



October 15, 1928.

In re: Permit No. 16245-
Kellogg Power & Water Co.

MR. LESTER S. HARRISON
Attorney at law
Kellogg, Idaho.

Dear Sir:-

Referring to your letter of the 10th inst. would say that the Kellogg Power & Water Company holds two permits. The first, Permit No. 16245, is for five second feet of Big Creek and two second feet of West Fork of Big Creek. This permit describes two points of diversion. The second permit, No. 16607, claims six second feet of the waters of Big creek only, and gives only one point of diversion, in NW $\frac{1}{4}$ SW $\frac{1}{4}$ of section 22, T. 46 N., R. 3 E. From your correspondence, I take it you intended to make proof under the later permit instead of the earlier one.

The file under Permit No. 16245 shows some correspondence with you in November, 1926, relative to the change in diversion points but, instead of filing an affidavit correcting Permit No. 16245, you filed an entirely new application and received the new permit.

The affidavit for proof of completion of works filed in May, 1928, under Permit No. 16245 gives the capacity of the works as 2.75 second feet and the certificate of completion of works was issued for that amount. The proof of beneficial use of water just made is also for that amount. Hence, if you desire a license for the 2.75 second feet of Big Creek, under Permit No. 16245, it will be necessary to correct the records by filing the affidavit for change of point of diversion, form for which is enclosed.

If the holder desires to obtain license under the later permit, No. 16607, for an additional amount of water, proof may be made in regular order under said permit any time prior to November 17, 1931.

If the holder does not wish to retain rights under both permits, one or the other should be relinquished and the records cleared. No action will be taken until we again hear from you in the matter.

Very truly yours,
GEO. N. CARTER,
Commissioner of Reclamation.

By _____
Chief Clerk.

F13

16245

PROOF OF PUBLICATION

STATE OF IDAHO, } SS.
County of Shoshone, }

NOTICE OF PROOF APPLICATION OF WATER TO BENEFICIAL USE

NOTICE IS HEREBY GIVEN that at ten (10) o'clock, A. M., on the 8th day of September, 1928, at the City Hall in Kellogg, County of Shoshone, State of Idaho, before S. M. Marchesi, Justice of the Peace, proof will be submitted of the application to beneficial use of 2.75 cubic feet per second of the waters of that certain stream more commonly known as Big Creek in accordance with the terms and conditions of Permit No. 16245 heretofore issued by the Department of Reclamation of the State of Idaho.

The name and postoffice address of the corporation holding said permit are: Kellogg Power & Water Company, Kellogg, Idaho.

The use to which said water has been applied is domestic use in that said Kellogg Power & Water Company is a corporation engaged in the business of supplying domestic water to the Cities of Wardner and Kellogg, Idaho, and obtaining the principal source of its supply from the said stream of Big Creek.

The amount applied to beneficial use is 2.75 second feet of the waters of Big Creek and West Fork of Big Creek.

The right to take said water for said purpose is based upon Permit No. 16245 issued upon application No. 23042 bearing date of priority of April 22, 1925, authorizing the diversion of 7.0 second feet of the waters of Big Creek and West Fork of Big Creek, County of Shoshone, State of Idaho, for domestic purposes.

GEO. N. CARTER,
8-3 Commissioner of Reclamation.

W. L. Penney, being first duly sworn deposes and says that he is publisher of KELLOGG—NEWS—WARDNER, a weekly newspaper of general circulation in said county, published in the City of Kellogg, in the County of Shoshone and the State of Idaho; and which has been published continuously in said county for a period of 78 weeks immediately prior to the publication of the notice hereinafter described, and that the

Notice of proof application
of water to beneficial
use
Permit No. 16245

of which the annexed is a true copy, was published in each regular weekly issue of said newspaper, and not in a supplement thereto, for a period of ⁴ consecutive weeks, the first publication thereof being in its issue dated Aug. 5, 1928 and the last publication thereof being in the issue dated Aug. 24, 1928

Subscribed and sworn to before me this 8th day of Sept 1928

W. L. Penney

Notary Public

Notary Public.

16245

State of Idaho

DEPARTMENT OF RECLAMATION

BOISE

INSTRUCTIONS

PROOF OF BENEFICIAL USE OF WATER

BOISE, IDAHO,

August 30, 1938.

Kellogg Power & Water Co.

c/o S. M. Marchesa,
Justice of the Peace,
Kellogg, Idaho

DEAR SIR:

I enclose herewith the following forms to be used in connection with proof of beneficial use of water under Permit No. 16245

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 Sept. 8, 1928, 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

Kellogg before S. M. Marchesa, Justice of the Peace.

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,

GEO. N. CARTER,

Commissioner of Reclamation.

16245

*This is thought to be
a typographical error as it
would be out of logical
sequence, if otherwise.
to 12-29-69*

NOTICE OF PROOF APPLICATION OF WATER TO BENEFICIAL USE

NOTICE IS HEREBY GIVEN that at ten (10) o'clock, A. M., on the 8th day of September, 1928, at the City Hall in Kellogg, County of Shoshone, State of Idaho, before S. M. MARCHESI, Justice of the Peace, proof will be submitted of the application to beneficial use of 2.75 cubic feet per second of the waters of that certain stream more commonly known as Big Creek in accordance with the terms and conditions of Permit No. 16245 heretofore issued by the Department of Reclamation of the State of Idaho.

The name and postoffice address of the corporation holding said permit are: Kellogg Power & Water Company, Kellogg, Idaho.

The use to which said water has been applied is domestic use in that said Kellogg Power & Water Company is a corporation engaged in the business of supplying domestic water to the Cities of Wardner and Kellogg, Idaho, and obtaining the principal source of its supply from the said stream of Big Creek.

The amount applied to beneficial use is 2.75 second feet of the waters of Big Creek and West Fork of Big Creek.

The right to take said water for said purpose is based upon Permit No. 16245 issued upon application No. 23042 bearing date of priority of April 22, 1925, authorizing the diversion of 7.0 second feet of the waters of Big Creek and West Fork of Big Creek, County of Shoshone, State of Idaho, for domestic purposes.

GEO. N. CARTER

Commissioner of Reclamation.

Div #1-26E 21W-27 / 48N-36
2-55 SE-21

Shoshone Co

91-C

16245

May 12, 1928.

Re: Permit No. 16245- Kellogg Power & Water Co.

Mr. Lester S. Harrison,
Attorney at law,
Kellogg, Idaho.

Dear Sir:-

Referring to your letter of the 9th inst. would say that, through an unavoidable delay, the certificate of completion of works issued under the above permit, together with notices for proof of beneficial use of water, were not mailed to you until the eighth. They have no doubt reached you before this.

We are very sorry to have caused you any anxiety in the matter.

Very truly yours,
GEO. N. CARTER,
Commissioner of Reclamation.

By _____
Chief Clerk.

16245

State of Idaho
DEPARTMENT OF RECLAMATION
BOISE

January 6, 1928

INSTRUCTIONS
PROOF OF COMPLETION OF WORKS

Kellogg Power & Water Co.,
Kellogg, Idaho.

Boise, Idaho,

Dear Sir:—

Under the terms of your permit No. 16245.....you are required to complete your diversion works on or before April 27, 1928..... 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,

GEO. N. CARTER,

Commissioner of Reclamation.

16245

State of Idaho

Water License No. 16245
Water District No. 91-C

Amount 2.75 sec. ft.
Priority 4 - 22 - 1925

THIS IS TO CERTIFY that **KELLOGG POWER AND WATER COMPANY**
of **Kellogg, Idaho**, made application for a permit to appropriate the
public waters of the State of Idaho, dated **April 22**, 19 **25**; that Permit No. **16245**
was issued under said application; that Certificate of Completion of works, with a carrying capacity of
2.75 second feet, was issued thereunder on **May 7**, 19 **28**, showing that said works
were completed on the **24th** day of **April**, 19 **28**; and that on the **8th**
day of **September**, 19 **28**,

KELLOGG POWER AND WATER COMPANY

of Kellogg, State of Idaho, made proof to the satisfaction of the
Commissioner of Reclamation of Idaho, of the right to use the waters of Big Creek
, a tributary of South Fork of Coeur d'Alene river, for the purpose of domestic use
, under Use Permit No. 16245 of the Commissioner of Reclamation
and that said right to the use of said waters has been perfected in accordance with the laws of Idaho, and is
hereby confirmed by the Commissioner of Reclamation of Idaho and entered of record in Volume 6
of Licenses, at page 3541, on the 7th day of November, 1928;

The right hereby confirmed dates from April 22, 19 25 ;

The Point of Diversion is located
in the NW $\frac{1}{4}$ SW $\frac{1}{4}$, Sec. 22, Tp. 48 N., R. 3 E., B. M.

County of Shoshone

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 2.75 cubic feet per second.

Description and location of use: At towns of Wardner and Kellogg, Shoshone County, Idaho

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

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

WITNESS the seal and signature of the Commissioner of Reclamation, affixed at Boise, Idaho,
this 7th day of November, 1928.

