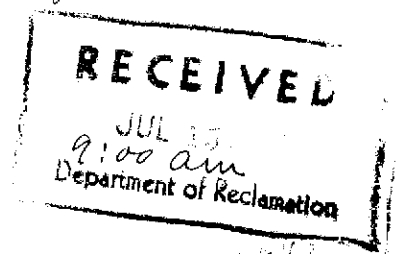
I have searched the records in Sandpoint and examined the abstract records as well as the various deeds transferring this property and do not find that the water right was ever included in the abstract or any of the deeds.

Therefore, I enclose an application signed by Mr. Caswell to-gether with the \$ 5.00 fee. However, the legal description as given by you and the man who surveyed the place now for Mr. Caswell is not the same identical 40 acre tract. I assume that your field man can straighten this out.

Mr. Caswell has been living on the place for some time and would like to make proof of the beneficial use of the water and asks that you send to me the proper blanks that he may execute same, advising me as to when or how often these filings must be made.

Yours sincerely,

E. E. Jones



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

Notice is hereby given that at 10:00 A. M. on the 15th day of September, 1946, at Newport, County of Clallam, State of Washington, before E. E. Jones, a Notary Public, proof will be submitted of the application to beneficial use of 0.6 cubic feet per second of the waters of spring in accordance with the terms and conditions of Permit No. 19883 heretofore issued by the State Reclamation Department of the State of Idaho.

The name and postoffice address of the person or corporation holding said permit are T. B. Caswell, Route 4, Newport, Washington.

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

The amount applied to beneficial use is 0.6 cubic feet per second.

The place where said water is used: SW $\frac{1}{4}$ NW $\frac{1}{4}$ and NW $\frac{1}{4}$ SW $\frac{1}{4}$ Section 13, Township 56 North, Range 6 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. No name for it.

The right to take water from such works is based upon Permit No. 19883.

The source of supply from which such water is diverted is a spring, in the NW $\frac{1}{4}$ SE $\frac{1}{4}$ Section 13, Twp. 56 N., Range 6 W., B. M.

The date of priority which said user is prepared to establish is July 15, 1946.

MARK R. KULP
State Reclamation Engineer