GEO. N. CARTER
Commissioner of Reclamation

(SEAL)

94 2132

State of Idaho
License and Certificate of Water Right

Water License No. 16267 Amount 3.02 sec.ft.
Water District No. 54 Priority 5-13-1925

THIS IS TO CERTIFY that MORRIS H. ALLWARDT,
of Jordan Valley, Oregon, made application for a permit to appropriate the
public waters of the State of Idaho, dated May 13, 19 25; that Permit No. 16267
was issued under said application; that Certificate of Completion of works, with a carrying capacity of
3.5 second feet, was issued thereunder on June 7, 19 27, showing that said works
were completed on the 6th day of June, 19 27; and that on the 15th
day of September, 1927,

MORRIS H. ALLWARDT,
of Jordan Valley, State of Oregon, made proof to the satisfaction of the
Commissioner of Reclamation of Idaho, of the right to use the waters of Combination
Creek, a tributary of Boulder Creek, for the purpose of irrigation and
domestic use, under Use Permit No. 16267 of the Commissioner of Reclamation
and that said right to the use of said waters has been perfected in accordance with the laws of Idaho, and is
hereby confirmed by the Commissioner of Reclamation of Idaho and entered of record in Volume 6
of Licenses, at page 3540, on the 10th day of October, 19 28;
The right hereby confirmed dates from May 13, 19 25;

The Point of Diversion is located
in the SW 1/4 NW 1/4, Sec. 36, Tp. 7 S., R. 4 W., B. M. County of Owyhee.
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 3.02
cubic feet per second.

Description and location of use:

Twp.	Range	Sec.	Forty-acre Tract	No. Acres Described in Permit	No. Acres Actually Irrigated	
7 S.	4 W.	23	SE $\frac{1}{4}$ SE $\frac{1}{4}$	40	15	
			SW $\frac{1}{4}$ SE $\frac{1}{4}$	40	25	
			SE $\frac{1}{4}$ SW $\frac{1}{4}$	40	10	
		26	NE $\frac{1}{4}$ NE $\frac{1}{4}$	40	25	
			NW $\frac{1}{4}$ NE $\frac{1}{4}$	40	26	
			SW $\frac{1}{4}$ NE $\frac{1}{4}$	40	20	
			SE $\frac{1}{4}$ NE $\frac{1}{4}$	40	30	
		Total 151				

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

WITNESS the seal and signature of the Commissioner of Reclamation, affixed at Boise, Idaho,
this 10th day of October, 1928.

GEO. N. CARTER
Commissioner of Reclamation

(SEAL)

APPLICATION FOR PERMIT 94-2132

TO APPROPRIATE THE PUBLIC WATERS OF THE STATE OF IDAHO

Application No. 23042
Permit No. 16245
District No. 91-C

1. Name of Applicant: Kellogg Power & Water Company

Postoffice address: Kellogg County: Shoshone State: Idaho

I. If applicant is a corporation, give:

- (a) Date and place of incorporation: June, 1900, Kellogg, Idaho.
(b) Amount of capital stock: 25,000.00
(c) Amount paid in: \$25,000.00
(d) Names and addresses of directors: James S. Ramage, Spokane, Washington; J. I. Springer, Spokane, Washington; Burke A. McIntosh, Kellogg, Idaho; D. A. Munro, Spokane, Washington; Lee Thorpe, Spokane, Washington.

II. The financial resources of the applicant are:

- (a) Cash on hand: \$2000.00
(b) Treasury stock: None
(c) Bonds to be issued: None
(d) Other resources: \$100,000.00 in person and real property.

Diversion No. 1-5 cu. sec. ft. Total 17

2. Quantity of water claimed: Diversion No. 2-2 cu. sec. cubic feet per second.

3. Source of water supply: Big Creek-Diversion No. 1 which is a tributary of South Fork Coeur d'Alene River.
West Fork Big Creek-Diversion No. 2

4. Location of point of diversion: No. 1-S. 73° 40' E. 21900 feet distant from the N. W. corner of Section 21, T. 48 N., R. 3 E., B. M., and is in the NE 1/4 NW 1/4 SE 1/4 SE 1/4 of Section 27, T. 48 N., R. 3 E., B. M., County of Shoshone

5. Water is to be used for: Domestic purposes.

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

- (a) Point of use of water: N. 50° W. 1000.0 feet distant from S. E. corner of Section 6, T. 48 N., R. 3 E., B. M., in the SE 1/4 of Section 6, T. 48 N., R. 3 E., B. M.
(b) Amount of power generated: H. P., under 310 feet head.
(c) Water is to be returned to: South Fork Coeur d'Alene River at a point some feet distant from the corner of Section , T. , R. , B. M., in the N 1/2 of Section 6, T. 48 N., R. 3 E., B. M.

7. Estimated cost of works: \$ 124,000.00

8. Kind of works: Reservoir, dams and 10 and 12 inch pipe.

9. Height of dam No. 1 - 8 feet; length of dam at top No. 1 - 300 feet; length of dam at bottom No. 1 - 150 feet; material used in dam: Timber, rock and concrete.
No. 2 - 5 feet; length of dam at top No. 2 - 50 feet; length of dam at bottom No. 2 - 40 feet

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

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

Diameter of pipe 10 and 12 inches; length of conduit 7 1/5 miles.
Average grade per mile 45 feet

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

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

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

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

Kellog Power & Water Company Applicant.

By Burke A. McIntosh Agent.

Date of first receipt at Department of Reclamation. 9 A.M., April 22, 1925.

Returned to applicant for correction.

Corrected application received.

APPROVAL OF COMMISSIONER OF RECLAMATION

The number of this permit is 16245

Recorded in Book 58 Page 16245 Approved April 27, 1925

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 June 26, 1925

Work to begin on or before June 26, 1925 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 October 27, 1926

The whole of said work to be completed on or before April 27, 1928

Beneficial use of water appropriated in accordance herewith, to be made on or before April 27, 1930.

Witness my hand this 27th day of April, 1925.

W. G. SWENDSEN
Commissioner of Reclamation.

Remarks:

14 Twp.	Range	Sec.	NE¼				NW¼				SW¼				SE¼				Totals
			NE¼	NW¼	SW¼	SE¼	NE¼	NW¼	SW¼	SE¼	NE¼	NW¼	SW¼	SE¼	NE¼	NW¼	SW¼	SE¼	
			PERMIT NO. 16245. CERTIFICATE OF COMPLETION OF WORKS TO ALL WHOM IT MAY CONCERN: This is to certify that Kellogg Power & Water Company, of Kellogg, County of Shoshone, and State of Idaho, the holder of Permit No. 16245, issued upon Application No. 23042 bearing date of priority of April 22, 1925, authorizing the diversion of 7.0 second feet of the waters of Big Creek and West Fork of Big Creek, County of Shoshone, State of Idaho, for 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 2.75 second feet of the waters of Big Creek and West Fork of Big Creek; that the points of diversion of said waters are: No. 1--NE¼NW¼, Section 27; No. 2--SE¼SE¼, Section 21, Township 48 N., Range 3 E., B. M.; and that the places of use of water are in the cities of Kellogg and Wardner, Idaho. Witness my hand this 7th day of May, A. D. 1928. GEO. N. CARTER, Commissioner of Reclamation. (SEAL) Proof of completion made April 24, 1928. Certificate issued May 7, 1928.																

AFFIDAVIT FOR CHANGE OF POINT OF DIVERSION OF WATERRIGHT - PERMIT No. 16245

STATE OF IDAHO)
) ss.
 COUNTY OF SHOSHONE)

BURKE A. McINTOSH, being first duly sworn, deposes and says: That he is the secretary of the Kellogg Power & Water Company, an Idaho corporation, which said corporation is engaged in the business of supplying domestic water to the Cities of Kellogg and Wardner in Shoshone County, State of Idaho; that said Kellogg Power & Water Company is the owner of and using a certain water right for 2.75 cu. ft. per second of water of that certain stream more commonly known as Big Creek in the County of Shoshone, State of Idaho, obtained by virtue of permit to appropriate the public waters of the State of Idaho No. 16245 approved by the Department of Reclamation of the State of Idaho on April 27, 1925, and recorded in Book 58, page 16245, as shown by the approval of the Commissioner of Reclamation on the 27th day of April, 1925, bearing date of priority of April 22, 1925, for the purpose of diverting the water from said stream of Big Creek, Shoshone County, State of Idaho, to the Cities of Kellogg and Wardner, Shoshone County, State of Idaho, for the purpose of furnishing domestic water to the inhabitants thereof. Said Kellogg Power & Water Company is the corporation to whom such right was so issued and the work under said permit was to begin on or before June 26, 1925, and the whole of said work to be completed on or before April 27, 1928, and beneficial use of water appropriated in accordance therewith to be made on or before April 27, 1930. That said waters are now diverted from said stream at a point described as follows:

N. 22° 16' E. 1967 ft. distant from the southwest (SW) corner of Section twenty-two (22), Township forty-eight (48), North, Range three (3), E. B. M., and is in the northwest quarter (NW $\frac{1}{4}$) of the southwest quarter (SW $\frac{1}{4}$) of Section twenty-two (22), Township forty-eight (48), North, Range three (3), E. B. M., Shoshone County, State of Idaho,

and conducted from said point of diversion and from said northwest quarter (NW $\frac{1}{4}$) of the Southwest quarter (SW $\frac{1}{4}$) of Section twenty-two (22), Township forty-eight (48), North, Range three (3), E. B. M., in the County of Shoshone, State of Idaho, to the Cities of Wardner and Kellogg in the County of Shoshone, State of Idaho, as per map herewith filed and made a part hereof.

That affiant desires to change the point of diversion of said waters from the point described in said Application No. 23042 and for which Permit No. 16245 was issued and described as follows:

No. 1--NE $\frac{1}{4}$ NW $\frac{1}{4}$ Section 27; No. 2--SE $\frac{1}{4}$ SE $\frac{1}{4}$ Section 21, Township 48 N., Range 3 E., B. M.,

to the point above described, namely,

N. 22° 16' E. 1967 ft. distant from the Southwest (SW) corner of Section twenty-two (22), Township forty-eight (48) North, Range three (3), E. B. M., in the Northwest quarter (NW $\frac{1}{4}$) of the southwest quarter (SW $\frac{1}{4}$), Section twenty-two (22), Township forty-eight (48), North, Range three (3), E. B. M., County of Shoshone, State of Idaho,

and thereafter conduct the same from the last mentioned point of diversion to the said Cities of Kellogg and Wardner in Shoshone County, State of Idaho, as per map above referred to.

That the reasons for desiring to make such change are as follows: That in the original Application No. 23042 for which Permit No. 16245 was issued, the location of the point of diversion was described as follows:

No. 1--NE $\frac{1}{4}$ NW $\frac{1}{4}$ Section 27; No. 2--SE $\frac{1}{4}$ SE $\frac{1}{4}$ Section 21, Township 48 N., Range 3 E., B. M.,

but in reality the water was actually diverted from the point of diversion described as:

N. 22°16' E. 1967 ft. distant from the southwest (SW) corner of Section twenty-two (22), Township forty-eight (48) North, Range three (3), E.B.M., in the northwest quarter (NW $\frac{1}{4}$) of the Southwest quarter (SW $\frac{1}{4}$), Section twenty-two (22), Township forty-eight (48) North, Range three (3) E. B. M., in the County of Shoshone, State of Idaho.

That in making proof of completion of works, the said proof was submitted on the last mentioned point of diversion and a certificate of completion of works was issued under said permit and it was thereafter discovered that the water was being diverted from the last mentioned point of diversion rather than from the point of diversion mentioned in Application No. 23042. This affiant, therefore, makes this affidavit to correct and clarify the records in that respect so that the point of diversion under Application No. 23042 and Permit No. 16245 may conform to the proof submitted and so that the Application No. 23042 will show the correct point where said water is being diverted.

That no one will be injured by such change and that such change will be made at the risk of said Kellogg Power & Water Company, a corporation.

KELLOGG POWER & WATER COMPANY,

By Burke A. McIntosh,
Secretary.

(SEAL)

STATE OF IDAHO,)
County of Shoshone) SS.

BURKE A. McINTOSH, being first duly sworn on behalf of the above Kellogg Power & Water Company, a corporation, deposes and says: That he is the secretary of said corporation and is authorized to make the above and foregoing affidavit for change of point of diversion of water right, and that he has read the same, knows the contents thereof and states that the facts therein set forth are true of his own knowledge.

BURKE A. McINTOSH

Subscribed and sworn to before me this 2d day of November, A. D. 1928.

(SEAL)

Lester S. Harrison
Notary Public in and for the State of
Idaho, residing at Kellogg, Idaho

Received and filed for record in the Department of Reclamation at Boise, Idaho, at 9:00 A. M., November 7, 1928.

GEO. N. CARTER
Commissioner of Reclamation

LICENSE ISSUED FOR 275 SEC. FT.

Page 3541

November 7, 1928

Re: Permit No. 16245

MR. LESTER S. HARRISON
Attorney at Law
110 First State Bank Bldg.
Kellogg, Idaho

Dear Sir:

There is transmitted herewith
Water License No. 16245, Kellogg Power and
Water Company, issued under the above numbered
Permit, together with receipt for fees.

Very truly yours,

GEO. N. CARTER
Commissioner of Reclamation

By
Chief Clerk

Enclosures

16245

LESTER S. HARRISON
ATTORNEY AT LAW
110 FIRST STATE BANK BUILDING
PHONES: OFFICE 114. RESIDENCE 330

KELLOGG, IDAHO.

November 1, 1928.

Department of Reclamation,
State House Building,
Boise, Idaho

Attention: Mr. C. Brown, Chief Clerk.

Gentlemen: Re: Permit No. 16245 - Kellogg Power & Water Company.

Your communication dated under October 15, 1928, has been received and contents carefully noted and for the same I thank you most kindly.

It is noted that in April, 1925, the above mentioned Kellogg Power & Water Company filed Application No. 23042 with the Department of Reclamation and Permit No. 16245 was issued. This application and permit described two points of diversion as follows:

No. 1--NE $\frac{1}{4}$ NW $\frac{1}{4}$, Section 27; No. 2--SE $\frac{1}{4}$ SE $\frac{1}{4}$, Section 21,
Township 48 N., Range 3 E., B. M.

It was afterward discovered that this was not the correct description of the point of diversion and this was due to an error on the part of the engineer laying out the description. As soon as this description was discovered, a second application was applied for and Permit No. 16607 was issued in which the company claimed 6 ft. of the water of Big Creek and giving the point of diversion as being in the northwest quarter (NW $\frac{1}{4}$) of the southwest quarter (SW $\frac{1}{4}$), Section twenty-two (22), Township forty-eight (48), North, Range three (3), E. B. M., Shoshone County, State of Idaho. This was the correct point of diversion. Works were built and completed and the pipe line laid and the water actually diverted. It was diverted at this last mentioned point. Thereafter, proof was made of the completion of the works under Permit No. 16245 but the point of diversion described in that permit does not conform to the point where the water was actually diverted.

I take it that upon the filing of this affidavit that the point of diversion may now be changed so that it will clarify the matter in so far as the application is concerned and that a license will be issued by the Department for the diverting of water from the point where it now is under Permit No. 16245.

Under your communication to me dated September 14, 1928, you advised me as follows:

"The report of our examining engineer on proof beneficial use of water under the above numbered permit is now on file here (this referred to Permit No. 16245, Kellogg Power & Water Company.) This report shows the point of diversion to be in the NW $\frac{1}{4}$ SW $\frac{1}{4}$, Sec. 22, Twp. 48 N., R. 3 E.,

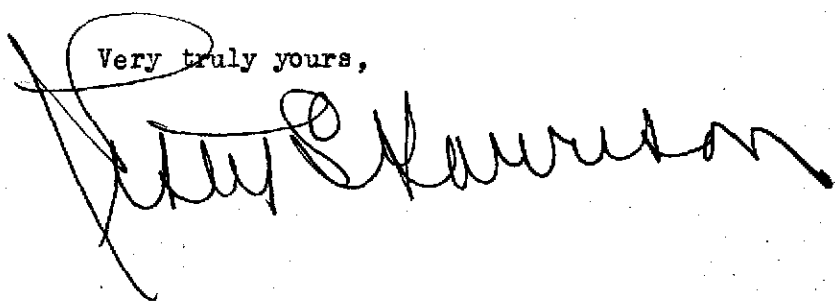
16245

11/1/28.

instead of two points, as described in the permit, in Secs. 27 and 21 of said township and range. To correct the records in this particular, you should file an affidavit for change of point of diversion upon the blank enclosed, said affidavit to be accompanied by a map showing the change made. Upon receipt of such affidavit and map, together with fees in the sum of \$5.00, the license will be issued."

I take it that the filing of this affidavit, which is, herewith, inclosed, together with the map which shows the point of diversion and pipe line running for a distance of several miles thereat but not the complete distance to the Cities of Kellogg and Wardner, shall suffice and since I forwarded you a check for this purpose on September 17, 1928, I take it that the license may now be issued forthwith.

Very truly yours,

A handwritten signature in dark ink, appearing to read "J. E. Lawrence", is written over the typed phrase "Very truly yours,". The signature is fluid and cursive, with a large initial "J" and a long, sweeping underline.

LSH:M

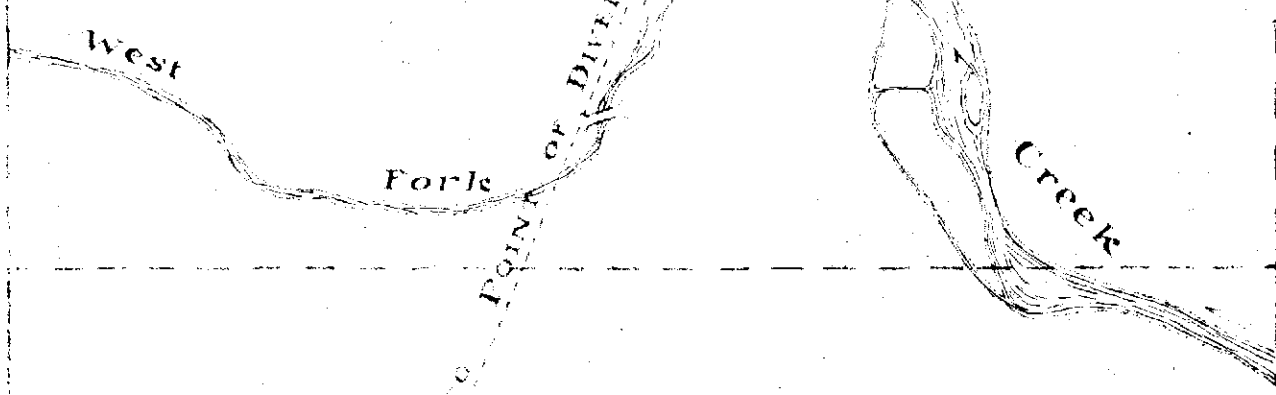
Inc s.2.

16245

NW ¼ - SW ¼ Sec 22

T48N R3E BM

Pt. of Diversion as amended → **DAM**



West Fork
POINT OF DIVERSION
FT. TO
T48N R3E BM
1967
S 14 Cor. SW 22 T48N R3E BM
22° 16' E

POWER AND
HEOLOGICAL WATER COMPANY

16245

Scale 1" = 1000' 2" = 1000'

21	22
28	27

Amended Map

Permit No. 16245

October 15, 1928.

In re: Permit No. 16245-
Kellogg Power & Water Co.

MR. LESTER S. HARRISON
Attorney at law
Kellogg, Idaho.

Dear Sir:-

Referring to your letter of the 10th inst. would say that the Kellogg Power & Water Company holds two permits. The first, Permit No. 16245, is for five second feet of Big Creek and two second feet of West Fork of Big Creek. This permit describes two points of diversion. The second permit, No. 16607, claims six second feet of the waters of Big creek only, and gives only one point of diversion, in E. 1/4 of section 22, T. 48 N., R. 3 E. From your correspondence, I take it you intended to make proof under the later permit instead of the earlier one.

The file under Permit No. 16245 shows some correspondence with you in November, 1926, relative to the change in diversion points but, instead of filing an affidavit correcting Permit No. 16245, you filed an entirely new application and received the new permit.

The affidavit for proof of completion of works filed in May, 1928, under Permit No. 16245 gives the capacity of the works as 2.75 second feet and the certificate of completion of works was issued for that amount. The proof of beneficial use of water just made is also for that amount. Hence, if you desire a license for the 2.75 second feet of Big Creek, under Permit No. 16245, it will be necessary to correct the records by filing the affidavit for change of point of diversion, form for which is enclosed.

If the holder desires to obtain license under the later permit, No. 16607, for an additional amount of water, proof may be made in regular order under said permit any time prior to November 17, 1931.

If the holder does not wish to retain rights under both permits, one or the other should be relinquished and the records cleared. No action will be taken until we again hear from you in the matter.

Very truly yours,
GEO. N. CARTER,
Commissioner of Reclamation.

By _____
Chief Clerk.

PLS

16245

LESTER S. HARRISON
ATTORNEY AT LAW
110 FIRST STATE BANK BUILDING
PHONES: OFFICE 114, RESIDENCE 330

KELLOGG, IDAHO.

October 10, 1928.

Mr. George N. Carter,
Commissioner of Reclamation,
Boise, Idaho

Dear Sir: Re: Permit No. 16245 - Kellogg Power & Water Co.

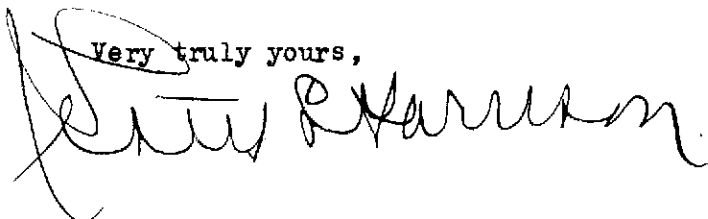
I acknowledge receipt of your communication dated under September 12, 1928, advising that you were on said day in receipt of depositions of holder and two witnesses, together with the affidavit of publication, for proof of beneficial use of water under the above entitled permit; that upon receipt of the report of the examining engineer, together with fee of \$5.00, the license will be issued. I, herewith, inclose check for \$5.00 to cover.

I also received a communication directed to Burke A. McIntosh, Secretary and Manager, Kellogg Power & Water Company, advising that your examining engineer had made his report and that the report shows the point of diversion to be in the NW $\frac{1}{4}$ SW $\frac{1}{4}$, Sec. 22, Twp. 48, N. R. 3 E.B.M., instead of two points as described in the Permit in Secs. 27 and 21 of said Township and Range.

We do not know how the report can show the point of diversion to be different than indicated in the original filing. I note that an affidavit is inclosed for change of point of diversion and it is asked that a map be made to accompany the affidavit showing the change made. As this water right is highly important to us, we do not want to sign the affidavit until the matter is re-checked and further explanation made. If it is necessary, we will be glad to have our engineers check it up and furnish the desired affidavit and map as required, however, I would like to know how it is that the original permit sets forth the two points of diversion as indicated.

The check for \$5.00 is inclosed and will be glad to have the license issued if you can do it at the present time and if there is anything further required, kindly advise me just what you expect in this matter.

Very truly yours,



LSH:M

16245

September 14, 1928

Re: Permit 16245-Kellogg Pr. & Wtr. Co.

Mr. Burke A. McIntosh, Secy. & Mgr.
Kellogg Power and Water Co.
Kellogg, Idaho

Dear Sir:

The report of our examining engineer on proof of beneficial use of water under the above numbered permit is now on file here. This report shows the point of diversion to be in the NW $\frac{1}{4}$ SW $\frac{1}{4}$, Sec. 22, Twp. 48 N., R. 3 E., instead of two points, as described in the permit, in Secs. 27 and 21 of said township and range. To correct the records in this particular, you should file an affidavit for change of point of diversion upon the blank enclosed, said affidavit to be accompanied by a map showing the change made. Upon receipt of such affidavit and map, together with fees in the sum of \$5.00, the license will be issued.

Very truly yours,

GEO. N. CARTER
Commissioner of Reclamation

By

Chief Clerk

CB/co
Encl.

16245

September 12, 1928

Re: Permit 16245-Kellog Power & Water Co.

Mr. Lester S. Harrison
Attorney at Law
Kellogg, Idaho

Dear Sir:

We are today in receipt of depositions of holder and two witnesses, together with the affidavit of publication, for proof of beneficial use of water under the above numbered permit. Upon receipt of the report of our examining engineer, together with fee of \$5.00, the license will be issued.

Very truly yours,

GEO. N. CARTE
Commissioner of Reclamation

By

Chief Clerk

CB/co

16245

PROOF OF PUBLICATION

STATE OF IDAHO, } ss.
County of Shoshone, }

NOTICE OF PROOF APPLICATION OF WATER TO BENEFICIAL USE

NOTICE IS HEREBY GIVEN that at ten (10) o'clock, A. M., on the 8th day of September, 1928, at the City Hall in Kellogg, County of Shoshone, State of Idaho, before S. M. Marchesi, Justice of the Peace, proof will be submitted of the application to beneficial use of 2.75 cubic feet per second of the waters of that certain stream more commonly known as Big Creek in accordance with the terms and conditions of Permit No. 16245 heretofore issued by the Department of Reclamation of the State of Idaho.

The name and postoffice address of the corporation holding said permit are: Kellogg Power & Water Company, Kellogg, Idaho.

The use to which said water has been applied is domestic use in that said Kellogg Power & Water Company is a corporation engaged in the business of supplying domestic water to the Cities of Wardner and Kellogg, Idaho, and obtaining the principal source of its supply from the said stream of Big Creek.

The amount applied to beneficial use is 2.75 second feet of the waters of Big Creek and West Fork of Big Creek.

The right to take, said water for said purpose is based upon Permit No. 16245 issued upon application No. 23042 bearing date of priority of April 22, 1925, authorizing the diversion of 7.0 second feet of the waters of Big Creek and West Fork of Big Creek, County of Shoshone, State of Idaho, for domestic purposes.

GEO. N. CARTER,
8-3 Commissioner of Reclamation.

W. L. Penney, being first duly sworn deposes and says that he is publisher of KELLOGG—NEWS—WARDNER, a weekly newspaper of general circulation in said county, published in the City of Kellogg, in the County of Shoshone and the State of Idaho; and which has been published continuously in said county for a period of 78 weeks immediately prior to the publication of the notice hereinafter described, and that the

Notice of proof application
of water to beneficial
use
Permit No. 16245

of which the annexed is a true copy, was published in each regular weekly issue of said newspaper, and not in a supplement thereto, for a period of 4 consecutive weeks, the first publication thereof being in its issue dated Aug. 2, 1928 and the last publication thereof being in the issue dated Aug. 24, 1928

Subscribed and sworn to before me this
day of Sept 1928

W. L. Penney

Notary Public.

16245

Filed this 8th day of
September. A.D. 1928.

J.M. Marchesi

J.P.

STATE OF IDAHO
DEPARTMENT OF RECLAMATION
BOISE, IDAHO.

PERMIT NO. 16245

Proof of Application of Water to Beneficial Use

Deposition of Holder

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

Ans. Burke A. McIntosh; Age forty-one (41) years; Kellogg, Shoshone County,
State of Idaho; Secretary and Manager Kellogg Power & Water Company.

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. Kellogg Power & Water Company, a corporation with its principal place of business
at Kellogg, Shoshone County, State of Idaho; Secretary-Treasurer and Manager.

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

Ans. Permit No. 16245; date of priority, April 22, 1925.

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

Ans. That certain stream located in Shoshone County, State of Idaho, more commonly
known as Big Creek and the point of diversion being located as follows: In the northwest
quarter, southwest quarter, Section 22, Township 48, North, Range 3, E.B.M., whence the
southwest corner of Section 22 bears South 22° 16' West 1967 feet.

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. The works of diversion consist of a concrete dam, screens and small reservoir
sufficient to provide an intake for a pipe line 16" 14' 10" in diameter and capable of
conveying from said point to the City of Kellogg, Shoshone County, State of Idaho, 2.75
cu. ft. per second of water. The pipe line does not carry any particular name but is a
line running from said intake in a northerly direction to a point near the South Fork of the
Coeur d'Alene River, thence in a westerly direction to the City of Kellogg. The total dis-
tance is 6.25 miles.

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. The purpose for which said water is used is domestic and industrial purposes
within the Cities of Kellogg and Wardner, Shoshone County, State of Idaho,

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

Ans. -----

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

Ans. 2.75 cu. ft. per second.

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. The work of constructing said dam, reservoir and intake was started in March, 1927,

and construction thereunder required was completed on or before the Statutory time required. Since the time the work was completed, the water has been used to supply the inhabitants of the Cities of Kellogg and Wardner, Idaho, with water for domestic and industrial purposes.

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

Ans. The only other supply of water that has been used by the above mentioned Kellogg Power & Water Company, a corporation, is the source of supply obtained from that certain stream more commonly known as Slaughter House Gulch, Silver Creek, or Brewery Creek located in Shoshone County, State of Idaho, slightly to the east between the Cities of Wardner and Kellogg, Shoshone County, State of Idaho, said water being obtained from Permit No. _____ filed in the office of the County Auditor & Recorder of Shoshone County, State of Idaho, at (Sign) _____ Wallace, Idaho, August 3, 1888.

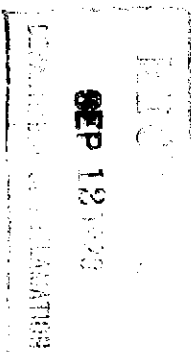
I hereby certify that the foregoing testimony was read to the above subscribed before its signing, that I believe him to be the person he represents himself to be, and that said testimony was subscribed and sworn to before me, at my office in Kellogg, County of Shoshone, State of Idaho, on this 8th day of September, A. D. 1928.

Dwight A. McInnis
Notary Public in and for the State of Idaho, residing at Kellogg, Idaho.

My commission expires February 4, 1930.

J. M. Marchesi
Justice of the Peace.

16245



IN THE JUSTICE OF THE PEACE COURT,) OF KELLOGG NO 1 PRECINCT,
SHOSHONE COUNTY, IDAHO. BEFORE JUSTICE OF THE PEACE,

S.M.MARCHESI.

-1928-

On this 8 th day of September, /at the hour of 10 A.M. in the
Justice Court , Kellogg , Shoshone County, State of Idaho,
Appeared before me S.M.Marchesi Justice of the Peace, Burke
A.McIntosh, whom the court read, Permit No 16245-
Proof of Application of Water to Beneficial Use.

Deposition of Holder.

Answerd to by same and sworn to by L.S.Harrison , Notary .

Furthermore witnesses W.J.McGrane and W.F.Smith, appeared
and the court read to each seperately , Permit No 16245-
Proff of Application of Water to Beneficial Use .

Deposition of Witness.

Answerd to by each and sworn to by L.S.Harrison , Notary.

Furthermore inclosed find proff of publication of, Notice
of PROOF OF APPLICATION OF WATER TO BENEFICIAL USE.

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

S.M. Marchesi
Justice of the peace.

STATE OF IDAHO
DEPARTMENT OF RECLAMATION
BOISE, IDAHO.

PERMIT NO. 16245.

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. J. W. McGrance, Age 51 years; Kellogg, Shoshone County, State of Idaho;

Ques. 2. Are you acquainted with Kellogg Power & Water Company, a corporation, the holder of Permit No. 16245? How long have you known him and where does he reside?

Ans. Have known corporation since organization, 1916 - Kellogg, Idaho

Ques. 3. Have you read or heard read said Permit No. 16245, 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. The source of supply for the Kellogg Power & Water Company is on that certain stream more commonly known as Big Creek, located in Shoshone County, State of Idaho, and the point of diversion is in the northwest quarter, southwest quarter, Section 22, Township 48, North, Range 3, E.B.M., whence the southwest corner of Section 22 bears south 22° 16' west 1967 ft. The works for conveying water from the point of diversion to the place of use consists of a dam, small reservoir consisting of an intake and pipe line from said point down the said stream of Big Creek in a northerly direction to the south fork of the Coeur d'Alene River and thence in a westerly direction to the City of Kellogg, Shoshone County, State of Idaho.

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. 2.75 cu. ft. per second.

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

Ans. The water from said place is used to supply the inhabitants of the Cities of Kellogg and Wardner, Shoshone County, State of Idaho, for domestic and industrial purposes.

16245

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

Ans. -----

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

Ans. -----

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 been a resident of Kellogg, Shoshone County, State of Idaho, for more than ten years last past and witnessed and watched the construction of the above mentioned water system and its diversion of said water from the point of diversion hereinbefore mentioned and during said time have been a user of the water from said system, being an inhabitant of the City of Kellogg, Idaho, and have on divers times during the construction and since examined and inspected the same.

(Signed) John M. Lane

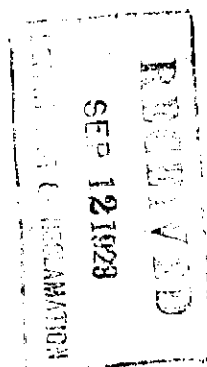
I hereby certify that the foregoing testimony was read to the above subscriber before its signing, that I believe him to be the person he represents himself to be, and that said testimony was subscribed and sworn to before me in Kellogg, County of Shoshone, State of Idaho, on this 8th day of September, A. D. 1928.

My commission expires February 4, 1930.

John M. Lane
Notary Public.
In and for the State of Idaho, residing
at Kellogg, Idaho.

S. M. Marchesi
Justice of the Peace.

16245



STATE OF IDAHO
DEPARTMENT OF RECLAMATION
BOISE, IDAHO.

PERMIT NO. 16245.

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. W. F. Smith; Age 45 years; Kellogg, Shoshone County, State of Idaho;
accountant.

Ques. 2. Are you acquainted with Kellogg Power & Water Company, a corporation, the holder of Permit No. 16245? How long have you known him and where does he reside?

Ans. Have known corporation since ~~1904~~ 1904 - Kellogg, Idaho

Ques. 3. Have you read or heard read said Permit No. 16245, 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. The source of supply for the Kellogg Power & Water Company is on that certain stream more commonly known as Big Creek, located in Shoshone County, State of Idaho, and the point of diversion is in the northwest quarter, southwest quarter, Section 22, Township 48, North, Range 3, E.B.M., whence the southwest corner of Section 22 bears south 22°16' west 1967 ft. The works for conveying water from the point of diversion to the place of use consists of a dam, small reservoir consisting of an intake and pipe line from said point down the said stream of Big Creek in a northerly direction to the south fork of the Coeur d'Alene River and thence in a westerly direction to the City of Kellogg, Shoshone County, State of Idaho.

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. 2,75 cu. ft. per second.

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

Ans. The water from said place is used to supply the inhabitants of the Cities of Kellogg and Wardner, Shoshone County, State of Idaho, for domestic and industrial purposes.

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

Ans. -----

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

Ans. -----

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 been a resident of Kellogg, Shoshone County, State of Idaho, for more than ten years last past and witnessed and watched the construction of the above mentioned water system and its diversion of said water from the point of diversion hereinbefore mentioned and during said time have been a user of the water from said system, being an inhabitant of the City of Kellogg, Idaho, and have on divers times during the construction and since examined and inspected the same.

(Signed) W. J. Smith

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 Kellogg, County of Shoshone, State of Idaho, on this 8th day of September, A. D. 1928,

My commission expires February 4, 1930.

Walter S. Harrison
Notary Public.
In and for the State of Idaho, residing
at Kellogg, Idaho.

J. M. Marchesi
Justice of the Peace.

16245

SEP 12 1928

State of Idaho

DEPARTMENT OF RECLAMATION

BOISE

INSTRUCTIONS

PROOF OF BENEFICIAL USE OF WATER

BOISE, IDAHO,

August 30, 1938.

Kellogg Power & Water Co.

c/o S. M. Marchesa,
Justice of the Peace,
Kellogg, Idaho

DEAR SIR:

I enclose herewith the following forms to be used in connection with proof of beneficial use of water under Permit No. 16245

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 Sept. 8, 1938, 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

Kellogg before S. M. Marchesa, Justice of the Peace.

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,

GEO. H. CARTER,

Commissioner of Reclamation.

16245

*This is thought to be
a typographical error as it
would be out of logical
sequence, if otherwise.
to 12-29-109*

STATE OF IDAHO
DEPARTMENT OF RECLAMATION

BOISE, IDAHO

REPORT OF ENGINEER

Permit No. 16245

This proof is for BEN. USE

In Water District No. 91-C

1. Name of applicant: Kellogg Power & Water Co.
2. Source of water supply: Big Creek and West Fork Big Creek
3. Location of point of diversion: Is in the ~~#1- NW 1/4~~ NW 1/4 SW 1/4 of Section ~~22~~ 27
~~#2- SW 1/4~~
- T. 48 N R. 3 E. B.M. County of Shoshone

4. Describe works as they exist, giving dimensions and capacities of same: Diversion of 12" concrete walk 9' high, overflow 20 ft crest with 3 ft freeboard, trash rack 40' long x 8' high, 7.5 mile pipe leading distribution system is 16", 14", and 12" diam

5. Water is used for: Domestic use

6. State whether or not water has been turned into works of diversion: yes

7. List legal subdivisions of lands to be irrigated. If proof is for beneficial use, give exact number of acres under cultivation in each forty-acre tract. (Describe manner and place of use if for other than irrigation): Towns of Wardner and Kellogg

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

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

Remarks: Entrance head to main pipe is 7 ft.
Pipes have 140 lb. pressure at automatic valve situated 4 miles below intake
Cost of system \$58845, exclusive of right of way

16245

This examination was made on the 27th day of Aug 1928

(Signed)

Frank A. Johnson

Examiner.

Kellogg Power & Water Co.
Kellogg

Permit No. 16607
~~16645~~

Examination for BEN. USE

County SHOSHONE

INSTRUCTIONS TO EXAMINERS

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

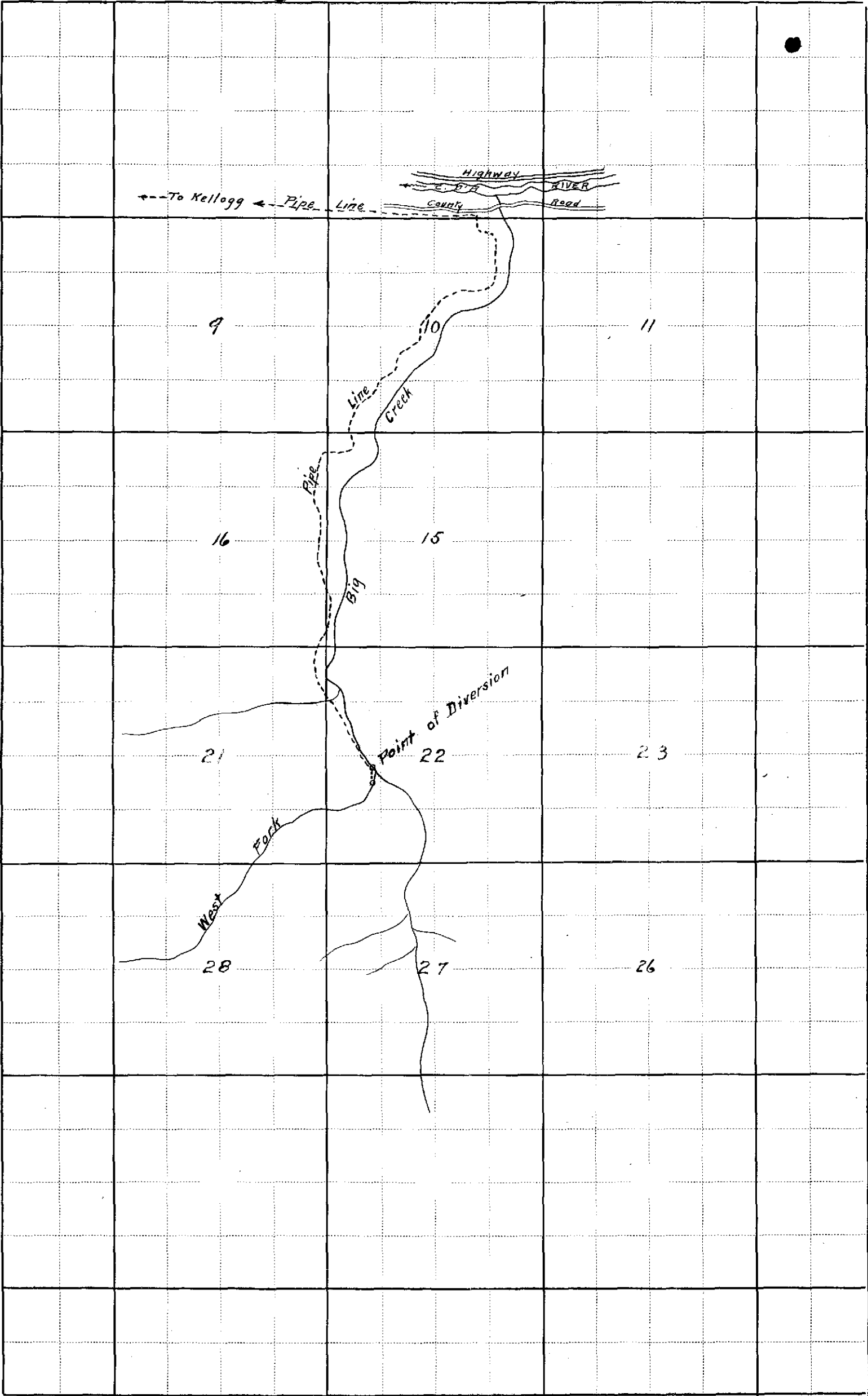
STATE OF IDAHO
DEPARTMENT OF RECLAMATION
BOISE

REPORT OF ENGINEER

PERMIT NO. _____

REPORT ON PROOF OF _____

2.75- & p. .



July 25, 1928

Re: Permit 16245-Kellogg Pr. & Wtr. Co.

Mr. Lester S. Harrison
Attorney at Law
Kellogg, Idaho

Dear Sir:

Referring to your letter of the 18th inst. relative to proof of beneficial use of water under the above numbered permit, would say that notice for publication will be mailed to the Kellogg-Wardner News in time for next week's publication. Deposition blanks for holder and two witnesses will be mailed to S. M. Marchesi, Justice of the Peace at Kellogg, before whom proof is to be made on September 8.

Very truly yours,

GEO. N. CARTER
Commissioner of Reclamation

By

Chief Clerk

CE/co

16245

STATE OF IDAHO
DEPARTMENT OF RECLAMATION
BOISE, IDAHO

Date July 25, 1928

**Publisher, The Kellogg-Wardner News,
Kellogg, Idaho.**

DEAR SIR:

Enclosed you will find notice for publication once a week for four consecutive weeks prior to September 9, 1928, the date set for proof, the expense of the publication to be paid by the applicant, by Attorney, Lester S. Harrison, of Kellogg, to whom you should furnish proof of publication on or prior to the date set for proof.

Please acknowledge receipt of this notice and furnish this office with a copy of the first publication.

Very truly yours,

GEO. N. CARTER,

Commissioner of Reclamation.

16245

Kellogg, Idaho
July 18, 1928.

TO THE COMMISSIONER OF RECLAMATION:

Boise, Idaho.

Dear Sir:

You are hereby authorized to have the attached notice published at my expense in the Kellogg-Wardner News of Kellogg, Idaho, published in the county in which the works are situated.

KELLOGG POWER & WATER COMPANY,

By Burke A. McIntosh
Secretary

182.15

NOTICE OF PROOF APPLICATION OF WATER TO BENEFICIAL USE

NOTICE IS HEREBY GIVEN that at ten (10) o'clock, A. M., on the 8th day of September, 1928, at the City Hall in Kellogg, County of Shoshone, State of Idaho, before S. M. MARCHESI, Justice of the Peace, proof will be submitted of the application to beneficial use of 2.75 cubic feet per second of the waters of that certain stream more commonly known as Big Creek in accordance with the terms and conditions of Permit No. 16245 heretofore issued by the Department of Reclamation of the State of Idaho.

The name and postoffice address of the corporation holding said permit are: Kellogg Power & Water Company, Kellogg, Idaho.

The use to which said water has been applied is domestic use in that said Kellogg Power & Water Company is a corporation engaged in the business of supplying domestic water to the Cities of Wardner and Kellogg, Idaho, and obtaining the principal source of its supply from the said stream of Big Creek.

The amount applied to beneficial use is 2.75 second feet of the waters of Big Creek and West Fork of Big Creek.

The right to take said water for said purpose is based upon Permit No. 16245 issued upon application No. 23042 bearing date of priority of April 22, 1925, authorizing the diversion of 7.0 second feet of the waters of Big Creek and West Fork of Big Creek, County of Shoshone, State of Idaho, for domestic purposes.

GEO. W. CARTER

Commissioner of Reclamation.

Dis. 11-21-27
2-22-28

Enclosure

91-C

16245

LESTER S. HARRISON

ATTORNEY AT LAW
110 FIRST STATE BANK BUILDING
PHONES: OFFICE 114 RESIDENCE 330

KELLOGG, IDAHO

July 18, 1928.

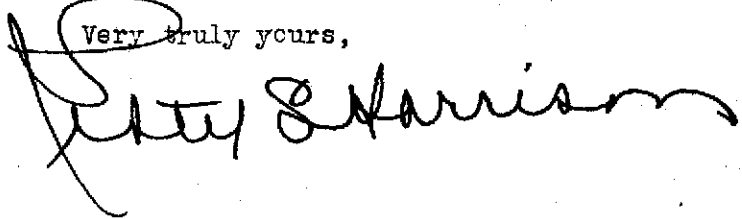
Mr. Geo. N. Carter,
Commissioner of Reclamation,
State House Building,
Boise, Idaho

Dear Sir:

Pursuant to former correspondence, I, herewith, inclose authorization signed by the secretary of the Kellogg Power & Water Company, accompanied by notice for publication for proof of application of water to beneficial use. I have inclosed three copies--one original, which doubtless you will sign and the two copies. I presume that these will be returned to me so that I may place them in the local paper for publication for the period of four weeks and you will note that I have set the case on the 8th day of September, 1928, which should give ample time for the notice to be returned and published for four weeks during the month of August.

I should like to have you direct all correspondence in connection therewith to the undersigned as I am looking after the matter for the company and if you have any suggestions as to the making of the proof in this connection, I should be glad to have you make any recommendations you desire in this connection.

Very truly yours,



LSH:M

Incs.

16245

Kellogg, Idaho
July 18, 1928.

TO THE COMMISSIONER OF RECLAMATION:

Boise, Idaho.

Dear Sir:

You are hereby authorized to have the attached notice published at my expense in the Kellogg-Wardner News of Kellogg, Idaho, published in the county in which the works are situated.

KELLOGG POWER & WATER COMPANY,

By Bunker A. McIntosh
Secretary

16245

May 12, 1928.

Re: Permit No. 16245- Kellogg Power & Water Co.

Mr. Lester S. Harrison,
Attorney at law,
Kellogg, Idaho.

Dear Sir:-

Referring to your letter of the 9th inst. would say that, through an unavoidable delay, the certificate of completion of works issued under the above permit, together with notices for proof of beneficial use of water, were not mailed to you until the eighth. They have no doubt reached you before this.

We are very sorry to have caused you any anxiety in the matter.

Very truly yours,
GEO. H. CARTER,
Commissioner of Reclamation.

By _____
Chief Clerk.

16245

LESTER S. HARRISON
ATTORNEY AT LAW
110 FIRST STATE BANK BUILDING
PHONES: OFFICE 114 RESIDENCE 330
KELLOGG, IDAHO

May 9, 1928.

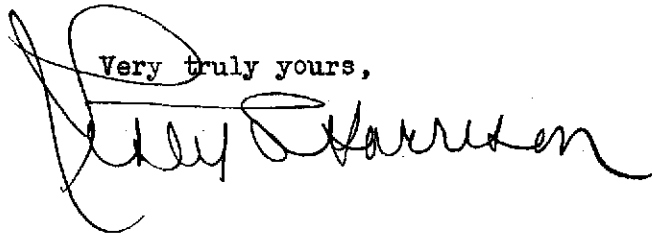
Department of Reclamation,
State House Building,
Boise, Idaho

Gentlemen: Re: Kellogg Power & Water Company - Water right.

Several days ago I forwarded to you Certificate of Completion of Work with check to cover and at the same time requested blanks for the proving up of the water right under instructions from the Department.

I have not, as yet, received any information from you and I am wondering if my communication was received and, if so, when I may expect advices as to the further proceedings which we are anticipating at this time toward making final proof for this water right.

Very truly yours,



LSH:M

16245

mailed May 9

May 8, 1928.

Re: Permit No.16245.-Kellogg Power & Water Co.

Mr. Lester S. Harrison,
Attorney at law,
Kellogg, Idaho.

Dear Sir:

We are mailing you herewith Certificate of Completion of Works issued under the above numbered permit; also receipt for fees paid.

We are enclosing herewith blanks to be filled out in connection with making proof of beneficial use of water. The date for proof should be set far enough ahead to allow for four weeks publication of the notice.

Deposition blanks for the holder and two witnesses will be mailed to the notary public or other officer named before whom proof is to be made.

Very truly yours,

GEO. N. CARTER,
Commissioner of Reclamation,

By

Chief Clerk.

B:P.
Enc.

16245

LESTER S. HARRISON

ATTORNEY AT LAW

110 FIRST STATE BANK BUILDING

PHONES: OFFICE 114 RESIDENCE 330

KELLOGG, IDAHO

April 25, 1928.

Department of Reclamation,
Boise, Idaho.

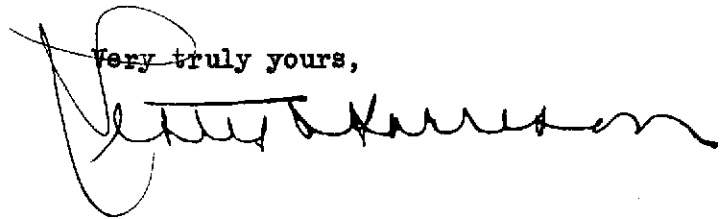
Attention: George M. Carter,
Commissioner.

Gentlemen:

Pursuant to instructions from your office January 6th, I herewith enclose proof of completion of works for the Kellogg Power & Water Company of Kellogg, Idaho. Check for \$5.00 fees as requested in said instructions is herewith enclosed.

I trust that upon the receipt of this proof that a certificate of the completion of the works will be issued, and I would like to have you forward me information in regard to last proof, so that I may proceed with the necessary requirements thereof.

Very truly yours,



LSH-A

Encl.

16245

STATE OF IDAHO

Department of Reclamation

PROOF OF COMPLETION OF WORKS

AFFIDAVIT OF HOLDER

STATE OF IDAHO)
) ss.
COUNTY OF SHOSHONE)

JAS. S. RAMAGE and BURKE A. McINTOSH, being first duly sworn,
each for himself and not one for the other, upon his oath, deposes and says:

First: That he is the president and secretary-treasurer of the Kellogg Power & Water Company, a public utility corporation organized and existing under and by virtue of the laws of the State of Idaho, and engaged in the business of supplying water for domestic purposes to the inhabitants of the Cities of Kellogg and Wardner, Shoshone County, State of Idaho, and that said corporation is the holder and owner of a Permit to appropriate the Public Waters of the State of Idaho, No. 16245, and that the principal office and post office address of said corporation is Kellogg, Shoshone County, State of Idaho.

Second: That the name of the stream from which said water is to be diverted is Big Creek, Shoshone County, State of Idaho.

Third: That the point of diversion of said water is in the NW $\frac{1}{4}$ SW $\frac{1}{4}$ of Sec. 22, T. 48 N., R. 3 E.B.M., whence the SW corner of Sec. 22 bears S. 22° 16' W. 1967 ft.

Fourth: That under the terms and conditions of said permit, construction thereunder was required to be completed on or before April 27, 1928.

Fifth: That the use for which said water is intended is domestic purposes for the Cities of Kellogg and Wardner, Shoshone County, State of Idaho.

16245

Sixth: That on the date above mentioned, the works constructed under said permit were fully completed and consisted of the following:

I. Kind of works: Dam, reservoir and pipe line.

II. Dimensions of work:

(a) Height of dam: 11 feet. Length of dam at top: 46 feet.

Length of dam at bottom: 30 feet. Material used in construction: Reinforced concrete.

(b) Capacity of reservoir: 1 acre ft.

(c) Size of headgate: Width: 24 inch pipe. Height: 10 feet.

(d) Conduit: 14 inch pipe. Depth of water at dam: 8 feet.

Diameter of pipe: 14 inches. Average grade per mile is 10 ft. Length of conduit is 3.54 miles.

Seventh: That said works are capable of conducting to the place of intended use 2.75 second feet of water.

Eighth: That water appropriated under said permit is available for domestic purposes for the Cities of Kellogg and Wardner, Shoshone County, State of Idaho.

KELLOGG POWER & WATER COMPANY,

Attest:

Burke A. McIntosh By
Secretary-Treasurer

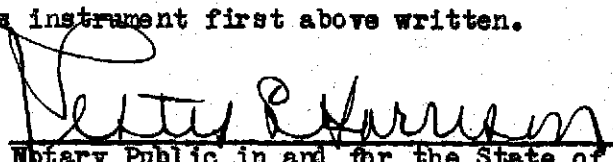
W. S. Pennington
President

16245

STATE OF IDAHO)
) ss.
COUNTY OF SHOSHONE)

On this 24th day of April, A. D. 1928, before me, LESTER S. HARRISON, a Notary Public in and for the State of Idaho, personally appeared JAS. S. RAMAGE and BURKE A. MCINTOSH, personally known to me to be the president and secretary-treasurer of the KELLOGG POWER & WATER COMPANY, the corporation that executed the within and foregoing instrument and acknowledged to me that such corporation executed the same.

IN WITNESS WHEREOF, I have hereunto set my hand and affixed my notarial seal the day and year in this instrument first above written.


Notary Public in and for the State of
Idaho, residing at Kellogg, Idaho.

16245

State of Idaho
DEPARTMENT OF RECLAMATION
BOISE

January 6, 1928

INSTRUCTIONS
PROOF OF COMPLETION OF WORKS

Kellogg Power & Water Co.,
Kellogg, Idaho.

Boise, Idaho,

Dear Sir:—

Under the terms of your permit No. 16245..... you are required to complete your diversion works on or before April 27, 1928..... 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,

GEO. N. CARTER,

Commissioner of Reclamation.

16245

November 16, 1926

Re: Permit No. 16245

MR. LESTER S. HARRISON
Attorney at Law
Kellogg, Idaho

Dear Sir:

Your letter of the 13th instant, enclosing an application for permit for the Kellogg Power & Water Company, is received and filed.

Referring to your inquiry as to the possibility of certain rights which may have been initiated subsequent to your Permit No. 16245, The records disclose that on November 20, 1925, the Shoshone Country Club filed an application for one second foot of water of this stream to be diverted from the stream in Section 10, Township 48 North, Range 3 East. Inasmuch as your permit bears a date of priority of April 22, 1925, it will be seen that you have a prior right over this filing, if the former permit is kept in force. However, if your client operates under the permit of this date, the Shoshone Country Club will have a priority over your client.

I might suggest that it will be possible for you to keep the former permit No. 16245 in effect by changing your point of diversion to conform to your needs. This can be done under the provisions of Article 5863, Title 44 of the Compiled Statutes, 1919. However, if the Shoshone Country Club filing will not injure your filing, your client may operate under the application of this date.

Your attention is called to the fact that some rights may have initiated other than permit rights; this is, by parties diverting water and claiming the right of users. These rights are recognized in this state on parity with permit rights.

Should there be any further information you desire, this office will be glad to furnish same.

Yours very truly,

16245

MS/c

Director of Water Resources

LESTER S. HARRISON
ATTORNEY AT LAW
110 FIRST STATE BANK BUILDING
PHONES: OFFICE 114, RESIDENCE 330

KELLOGG, IDAHO.

November 13, 1926.

Commissioner,
Department of Reclamation,
State House Building,
Boise, Idaho

Dear Sir: Re: Kellogg Power & Water Co. Permit 16245.

Following your communication dated under September 23, 1926, relative to the above permit formerly given to the Kellogg Power and Water Company, a domestic corporation, serving domestic water to the consumers of the Cities of Kellogg and Wardner, Idaho, we have found in connection with the construction of our proposed improvements in connection with that permit that it will not be possible to take the water from the former point of diversion.

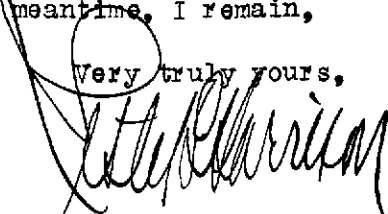
In view of this fact, it has been necessary to locate a new water right at the fork of what is commonly known as "Big Creek" in Shoshone County, Idaho. With this in view, I, herewith, inclose application for permit in duplicate which kindly file at your office advising that the same has been accepted and filed according to the usual procedure.

I inclose check for \$1.50 for the filing fee which I believe will cover in this instance.

Referring again to your letter of September 23 advising as to the possibility of certain intervening water rights, would like, at the time that you write me, to know if there will be any intervening rights that might interfere with us under the application herewith inclosed. We are almost ready to begin construction work in this connection but before so doing, we would like to be positively sure as to all rights that might interfere with the one inclosed.

Thank you very kindly for an early response in this connection and, in the meantime, I remain,

Very truly yours,



16245

LSH:M

September 13, 1926

Re: Permit 16245

MR. LESTER S. HARRISON
Attorney at Law
Kellogg, Idaho

Dear Sir:

Reference is made to your letter of September 7.

Records in this office disclose that application of the Kellogg Power and Water Company for permit to appropriate water from Big Creek was approved April 27, 1926, and duly recorded in this office. The application, bearing the endorsement of approval and statutory provisions required by the State, was returned to Burke A. Macintosh at Kellogg, who signed the application as agent.

Proof of completion of works will be due on April 27, 1928, under the present terms of the permit. In the meantime the permit will remain in good standing and no showing is required upon the part of applicant.

You state that the work will be completed within the five-year period or less. It appears from the recorded permit that only two years time was asked for completion of works. Should it develop that more time will be necessary, due date of proof can be extended for an additional period of three years, upon appropriate request.

If, with the foregoing information as to disposal of the application, you are still not able to locate the approved copy, a certified copy of the permit record can be had upon request and for a fee of \$1.00.

Yours very truly,

Assistant Commissioner of
Reclamation

16245

GNC:E

LESTER S. HARRISON
ATTORNEY AT LAW
110 FIRST STATE BANK BUILDING
PHONES: OFFICE 114, RESIDENCE 330

KELLOGG, IDAHO.

September 7, 1926.

11212
16245 ✓

Mr. W. G. Swendsen,
Commissioner of Reclamation,
State House Building,
Boise, Idaho

Dear Sir: Re: Kellogg Power & Water Company Application
For Permits.

On April 20, 1925, the undersigned caused to be mailed to your office certain blanks filled out and signed along with maps which documents in all contained an application for a permit for the appropriation and location of a water right upon that certain stream commonly known as "Big Creek" in Shoshone County, Idaho. A filing fee of \$1.60 was forwarded with the application and the check was thereafter cashed through your office on May 1, 1925. The engineering work in connection with this application was made by Julius Hall, Mining Engineer, of Wallace, Idaho. The applicant is the Kellogg Power & Water Company, a public utility corporation, supplying water to the consumers of Kellogg and Wardner, Idaho.

I am not exactly familiar with the custom in these proceedings but I believe the Statute requires these papers to be filed in duplicate which I believe they were and that when the same are filed one of the copies is returned to the applicant. I have no record of receiving the duplicate copy following the filing in your office and I have taken the matter up with the Company and also with the engineer and none of us seem to be able to locate this copy if it was returned to us. Will you kindly check over this filing and see whether or not the duplicate has been returned. If not, would you kindly cause to be prepared a certified copy and mail to the undersigned together with charges for the preparation of the same as we are in need of these documents at the present time.

I should like to discuss briefly a few matters pertaining to this water right at this time for your information and also to ascertain if there are any suggestions or corrections that we should make in our procedure at the present time in so far as the same is

16245

Mr. W. G. Swendsen,

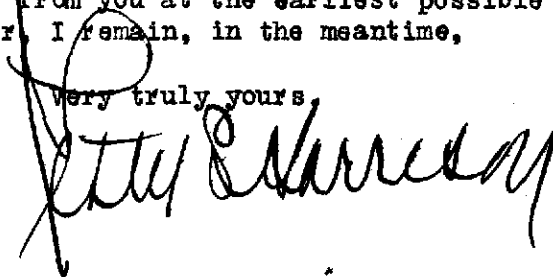
-2-

9/7/26.

effected by your supervision. The Cities of Kellogg and Wardner, Idaho, obtain a greater part of their water supply for domestic purposes from the stream hereinbefore mentioned which is about four miles east of Kellogg. At the present time, the Kellogg Power & Water Company is obtaining water from the stream at a short distance above where the same empties into the south fork of the Coeur d' Alene River. At the present time and at the time that the applications were filed at your office, namely, on or about April 20, 1925, the Kellogg Power & Water Company were contemplating moving their intake from the present location up the stream of Big Creek to the point where the water right in which we are attempting to locate by reason of the filing of the above permits is located. Since the filing of this application in 1925 a considerable amount of money has been spent and work done in preparation for doing actual construction work upon the ground. At the present time, right of ways are being acquired and we are endeavoring to get the work under way within the next ninety days, if possible, at an expenditure of some thirty-five or forty thousand dollars. For this reason, it is essential that we know exactly where we are in connection with this water right and if there is anything that we have failed to do in connection with the filing of the same at your office, I should be glad to have you advise me. This work will all be completed within the five year period, in fact, in less than one half of that time.

Trusting that I may hear from you at the earliest possible time in connection with the matter, I remain, in the meantime,

Very truly yours,



LSH:M

16245

App. 4-26.
Orig ret. to Burke A. M: Entsch, Kellogg.
Prof. B.W. due 4-27-28. Nothing signed in return.

State of Idaho

DEPARTMENT OF RECLAMATION

BOISE

Permit No. 16245

Kellogg Power & Water Company Boise, Idaho, April 27, 1925
Kellogg, 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.

W. G. SWENDSEN
Commissioner of Reclamation.

16245

LESTER S. HARRISON
ATTORNEY AT LAW
110 FIRST STATE BANK BUILDING
PHONES: OFFICE 114, RESIDENCE 330

KELLOGG, IDAHO.

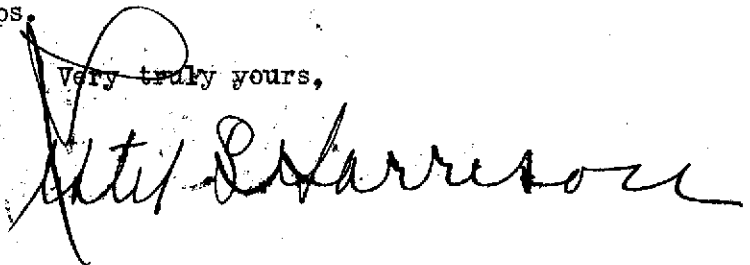
April 20, 1925.

Commissioner of Reclamation,
State of Idaho,
Boise, Idaho.

Dear Sir: Re: Kellogg Power & Water Company Application
 For Permits.

Inclosed, herewith, find application for permits for the Kellogg Power & Water Company, a corporation, which kindly file of record. Check for \$1.60 filing fee is herewith inclosed together with necessary maps.

Very truly yours,

A handwritten signature in dark ink, appearing to read "Lester S. Harrison", is written over the typed name and the closing "Very truly yours,".

LSH:M

Incs.

16245